

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF GRASS VALLEY
AND
THE NEVADA CEMETERY DISTRICT
FOR ACCOUNTING SERVICES**

This Memorandum of Understanding (the “Agreement”) is entered into by and between the Nevada Cemetery District, a California Independent Special District under Section 9007 of the Health and Safety Code (the “District”), and the City of Grass Valley, a California municipal corporation (the “City”) (collectively, the “Parties”).

WHEREAS, the District is seeking support with the District’s accounting functions;

WHEREAS, the City is willing and able to provide the District with the necessary accounting services as set forth in **Exhibit A** and incorporated herein by this reference;

WHEREAS, the District desires to enter into this Agreement with the City for the requested accounting services in accordance with the terms and conditions set forth therein.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, the PARTIES agree as follows:

1. **Purpose.** The purpose of this Agreement is to provide accounting services to the District in accordance with the terms and conditions set forth in **Exhibit A**.
2. **Term.** The Term of this Agreement shall commence at 12:00a.m. on February 27, 2023, irrespective of the date(s) executed, and shall expire at 11:59 p.m. on the January 31, 2025, unless extended, amended, or terminated as provided herein. The Parties shall have the authority to extend the term of this Agreement in writing, for a period suitable to both agencies. Extensions of time shall be memorialized by execution of a written amendment to this Agreement.
3. **City’s Rights and Obligations.**
 - (a) **Scope of Services.** The City shall perform the accounting services identified in the Scope of Services, attached hereto as Exhibit A. The District shall have the right to request, in writing, changes to the Scope of Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. The City does not guarantee or warrant the accuracy or reliability of any financial reporting or information provided by the District. The City is not responsible for managing the District’s finances and is entitled to rely on the information provided by the District to carry out the services provided under this Agreement. The District is responsible for notifying the City of any changes to financial reports relied upon by the City in order to make them accurate or suitable for particular

purposes.

- (b) **Invoices.** The City shall submit to the District an invoice, on a monthly basis or as otherwise agreed to between the Parties, for services performed pursuant to this Agreement.
- (c) **Insurance.** The City agrees to procure and maintain for the duration of this Agreement liability insurance or a program of self-funding for liability, or a combination of the two, sufficient to protect against claims for injuries or damages which may arise from or in connection with the performance of the City's duties under this Agreement.

4. **District's Rights and Obligations.**

- (a) **Compensation.** The District agrees to compensate the City for the services provided under this Agreement, and the City agrees to accept payment in accordance with **Exhibit A**. The City shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by the District in advance.
- (b) **Scope of Services.** The District hereby acknowledges that the City does not guarantee or warrant the accuracy or reliability of any financial reporting or information provided by the District. The City is not responsible for managing the District's finances and is entitled to rely on the information provided by the District to carry out the services provided under this Agreement. The District is responsible for notifying the City of any changes to financial reports relied upon by the City in order to make them accurate or suitable for particular purposes.
- (c) **Insurance.** The District agrees to procure and maintain for the duration of this Agreement liability insurance or a program of self-funding for liability, or a combination of the two, sufficient to protect against claims for injuries or damages which may arise from or in connection with the performance of the District's duties under this Agreement.

5. **Indemnification.**

- (a) The City must indemnify, defend, and hold harmless the District and its officers, employees, representatives, and agents from any and all liability, claims, demands, causes of action, and expenses or losses of any kind, arising out of or in any way connected with this Agreement.
- (b) The District must indemnify, defend, and hold harmless the City and its officers, employees, representatives, and agents from any and all liability, claims, demands, causes of action, and expenses or losses of any kind, arising out of or in any way connected with this Agreement.

6. Settlement of Disputes.

- (a) The Parties will attempt in good faith to resolve any dispute or claim arising out of or in relation to this Agreement through negotiations between a director of each of the Parties with authority to settle the relevant dispute. If the dispute cannot be settled amicably within thirty (30) days from the date on which either Party has served written notice on the other of the dispute, then the remaining provisions of this Clause shall apply.
- (b) The Parties hereto agree to mediate any dispute or claim arising between them out of this Agreement, or any resulting transaction, before resorting to arbitration. Mediation fees shall be divided equally among the Parties involved. If any Party commences an action based on a dispute or claim to which this paragraph applies, without first attempting to resolve the matter through mediation, then that Party shall not be entitled to recover attorney fees, even if fees would otherwise be available to the Party in any such action.
- (c) THE PARTIES AGREE THAT ANY DISPUTE OR CLAIM IN LAW OR EQUITY ARISING BETWEEN THEM OUT OF THIS AGREEMENT, OR ANY RESULTING TRANSACTION, WHICH IS NOT SETTLED BY MEDIATION, SHALL BE DECIDED BY NEUTRAL, BINDING ARBITRATION. THE ARBITRATION SHALL BE UNDER THE RULES OF THE JUDICIAL ARBITRATION AND MEDIATION SERVICES (JAMS). THE ARBITRATOR SHALL BE AN IMPARTIAL RETIRED JUDGE OR JUSTICE, WITH AT LEAST 15 YEARS OF FULL TIME LAW EXPERIENCE, UNLESS THE PARTIES MUTUALLY AGREE TO A DIFFERENT ARBITRATOR, WHO SHALL RENDER AN AWARD WITH DETAILED REASONED FINDINGS AND CONCLUSIONS IN ACCORDANCE WITH THE SUBSTANTIVE CALIFORNIA LAW. IN ALL OTHER RESPECTS, THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH PART III, TITLE 9 OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. JUDGMENT UPON THE AWARD OF THE ARBITRATOR(S) MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THE PARTIES SHALL HAVE THE RIGHT TO DISCOVERY IN ACCORDANCE WITH CODE OF CIVIL PROCEDURE §1283.05. EXCEPT THAT EACH PARTY SHALL BE ENTITLED AS A MATTER OF RIGHT TO TAKE ONE DEPOSITION OF THE OTHER PARTY WITHOUT THE REQUIREMENT OR CONSENT OF THE ARBITRATOR. IN ANY CONTROVERSY OR DISPUTE REQUIRING LEGAL LITIGATION/ATTORNEYS, THE PREVAILING PARTY SHALL BE ENTITLED TO REASONABLE ATTORNEY FEES AND COSTS.

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DISTRICT INITIALS:
DISTRICT INITIALS:

7. **Notices.** Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during City's and District's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).

To City:

Catrina Olson
125 E Main St
Grass Valley, CA 95945
Telephone: 530-274-4302
Facsimile: 530-274-4399
Email:

To District:

General Manager
Nevada Cemetery District
PO Box 2400
10523 Willow Valley Rd.
Nevada City, CA 95959-2400
Telephone: 530-265-3461
Facsimile:
Email:

With courtesy copy to:

Michael G. Colantuono, Esq.
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945
Telephone: (530) 432-7357
Facsimile: (530) 432-7356
Email:

8. **Governing Law.** This Agreement and the rights and obligations of the Parties shall be governed by and construed according to the laws of the State of California. The venue for any litigation shall be Nevada County, California, and City and District hereby consents to jurisdiction there for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
9. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Agreement must be liberally construed in favor of and to effect the purpose of this Agreement. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Agreement that would render the provision valid must be favored over any interpretation that would render it invalid.
10. **Severability.** If a court of competent jurisdiction voids or invalidates on its face any provision of this Agreement, such action does not affect the remainder of this Agreement. If a court of competent jurisdiction voids or invalidates the application of any provision of this Agreement to a person or circumstance, such action does not affect the application of the provision to other persons or circumstances.
11. **Entire Agreement.** This instrument, together with any attached exhibits and documents

referred to in it, sets forth the entire agreement of the Parties with respect to its subject matter and supersedes all prior discussions, negotiations, understandings, or agreements relating to the subject matter of this Agreement. No alteration or variation of this instrument is valid or binding unless contained in an amendment in accordance with the provisions of this Agreement.

12. **Amendment.** The Parties may amend this Agreement only by mutual written agreement.
13. **Termination.** This Agreement, and the rights and obligations of the Parties, may be terminated by the District for any reason upon five calendar days' written notice to the City. The City may terminate this Agreement for any reason upon ninety calendar days' written notice to allow the District time to procure replacement services.
14. **Successors and Assigns.** The covenants, terms, conditions, and restrictions of this Agreement are binding upon, and inure to the benefit of, the Parties and their respective personal representatives, heirs, successors, and assigns.
15. **Headings.** The headings in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and have no effect upon its construction or interpretation.
16. **Counterparts.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

IN WITNESS WHEREOF, each Party represents and warrants that its undersigned signatories have the authority to and do hereby execute this Agreement as follows:

“District”
Nevada Cemetery District

“City”
City of Grass Valley

By: _____

By: _____
Tim Kiser, City Manager

Date: _____

Date: _____

Approved as to form:

By: _____
(NAME HERE), County Counsel

By: _____
Michael G. Colantuono, City Attorney

Date: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF WORK:

Nevada Cemetery District (NCD) is seeking support with the District's accounting functions. The City of Grass Valley (GV) has agreed to provide NCD with the necessary accounting services for the cost of time and materials at the rates listed below. The service period to begin February 1, 2023, through January 31, 2025. Two additional one-year service extensions based on performance. It is estimated the services to be provided will require on average 15-25 hours per month. Work performed will be logged and provided with a monthly invoice to NCD.

SERVICES TO BE PROVIDED BY:

- 1) GV Deputy Administrative Services Director @ \$95.95/hour
- 2) GV Senior Accountant @ \$60.44
- 3) GV Accounting Technician @ \$44.04

REQUIRE SERVICES – typical services include but are not limited to:

- 1) Perform Accounting Services
 - a) Processing payroll monthly including tax and benefits payments and reporting. CalPERS retirement payment and reporting.
 - b) Invoicing and recording of deposits.
 - c) Processing accounts payable.
 - d) Reconciling all cash accounts.
 - e) Provide monthly financial statements and monthly financial reports to the District Manager.
 - f) Update the financial system as needed to improve performance and to accommodate changing requirements.
 - g) Quarterly payroll tax reporting and sales tax reporting.
 - h) Other duties as necessary.
- 2) Prepare for and participate in NCD's Annual Audit
 - a) Assemble and prepare documents required the auditor.
 - b) Verify and, if necessary, reconcile revenues and expenses.
 - c) Reconcile year end expenses and bank statements.
 - d) Reconcile payroll taxes with reporting.
 - e) Update fixed asset inventory.
 - f) Provide support for updating depreciation schedule.
 - g) Prepare list of year-end accounts payable accrued expenses and deferred revenues.
 - h) Participate in audit field work and response to questions and requests from the auditor.
 - i) Complete other duties as necessary.
- 3) Other Services
 - a) Perform conversion of Quickbooks from the desktop version to the cloud version.
 - b) Provide input into documentation of administrative procedures as they relate to financial system management.
 - c) Work with Nevada County in providing all of the financial information into the FinPlus system timely.

The City of Grass Valley will agree to provide payment processing services for payroll and accounts payable for the flat rate of \$800 per month, upon NCD's request. If requested the cost

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