

SERVICES AGREEMENT

SERVICES AGREEMENT ("Agreement") by and between Northeast II, Inc., DBA: TC Delivers, a Pennsylvania corporation ("TC Delivers") with its principal place of business at 5610 West Sligh Avenue, Suite 100 Tampa, FL 33634, and the City of Clearwater, a municipal corporation of the State of Florida ("City"), having offices at 100 S. Myrtle Ave., Clearwater, FL 33756 is made and entered into as of the 23rd day of October, 2012.

SECTION 1. Term

- 1.01 This Agreement shall become effective November 1, 2012, and shall remain in effect through October 31, 2015 unless otherwise terminated as provided for herein.
- 1.02 This contract will be for three (3) years with two (2) one (1) year extension options. The City of Clearwater will accept an annual cost escalation in an amount not to exceed the increase in the latest available 12 months as published by the U.S. Government under the "All Goods and Services" of the Consumer Price Index. The increase must be requested in writing annually. The "All Goods and Services" index is available by phone or visit to the Reference Desk at any public library.

SECTION 2. Agreement to Provide Services

- 2.01 TC Delivers will provide to the City the printing and mailing services more particularly described in Exhibit "A", ("Services"), as may be amended from time to time, in accordance with the terms and conditions set forth herein.

SECTION 3. Standards of Performance

- 3.01 All Services shall be performed in a manner consistent with the standards of performance as set forth in Exhibit "A".
- 3.02 In the event that TC Delivers does not perform any component of the Services in a manner that is substantially consistent with the standards of performance and such Services are not performed to the City's reasonable satisfaction, the City shall notify TC Delivers. Upon such notification, TC Delivers shall promptly take steps to correct or redo the work.
- 3.03 In the event TC Delivers consistently fails to substantially perform significant components of the Services to the City's satisfaction and such Services are not performed in a manner reasonably consistent with the standards of performance, the City shall notify TC Delivers in writing, specifying in reasonable detail the manner in which the City believes the Services to be deficient. Within five (5) business days of such notification, TC Delivers shall either correct the deficiencies or submit a comprehensive corrective action plan to the City for

approval, which approval shall not be unreasonably withheld, conditioned or delayed. TC Delivers' failure to correct the deficiencies or comply with such corrective action within the time specified in the plan shall constitute non-performance by TC Delivers. The City shall then have the option of terminating this Agreement, as set forth in Section 10 .

SECTION 4. Contract Administration and Management Reporting.

- 4.01 The City shall designate a "Contract Administrator" for this Agreement who will serve as the liaison between TC Delivers and the City and shall be the authorized agent of the City. TC Delivers will direct all questions regarding this Agreement to the Contract Administrator and shall be fully protected in relying upon instructions from the Contract Administrator.
- 4.02 TC Delivers shall designate a "Site Manager" for this Agreement. The Site Manager will be in charge of the day-to-day delivery of Services hereunder and will be the point of contact for all operational issues that arise.
- 4.03 TC Delivers will provide activity reports to the City within established time frames and in format mutually agreed upon by both parties.
- 4.04 TC Delivers shall maintain accurate records of all amounts billable to, and payments made by, the City under this Agreement in accordance with generally accepted accounting principles. TC Delivers shall preserve all records for a period of two (2) years after the termination of this Agreement. The City shall have access to such records, upon prior written request to TC Delivers, at all reasonable times during TC Delivers' normal business hours during the period in which TC Delivers is required to maintain such records, for the purpose of verifying the accuracy of the City billings or for any other reasonable purpose.
- 4.05 The respective party will give prior notice to the other party of any change in the Contract Administrator or Site Manager.

SECTION 5. Prices and Payment Terms

- 5.01 Prices for Services to be provided hereunder are set forth in Exhibit "B".
- 5.02 The monthly charges for Services will be billed at the end of each month in which such charges were incurred. Payment by the City shall be subject to F.S. 218.70 Florida Prompt Payment Act.
- 5.03 The City will pay for, actual postage costs associated with the City mail. TC Delivers will maintain a daily accounting of postage costs associated with processing the City mail. At a minimum such accounting shall include beginning

postage balance, number of pieces of City mail processed at various postage rates and daily ending postage balance. The City will maintain postage escrow accounts with TC Delivers for the Utility mail and the Departmental mail to cover ongoing postage expenses.

SECTION 6. Insurance

- 6.01 TC Delivers shall furnish, pay for, and maintain during the life of the Agreement with the City the following liability coverage:
- A. Comprehensive General Liability insurance on an “occurrence” basis in an amount not less than \$1,000,000.00 combined single limit Bodily Injury Liability and Property Damage Liability.
 - B. Business Automobile Liability insurance in the amount of at least \$1,000,000, providing Bodily Injury Liability and Property Damage Liability.
 - C. Workers’ Compensation Insurance in accordance with the laws of the State of Florida, applicable to its employees, contractors, and subcontractors, and
 - D. Employers’ Liability in the amount of **\$100,000** each employee, each accident, and **\$100,000** each employee/**\$500,000** policy limit for disease, and which meets all state and federal laws. Coverage must be applicable to employees, contractors, and subcontractors, if any.
- 6.02 The City is to be specifically included as an additional insured on all liability coverage described above, except the insurance coverage identified in paragraphs 6.01 (C) (D).
- 6.03 All policies of insurance must be endorsed to provide the City with thirty (30) days notice of cancellation or restriction.
- 6.04 TC Delivers shall provide the City with a certificate or certificates of insurance showing the existence of the coverage required. TC Delivers will maintain this coverage with a current certificate or certificates of insurance throughout the term of the Agreement with the City. When specifically requested by City in writing, TC Delivers will provide the City with certified copies of all policies of insurance as required above. New certificates and new certified copies of policies if certified copies of policies have been requested, shall be provided to the City whenever any policy is renewed, revised or obtained from other insurers.
- 6.05 The address where such certificates and certified policies shall be sent or delivered is as follows:

City of Clearwater
Attention: Official Records & Legislative Services
P.O. Box 4748
Clearwater, FL 33758-4748

- 6.06 TC Delivers, shall defend, indemnify, save and hold the City harmless from any and all claims, suits, judgments and liability for death, personal injury, bodily injury, or property damage arising directly or indirectly from any performance under this Agreement entered into by the City and TC Delivers its employees, subcontractors, or assigns, including legal fees, court costs or other legal expenses. TC Delivers acknowledges that it is solely responsible for complying with the terms of the Agreement. TC Delivers shall at its expense, secure and provide to the City, prior to beginning performance under this agreement, all insurance coverage as required.

SECTION 7. Indemnification

- 7.01 Each party agrees to indemnify and hold harmless the other, its respective directors, officers and employees, from all losses, claim of losses, damages and expenses (including without limitation court costs and reasonable attorneys' fees) asserted against the indemnified party by third parties and directly and proximately caused by the negligent acts or omissions or misconduct of the indemnifying party, its officers, agents, and employees or authorized representatives.
- 7.02 The party claiming indemnification under this Section 7 (the "indemnified party") shall promptly notify the other party of such claim. The indemnifying party shall have the right to control the defense of the claim including the right, with the consent of the indemnified party (which consent shall not be unreasonably withheld, conditioned or delayed), to compromise or settle such claim. The indemnified party shall participate in such defense if requested to do so by the indemnifying party and shall be reimbursed for its reasonable direct out-of pocket expenses incurred as a result of such participation.
- 7.03 The City shall be responsible for ensuring that it has appropriate rights to all materials that it directs TC Delivers to copy, use or distribute and shall indemnify and hold harmless TC Delivers, its officers, agents and employees from and against any and all suits, actions, legal proceedings, claims, demands, or costs arising from such copying, use or distribution at the request or instructions of the City.
- 7.04 TC Delivers maximum liability under Section 7 is limited to those amounts set forth in Section 9.

- 7.05 The City's maximum liability under Section 7 is limited to those amounts set forth in Section 9.

SECTION 8. Confidentiality and Protection of Intellectual Property

- 8.01 TC Delivers acknowledges that in providing the Services hereunder it may have access to confidential or proprietary information of the City, its affiliates or clients. TC Delivers agrees to use such information that is identified in writing by the City as being confidential or proprietary only to fulfill its obligations under this Agreement and agrees to hold such information in confidence.
- 8.02 TC Delivers shall inform its employees, agents and independent contractors who require access to information of the City, its affiliates, or clients in order for TC Delivers to perform the Services hereunder of the confidentiality obligations set forth above, and TC Delivers shall cause them to abide by such obligations.

SECTION 9. Limits on Liability

- 9.01 In no event shall either party to this Agreement be liable to the other for special, consequential or indirect damages, including without limitation loss of anticipated profits, business opportunity or goodwill.
- 9.02 The City's maximum liability for any claim of whatever nature or any obligation hereunder to indemnify TC Delivers shall be limited to those amounts set forth in Section 768.28, Florida Statutes.

SECTION 10. Termination

- 10.01 In the event of substantial non-performance, as described in Section 3.03, the City shall have the right to terminate this Agreement upon 30 days prior written notice.
- 10.02 In addition to all other rights or remedies provided for in this Agreement or by law, this Agreement shall automatically terminate in the event that (a) a party hereto shall make a general assignment for the benefit of creditors, (b) a party hereto admits in writing its inability to pay debts as they mature, (c) a trustee, custodian or receiver is appointed by any court with respect to a party hereto or any substantial part of such party's assets, or (d) an action is taken by or against a party under any bankruptcy or insolvency laws or laws relating to the relief of debtors, including federal Bankruptcy Act, and such action is not dismissed within thirty (30) days.
- 10.03 Termination of this Agreement shall not relieve either party of the obligation to pay any amounts due, or to give any credit due, for Services rendered prior to the effective date of termination.

SECTION 11. Force Majeure

- 11.01 Neither TC Delivers nor the City shall be responsible or incur any liability for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure results from causes beyond its control, including but not limited to fire, flood, explosion, war, labor dispute, embargo, government requirement, civil or military authority, natural disasters, or other similar types of situations. If such situations occur, the party delayed or unable to perform shall give prompt notice to the other party and shall use its commercially reasonable best efforts to resume Services, to the extent possible, as soon as practicable after the cessation of the situation.

SECTION 12. Exhibits

- 12.01 Any Exhibits attached hereto are specifically made a part of this Agreement.
- 12.02 Any Exhibit may be amended or augmented only by the mutual written consent of the parties. Any such amended Exhibit shall be signed by both parties hereto and attached hereto and shall be considered a part of this Agreement.

SECTION 13. Entire Agreement

- 13.01 This Agreement supersedes all prior written or verbal agreements, understandings and discussions between the parties. This Agreement cannot be modified unless signed by the party against whom such modification is sought to be enforced.

SECTION 14. Miscellaneous

- 14.01 This agreement may not be assigned without the prior written consent of the other party, except that either party may assign this agreement to a parent, subsidiary, affiliate, or successor to substantially all of the assets of either party. Any purported assignment without consent shall be deemed null and void and having no effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

TC DELIVERS

By: Kevin M. McMahon

Name: Kevin M. McMahon

Title: General Manager

Countersigned:

CITY OF CLEARWATER, FLORIDA

-George N. Cretekos

George N. Cretekos
Mayor

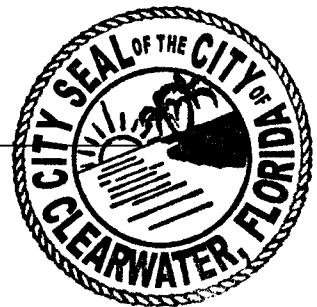
By: William B. Horne II
William B. Horne II
City Manager

Approved as to form:

Camilo Soto
Camilo Soto.
Assistant City Attorney

Attest:

Rosemarie Call
Rosemarie Call
City Clerk



SERVICES AGREEMENT

Exhibit A

Services

Area I:

Print, Process and Mail City of Clearwater Utility Bills

1. TC Delivers shall print the City of Clearwater regular utility bills, reminder notice bills, final bills and reminder final bills each day, five (5) days per week (Monday – Friday) excluding ten (10) City Holidays, upon receipt from the City of an electronic file transfer of the bill images contained in a portable document format (.pdf) or other electronic format that the City may elect to use. The City shall electronically transmit to TC Delivers files of utility bills to be printed that day. The city shall transmit such files to TC Delivers by 12:00 p.m. each day.
 - a. Utility bills shall be printed on pre-printed bill stock or other City approved, formatted stock. Bill stock shall be supplied by TC Delivers.
 - b. TC Delivers shall print bills in a manner that will allow the bills to be processed and postmarked and mailed the same day as printed.
 - c. TC Delivers shall prepare and tender daily a report that indicates the number of bills printed as well as an exception report that indicates the number of bills not printed, the reason for not printing and which identifies those bills that were not printed.
2. TC Delivers shall separate printed bills that have been previously identified by the City to be returned to the City from the mail processing stream. TC Delivers shall deliver these printed bills to the City the same day when TC Delivers picks-up the outgoing City mail from the City facility as specified in Area II of this Exhibit.
3. TC Delivers shall fold and insert one regular utility bill, one insert (to be supplied each month by the City), and one preprinted return envelope (#9) into preprinted City envelope (#10).
 - a. TC Delivers shall supply the preprinted return envelope (#9) and the preprinted City envelope (#10).
 - b. TC Delivers shall insert additional inserts that may be requested by the City and targeted for special mailings. TC Delivers shall notify the City of postage increases due to increased weight of the additional inserts. The City will instruct TC Delivers how to proceed.
4. TC Delivers shall fold and insert reminder notice (no envelope or other inserts required) into preprinted City envelope (#10).

- a. TC Delivers shall supply the preprinted City envelope (#10).
5. TC Delivers shall fold and insert one reminder final bill or fire reinspection fee statement and one preprinted return envelope (#9) into preprinted City envelope (#10) or fold and insert one Direct Debit utility bill and one insert into preprinted City envelope (10).
 - a. TC Delivers shall supply the preprinted return envelope (#9) and the preprinted City envelope (#10).
6. TC Delivers shall use due diligence to prevent multiple bills from being inserted into one envelope and to prevent damage to and / or loss of bills or other types of errors.
7. TC Delivers shall reprint statements that are damaged during the inserting or comingling processes, and shall insert such reprinted statements by hand and place back into the mail stream.
8. TC Delivers shall affix the proper postage, maximizing the most savings per piece, and seal the envelope.
9. TC Delivers shall deliver all printed and processed City utility bills, except those bills that are to be returned to the City, to the Post Office on the same business day as printing and in time for same day mailing.
10. TC Delivers shall provide a monthly invoice by the fifth day of the following month:
 - a. Invoice shall include the number of utility bills, final notices and reminder final bills printed and mailed; the number of pieces processed at each postage rate; the total postage; the running balance of the postage escrow account to include the beginning monthly balance, amounts received into escrow, amounts used, and the month ending balance; and the total fees charged by the vendor. TC Delivers shall generate and maintain records on a daily basis that support the totals contained in the monthly invoice. Such records shall be made available to the City upon request.

Area II

Process and Mail City of Clearwater Outgoing Mail

1. TC Delivers shall pick up the City of Clearwater outgoing U.S. mail five days per week (Monday – Friday) excluding ten (10) City Holidays between 2:00 p.m. and 2:30 p.m. from the following City facility:

Municipal Services Building
Customer Service Department
100 S. Myrtle Avenue,
Clearwater, FL 33756.

2. Each month, TC Delivers shall pick up and store one (1) month supply of the monthly utility bill insert to be inserted with the utility bills as specified in Area I.
3. TC Delivers will meter City Department Mail by weighing and applying correct postage.
4. TC Delivers shall barcode and sort City of Clearwater Department Mail through Automated Sorting Systems to maximize postage discounts.
5. Postal Classification will be first class mail.
6. TC Delivers shall process all City Department Mail and deliver to the Postal Service on the same day as picked up to ensure same day mailing.
7. TC Delivers shall track City Department Mail costs and provide corresponding monthly reports and invoices by the 5th day of the following month.
 - a. The monthly report shall include: postage usage by department code, number of pieces sent by each department, the total postage charged to each department, and the total vendor fees charged to each department;
 - b. The monthly invoice shall include: the number of pieces processed at each postage rate; the total postage; the running balance of the postage escrow account to include the beginning monthly balance, amounts received into escrow, amounts used, the month ending balance; and the total fees charged by the vendor. TC Delivers shall generate and maintain records on a daily basis that support the totals contained in the monthly invoice. Such records shall be made available to the City upon request.

SERVICES AGREEMENT

Exhibit B

Prices

Service Fee:

Area I

TC Delivers agrees to supply all envelopes and forms, process the data, laser print, fold, intelligent insert, meter, co-mingle, barcode and deliver the utility bills daily to the post office. Fees are below:

Regular Statements including 24 lb. pre-printed form, standard printed OSWE, and business reply \$0.11 each

Final Notices and statements including 24 lb. Pre-printed form and standard OSWE \$0.093 each

Exception notices returned daily including 24 lb. Pre-printed form \$0.045 each

Area II

TC Delivers agrees to weigh, meter, report daily postage and pieces by department, comingle, barcode and deliver the letter mail daily to the post office at a per piece price of \$0.035.

TC Delivers in addition to weigh, meter, report daily, etc for Flat size mail pieces TC will presort and barcode them for a fee of \$0.12 giving the City an additional savings per piece based on weight.

TC Delivers agrees to pick-up daily City Department mail at a price of \$4.00 each day; this fee will include picking up any additional inserts from the City.