

**CONSULTANT SERVICES AGREEMENT  
BETWEEN THE CITY OF COLUSA AND  
ROSITA RANCH CONSULTING LLC**

**THIS AGREEMENT** (hereinafter referred to as “Agreement”) is made and entered into this 17<sup>th</sup> day of January, 2023, by and between the City of Colusa, a municipal corporation, having its principal place of business at 425 Webster Street, Colusa, California 95932, (herein “**City**”) and Rosita Ranch Consulting LLC, having a principal place of business at 4655 Lodoga Stonyford Rd., Stonyford, California 95979, (Herein “**Consultant**”), wherein Consultant agrees to provide the City and City agrees to accept the services specified herein.

**WHEREAS**, the Consultant provides technical assistance to City of Colusa businesses. The City will inform the Consultant of eligible businesses and provide Consultant with required information, documentation, and support. Work is to be done in a timely and complete manner in close cooperation with City staff.

**WHEREAS**, the Consultant is providing technical assistance to aid businesses in successfully applying for the Community Development Block Grant (CDBG) Micro-Enterprise Assistance Program.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

**SCOPE OF SERVICES**

For the purpose of this agreement services are only for work performed under the parameters of the CDBG – Micro Enterprise Assistance grant program. Contract time period is from January 17, 2023, to June 17, 2024. Payment for the above services shall be at \$45 per hour. The total contract will not exceed \$10,000. Consultant shall submit monthly invoices during the term of this Agreement. Invoices will provide detailed information about technical assistance services rendered and businesses assisted. City shall make payment of undisputed amounts within (30) days of receipt of invoices, for services satisfactorily performed.

**INDEPENDENT CONTRACTOR**

Consultant shall perform the Services as an independent contractor as defined in Labor Code 3353, and nothing herein contained shall be construed to be inconsistent with this relationship or status. The Consultant shall have no power or authority by this Agreement to bind the City in any respect. All employees and agents hired or retained by the Consultant are employees and agents of the Consultant and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees or agents, or any other person resulting from performance of this Agreement.

Notwithstanding any other City, state, or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Retirement System (PERS) as an employee of the City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

In the event Consultant or any employee, agent, or subcontractor of a Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any civil penalties and interest on such contributions, which would otherwise be the responsibility of City.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. The City therefore has no responsibility for such contributions beyond the compensation required under this Agreement.

## **TERMINATION**

This Agreement may be terminated, without cause, at any time by the City upon 30 days written notice. Upon receipt of such notice, Consultant shall cease all work under this Agreement. In the event of any such termination, the Consultant shall be compensated as provided for in this Agreement. Upon such termination, the City shall be entitled to all work, including but not limited to, appraisals, inventories, studies, analyses, drawings and data estimated performed up to that date.

Notwithstanding any provision of this Agreement, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by Consultant, and the City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the City from Consultant is determined.

## **CONFIDENTIAL MATERIALS**

All material, reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its Services pursuant to this Agreement are confidential until released by the City to the public, and the Consultant shall not make any of these documents

or information available to any individual organization not employed by the Consultant or the City without the written consent of the City before any such release.

### **COMPLIANCE WITH LAW AND WARRANTY**

- A. Consultant shall (and shall cause its agents and contractors), at its sole cost and expense, to comply with all City, County, State and Federal ordinances, regulations, and statutes now in force or which may hereafter be in force with regard to the provision of Services and this Agreement. Permits and/or licenses shall be obtained and maintained by Consultant without additional compensation throughout the term of this Agreement.
  
- B. Consultant represents that it is qualified to properly provide the services set forth in a manner which is consistent with the generally accepted standards of Consultant's profession, and has the skills, expertise, licenses and permits necessary to perform the Services. Consultant shall perform all such Services in the manner and according to the standards observed by a competent practitioner of the same profession in which Consultant is engaged. All products of whatsoever nature which Consultant delivers to the City pursuant to this Agreement shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.

### **ASSIGNABILITY**

Consultant shall not assign or transfer any interest in this Agreement without the prior written consent of the City, which shall not be unreasonably withheld. However, claims for money due or to become due to Consultant from the City under this Contract may be assigned to a financial institution, or to a trustee in bankruptcy, without such approval. Consultant shall promptly furnish notice of any assignment or transfer, whether voluntary or involuntary, in writing to the City.

### **INTEREST IN CONTRACT**

A. Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors has any present interest, nor shall they acquire any interest, direct or indirect, in the subject of the Agreement, nor any other interest which would conflict in any manner or degree with the performance of its Services hereunder.

B. Consultant may serve other clients, but none whose business, regardless of location would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

C. The City has determined, based on the Scope of Services that the Consultant, or its principal employees on working for the City under this Agreement: Is not required to file a Form 700 because he/she is not involved in the making or participating in making of a decision which

may foreseeably have a material effect in any financial interest, as further described in the Political Reform Act and implementing regulations.

If it is determined that Consultant is covered by the City's Conflict of Interest Code at any time after the execution of this Agreement, Consultant agrees to make all disclosures required by the City's conflict of interest code in accordance with the Category designated by the City.

## **RECORDS AND AUDITS**

Consultant shall establish and maintain records pertaining to this Agreement. Consultant's accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under this Agreement, including properly executed payrolls, time records, utility bills, invoices, and vouchers.

Consultant shall permit City and its authorized representatives to inspect and examine Consultant's books, records, accounts, and any and all data relevant to this Agreement at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Consultant pursuant to this Agreement and shall provide such assistance as may be reasonably required in the course of such inspection. City further reserves the right to examine and re-examine said books, records, accounts, and data during the three (3) year period following the termination of this Agreement; and Consultant shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for three (3) years after the termination of this Agreement.

## **LIABILITY OF CONSULTANT-NEGLIGENCE**

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors, or subcontractors.

## **INDEMNIFICATION**

Consultant agrees to indemnify, including the cost to defend, City and its officers, officials, representatives, employees and volunteers (collectively "Indemnitees") from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of services under this Agreement, but this indemnity does not apply to liability for damages arising from the sole negligence or willful misconduct of such Indemnitee.

Neither termination of this Agreement nor completion of the Services shall release Consultant from its obligations under this contract, as long as the event giving rise to the claim, loss, cost, damage, injury, expense or liability occurred prior to the effective date of any such termination or completion.

Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this section from each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others as required, Consultant shall be fully responsible for all obligations under this Contract. City's failure to monitor compliance with this requirement imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. The obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

Consultant's compliance with this insurance requirements does not relieve Consultant from the obligations under this Contract, which shall apply whether or not such insurance policies are applicable to a claim or damages.

## **PERSONNEL**

The Consultant represents that it has, or will secure at its own expense, all personnel required in performing the Services. All of the Services required hereunder will be performed by the Consultant or under Consultant's supervision, and all personnel engaged in the work shall be qualified to perform such services.

Consultant shall make every reasonable effort to maintain stability and continuity of Consultant's Key Personnel assigned to perform the Services. Key Personnel for this contract are defined to include the following people: Sadie Ash. Consultant shall provide City with a minimum twenty (20) days prior written notice of any changes in Consultant's Key Personnel assigned to the provided Services, provided that Consultant receives such notice, and shall not replace any Key Personnel with anyone to whom the City has a reasonable objection.

## **NOTICES**

All notices that are required to be given by one party to the other under this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a

properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City: City of Colusa  
425 Webster Street  
Colusa, CA 95932  
ATTN: City Manager, City Grant Writer

Consultant: Rosita Ranch Consulting LLC  
4655 Lodoga Stonyford Rd.  
Stonyford, CA 95979  
ATTN: Jennifer Diaz

### **CITY NOT OBLIGATED TO THIRD PARTIES**

City shall not be obligated or liable for payment hereunder to any party other than the Consultant.

### **MISCELLANEOUS PROVISIONS**

#### **A. NON-DISCRIMINATION**

Consultant shall not discriminate in any way against any person on the basis of race, color, religious creed, national origin, ancestry, sex, sexual orientation, age, physical handicap, medical condition or marital status in connection with, or related to, the performance of this Agreement.

#### **B. UNAUTHORIZED ALIENS**

Consultant hereby promises and agrees to comply with all the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. § I 101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

#### **C. SECTIONS HEADINGS**

The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

#### **D. SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

#### **E. REMEDIES NOT EXCLUSIVE**

No remedy herein conferred upon or reserved to City is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

#### **F. NO WAIVER OF DEFAULT**

No delay or omission of City to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default of an acquiescence therein; and every power and remedy given by this Agreement to City shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of City.

#### **G. ENTIRE AGREEMENT AND AMENDMENT**

This document represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, and agreements, either written or oral. This document may be amended only by written instrument signed by both City and Consultant.

#### **H. SUCCESSORS AND ASSIGNS**

All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

#### **I. APPLICABLE LAW; VENUE; ATTORNEY'S FEES**

This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Colusa, if in state court, or in the federal court nearest to the City of Colusa, if in federal court. In any action brought by either party to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs.

**J. AUTHORITY**

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Consultant hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Consultant is obligated, which breach would have a material effect hereon.

**K. CONFLICTING TERMS**

This Agreement and its Exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract.

**IN WITNESS WHEREOF**, the parties have executed this Agreement to be effective on the date executed by City.

CITY OF COLUSA  
By:

CONSULTANT  
By:

\_\_\_\_\_  
Jesse Cain, City Manager

\_\_\_\_\_  
Jennifer Diaz, Consultant

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date:

CITY OF COLUSA  
By:

CITY OF COLUSA  
By:

\_\_\_\_\_  
Greg Ponciano, City of Colusa Mayor

\_\_\_\_\_  
Shelly Kittle, City Clerk

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Date: