

**AGREEMENT FOR CONSULTANT SERVICES BETWEEN
CITY OF TEMECULA AND HINDERLITER de LLAMAS AND ASSOCIATES
SALES TAX CONSULTING AND RECOVERY FEE SERVICES**

THIS AGREEMENT is made and effective as of **August 13, 2019**, between the **City of Temecula**, a municipal corporation (hereinafter referred to as "City"), and **Hinderliter de Llamas and Associates** a Corporation (hereinafter referred to as "Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on **August 13, 2019** and shall remain and continue in effect from year to year unless either party notifies the other, in writing, within thirty (30) days of the most recent invoice date to terminate this Agreement.

The Agreement price for the first year shall be as per Consultant proposal attached hereto and incorporated herein as Exhibit B and shall be adjusted at the beginning of each fiscal year in accordance with the changes in the Consumer Price Index (CPI) for all Urban Consumers for the Riverside-San Bernardino-Ontario Core Based Statistical Area using the most recently published month annual percentage change.

2. SERVICES

Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. PAYMENT

a. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. **The amount for year one (1) of the Agreement shall not exceed the Base Fixed Fee Schedule of Ten Thousand Two Hundred Dollars and No Cents (\$10,200.00)** unless additional payment is approved as provided in this Agreement. Each additional year the Agreement Base Fixed Fee Schedule shall be adjusted by the Consumer Price Index (CPI) for all Urban Consumers for the Riverside-San Bernardino-Ontario Core Based Statistical Area using the most recently published month annual percentage change. The City shall not incur cost for services exceeding the fiscal year budget and in no event

shall the total contract amount exceed **Sixty Thousand Dollars and No Cents (\$60,000.00)** each fiscal year for the duration of this Agreement.

b. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager . Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

c. Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Consultant shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City, pursuant to Section entitled "**PAYMENT**" herein.

6. DEFAULT OF CONSULTANT

a. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without

further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

7. OWNERSHIP OF DOCUMENTS

a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. INDEMNIFICATION

The Consultant agrees to defend, indemnify, protect and hold harmless the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, agents, employees or volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Consultant's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency.

9. INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability Insurance shall be written on a policy form providing professional liability for the Consultant's profession.

b. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1) General Liability: One Million (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: One Million (\$1,000,000) accident for bodily injury and property damage.

3) Worker's Compensation as required by the State of California; Employer's Liability: One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

4) Professional Liability Coverage: One Million Dollars (\$1,000,000) per claim and in aggregate.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000).

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers are to be covered as insured's, as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Temecula, the Temecula Community Services District, and the Successor Agency to the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this agreement shall be endorsed to state in substantial conformance to the following: If the policy will be canceled before the expiration date the insurer will notify in writing to the City of such cancellation not less than thirty (30) days' prior to the cancellation effective date.

6) If insurance coverage is canceled or, reduced in coverage or in limits the Consultant shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-:VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Consultant shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Consultant's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

10. INDEPENDENT CONTRACTOR

a. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

11. CONFIDENTIALITY

Section 7056 of the State of California Revenue and Taxation Code specifically limits the disclosure of confidential taxpayer information contained in the records of the State Board of Equalization. This section specifies the conditions under which the City may authorize persons other than City officers, officials, and employees to examine State Sales, Use and Transaction Tax records. The following conditions specified in Section 7056 (b), (1) of the State of California Revenue and Taxation Code are hereby made part of this Agreement.

- a. Consultant is authorized by this Agreement to examine sales, use or transactions and use tax records of the Board of Equalization provided to City pursuant to contract under the conditions established by the California Revenue and Taxation law.
- b. Consultant is required to disclose information contained in, or derived from, those sales, use or transactions and use tax records only to an officer, official or employee of the City who is authorized by Resolution to examine the information.
- c. Consultant is prohibited from performing consulting services for a retailer, as defined in California Revenue and Taxation Code Section 6015, during the term of this Agreement.
- d. Consultant is prohibited from retaining the information contained in, or derived from those sales or transactions and use tax records, after this Agreement has expired. Information obtained by examination of the Board of Equalization records shall be used only for purposes related to collection of local sales and use tax or for other governmental functions of the City as set forth by Resolution adopted pursuant to Section 7056 (b), (1) of the Revenue and Taxation Code.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

13. RELEASE OF INFORMATION

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written

authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

b. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

Mailing Address: City of Temecula
Attn: City Manager
41000 Main Street
Temecula, CA 92590

To Consultant: **Hinderliter de Llamas**
Attn: Peggy Fickett
120 S. State College Blvd., Ste. 200
Brea, CA 92821

15. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

16. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

17. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

18. PROHIBITED INTEREST

No officer, or employee of the City of Temecula that has participated in the development of this agreement or its approval shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-contractors for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Temecula that has participated in the development of this agreement or its approval has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds thereof, or in the business of the Consultant or Consultant's sub-contractors on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

19. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

20. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder. The City Manager is authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF TEMECULA

HINDERLITER de LLAMAS and ASSOCIATES

(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

By: _____
Michael S. Naggar, Mayor

By:  _____
Andrew Nickerson, President

ATTEST:

By: _____
Randi Johl, City Clerk

By:  _____
Gary Lott, Chief Operating Officer

APPROVED AS TO FORM:

By: _____
Peter M. Thorson, City Attorney

CONSULTANT

Hinderliter de Llamas and Associates
Attn: Peggy Fickett
120 S. State College Blvd. Ste., 200
Phone: 714-879-5000
E-Mail: pfickett@hdlcompanies.com

PM Initials: 
Date: 7-22-19

EXHIBIT A

Tasks to be Performed

The Consultant shall provide the services to include but may not be limited to those items as outlined in Consultant's proposal attached hereto and incorporated herein as though set forth in full.

City of Temecula

**PROPOSAL FOR SALES
AND USE TAX AUDIT AND
MANAGEMENT SERVICES**

May 31, 2019

HdL  Companies

V. SCOPE OF SERVICES

A. Sales and Use Tax Services

Using confidential taxpayer records as authorized by Revenue and Taxation Code Section 7056, HdL will find and correct errors that result in underpayments of tax to the City of Temecula. The firm will employ a series of analyses, comparisons with other data sources and physically canvassing the City to find, document and submit for correction all taxpayer errors that result in lost City revenue or could result in lost revenue in the future. When errors are found, HdL staff will promptly file claims for their correction following CDTFA procedures and regulations. Thereafter, HdL will diligently work with the CDTFA to ensure the prompt recovery of all escaped revenues. Documentation of errors will be regularly provided to the City.

In conducting these activities on behalf of the City, HdL will provide reports that accurately depict the City's sales tax base, use tax collections and revenues. All reports, graphs, tables and revenue forecasts are designed to enhance the City's capacity to plan for, expand and manage its various sales use and district tax revenues. Reports identifying and comparing the retail composition of various sub-geographic-areas of the City will also be provided.

1. Audit Method and Approach

To achieve the highest audit and recovery results, HdL employs the following audit techniques and programs:

a. Identification of Errors and Revenue Maximization Opportunities

Field Surveys: Field inventories of the City's business and industrial areas are conducted every 10-12 months to identify businesses located within the City that appear to be under-reporting revenues or are not on the CDTFA allocation rolls. Specially trained field auditors, using the latest in mapping, GPS and digital recording technology, document not only the existence of sales tax producing businesses but also any relevant factors such as size, presence of a large stock of goods, will-call windows and any specific references to sales activity. This process identifies a wide range of registration errors including erroneous consolidation of multiple outlets, misreporting of point of sale from an erroneous location and delays in reporting new outlets.

Tax Area Code (TAC) Review: HdL reviews every active account on the CDTFA's allocation rolls reporting \$50 or more in local tax to ensure proper TAC assignment. Government and private sector property tax mapping and GIS databases are used extensively in this process. These programs are important because physical canvassing will not reveal businesses with missing or incomplete signage, or those that are home-based. A complete TAC review is performed at least once every 9-12 months.

Deviation Assessment: Each quarter, HdL applies proprietary queries and analyses to its statewide allocation database to identify *all* accounts for which there has been a substantial change in allocation pattern. HdL's database, unmatched in size, comprises over 99.8% of all sales and use tax transactions in California and allows for the most comprehensive audits in the state. The review is applied to direct allocations and to the county pools and allows for a much broader view and understanding of what has happened in any given quarter. Well-founded leads are quickly extracted from this process, often without the need for time-consuming manual reviews of taxpayer files. This allows for faster processing and less time used for preparing submittals.

This in turn lowers recovery fees by reducing the amount of prior quarter revenue requiring redistribution.

Use Tax Errors and Opportunities: HdL analyzes the use tax allocation pools of the 58 counties and the state each quarter to identify instances where a taxpayer may have misidentified a transaction as use tax rather than sales tax. Further specialized reviews and techniques are employed to identify direct allocation opportunities of local use tax. CDTFA Regulation 1802(d) allows for direct allocation of local use tax on qualifying individual sales or purchases over \$500,000. Out-of-state and foreign-based companies in particular often have large transactions that meet the criteria for direct allocation under this section. Under Regulation 1699.6, businesses and organizations (including local government agencies) with aggregate purchases subject to use tax of least \$500,000 per year can apply for a Use Tax Direct Payment Permit, allowing for direct allocation of the corresponding local share. Finally, under a resolution adopted in December 1994, a construction contractor who enters into a contract equal to or greater than \$5,000,000 may elect to obtain a sub-permit for the jobsite resulting in a direct allocation of local use tax to the jurisdiction where the jobsite is located.

Regulation 1699 Evaluations: CDTFA Regulation 1699 controls when and where a permit should be issued to a given business location. Wholesalers, contractors, processors, manufacturers, and other non-retail businesses that do not normally sell merchandise often conduct occasional sales, self-accrue use tax or are levied deficiency assessments by the state. HdL uses proprietary methods for finding companies that should be taking out permits so that those revenues are allocated to the City.

b. Recovery of Misallocated Revenue

Development of Correction Data: Preliminary lead lists developed through the audit programs are further refined using a variety of programs and databases to reduce the need for taxpayer contact. Companies remaining in the audit database are then contacted by a specialized audit unit whose members are specifically selected and trained to interview tax preparers and marketing, warehouse and management staff. ***Taxpayer interviews are always conducted in a business friendly, non-intrusive manner that emphasizes cooperation and protection of confidentiality.***

Documentation: Telephone contacts are often accompanied by a written follow-up questionnaire concerning business activities, a specific one-time transaction or a written confirmation of our findings. This documentation is always filed with the petition to minimize CDTFA processing time. Solid documentation and follow-up lowers client fees by reducing the number of quarters requiring retroactive adjustment and ensures faster recovery of misallocated revenues.

City Review: To avoid potential conflicts with a City's in-house audit efforts, HdL provides a list of misallocated or under-reporting businesses for City officials to review and authorize prior to any invoicing. This line item, account-level approval process is an important step in eliminating any misunderstandings or disagreements regarding what may be considered a valid audit "find."

Preparation and Submittal of Corrections: Petitions are prepared (CDTFA Form 549-S or 549-L) that notify the CDTFA the existence and nature of the misallocation. All relevant and available supporting documentation is included. Copies of all transmittal forms and correspondence with the CDTFA and taxpayers are sent to City staff.

Continuous Follow-up: HdL employs a full-time case manager whose responsibility is to monitor and follow-up on case inventory. An aging report is updated and reviewed on a monthly basis and the appropriate follow-up is initiated on cases that are taking an inordinate amount of time to correct. This follow-up emphasizes partnership and cooperation with CDTFA Allocation Group staff. HdL's continuous efforts to check on the status of submittals are made to ensure that corrections are being pursued. Timely follow-up on cases reduces the time it takes for the City to recover its revenue.

Appeals: HdL cases are thoroughly researched, vetted and documented *prior to* submittal. This ensures the fastest possible processing times and reduces the number of cases that are initially disclaimed and must be further researched and defended through a very lengthy CDTFA appeals process. Nearly all HdL cases are resolved favorably at either the first or second levels of the CDTFA petition process described in Regulation 1807. HdL has cultivated close working relationships with the CDTFA Appeals Division. When an appeal is required, HdL has the necessary expertise and access to competently and aggressively represent client interests. Having many cases on appeal may be presented by some vendors as evidence of a more sophisticated and aggressive audit program. It should be viewed, however, as an indication that inadequate supporting documentation tends to require more case appeals and lead to otherwise unnecessary procedural delays.

c. Track Record

HdL is effective in recovering misallocated revenue for client agencies in 97% of all cases submitted to the CDTFA. The small number of cases that do require an appeal is evidence of HdL's thorough research and the quality of the well-documented information included to support claims.

2. Sales and Use Tax Management Services

a. HdL Database, Reports and Training

HdL maintains Temecula's detailed sales tax data back to 1990 and will provide City staff with unlimited access to its quarterly updated web-based sales tax system to facilitate "in-house" analysis and printing of reports. The system allows City staff to search, print and export their sales tax data for a variety of financial, management and planning functions. The system provides the ability to search all sales tax producers in the City by business name, address, CDTFA account number and current or historical sales tax allocations. The web application also provides access to the City's archived quarterly sales tax reports. Data is easily queried and exported to either comma delimited or native Excel formats, allowing for convenient use with standard applications such as the Microsoft Office suite. The web application is accessible from all major operating systems, internet browser platforms, and device types (laptop, tablet, PC, mobile). The City's archived quarterly sales tax reports can also be accessed through the online sales tax application.

HdL's geo-area feature supports use of address ranges, which ensures the inclusion of all appropriate CDTFA registrations and allows City staff to create and modify geo-areas without a separate GIS system. HdL also supports interfacing with the City's GIS by including accurately geocoded latitude and longitude for each business. This data can include all data fields including historical allocation information and can be quickly exported by City staff on demand using HdL's Sales Tax Web Application.

Additionally, City created shape files can be used to define a Geo-area, which would identify related businesses by latitude and longitude. Training on use of the software and ongoing upgrades is provided at no additional charge.

Quarterly sales tax reports are provided on both a cash and adjusted basis. Cash reports reconcile to CDTFA payments and are necessary for any revenue sharing agreements that the City might have in place. The adjusted reports shift payment aberrations (double-up payments, CDTFA audit adjustments, etc.) into the quarter where the sales occurred to accurately show the City's true economic trends. The quarterly sales tax data will be presented in reports for major sales tax producers by both rank and category, analysis of sales tax activity by category, business or areas specified by the City.

HdL's quarterly sales tax reports include a listing of top sales tax producers and comparisons with both regional and statewide trends. Retailer information is provided in grouped form or in business by business detail. Quarterly information will also include tables that track year-to-date receipts and show comparisons with past periods to measure progress toward achieving the City's annual budgeted revenue amount. HdL staff also prepares sales and use tax projections for proposed development projects, responds to technical questions relating to CDTFA processes and regulations, and monitors revenue sharing agreements.

HdL's services are superior to other vendors because the firm provides data analysis instead of bound stacks of raw data printouts. The analysis is done in context with regional market areas, countywide and statewide trends to better monitor and compare the City's economic performance by business category and geographical area. A non-confidential newsletter is included to support management's efforts to inform and engage the public.

Analysis of sales and use tax data and presentations to City staff are led by seasoned professionals, whose experience and knowledge adds value by identifying emerging retail trends, business retention needs, leveraging of economic clusters and reviewing successes in client jurisdictions with similar characteristics. HdL staff also prepares sales and use tax projections for proposed development projects, responds to technical questions relating to CDTFA processes and regulations, and monitors revenue sharing agreements.

b. Budget Projections and Monitoring

HdL has developed a comprehensive, detail-oriented method for projecting and monitoring client sales and use tax revenues that has proved to result in estimates that fall within 1% of actual receipts two-thirds of the time. Initial and mid-year projections are made by factoring out payment aberrations that skew the base revenue and factoring in known changes such as new or closed businesses. HdL also incorporates information from over 90 economic sources as well as information gathered from client meetings to develop economic factors to apply to individual retail business segments; the results are combined into a single estimate of anticipated revenue. HdL further enhances its projections by contacting builders of large-scale development projects to better time and estimate the value of potential use tax payments into its estimates. **Five-year forecasts are also provided.**

c. Use Tax Maximization Program

Major construction projects and even ongoing business operations often generate significant use tax revenues from purchases of machinery, equipment and other fixed assets. HdL has worked with numerous clients to ensure that use tax from manufacturing and assembly plants, food processing, cold storage facilities, power/energy projects, medical, research and technical facilities, oil fields/refineries and extraction/mining industries are properly allocated to the host jurisdiction.

HdL's sales tax team includes a staff of specialists who review new business startups that might present potential self-assessed use tax opportunities, meets with contractors to advise on sub-permits and reporting procedures and provides materials and advice on purchasing companies and direct payment permits. The firm monitors major construction projects to make sure that any use tax generated is properly allocated to the job site's host jurisdiction.

When brought into a project early, HdL assists clients with inserting provisions in conditional use permits and development agreements to guarantee that use tax maximization procedures are followed and monitors projects and subcontractors to make certain that sales tax is properly allocated back to the client jurisdiction. Direct payment permits and purchasing corporations can sometimes be utilized where conditions offer mutual opportunities for the client agency to capture additional sales tax revenues and the participating company can increase control of sales and use tax liabilities.

d. Economic Development Benefits

When properly refined and organized, sales tax data analysis is an important tool for strengthening and expanding local economies. The data shows companies that are growing and may need expansion space and should be contacted as part of an agency's business retention program.

When broken out geographically, the data produces patterns of industries that potentially share common customers, suppliers, technology and labor and therefore offer opportunities for attracting new businesses. The data further exposes retail areas that may be over saturated in some retail segments while also identifying voids and opportunities for additional retail development.

Although numerous companies and agencies use the CDTFA's published data as a basis for analysis, the results are usually inaccurate and misleading due to address and business categorization errors in the data. To correct those deficiencies, HdL performs data validation and scrubbing techniques on an ongoing basis, fixing business addresses and re-categorizing merchants to differentiate brick and mortar retailers from "business to business" suppliers and on-line retailers.

The company further creates and groups businesses into additional categories and classifications, not provided by the CDTFA, to better track new and emerging economic trends. Samples include the breaking out of biotech/medical suppliers, online fulfillment centers, alternate energy and utility providers, wineries and marijuana dispensaries. This focused approach to data management allows agencies to more accurately compare the impact of trends in their jurisdiction with state and regional trends. On a regional basis, it also allows for the identification of true economic voids and opportunities to expand the City's tax base.

Accurate addressing allows for improved performance monitoring and comparison of specific economic areas such as shopping centers, downtown districts and auto malls with similar projects throughout California.

In addition to using our large database, HdL's principals leverage their experience analyzing client data throughout California to identify new trends and developments that might help other clients. The service includes analyses to identify retail voids and opportunities and an annual publication of retailers seeking expansion in the region and state.

e. Legislative Updates

HdL prepares Legislative Updates for clients to keep them informed on any changes that may impact local revenues. The firm also provides Issue Updates which are similar in nature but deal with specific issues such as Sales Tax Participation Agreements. Each issue is presented in detail so that Agency staff is better equipped to handle questions on that topic from their community leaders.

The firm also retains Rebecca Marcus as a lobbyist to represent client interests in matters before the CDTFA and the state legislature. With over 20 years of experience in state and national politics, Rebecca has developed the necessary institutional knowledge and established relationships to effectively advance clients' interests in Sacramento. As a Chief of Staff for 13 years in the California State Assembly for several distinguished Members including Assembly members Mark Stone, Mike Feuer and Johan Klehs, Rebecca successfully advanced legislation across a diverse array of policy areas. As a result, over 100 of these Members' bills became law ranging from landmark green chemistry legislative to a transformative transportation tax.

f. Consultation

Quarterly, a principal of the firm analyzes the City's data in detail and meets with appropriate City officials to review trends and discuss and make recommendations regarding the budget implications of the year's data.

HdL also serves as "on-call" staff to provide sales tax estimates for proposed projects, assist with budget projections and answer sales and use tax questions related to economic development, budgeting and related revenue collection. When requested by the City, principals also meet with committees of the City Council and other groups to explain sales tax regulations and their importance to the City's tax base.

HdL will, when requested by the City, conduct technical seminars for City personnel on California sales and use tax processes. To support in-house efforts to maximize use tax, the seminars will cover the fundamentals of direct payment permits, purchasing corporations and maximizing "use tax" from construction projects.

HdL maintains close and positive relationships with members of the CDTFA and staff to quickly resolve policy issues unique to individual clients. The firm also advocates regulation and legislative changes when they are of benefit to all clients. Examples are the Company's work in the change of allocation of "use tax" for major construction projects, securing an Executive Order from the Governor to allow publishing of top taxpayers in public documents and the introduction of the problem of "point of sale" for warehouses to the CDTFA.

EXHIBIT B

Payment Rates and Schedule

The amount for year one (1) of the Agreement shall not exceed the Base Fixed Fee Schedule of Ten Thousand Two Hundred Dollars and No Cents (\$10,200.00) unless additional payment is approved as provided in this Agreement. Each additional year the Agreement Base Fixed Fee Schedule shall be adjusted by the Consumer Price Index (CPI) for all Urban Consumers for the Riverside-San Bernardino-Ontario Core Based Statistical Area using the most recently published month annual percentage change. The City shall not incur cost for services exceeding the fiscal year budget and in no event shall the total contract amount exceed Sixty Thousand Dollars and No Cents (\$60,000.00) each fiscal year for the duration of this Agreement.

Consultant shall be further paid 15% of all new Sales and/or Use tax revenue received by the City (including reimbursement from the Sales and Use Tax Compensation Fund outlined in Section 97.68 of the Revenue and Taxation Code) as a result of audit and recovery work performed by Consultant. Said percentage fee applies to monies received in the first eight (8) consecutive reporting quarters beginning with the receipt of the audit revenue and includes retroactive back quarter adjustments obtained by Consultant and further outlined in Fee Proposal Section A. attached hereto and incorporated herein as though set forth in full.

Consultant shall obtain approval prior to beginning the work of correcting tax reporting methodology or "point of sale" for specific businesses where said payment of the percentage fee will be expected. Said approval shall be accomplished by the City Director of Finance or his/her designee on the Sales Tax Authorization form. The City shall pay audit fees upon Consultant's submittal of evidence of State Fund Transfers and payments to City from businesses identified in the audit and approved by the City.

Any additional or optional services the City requests that are not outlined in the proposal attached hereto and incorporated herein as though set forth in full shall be quoted and agreed to, in writing. Any additional costs are not to exceed the total contract amount as outlined in Section 4 and Exhibit B of this Agreement.

VI. FEE PROPOSAL

A. Sales and Use Tax Audit Services

HdL proposes a fee of **15%** of all new sales and use tax revenue received by the City (including reimbursement from the sales and use tax compensation fund outlined in Section 97.68 of the Revenue and Taxation Code) as a result of audit and recovery work performed by the firm. This audit fee applies to monies received in the first eight consecutive reporting quarters beginning with the receipt of the audit revenue and includes retroactive back quarter adjustments obtained by HdL.

Audit fees are billed only after completion of the audit, submittal of corrections to the CDTFA and receipt of revenues by the client. 100% of all new revenue generated by HdL flows to the City after the completion of the eight quarters. The fee constitutes the full reimbursement to HdL and covers all direct and indirect costs incurred by the firm under this contract. This includes all salaries of our employees, travel expenses and service contracting costs as well as the software to be delivered to the City of Temecula under this proposal.

Invoices are submitted only for recoveries previously approved by the City. HdL does not bill for audit revenues until the client has received said monies. Further, if during the billing cycle, a taxpayer receives a refund for overpayment of taxes generated during that cycle, HdL credits back any proportionate share of the fee that may have been levied.

Invoices are submitted quarterly after the City has received the revenue from the audit correction. The invoice includes a printout showing the name, address, and sales tax registration number of each company, and the specific amount of revenue allocated by the CDTFA to the City for those businesses.

If a misallocation correction involves additional revenue from a company that had already been partially allocating revenues to the City, the City and HdL will agree in a Work Authorization, prior to billing, the methodology for identifying the incremental revenue attributable to HdL's work.

B. Sales and Use Tax Management Services (Quarterly Delivery Meetings)

This service includes access to the City's sales tax database through our web-based software and *quarterly* meetings with one of our principals. In preparation for each meeting, a principal of the firm analyzes the City's data in detail and meets with appropriate City officials to review trends, point out businesses that should be contacted as part of the City's business retention program and discuss and make recommendations regarding the economic and budget implications of the quarter's data. Also included is a non-confidential newsletter that can be shared with your council and the public. The price for this option is **\$850 per month***.

*The monthly fee will increase annually by the percentage increase in the "CPI" for the preceding twelve-month period.