

CONSULTING AGREEMENT

This Agreement is made this 15 day of May, 2023, by and between City of Clinton (the City of Clinton / the City) and Mike Thomas (the "Consultant"), a consultant of NORTHEAST OKLAHOMA MANAGEMENT SERVICES ORGANIZATION, LLC ("NOMSO"/Consultant), located in Tahlequah, Oklahoma and operating under the laws of Oklahoma.

WHEREAS, the Consultant, as an employee and consultant at NOMSO, is permitted to perform limited consulting services for companies, subject to the terms of Consultant's employment relationship with NOMSO and the applicable policies and procedures of NOMSO;

WHEREAS, the City desires that the Consultant provide advice and assistance to the City in his or her area of expertise; and

WHEREAS, the Consultant desires to provide such advice and assistance to the City under the terms and conditions of this Agreement;

NOW, THEREFORE, the City and the Consultant hereby agree as follows:

1. Consulting Services

- (a) Subject to the terms and conditions of this Agreement, the City hereby retains Consultant as a consultant and technical advisor to perform the consulting services specifically set out in Exhibit A attached to this Agreement and made a part hereof (hereafter referred to as the "Services"), as said Exhibit may be amended in writing from time to time, and Consultant agrees, subject to the terms and conditions of this Agreement, render such Services during the term of this Agreement. Such services shall be limited to the area of expertise described in Exhibit A (the "Field"), as amended in writing from time to time. Consultant shall render services hereunder at such times and places as shall be mutually agreed by City and Consultant. Consultant's commitment hereunder shall not exceed \$12,500.00 dollars per month for services provided on from May 15 through November 15, 2023 plus \$2500 stipend for travel and living expenses per month for performing work for the closed Clinton Hospital.
- (b) All or of the majority of the work of the project is front loaded and at the beginning of execution of the agreement, it is understood that the purpose of the Consulting is to provide periodic review and advice relevant to certain City matters, and that neither Consultant nor City will benefit if Consultant provides inaccurate advice or commentary based on insufficient information. To that end, City shall provide Consultant, in advance of meetings, with accurate, unbiased and sufficient information for him to review the subject matter thereof, and shall promptly provide further information that Consultant reasonably deems relevant to forming any pertinent conclusions relevant to the matter for discussion. It is expressly understood that Consultant has no fiduciary obligation to City, but instead a contractual one described by the terms of this Agreement; that Consultant's role is to provide independent advice uninfluenced by commercial concerns; and that service as a Consultant does not require him to be an advocate for City or its products in any forum,

public or private. City expressly agrees that under no circumstances will this role be compromised or inaccurately represented, by City.

2. Compensation and reimbursement.

In consideration of the services to be provided by Consultant for the City hereunder, the City shall pay to NOMSO, Twelve Thousand, and Five Hundred dollars (\$12,500.00) in addition, the City shall pay 2,500.00 dollars for travel and expenses to and from the Clinton area. Upon advanced written agreement by the Parties, the City shall also reimburse NOMSO for reasonable and documented travel and other expenses the Consultant incurs in connection with performing the Services at other locations for meetings held while conducting hospital business. To obtain reimbursement, Consultant shall submit to the City Manager of the City of Clinton, or his or her designee, an invoice describing services rendered and expenses incurred under this Agreement and all supporting documentation. The City shall pay to NOMSO invoiced amounts within thirty (30) days after the date of invoice. The City shall pay NOMSO in 6 equal payments of \$12,500.00 dollars in consideration of services defined in Exhibit A of the contract plus the \$2,500 dollar for expenses Services will begin on 15 of May, 2023.

3. Independent Consultant status.

The parties agree that this Agreement creates an independent Consultant relationship, not an employment relationship. The Consultant acknowledges and agrees that the City will not provide the Consultant with any employee benefits, including without limitation any employee stock purchase plan, social security, unemployment, medical, or pension payments, and that income tax withholding is Consultant's responsibility. In addition, the parties acknowledge that neither party has, or shall be deemed to have, the authority to bind the other party.

4. Confidential Information and Use

(a) For all purposes of this Agreement, the term "Confidential Information" or "Trade Secret" shall include any and all information and the fruits thereof which is not generally available to the general public and derives from City or City's agents. The Confidential Information may be oral, written and/or stored in any medium or manner whatsoever, including but not limited to magnetic disks, e-mails, recordings, etc. Such information may be technical or scientific, or relate to business matters such as business plans, existing or potential customers, finances, etc.

1. Information that is to be treated as confidential shall be prominently marked or labeled as "CONFIDENTIAL", so as to avoid any confusion. Moreover, the following are accepted from confidentiality: (a) information that is known or subsequently becomes generally available to the public, (b) information available from a third party that is not under a legal duty to maintain confidentiality (c) any knowledge gained or developments made independent of disclosed information. Trade secrets should be separately identified, described and acknowledged, so as to avoid any confusion.
2. Should Consultant have access to alleged Confidential Information which Consultant contends is not Confidential Information, Consultant shall, within ten days of access, specify in writing to City Consultant's contentions regarding said Confidential Information or shall be

forever barred from claiming said Confidential Information is not truly confidential information.

(b) Consultant agrees that Confidential Information is of extreme value to City and would cause irreparable harm to City if disclosed to other persons, or if utilized by Consultant or Consultant's agents for unauthorized purposes.

(c) Consultant agrees to only utilize such information and/or the fruits thereof for the sole purpose of assisting in the performance of Consultant's duties undertaken on behalf of City. All information imparted shall be kept strictly confidential and may not be used or disclosed in any form or in any manner, whether directly or indirectly, to or by any person or persons without prior written consent of City. Upon the termination of the business relationship with City, Consultant shall not utilize the information for any purpose whatsoever, either directly or indirectly, nor reveal the information directly or indirectly, to any third person. Consultant shall destroy or return to City all such Confidential Information previously delivered to Consultant, as directed by City, as well as any copies, outlines, summaries, abstracts, or work product of any type and in any form deriving from such information.

(d) During the business relationship, Consultant shall take all steps to place all information, software and written forms of said information in safe and secure areas as directed by City. All such information shall be returned to City immediately upon request, **including any notes or abstracts or the equivalent prepared by Consultant or its agents based on the said Confidential Information.**

(e) No employee or agent of Consultant shall have access to such Confidential Information without the prior written consent of City. Any employee having access to such information shall first sign a copy of this Agreement and agree to be bound by its terms.

(f) Consultant shall not disclose information relating to the business methods, business policies, procedures, techniques or trade secrets or other knowledge or processes of or developed by City, or any other confidential information relating to or dealing with the business operations, activities or affairs of City to any persons without prior authorization of City. *Additionally, any "confidential information" obtained by consultant will be used for the exclusive benefit of City and will not be used for any outside purpose, without the consent of City.*

In making permitted or required disclosure of Confidential Information, Consultant shall: (i) give prior written notice of the disclosure to City, (ii) make such disclosure only to the extent required, and (iii) upon City's request, give City a copy of the disclosed material and information.

(g) It is further agreed that the information included under this Agreement includes not just the direct use of said information, but all developments, improvements, additions, and extensions to such information and includes business strategies and market analysis.

5. Term

- (a) This Agreement shall remain in effect for a term of 6 months commencing on the date first written above, unless extended in writing by agreement of the parties and the assent of NOMSO.
- (b) This agreement is a 6 month agreement which cannot be terminated by either party, with or without cause. The contract can be extended by written notice and acceptance on both parties.
- (c) Upon termination of this Agreement for any reason, Consultant shall be entitled to receive such compensation and reimbursement, if any, accrued under the terms of this Agreement, but unpaid, as of the date Consultant ceases work under this Agreement. In addition, Consultant shall be reimbursed for any noncancellable obligations, any cancellation penalties if he is terminated without cause. Provided further, if Consultant is terminated without cause, he Consultant terminates the Agreement for cause, he shall be reimbursed any expenditures reasonably made in order to perform the Services that were to occur had cancellation not occurred through the date of notice of termination
- (d) Cause shall be defined as: (1) the failure of Consultant, in the sole opinion of City, to reasonably effectuate its duties identified in Exhibit A, or (2) the commission by Consultant or any of its owners, directors, or employees of any act which, in the reasonable and good faith opinion of the City, would disparage or impair the reputation and integrity of the other party hereto (including, without limitation, being convicted of any felony or a crime involving moral turpitude, ethical violations or any other act of moral turpitude)

6. Other Agreements

- (a) The Consultant shall use reasonable efforts not to use any facilities, funds, or equipment owned or administered by the City in the performance of the Services, except with the prior written consent of the City and in accordance with all applicable policies of the City.
- (b) City shall not use Consultant's name or depiction, or the name, logos, trademarks, or depictions of NOMSO, or any officer, director, employee, appointee, medical staff member of employee of either, or any adaptation thereof, in any promotional, advertising or marketing literature, or in any other way without the prior written consent of NOMSO, the individual, or NOMSO, as appropriate, provided however that in neutral circumstances that do not imply endorsement or advocacy, or otherwise misrepresent the terms of this Agreement or Consultant's role, City may accurately state that Consultant is a consultant to City, and list his or her professional degrees and titles.
- (c) No alteration or modification of this Agreement, including any exhibits hereto, shall be valid unless made in writing and executed by Consultant and the City and assented to by NOMSO.
- (d) The Consultant and City mutually represent that to the best of their knowledge neither currently has any agreement with, or any other obligation to, any third party that conflicts

with the terms of this Agreement. The parties agree that they shall not intentionally and knowingly enter into any such agreement.

- (e) Any notice or other communication by one party to the other hereunder shall be in writing and shall be given, and be deemed to have been given, if either hand delivered or mailed, postage prepaid, certified mail (return receipt requested), or transmitted by facsimile, addressed as follows:

If to Consultant:

C/O Northeast Oklahoma Management Services Organization, LLC
P.O. Box 1008
Tahlequah, OK 74465

If to City:

City of Clinton
PO Box 1177
Clinton, OK 73601

- (f) The parties acknowledge that the Services are personal in nature, and that from Consultant's perspective the specific identity of the City, including its leadership, corporate culture, and reputation, is material to Consultant's choice to enter into this Agreement. As Therefore the parties expressly agree that no party may assign this Agreement without the written consent of the other.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

CITY

Robert Johnston
City's Signature
City Manager
City's Representative's Title

May 11, 2023
Date

NORTHEAST OKLAHOMA MANAGEMENT SERVICES ORGANIZATION, LLC

By: Brian Woodliff
Brian Woodliff, President & CEO

Date: 5-10-23

By: Mike Thomas
Mike Thomas, Consultant

Date: May 10, 2023

Exhibit A- Description of Consulting Activities

Nature of Services: Hospital Life Safety Code Compliance

Exhibit A

Reopening of City of Clinton Hospital

Services for City of Clinton to reopen and acquire OSDH Hospital License in meeting the Medicare Conditions of Participation billing number are as follows:

1. to Consult and recommend actions needed to meet the minimum conditions to acquire hospital license under Hospital Standards 667;
2. to utilize the Accreditation Commission for Health Care, ACHC, accreditation agency to acquire a Medicare number to reestablish operations for services for Medicare Patients and
3. to reestablish third party contracts such as Blue Cross and Blue Shield, United and any other third party insurance provider standard in the State of Oklahoma..

The Following are a sample of the duties that will be required of the Consultant

1. Consultant will create an organization chart, reestablish Governing Body and Medical Executive by laws.
2. Provide form policies and procedures to reestablish, (a) Infection Control, (b) Life Safety, (c) Quality Assurance, (d) Tissue and other committees that the City of Clinton will need.
3. Provide guidance for the appoint of a Governing Body which will recommend and appoint a Medical Director for the hospital.
4. Consultant will make recommendations for:
 - a. the temporary hire of a pharmacist to create a formulary for drugs,
 - b. the hiring of a Lab director to reestablish Laboratory and verify the CLEA certification is met.
 - c. the hiring of a temporary Dietary Consultant for Dietary Needs.
 - d. the hiring of a temporary CFO to assist in recommending an Electronic Medical Records and
 - e. the creation of Charmaster for the hospital.
5. The Consultant will write and recommend methods of operation post acquiring the hospital license and Medicare number and recommend contracts to accept to the Governing Body.

The expected time table to meet these items identified are at least 6 months. If the issues are not in place by the end of the 6 months, the Consultant will honor the contract and continue at the same rate of pay until the City of Clinton feels comfortable that the operation of the hospital is in safe and effective leadership.