



Professional Services Agreement General Terms and Conditions

This **Professional Services Agreement** ("Agreement") is by and between **Thompson Consulting Services, LLC** ("Consultant"), with offices at 2601 Maitland Center Parkway, Maitland, FL 32751 and the **City of Clearwater** ("Client"). In consideration of the mutual covenants to be performed by the parties pursuant to this Agreement, each party hereby represents, warrants, and agrees as follows:

1. TERM & APPLICABILITY

The term of this Agreement shall be from the effective date through June 30, 2026. The term of this Agreement can be renewed for one (1) additional two (2) year period at the sole discretion of the Client. This Agreement shall apply to all work performed at the request of the Client or for the benefit of the Client during the term hereof (the "Work") unless both parties agree in writing that the terms and conditions hereof shall not apply.

2. SCOPE OF WORK

Consultant shall perform such Work as the Client may direct from time to time during the term hereof and in accordance with **Exhibit A, Request for Proposals; Exhibit B, Consultant Proposal Response; and Exhibit C, Interview Presentation** attached hereto. This Agreement is on an "as needed" basis and no Work shall result from this Agreement without a Notice to Proceed from the Client to the Consultant.

3. INDEPENDENT CONTRACTOR

Consultant is an independent contractor and is not an employee of Client. Services performed by Consultant under this Agreement are solely for the benefit of Client. Nothing contained in this Agreement creates any duties on the part of Consultant toward any person not a party to this Agreement.

4. STANDARD OF CARE

Consultant will perform services under this Agreement with the degree of skill and diligence normally practiced by professional consultants performing the same or similar services. No other warranty or guarantee, expressed or implied, is made with respect to the services furnished under this Agreement and all implied warranties are disclaimed.

5. CHANGES/AMENDMENTS

This Agreement and its exhibits constitute the entire agreement between the Parties and together with its exhibits supersede any prior written or oral agreements. This Agreement may not be changed except by written amendment signed by both Parties. The estimate of the level of effort and schedule required to complete any services directed by the Client will be determined following a Notice to Proceed. Consultant shall promptly notify Client if the Work following a Notice to Proceed affect the schedule, level of effort, or payment to Consultant and the schedule and payment shall be equitably adjusted.

6. FEE FOR SERVICES

The fee for the services under this Agreement will be based on the actual hours of services furnished multiplied by Consultant's Billing Rates as set forth in **Exhibit B and Exhibit C**.

7. PAYMENT

Client shall pay Consultant for services furnished under this Agreement upon submission of invoices in an amount equal to actual hours of services furnished multiplied by the billing rates set forth in **Exhibit B and Exhibit C**. Client shall pay Consultant within thirty (30) days of receipt of invoices less any disputed amounts. If Client disputes any portion of the invoice, the undisputed portion will be paid and Consultant will be notified in writing, within ten (10) days of receipt of the invoice of the exceptions taken. Consultant and Client will attempt to resolve the payment dispute within sixty (60) days or the matter may be submitted to litigation as provided herein. Additional charges for interest shall become due and payable at a rate of one and one-half percent (1-1/2%) per month (or the maximum percentage allowed by law) on the unpaid, undisputed invoiced amounts. Any interest charges due from Client on past due invoices are outside any amounts otherwise due under this Agreement. If Client fails to pay undisputed invoiced amounts within sixty (60) days after delivery of invoice, Consultant, at its sole discretion, may suspend services hereunder or may initiate collections proceedings, without incurring any liability or waiving any right established hereunder or by law.

8. INSURANCE

Consultant shall maintain insurance with the required coverage and minimum limits in accordance with **Exhibit A**.

9. WORK PRODUCT

Consultant shall retain ownership of its trade secrets, and other proprietary and confidential information, including the Thompson Data Management System "TDMS System" and all Work Products (hereinafter defined) Client agrees to preserve the confidentiality of any trade secrets, confidential or propriety information; however, Client shall have the unrestricted right to use the documents, analyses and other data prepared by Consultant under this Agreement ("Work Products"); provided, however Client shall not rely on or use the Work Products for any purpose other than the purposes under this Agreement and the Work Products shall not be changed without the prior written approval of Consultant. If Client releases the Work Products to a third party without Consultant's prior written consent, or changes or uses the Work Products other than as intended hereunder, (a) Client does so at its sole risk and discretion, and (b) Consultant shall not be liable for any claims or damages resulting from the change or use or connected with the release or any third party's use of the Work Products.

10. LIMITATION OF LIABILITY

No employee of Consultant shall have individual liability to Client. To the extent permitted by law, the total liability of Consultant, its officers, directors, shareholders, employees and sub-consultants for any and all claims arising out of this Agreement, including attorneys' fees, and whether caused by negligence, errors, omissions, strict liability, breach of contract, contribution or indemnity claims based on third party claims or any other case, shall not exceed the lesser of: 1.) the amount of insurance coverage identified in paragraph 8 which provides coverage and pays Client for a claim related to this Agreement; 2.) fee received by Consultant under this Agreement; or 3.) one hundred fifty thousand dollars (U.S. \$150,000.00).



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11. NO CONSEQUENTIAL DAMAGES

In no event and under no circumstances shall Consultant be liable to Client for any principal, interest, loss of anticipated revenues, earnings, profits, increased expense of operation or construction, loss by reason of shutdown or non-operation due to late completion or otherwise or for any other economic, consequential, indirect or special damages.

12. INFORMATION PROVIDED BY OTHERS

Client shall provide to Consultant in a timely manner any information Consultant indicates is needed to perform the services hereunder. Consultant may rely on the accuracy of information provided by Client and its representatives.

13. SAFETY AND SECURITY

Consultant has established and maintains programs and procedures for the safety of its employees. Unless specifically included as a service to be provided under this Agreement, Consultant specifically disclaims any authority or responsibility for job site safety and safety of persons other than Consultant's employees. Consultant shall not provide any such services and disclaims any responsibility under this Agreement related to site security or the assessment, evaluation, review, testing, maintenance, operation or safety practices or procedures related to security.

14. TERMINATION

Either party may terminate this Agreement upon fifteen (15) days prior written notice to the other party. Client shall pay Consultant for all services rendered to the date of termination plus reasonable expenses for winding down the services. If either party defaults in its obligations hereunder, the non-defaulting party, after giving seven (7) days written notice of its intention to terminate or suspend performance under this Agreement, may, if cure of the default is not commenced and diligently continued, terminate this Agreement or suspend performance under this Agreement. Upon termination, the terms and conditions found in this Agreement shall survive its termination, including but not limited to the language in sections 4, 7, 9, 10, 11, 12, 15, 16.

15. GOVERNING LAW AND CHOICE OF FORUM

This Agreement shall be governed by the laws of the State of Florida and any suit brought by either party shall be brought in a court of competent jurisdiction in the State where the Work is performed.

16. DISPUTE RESOLUTION

Consultant and Client shall attempt to resolve conflicts or disputes under this Agreement in a fair and reasonable manner and agree that if resolution cannot be made to attempt to mediate the conflict by a professional mediator (except for payment disputes which may be submitted directly to arbitration). If mediation does not settle any dispute or action which arises under this Agreement or which relates in any way to this Agreement or the subject matter of this Agreement within ninety (90) days after either requests mediation, the matter will be litigated as provided in the above paragraph 15.

17. COOPERATIVE PURCHASING

It is the intent of Client to allow other governments and other governmental agencies to utilize this contract by entering into a Cooperative Purchasing Agreement to the extent permissible by local

and state law. The Cooperative Purchasing Agreement will stipulate that any modifications or changes to this document and resulting contract(s) including but not limited to Consultant requirements, scope, or price shall be submitted to Client in writing for acceptance and approval as the originator of the contract.

18. ASSIGNMENT

This Agreement is binding upon and will inure to the benefit of Client and Consultant and their respective successors and assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party.

19. NOTICES

Any notice required or permitted by this Agreement to be given shall be deemed to have been duly given if in writing and delivered personally or five (5) days after mailing by first-class, registered, or certified mail, return receipt requested, postage prepaid and addressed as follows:

Client: _____
Attention: _____
Address: _____

Consultant: Thompson Consulting Services, LLC
Attention: Jon Hoyle, President
Address: 2601 Maitland Center Parkway
Maitland, FL 32751

With a copy to:

Attention: Ryan Baya, Esquire
Address: 2970 Cottage Hill Road
Suite 190
Mobile, AL 36606

20. UNFORSEEN OR UNEXPECTED COSTS

To the extent that Consultant incurs any unforeseen or unexpected costs that arise during the performance of the Agreement, which were not anticipated at the time of contract execution, Consultant shall notify Client in writing within thirty (30) days of becoming aware of such costs and describe the unexpected costs, the reason(s) for their occurrence, and provide supporting documentation, if any. Examples of such unexpected costs include, but are not limited to, costs or fees for services necessitated by the enactment or revision of codes, laws, or regulations, including an increase in tax rates. Promptly after receiving the notification, Client and Consultant shall meet to discuss the unexpected costs and agree to negotiate in good faith to determine the appropriate adjustment to the contract price, which in no event shall be less than the actual cost increase incurred by Consultant. Any



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adjustment must be mutually agreed upon in writing. This provision does not apply to costs resulting from the negligence, willful misconduct, or breach of contract by Consultant. If the parties are unable to reach an agreement on the adjustment, the matter shall be resolved in accordance with the dispute resolution procedures set forth in this Agreement.

21. MISCELLANEOUS

A. Client expressly agrees that all provisions of the Agreement, including the clause limiting the liability of Consultant, were mutually negotiated and that but for the inclusion of the limitation of liability clause in the Agreement, Consultant's compensation for services would otherwise be greater and/or Consultant would not have entered into the Agreement.

B. If any provision of this Agreement is invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect and the provision declared invalid or unenforceable shall continue as to other circumstances.

C. Consultant shall maintain adequate records of all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of the contract. The Client shall have access to all records, documents and information collected and/or maintained by others in the course of the administration of the Agreement. This information shall be made accessible at the Client's place of business for purposes of inspection, reproduction and audit without restriction.

D. Notwithstanding any statute to the contrary, the Parties agree that any action to enforce or interpret this Agreement shall be initiated within two (2) years from the time the party knew or should have known of the fact giving rise to its action, and shall not in any case be initiated later than five (5) years after Consultant completes its Scope of Services under this Agreement, or such shorter period for filing action in accordance with the governing law.

E. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original instrument, but all of which taken together shall constitute one instrument.

F. **Exhibit D, Federal Uniform Guidance Requirements**, is incorporated into this Agreement.

22. INDEMNITY

Consultant shall hold harmless the Client from all claims and liability due to activities of itself, its agents, or employees, performed under this Agreement to the extent caused by the negligent act, error or omission of the Consultant or of any person employed by the Consultant. Consultant shall also hold harmless the Client from reasonable attorney fees which might be incurred by the Client in litigation or otherwise resisting said claims or liabilities which might be imposed on the Client as result of such activities by the Consultant, its agents, or employees.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers or representatives.

Effective Date: _____

THOMPSON CONSULTING SERVICES, LLC

Name: Nathaniel Counsell

Title: Executive Vice President

Date: 07/15/2025

CITY OF CLEARWATER, FLORIDA

Bruce Rector
Mayor

Jennifer Poirrier
City Manager

Approved as to form:

Attest:

Owen Kohler
Lead Assistant City Attorney

Rosemarie Call
City Clerk

Please return executed copy of these terms and conditions to the attention of:

Kyle Hoyle

khoyle@thompsoncs.net

(407) 792-0018 – Phone