

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT for professional services is made by and between the City of Madison, Alabama, a municipal corporation, located at 100 Hughes Road, Madison, Alabama 35758, hereinafter referred to as “City,” and PAS Consulting Group located at 1696 Foxhall Drive, Dunwoody, Georgia 30338, hereinafter referred to as “Consultant.”

WITNESS TO:

WHEREAS, the Madison Police Department is in need of professional services to assist with the preparation of an officer promotional process for the City; and

WHEREAS, the best interests of the City and its residents will be served by retaining an experienced provider of such services; and

WHEREAS, Consultant is an experienced and unique provider of the services required and is capable of providing the same in a professional, timely manner; and

WHEREAS, the City desires to avail itself of Consultant's unique abilities and services and Consultant desires to provide same to City;

NOW, THEREFORE, in consideration of mutual covenants and agreements herein set forth, the parties, intending to be legally bound, hereby agree as follows:

SECTION 1: SCOPE OF WORK

- A. Pursuant to the provisions of this Agreement, Consultant will provide the following services to City:

Preparation of a police officer promotional process plan, such plan to be prepared according to the Consultant's proposal dated April 22, 2023 (“Attachment A”), which is attached hereto and wholly incorporated herein by this reference.

- B. Consultant agrees to comply with all applicable Federal, State, and Local laws and regulations, including, but not limited to, those pertaining to wages and hours of employment.
- C. Consultant shall thoroughly and proficiently perform all services using reasonable diligence and exercising the best judgment, care and skill ordinarily used by similar persons providing the same or similar services under the same or similar circumstances.
- D. Consultant shall furnish all supplies, materials, machinery, equipment, and means, except as otherwise expressly specified herein, necessary or proper to carry out the services required by this Agreement.
- E. Consultant shall perform all services in accordance with the provisions of this Agreement and shall be solely responsible for the legality, safety, efficiency and adequacy of the services performed hereunder.
- F. Throughout the term of this Agreement, Consultant shall provide City reasonable and

meaningful access via telephone and email to Consultant's principals for the purpose of fulfilling the contracted-for deliverables.

- G. Any and all information provided to Consultant by City, of the type normally available for the proposed Work, that has been prepared by or for others (including, but not limited to, the City, the State of Alabama, and various federal agencies) will be considered "best available information" and thus appropriate and sufficient for the services proposed herein. Consultant will not develop such original information unless specifically included in the Scope of Work.

SECTION 2: BASE FEE/EXPENSE STRUCTURE; OPTIONAL SERVICES & FEES

- A. The total compensation for services rendered by Consultant pursuant to Section 1.A. shall be an amount not to exceed **twenty three thousand dollars (\$23,000)** for the first year of the term and not to exceed **twenty one thousand dollars (\$21,000)** per year for any subsequent years of the initial term and renewal terms. Compensation shall be payable as services are rendered and invoiced to City. Consultant is solely responsible for submission of detailed invoices outlining the work performed and the payment due from City, terms net thirty (30) days.
- B. All fees and expenses related to Consultant's performance are included in the total compensation set forth in Section 2.A., and Consultant shall not be compensated for any other expenses, unless both parties consent to an amendment to this Agreement.
- C. All taxes applicable to the payments made to Consultant hereunder shall be the sole responsibility, obligation, and liability of Consultant.
- D. Payment of compensation as set forth in Section 2.A. vests complete and irrevocable ownership in the City of all paid-for deliverables created by Consultant, and City shall be perpetually vested with full usage rights of the same.
- E. Additional services may be specifically authorized by City but must be negotiated as an Amendment to this Agreement. In the event that Consultant determines that additional services are necessary, Consultant shall notify the City with reasonable promptness and explain the facts and circumstances giving rise to the need. Consultant shall not proceed to provide any additional services until Consultant receives written authorization of City. Any additional services shall be subject to the budgetary restrictions of the City's duly-adopted budget for the then-current fiscal year.

SECTION 3: INDEMNIFICATION

Consultant agrees to hold harmless and indemnify City from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses resulting from willful malfeasance, bad faith or gross negligence on the part of Consultant or its individual employees, officials, agents and representatives in the course of Consultant providing services pursuant to the instant Agreement.

To the extent allowed by law, City agrees to hold harmless and indemnify Consultant from and against all injuries, deaths, claims, suits, damages, losses, liabilities, judgments, costs, and expenses resulting from willful malfeasance, bad faith or gross negligence on the part of City or its individual employees, officials, agents and representatives in the course of receiving services from Consultant pursuant to the instant Agreement.

SECTION 4: COMMENCEMENT; TERM

This Agreement shall come into effect when the authorized representatives of each party finally execute and affix their respective signatures hereto in their duly authorized capacities. In the event the signatures are affixed on different dates, the date of the latter signature shall be the date the Agreement comes into effect (“Effective Date”).

This Agreement shall expire three (3) years after the Effective Date, unless terminated earlier pursuant to Section 5 of this Agreement. Upon both (a) mutual written agreement of the Chief of Police and Consultant’s principal, and (b) City Council budget authorization for additional fiscal years for Consultant’s services, this Agreement may be renewed for two (2) successive one-year terms.

SECTION 5: TERMINATION

This Agreement may be terminated by either party, with or without cause, upon the provision of thirty (30) days’ notice to the other party. In the event of termination, Consultant shall be entitled to payment only for services rendered as of the date of termination, and City shall be entitled to receive only that work product created by Consultant as of the date of termination.

SECTION 6: INDEPENDENT CONTRACTOR RELATIONSHIP

It is mutually understood and agreed and it is the intent of the parties that an independent contractor relationship be and is hereby established under the terms and conditions of this Agreement. It is further mutually understood and agreed that employees of Consultant are not nor shall be deemed to be employees of City and that employees of City are not nor shall they be deemed to be employees of Consultant.

SECTION 7: EXCUSED PERFORMANCE

In case performance of any terms or provisions hereof shall be delayed or prevented because of compliance with any law, decree or order of any governmental agency or authority, whether the same shall be of Local, State or Federal origin, or because of riots, war, public disturbances, strikes, lockouts, differences with workmen, fires, floods, acts of God or any other reason whatsoever which is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent, the party so suffering may, at its option, suspend, without liability, the performance of its obligations hereunder during the period of such suspension of performance of duties hereunder.

SECTION 8: ASSIGNMENT

Neither Consultant nor City may assign or transfer this Agreement or any part thereof without the express, written consent of the other party.

SECTION 9: ENTIRE AGREEMENT; WAIVER

This Agreement constitutes the entire Agreement between the parties with respect to the provision of the services outlined herein, and there are no other or further written or oral understandings or agreements with respect thereto. No variation or modification of this Agreement and no waiver of its provisions shall be valid unless in writing and signed by duly authorized representatives of Consultant and City. This Agreement supersedes all other agreements between the parties.

SECTION 10: **NOTICES**

All notices to City shall be addressed to:

*Chief of Police
Madison City Hall
100 Huges Road
Madison, Alabama 35758*

With a copy to:

*City Attorney
Madison City Hall
100 Hughes Road
Madison, Alabama 35758*

All notices to Consultant shall be addressed to:

*Niki Polk
Principal
PAS Consulting Group
1697 Foxhall Drive
Dunwoody, Georgia 30338*

SECTION 11: **GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Alabama.

SECTION 12: **MISCELLANEOUS PROVISIONS**

- A. If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of the Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- B. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
- C. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.
- D. In the event the terms set forth in the body of this Agreement conflict with the terms set forth in Attachment A, the terms set forth in the body of this Agreement shall prevail.
- E. The headings of each section are inserted for reference purposes only. Any conflict between a descriptive heading and the content of the section shall be resolved in favor of the language contained in the section.

IN WITNESS WHEREOF, the parties hereto affirm that they have the authority to execute this Agreement on behalf of their respective entities for the entire term and have hereunto set their hands and seals on the day and year respectively noted.

**City of Madison, Alabama,
a municipal corporation**

Attest:

By: _____
Paul Finley, Mayor

Lisa D. Thomas, City Clerk-Treasurer

Date: _____

STATE OF ALABAMA §
§
COUNTY OF MADISON §

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Paul Finley and Lisa D. Thomas, whose names as Mayor and the City Clerk-Treasurer, respectively, of the City of Madison, Alabama, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, as such officers and with full authority, executed the same voluntarily for and as the act of the City of Madison, Alabama, a municipal corporation.

Given under my hand and official seal this ____ day of _____, 2023.

Notary Public

**PAS Consulting Group
Consultant**

By: _____

Printed: _____

Its: _____

Date: _____

STATE OF GEORGIA §
 §
COUNTY OF _____ §

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of PAS Consulting Group, LLC, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he, as such officer and with full authority, executed the same voluntarily for and as the act of said entity.

Given under my hand this the _____ day of _____, 2023.

Notary Public