

## **PROFESSIONAL SERVICES AGREEMENT**

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this \_\_\_\_ day of January 2025 ("Effective Date"), by and between **THE CITY OF HAWTHORNE**, a California municipal corporation, a general law city, ("City"), and **TRIPEPI SMITH** ("CONSULTANT"). This agreement is made with reference to the following:

### **I. Recitals**

- (i) CITY requested a proposal for professional services with respect to providing a Comprehensive Communication Services that would advise the City on public communication strategies, press releases, and communications best practices.
- (ii) CONSULTANT submitted a proposal for the performance of such services, a full, true and correct copy of which proposal is attached hereto as Exhibit "A" and by this reference made a part hereof.
- (iii) CITY desires for CONSULTANT to provide professional services necessary to administer and implement the Comprehensive Communication Services.
- (iv) CONSULTANT represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this AGREEMENT in a thorough, competent and professional manner. CONSULTANT shall at all times faithfully, competently, and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this AGREEMENT, CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of CONSULTANT under this AGREEMENT.

NOW, THEREFORE, it is agreed by and between CITY and CONSULTANT as follows:

### **II. Agreement**

1. Definitions: The following definitions shall apply to the following terms, except where the context of this AGREEMENT otherwise requires:
  - (a) Project: Develop and provide a Comprehensive Communication Services as outlined in the Proposal: General Communications for City of Hawthorne attached as Exhibit "A" hereto.
  - (b) Services: CONSULTANT shall provide professional services for the project as described in Exhibit "A" attached hereto.

(c) Duration: Said AGREEMENT shall be effective from January 1, 2025 to December 31, 2025.

(d) Completion of Project: CONSULTANT shall complete all tasks as noted in Exhibit "A" for a period as noted in the agreement with a period not to exceed 12 months. All work shall be conducted in a manner consistent with the standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting obligations under this Agreement.

(e) Consultant: Tripepi Smith & Associates, Inc., PO Box 52152 Irvine, CA 92619, (626) 536-2173.

(f) City: 4455 West 126th Street, Hawthorne, California, 90250.

2. Scope of Services: CONSULTANT agrees as follows:

(a) Compliance with Laws and Regulations: CONSULTANT shall forthwith undertake and complete the project in accordance with Exhibit "A" hereto and all in accordance with Federal, State and CITY statutes, regulations, ordinances and guidelines, all to the reasonable satisfaction of CITY.

(b) Personnel: CONSULTANT shall, at CONSULTANT'S sole cost and expense, secure and hire such other persons as may, in the opinion of CONSULTANT, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by CONSULTANT; CONSULTANT hereby warrants that such persons shall be fully qualified to perform services required hereunder. CONSULTANT further agrees that no subcontractor shall be retained by CONSULTANT except upon the prior written approval of CITY.

(c) Limitation on Payments: In no event, shall CITY be required to pay to CONSULTANT any sum in excess of 100% of the maximum payable hereunder prior to receipt by CITY of services described in Exhibit "A" acceptable in form and content to CITY. Final payment shall be made not later than 15 days after completion of project.

3. Compensation, Method of Payment, and Additional Services.

(a) CITY shall pay CONSULTANT in accordance with the payment rates and terms and the schedule of payment as set forth in the Agreement Terms and Cost Proposal set forth in the Proposal: General Communications for City Of Hawthorne submitted by CONSULTANT, Exhibit "A" hereto, and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks.

(b) Payments to CONSULTANT shall be made by CITY in accordance with the invoices submitted by CONSULTANT, on a monthly basis, and such invoices shall be paid within thirty (30) days after said invoices are received by CITY. Each invoice shall detail work performed and charges. All charges shall be in accordance with CONSULTANT's proposal with respect to hourly rates (Exhibit "A").

(c) CITY Requested Additional services: Payments for additional services requested in writing by CITY, and not included in CONSULTANT's proposal as set forth in Exhibit "A" hereof, shall be paid on a reimbursement basis in accordance with the fee schedule set forth in said Exhibit "A" or in an amount and manner agreed to in writing by CITY. Charges for additional services shall be invoiced on a monthly basis and shall be paid by CITY within thirty (30) days after said invoices are received by CITY.

(d) Payment to CONSULTANT for work performed pursuant to this AGREEMENT shall not be deemed to waive any defects in work performed by CONSULTANT.

4. CONSULTANT's Books and Records:

(a) Maintenance of Records: CONSULTANT shall maintain any and all documents and records demonstrating or relating to CONSULTANT's performance of services pursuant to this AGREEMENT. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to CITY pursuant to this AGREEMENT. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by CONSULTANT pursuant to this AGREEMENT. Any and all such documents or records shall be maintained for five (5) years from the date of execution of this AGREEMENT and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Inspection of Records: Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying at any time during regular business hours, upon written request by the CITY OR CITY's designated representative. Copies of such documents or records shall be provided directly to the requesting party for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon. Such documents and records shall be made available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

(c) Copies of Records: Where CITY or CONSULTANT has reason to believe that any of the documents or records required to be maintained pursuant to this section

may be lost or discarded due to dissolution or termination of CONSULTANT's business, the CITY may, by written request, require that custody of such documents or records be given to the CITY and that such documents and records be maintained by CITY. Access to such documents and records shall be granted to all parties to this AGREEMENT, as well as to their successors-in-interest and authorized representatives.

6. Default of CONSULTANT

(a) Failure to Comply with Terms of Agreement: 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) Cure of Default: 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, he shall cause to be served upon the Consultant a 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. Termination of Agreement:

(a) Termination of Agreement: 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.

The Consultant may at any time, for any reason, with or without cause, suspend or terminate this Agreement by serving upon the City at least ten (10) days prior written notice.

(b) Payment After Termination: 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. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City.

8. Notices and Designated Representatives: Any and all notices, demands, invoices and written communications between the parties hereto shall be addressed as set forth in this paragraph. The below named individuals, furthermore, shall be those persons primarily responsible for the performance by the parties under this Agreement:

TO: CITY OF HAWTHORNE  
Attn: Vontray Norris  
4455 West 126th Street  
Hawthorne, CA 90250  
[vnorris@cityofhawthorne.org](mailto:vnorris@cityofhawthorne.org)  
(310) 349-2910

TO: TRIPEPI SMITH  
Attn: Ryder Todd Smith, President  
PO Box 52152  
Irvine, CA 92619  
(626) 536-2173

Any such notices, demands, invoices and written communications, by mail, shall be deemed to have been received by the addressee forty-eight (48) hours after deposit thereof in the United States mail, postage prepaid and properly addressed as set forth above.

9. Continuity of Personnel: CONSULTANT shall make every reasonable effort to maintain the stability and continuity of CONSULTANT's staff assigned to perform the services required under this AGREEMENT, CONSULTANT shall notify CITY of any changes in CONSULTANT's staff assigned to perform the services required under this AGREEMENT, prior to any such performance. CITY shall not be responsible for time and costs associated with CONSULTANT's turnover or reassignment of staff.

10. Status of Consultant: The parties hereto agree that CONSULTANT and its employers, officers and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of CITY.

(a) Limits of Authority: CONSULTANT shall have no authority to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against CITY, whether by contract or otherwise, unless such authority is expressly conferred under this AGREEMENT or is otherwise expressly conferred in writing by CITY.

(b) Control of CONSULTANT'S Personnel: 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 or any elected or appointed boards, officers, officials, employees or agents of CITY 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 CONSULTANT or any of CONSULTANT's officers, employees or agents are in any manner officials, officers, employees or agents of CITY.

(c) No Entitlement to Benefits: The CONSULTANT or any CONSULTANT's officers, employees or agents, shall not obtain any rights to retirement, health care or any other benefits which may otherwise accrue to CITY employees. CONSULTANT expressly waives any claim CONSULTANT may have to any such rights.

11. Compliance with Applicable Laws; Permits and Licenses: The Consultant shall keep itself informed of State and Federal 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 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.

12. Non-discrimination: CONSULTANT shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this AGREEMENT.

13. Conflict of Interest:

(a) CONSULTANT represents that neither it nor any of its officers or principles of its firm has been retained, employed or compensated by any other interested party, or done any act, in such a manner so as to constitute a conflict of interest with respect to the consultant's duties under the agreement with the CITY. CONSULTANT covenants that neither it, nor any officer or principal of its firm has or shall acquire any interest, directly

or indirectly, which would conflict in any manner with the interests of CITY or which would in any way hinder CONSULTANT's performance of services under this AGREEMENT. CONSULTANT further covenants that in the performance of this AGREEMENT, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor, except as provided for by this Section. At all times, CONSULTANT agrees to avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of CITY in the performance of this AGREEMENT.

(b) The CITY may waive at its discretion any conflict or potential conflict of interest in writing, provided the CONSULTANT has made a full written disclosure of all facts. Provided further that the conflict affects a third party, the CONSULTANT must provide to the CITY a written waiver of the conflict from the affected party.

14. Confidential Information/Release of Information:

(a) Confidentiality of Information: All information gained or work product produced by CONSULTANT in performance of this AGREEMENT shall be considered confidential, unless information is in the public domain or already known to CONSULTANT. CONSULTANT shall not release or disclose any such information or work product to persons or entities other than CITY without prior written authorization from the CITY, except as may be required by law.

(b) Release of Confidential Information: 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 subconsultants, 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.

(c) Notification of Legal Action: CONSULTANT shall promptly notify City should CONSULTANT, its officers, employees, agents, or subconsultants 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 person or party regarding this Agreement and the work performed thereunder 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 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.

15. Indemnification: CONSULTANT will indemnify, defend, and hold harmless City of Hawthorne, the City Council, each member thereof, present and future, members of boards and commissions, their officers, agents, and employees (collectively "CITY") from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of CONSULTANT. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONSULTANT, its officers, employees, agents, subconsultants or vendors. CONSULTANT's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, except for liability resulting solely from the negligence or willful misconduct of CITY. Payment by CITY is not a condition precedent to enforcement of this indemnity. CITY does not, and shall not, waive any rights that they may possess against CONSULTANT because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense. CONSULTANT agrees that CONSULTANT's covenant under this section shall survive the termination of this Agreement.

16. Undue Influence: CONSULTANT declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City of Hawthorne in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City of Hawthorne will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of CONSULTANT, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

17. No Benefit to Arise to Local Employees: No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Strategic Communications Plan performed under this Agreement.

18. Authority to Execute: The person or persons executing this AGREEMENT on behalf of CONSULTANT represents and warrants that he/she/they has/have the authority to so execute this AGREEMENT and to bind CONSULTANT to the performance of its obligations hereunder.

19. Binding Effect: This AGREEMENT shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

20. Modification of Agreement: No amendment to or modification of this AGREEMENT shall be valid unless made in writing and approved by the CONSULTANT and by the CITY. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

21. Waiver: Waiver by any party to this AGREEMENT of any term, condition, or covenant of this AGREEMENT shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this AGREEMENT shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this AGREEMENT. Acceptance by CITY of any work or services by CONSULTANT shall not constitute a waiver of any of the provisions of this AGREEMENT.

22. Law to Govern/Venue: This AGREEMENT shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles.

23. Attorney's Fees, Costs and Expenses: In the event litigation or other proceeding is required to enforce or interpret any provision of this AGREEMENT, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

24. Insurance:

(a) Liability Insurance: CONSULTANT shall maintain in-force: Public Liability and Professional Liability Insurance. During the term of this Agreement, CONSULTANT shall maintain in full force and effect a policy of public liability insurance with minimum coverage of \$1,000,000 in accordance with the requirements provided by CITY to

CONSULTANT. CONSULTANT Shall also maintain in-force; Professional Liability Insurance (and/or Errors & Omissions Insurance) with minimum limits of liability of \$1,000,000 combined single limit coverage against an injury, death, loss or damages because of wrongful or negligent acts or omissions by the named insured.

(b) Workers' Compensation/Employer Liability: CONSULTANT shall maintain in-force Workers' Compensation and Employer's Liability Insurance as required by the California Labor Code. Evidence of coverage shall take the form of a Certificate of Insurance or a California Certificate to Self-Insure. Acceptable minimum limits for this coverage are: Workers' Compensation; Statutory in California; Employer's Liability: \$1,000,000.

(c) Certificates of Insurance: CONSULTANT shall furnish to CITY evidence of any insurance required by this Agreement. A Certificate of Insurance from an insurer admitted to do business in the State of California will be provided, indicating that the respective policy(s) meets the following requirements: (1) The CITY, its officers, employees, and agents shall be named as additional insured on the General Liability Insurance; (2) Insurance shall not be canceled or terminated without 30 days written notice to City; (3) General Liability shall be primary and any insurance held by City for its own protection shall be excess and shall be effective only upon exhaustion of CONSULTANT'S insurance; (4) Insurance shall be maintained for the duration of the Agreement, including any period extended beyond the expiration date of this Agreement required to complete performance as stipulated in this Agreement and all amendments thereto.

(d) Vehicle Coverage: CONSULTANT represents to CITY that CONSULTANT owns, operates or utilizes one or more personal vehicles and that the nature of the consulting services to be accomplished under this AGREEMENT does not require use of any such vehicle for other than CONSULTANT'S personal transportation only (with no passengers, hazardous materials or valuables greater than \$5,000).

25. Entire Agreement: This AGREEMENT, including the attached EXHIBIT "A", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between CONSULTANT and CITY prior to the execution of this AGREEMENT. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding. No amendment to this AGREEMENT shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

26. Severability: If a term, condition or covenant of this AGREEMENT is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this AGREEMENT shall not be affected thereby and the AGREEMENT shall be read and construed without the invalid, void or unenforceable provision(s).

TRIPEPI SMITH

By: \_\_\_\_\_

Ryder Todd Smith, President  
PO Box 52152  
Irvine, CA 9269  
ryder@tripepismith.com

DATE: \_\_\_\_\_

CITY OF HAWTHORNE

By: \_\_\_\_\_

Vontray Norris, City Manager  
4455 W. 126<sup>th</sup> Street  
Hawthorne, CA 90250

DATE: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Robert M. Kim  
City Attorney

DATE: \_\_\_\_\_

## **EXHIBIT A**