

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
INSIGHT NORTH AMERICA LLC
AND THE CITY OF ANN ARBOR
FOR INVESTMENT ADVISORY CONSULTING SERVICES**

This agreement ("Agreement") is between the City of Ann Arbor, a Michigan municipal corporation, having its offices at 301 E. Huron St. Ann Arbor, Michigan 48104 ("City"), and Insight North America LLC ("Contractor"), a limited liability company, with its address at 200 Park Avenue, 7th Floor, New York, NY 10166. City and Contractor are referred to collectively herein as the "Parties." The Parties agree as follows:

I. DEFINITIONS

Administering Service Area/Unit means Financial & Administrative Services/Treasury.

Contract Administrator means City Treasurer, acting personally or through any assistants authorized by the Administrator/Manager of the Administering Service Area/Unit.

Deliverables means all Plans, Specifications, Reports, Recommendations, and other materials developed for and delivered to City by Contractor under this Agreement.

Project means Investment Advisory Consulting Services, as further described in Exhibit A, Scope of Services, (attached hereto).

II. DURATION

This Agreement shall become effective on July 1, 2022 ("Commencement Date") and shall terminate on June 30, 2027. If the City elects to exercise its option to extend the Agreement, written notice of same shall be provided to the Contractor no later than sixty (60) days before the end of the original term. Any extension shall incorporate the original scope of services (Exhibit A) and fee schedule (Exhibit B). The terms and conditions of this Agreement shall apply to the earlier of the Effective Date or Commencement Date. Upon mutual consent, the Parties may enter into an extension of two years, concluding June 30, 2029.

III. SERVICES

- A. The Contractor agrees to provide professional investment advisory consulting services ("Services") in connection with the Project as described in Exhibit A. The City retains the right to make changes to the quantities of service within the general scope of the Agreement at any time by a written order. If the changes add to or deduct from the extent of the services, the compensation shall be adjusted accordingly. All such changes shall be executed under the conditions of the original Agreement.

- B. Quality of Services under this Agreement shall be of the level of quality performed by persons regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. The Contractor shall perform its Services for the Project in compliance with all statutory, regulatory, and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.
- D. The Contractor may rely upon the accuracy of reports and surveys provided to it by the City (if any) except when defects should have been apparent to a reasonably competent professional or when it has actual notice of any defects in the reports and surveys.

IV. INDEPENDENT CONTRACTOR

The Parties agree that at all times and for all purposes under the terms of this Agreement each Party's relationship to the other Party shall be that of an independent contractor. Each Party will be solely responsible for the acts of its own employees, agents, and servants. No liability, right, or benefit arising out of any employer/employee relationship, either express or implied, shall arise or accrue to any Party as a result of this Agreement.

With the exception of trading agreements or confirmations entered into in connection with trades executed by Contractor on behalf of and authorized by the City, Contractor does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.

V. COMPENSATION OF CONTRACTOR

- A. The Contractor shall be paid in the manner set forth in Exhibit B. Payment shall be made monthly, unless another payment term is specified in Exhibit B, following receipt of invoices submitted by the Contractor, and approved by the Contract Administrator.
- B. The Contractor will be compensated for Services performed in addition to the Services described in Article III, only when the scope of and compensation for those additional Services have received prior written approval of the Contract Administrator.
- C. The Contractor shall keep complete records of work performed (e.g., tasks performed, hours allocated, etc.) so that the City may verify invoices submitted by the Contractor. Such records shall be made available to the City upon request and submitted in summary form with each invoice.

VI. INSURANCE/INDEMNIFICATION

- A. The Contractor shall procure and maintain from the Effective Date or Commencement Date of this Agreement (whichever is earlier) through the conclusion of this Agreement, such insurance policies, including those set forth in Exhibit C, as will protect itself and the City from all claims for bodily injuries, death or property damage that may arise under this Agreement; whether the act(s) or omission(s) giving rise to the claim were made by the Contractor, any subcontractor, or anyone employed by them directly or indirectly. Prior to commencement of work under this Agreement, Contractor shall provide to the City documentation satisfactory to the City, through City-approved means (currently myCOI), demonstrating it has obtained the policies and endorsements required by Exhibit C. Contractor shall add registration@mycoitracking.com to its safe sender's list so that it will receive necessary communication from myCOI. When requested, Contractor shall provide the same documentation for its subcontractor(s) (if any).
- B. Any insurance provider of Contractor shall be authorized to do business in the State of Michigan and shall carry and maintain a minimum rating assigned by A.M. Best & Company's Key Rating Guide of "A-" Overall and a minimum Financial Size Category of "V". Insurance policies and certificates issued by non-authorized insurance companies are not acceptable unless approved in writing by the City.
- C. To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold the City, its officers, employees and agents harmless from suits, claims, judgments and expenses, including attorney's fees, resulting from negligence, willful misconduct or fraud committed by Contractor or its employees and agents occurring in the performance of or breach in this Agreement, except to the extent that any suit, claim, judgment or expense are finally judicially determined to have resulted from the City's negligence or willful misconduct or its failure to comply with any of its material obligations set forth in this Agreement.

VII. COMPLIANCE REQUIREMENTS

- A. Nondiscrimination. The Contractor agrees to comply, and to require its subcontractor(s) to comply, with the nondiscrimination provisions of MCL 37.2209. The Contractor further agrees to comply with the provisions of Section 9:158 of Chapter 112 of the Ann Arbor City Code and to assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.

- B. Living Wage. If the Contractor is a “covered employer” as defined in Chapter 23 of the Ann Arbor City Code, the Contractor agrees to comply with the living wage provisions of Chapter 23 of the Ann Arbor City Code. The Contractor agrees to pay those employees providing Services to the City under this Agreement a “living wage,” as defined in Section 1:815 of the Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); to post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this Agreement are working; to maintain records of compliance; if requested by the City, to provide certification of its compliance.

VIII. WARRANTIES BY THE CONTRACTOR

- A. The Contractor warrants that the quality of its Services under this Agreement shall conform to the level of quality performed by persons regularly rendering this type of service.
- B. The Contractor warrants that it has all the skills, experience, and professional licenses (if applicable) necessary to perform the Services pursuant to this Agreement.
- C. The Contractor warrants that it has available, or will engage, at its own expense, sufficiently trained employees to provide the Services pursuant to this Agreement.
- D. The Contractor warrants that it has no personal or financial interest in the Project other than the fee it is to receive under this Agreement. The Contractor further certifies that it shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of the Services it is to provide pursuant to this Agreement. Further, Contractor agrees and certifies that it does not and will not employ or engage any person with a personal or financial interest in this Agreement.
- E. The Contractor warrants that it is not, and shall not become, overdue or in default to the City for any contract, debt, or any other obligation to the City including real and personal property taxes. Further Contractor agrees that the City shall have the right to set off any such debt against compensation awarded for Services under this Agreement.
- F. The Contractor warrants that its proposal for services was made in good faith, it arrived at the costs of its proposal independently, without consultation, communication or agreement, for the purpose of restricting completion as to any matter relating to such fees with any competitor for these Services; and no attempt has been made or shall be made by the Contractor to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
- G. The person signing this Agreement on behalf of Contractor represents and warrants that she/he has express authority to sign this Agreement for Contractor and agrees to hold the City harmless for any costs or consequences of the absence of actual authority to sign.

IX. OBLIGATIONS OF THE CITY

- A. The City agrees to give the Contractor access to the Project area and other City-owned properties as required to perform the necessary Services under this Agreement.
- B. The City shall notify the Contractor of any defects in the Services of which the Contract Administrator has actual notice.

X. ASSIGNMENT

- A. The Contractor shall not subcontract or assign any portion of any right or obligation under this Agreement without prior written consent from the City. Notwithstanding any consent by the City to any assignment, Contractor shall at all times remain bound to all warranties, certifications, indemnifications, promises and performances, however described, as are required of it under the Agreement unless specifically released from the requirement, in writing, by the City.
- B. The Contractor shall retain the right to pledge payment(s) due and payable under this Agreement to third parties.

XI. TERMINATION OF AGREEMENT

- A. If either party is in breach of this Agreement for a period of fifteen (15) days following receipt of notice from the non-breaching party with respect to a breach, the non-breaching party may pursue any remedies available to it against the breaching party under applicable law, including but not limited to, the right to terminate this Agreement without further notice. The waiver of any breach by any party to this Agreement shall not waive any subsequent breach by any party.
- B. The City may terminate this Agreement, on at least thirty (30) days advance notice, for any reason, including convenience, without incurring any penalty, expense or liability to Contractor, except the obligation to pay for Services actually performed under the Agreement before the termination date. Contractor may also terminate this Agreement similarly but shall be required to give the City at least ninety (90) days advance notice.
- C. Contractor acknowledges that, if this Agreement extends for several fiscal years, continuation of this Agreement is subject to appropriation of funds for this Project. If funds to enable the City to effect continued payment under this Agreement are not appropriated or otherwise made available, the City shall have the right to terminate this Agreement without penalty at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of termination to Contractor. The Contract Administrator shall give Contractor written notice of such non-appropriation within thirty (30) days after it receives notice of such non-appropriation.

- D. The provisions of Articles VI and VIII shall survive the expiration or earlier termination of this Agreement for any reason. The expiration or termination of this Agreement, for any reason, shall not release either party from any obligation or liability to the other party, including any payment obligation that has already accrued and Contractor's obligation to deliver all Deliverables due as of the date of termination of the Agreement.

XII. REMEDIES

- A. This Agreement does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory and/or other legal right, privilege, power, obligation, duty or immunity of the Parties.
- B. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any agreement between the parties or otherwise.
- C. Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this Agreement shall constitute a waiver of those rights with regard to any existing or subsequent breach of this Agreement. No waiver of any term, condition, or provision of this Agreement, whether by conduct or otherwise, in one or more instances, shall be deemed or construed as a continuing waiver of any term, condition, or provision of this Agreement. No waiver by either Party shall subsequently affect its right to require strict performance of this Agreement.
- D. Contractor shall not be liable for any indirect, special or consequential loss or damage, any loss of profit or business opportunity, or any loss of goodwill, whether or not within the knowledge or contemplation of the Contractor.

XIII. NOTICE

All notices and submissions required under this Agreement shall be delivered to the respective party in the manner described herein to the address stated below or such other address as either party may designate by prior written notice to the other. Notices given under this Agreement shall be in writing and shall be personally delivered, sent by next day express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent next day express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.

If Notice is sent to the CONTRACTOR, it shall be addressed and sent to:

Insight North America LLC
200 Park Avenue, 7th Floor
New York, NY 10166

Attention: Client Services
Email: clientservicena@insightinvestment.com

If Notice is sent to the CITY, it shall be addressed and sent to:

City of Ann Arbor
Marti Praschan, CFO
301 E. Huron St.
Ann Arbor, Michigan 48104

With a copy to: The City of Ann Arbor
ATTN: Office of the City Attorney
301 East Huron Street, 3rd Floor
Ann Arbor, Michigan 48104

XIV. CHOICE OF LAW AND FORUM

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction, excepting the principles of conflicts of law. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

XV. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this Agreement, all documents (i.e., Deliverables) prepared by or obtained by the Contractor as provided under the terms of this Agreement shall be delivered to and become the property of the City. Original basic survey notes, sketches, charts, drawings, partially completed drawings, computations, quantities and other data shall remain in the possession of the Contractor as instruments of service unless specifically incorporated in a deliverable, but shall be made available, upon request, to the City without restriction or limitation on their use. The City acknowledges that the documents are prepared only for the Project. Prior to completion of the contracted Services the City shall have a recognized proprietary interest in the work product of the Contractor.

XVI. CONFLICTS OF INTEREST OR REPRESENTATION

Contractor certifies it has no financial interest in the Services to be provided under this Agreement other than the compensation specified herein. Contractor further certifies that it presently has no personal or financial interest, and shall not acquire any such interest, direct or indirect, which would conflict in any manner with its performance of the Services under this Agreement.

Contractor agrees to advise the City if Contractor has been or is retained to handle any matter in

which its representation is adverse to the City. The City's prospective consent to the Contractor's representation of a client in matters adverse to the City, as identified above, will not apply in any instance where, as the result of Contractor's representation, the Contractor has obtained sensitive, proprietary or otherwise confidential information of a non-public nature that, if known to another client of the Contractor, could be used in any such other matter by the other client to the material disadvantage of the City. Each matter will be reviewed on a case by case basis.

XVII. SEVERABILITY OF PROVISIONS

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

XVIII. EXTENT OF AGREEMENT

This Agreement, together with Exhibits A, B, and C, constitutes the entire understanding between the City and the Contractor with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. No terms or conditions of either party's invoice, purchase order or other administrative document shall modify the terms and conditions of this Agreement, regardless of the other party's failure to object to such form. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and their permitted successors and permitted assigns and nothing in this Agreement, express or implied, is intended to or shall confer on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement. This Agreement may only be altered, amended or modified by written amendment signed by the Contractor and the City. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement.

XIX. ELECTRONIC TRANSACTION

The parties agree that signatures on this Agreement may be delivered electronically in lieu of an original signature and agree to treat electronic signatures as original signatures that bind them to this Agreement. This Agreement may be executed and delivered by facsimile and upon such delivery, the facsimile signature will be deemed to have the same effect as if the original signature had been delivered to the other party.

XX. EFFECTIVE DATE

This Agreement will become effective when all parties have signed it. The Effective Date of this Agreement will be the date this Agreement is signed by the last party to sign it.

XXI. MISCELLANEOUS

- A. City shall select a custodian (the “**Custodian**”) to hold the portfolio assets in safekeeping for City and to take all necessary steps to settle purchases, sales and other transactions under this Agreement made by Contractor, including delivery of certificates, payment of funds, collection of income, dividends, and other distributions, and such other acts as may be necessary to fulfill such custodial responsibilities. Contractor shall not have custody, possession or responsibility for the custody of the portfolio assets (including for purposes of the ‘custody rule’ under Rule 206(4)-2 of the Investment Advisers Act of 1940), and shall not be liable for any act or omission of the Custodian. City may authorize Contractor to give the Custodian instructions for the purchase, sale, conversion, redemption, exchange or retention of any security, cash or cash equivalent or other investment or investment activity for the portfolio and as part of any reconciliation of the portfolio as set forth in this Agreement. City confirms and agrees to instruct the Custodian, and Contractor acknowledges and agrees, that Contractor shall have no authority whatsoever, nor any authority to direct the Custodian, to withdraw or transfer funds or securities from the portfolio otherwise than in connection with effecting or settling trades for the portfolio. The Custodian and not Contractor is responsible for the collection of income, dividends, and other distributions and for other functions incidental to the role of Custodian. Contractor shall give notice and proper instructions with respect to transactions in such reasonable manner as shall be agreed upon with the Custodian and City. City acknowledges and agrees that Contractor has not recommended, requested or required the use of Custodian to City. In the event of a conflict between the provisions of this Agreement and the custody agreement between the Custodian and City, the terms of this Agreement shall control. City shall notify Contractor prior to making any changes to the Custodian.
- B. The City agrees that Contractor shall not be responsible for providing legal advice to the City.
- C. The Contractor may delegate any (a) functions, responsibilities or authorities under this Agreement, including any investment discretion, trade execution or other investment services to its affiliates: Insight Investment Management (Global) Limited and Insight Investment International Limited; (b) trade settlement, portfolio reconciliation and other administrative services to The Northern Trust Company and any successor administrator; and (c) any other non-discretionary ancillary support service (e.g., client reporting) to affiliates. In connection therewith, Contractor may provide information about the City and portfolio to any person to whom functions have been delegated, at all times subject to confidentiality obligations. The City agrees that any delegee is entitled to rely upon the representations and warranties made by the City in this Agreement. Other than as described above, the Contractor shall notify the City of any delegation of a function which involves the exercise of the whole or substantially the whole of its discretionary investment management power and authority. The Contractor acknowledges that it shall be responsible for the actions of any such delegees to the same extent that it would be liable to the City under the terms of this Agreement as if such actions were taken by the Contractor. Contractor may use third parties for certain investment support services that are required to enable Contractor to perform its services under this Agreement. With regard to such third parties, Contractor will act in good faith and with the skill, care and diligence expected of a professional investment manager in their selection.
- D. Contractor gives no assurance or guarantee as to the performance of the City’s investment portfolio or any part of it.

- E. City hereby consents to Contractor's use of electronic mail to satisfy its disclosure delivery requirements under federal securities laws (including Contractor's obligation to deliver its Form ADV). Such consent shall be effective for the duration of this Agreement, unless City revokes such consent in writing. Although Contractor does not impose any additional charges for electronic delivery, City acknowledges that it may incur costs associated with its electronic access, such as usage charges from City's Internet access providers.

[REMAINDER OF PAGE LEFT BLANK; SIGNATURE PAGE FOLLOWS]

FOR CONTRACTOR

By Gene Maguire Type Name
Its: Head of Client Service - NA
Date: May 16, 2022

FOR THE CITY OF ANN ARBOR

By Christopher Taylor 07/01/2022
CHRISTOPHER TAYLOR, MAYOR

By Jacqueline Beaudry 07/01/2022
JACQUELINE BEAUDRY, CITY CLERK

Date: _____

Approved as to substance

Milton Dohoney Jr 06/24/2022
Milton Dohoney MILTON DOHONEY JR., CITY ADMINISTRATOR

Marti Praschan 06/23/2022
MARTI PRASCHAN, CHIEF FINANCIAL OFFICER

Approved as to form and content

Atleen Kaur, Ci Akaur 06/24/2022
ATLEEN KAUR, CITY ATTORNEY
PROXY SIGNED BY KMCDONALD

EXHIBIT A

SCOPE OF SERVICES

Contractor shall provide professional investment management services for the City in accordance with the terms and conditions herein, and pursuant to RFP for Investment Advisory Services #22-13, dated March 4, 2022, and the Proposed Work Plan as outlined in Contractor's responsive proposal for said services dated March 9, 2022, both of which are incorporated herein by reference.

Contractor shall provide investment management services including, but not limited to, the following:

- Assist the City with cash flow/maturity analysis;
- Provide credit analysis of investment instruments in portfolio;
- Provide monthly, quarterly, and semi-annual reporting on all City funds;
- Attend semi-annual meetings with City staff and/or officials;
- Evaluate market risk and develop strategies that minimize the impact on the portfolio;
- Provide assurance of portfolio compliance with applicable policies and laws;
- Establish appropriate performance benchmarks;
- Provide periodic review of the City's investment policy and recommend appropriate amendments;
- Be aware of and communicate changes in pertinent regulations, rules, pronouncements, and state or federal law that affect the City's investment portfolio;
- Ensure portfolio structure matches the City's objectives;
- Provide bank credit analysis;
- Manage broker/dealer relationships;
- Manage trading activity.

Contractor shall operate pursuant to the following objectives¹:

- Maximize incremental income from the City's portfolio
- Provide operational efficiency and information flow
- Improve the City's investment capabilities.

¹ This is an investment objective only, and should not be considered to be an assurance or guarantee by the Contractor of the performance of the strategy or portfolio

EXHIBIT B COMPENSATION

Contractor shall be paid for those Services performed pursuant to this Agreement inclusive of all reimbursable expenses (if applicable), in accordance with the terms and conditions herein.

The fee for providing investment management services for the City is as follows:

- 5 basis points on the first \$150,000,000
- 3 basis points thereafter

The fee includes asset management, client service and investment reporting (including performance). The fees do not include custody or banking fees.

The fee is applied to the average market value of all assets in each portfolio, based upon an average of the prior month-end and the current month-end market values. For purposes of the fee schedule, market value includes accrued interest. The fee shall be payable upon receipt of billing by wire or ACH.

Based on the above fee schedule, the annual fee for each year of the contract will be approximately \$120,000.

EXHIBIT C

INSURANCE REQUIREMENTS

From the earlier of the Effective Date or the Commencement Date of this Agreement, and continuing without interruption during the term of this Agreement, Contractor shall have, at a minimum, the following insurance, including all endorsements necessary for Contractor to have or provide the required coverage.

A. The Contractor shall have insurance that meets the following minimum requirements:

1. Professional Liability Insurance or Errors and Omissions Insurance protecting the Contractor and its employees in an amount not less than \$1,000,000.

2. Commercial General Liability Insurance equivalent to, as a minimum, Insurance Services Office form CG 00 01 04 13 or current equivalent. The City of Ann Arbor shall be an additional insured. There shall be no added exclusions or limiting endorsements that diminish the City's protections as an additional insured under the policy. Further, the following minimum limits of liability are required:

\$1,000,000 Each occurrence as respect Bodily Injury Liability or Property Damage Liability, or both combined

\$2,000,000 General Aggregate

\$1,000,000 Personal and Advertising Injury

B. Insurance required under A.2 above shall be considered primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance. Further, the Contractor agrees to waive any right of recovery by its insurer against the City for any insurance listed herein.

C. Insurance companies and policy forms are subject to approval of the City Attorney, which approval shall not be unreasonably withheld. Further, the documentation must explicitly state the following: (a) the policy number(s); name of insurance company; name(s), email address(es), and address(es) of the agent or authorized representative; name and address of insured; project name; policy expiration date; and specific coverage amounts; (b) any deductibles or self-insured retentions, which may be approved by the City in its sole discretion; (c) that the policy conforms to the requirements specified. Contractor shall furnish the City with satisfactory certificates of insurance and endorsements prior to commencement of any work. If any of the above coverages expire by their terms during the term of this contract, the Contractor shall deliver proof of renewal and/or new policies and endorsements to the Administering Service Area/Unit at least ten days prior to the expiration date.