

TERMS & CONDITIONS FOR PROFESSIONAL SERVICES

May 5, 2025

Beth King, Acting City Clerk - Treasurer
City of Roy
216 McNaught Rd S
PO Box 700
Roy, WA 98580-0700

Dear Beth:

This Agreement, including the attached Terms & Conditions for Professional Services and any appendices, confirms our mutual understanding of the terms and conditions under which Clark Nuber P.S. ("Clark Nuber" or "We") agrees to perform professional services for City of Roy (the "Client" or "You").

As you request services, we will outline the scope of those services and the related fees on individual Statements of Work ("SOW") for your approval. Upon mutual agreement, we may also add appendices to this Agreement which will contain additional terms and conditions for specific services and may amend the Terms & Conditions for Professional Services. These appendices will become part of this Agreement. All SOWs submitted will reference this Agreement. Each SOW, along with the Terms & Conditions for Professional Services and any appendices, will constitute separate engagement agreements with Clark Nuber; and will be the entire agreement between You and Clark Nuber for the services described in the SOW. This Agreement may be replaced or terminated by either party upon 30 days written notice. Termination of this Agreement will not affect any SOW issued under this Agreement.

If this Agreement correctly expresses your understanding of the agreement between Clark Nuber and the Client, please follow the link and prompts to electronically approve the terms of engagement. Alternatively, you may print, sign and return the Agreement.

We are pleased to have this opportunity to serve you.

Sincerely,

Clark Nuber P.S.

Certified Public Accountants



T: 425-454-4919
T: 800-504-8747
F: 425-454-4620

10900 NE 4th St
Suite 1400
Bellevue, WA
98004

clarknuber.com

Beth King
City of Roy
May 5, 2025
Page 2

The terms and conditions of this Agreement are in accordance with the Client's requirements and are acceptable to and agreed to by the Client, which has authorized me to sign this Agreement on its behalf.

By: _____

Title: _____

Date: _____

Terms and Conditions for Professional Services

1. **Introduction.** Clark Nuber will provide professional services ("Services") from time to time described in Statements of Work ("SOW"). In the course of delivering the Services we apply customary practices intended to provide the Services in a professional and cost-effective manner. These Terms & Conditions for Professional Services, including any appendices, describe certain of these customary practices, set forth the terms, conditions and limitations relating to our provision of the Services.
2. **Routine Advice and Services.** In addition to the Services detailed in any SOW, we may respond to the Client's requests for advice, services, or other information ("Routine Advice") that may not be explicitly outlined in an SOW. The terms and conditions set forth in this Agreement, along with any appendices, shall govern any Routine Advice provided to the Client, even if such Routine Advice is not expressly described in an SOW. The Client or Clark Nuber retains the right to require a separate SOW for any services, including services that may be defined as Routine Advice.
3. **Client Information & Assistance.** For Clark Nuber to effectively deliver the Services, you, your employees or contractors must cooperate with us; and provide any and all information we may reasonably request on a timely basis. We are entitled to rely on all financial statements, tax returns, financial information, or other information that you provide to us. If certain facts or circumstances are different from those furnished or represented to us, or understood by us, the results of our Services may be materially different than initially expected. We will not be responsible for any loss, liabilities or other obligations arising from our reliance on information furnished by you. Any failure to fulfill your responsibilities under this Section entitles Clark Nuber to suspend or terminate our Services.
4. **Warranty, Limitations & Indemnification**
 - a. **Warranty.** The Services performed under the SOW are professional in nature. Clark Nuber warrants that it will perform the Services in good faith, with due care, and in accordance with professional standards. Clark Nuber specifically disclaims all other warranties, either express or implied, and makes no guarantee regarding the results of the Services and/or the use by you or any permitted third party.
 - b. **Remedies.** In the event that we fail to meet our obligations under an SOW, this Agreement, or any other formal or informal agreement to provide Services, you must notify us in writing and provide us with the opportunity to re-perform the Services. If the Services cannot be re-performed, or if re-performance will not cure the breach, then your first remedy will be for us to refund our fees relating to the services up to the amount of your direct damages caused by our failure to meet our obligations. The foregoing will be your sole and exclusive remedy in the event that Clark Nuber fails to meet its warranty obligations.
- c. **Limitation of Liability.** *The Client agrees that Clark Nuber, its personnel, subcontractors, suppliers or licensors (each a "Clark Nuber Party") shall not be liable to the Client for any actions, claims, liabilities, costs, expenses or losses alleged to arise from or actually arising or resulting from or relating to the Services performed by a Clark Nuber Party for an aggregate amount in excess of the total fees paid by the Client to Clark Nuber for Services provided to which such actions, claims, liabilities, costs, expenses or losses relate unless such actions, claims, liabilities, costs, expenses or losses were the direct result of fraud or willful misconduct committed by Clark Nuber. The Parties to this Agreement expressly agree that this limitation of liability provision shall apply to the fullest extent permitted by law, whether by common law (including without limitation contract or tort) or by federal or state statute. The Client further agrees that under no circumstances, including failure of a court to enforce the preceding limitation of liability provision, shall a Clark Nuber Party be liable to the Client for consequential (including without limitation lost profits and opportunity costs), special, indirect, incidental, punitive or exemplary damages, attorneys' fees and/or other legal expense alleged to arise from or actually arising or resulting from or in any way relating to the Services provided under this Agreement.*
- d. **Document Production and Testimony.** If we are requested or authorized by you, or if we are required by government regulation, subpoena or other legal process, to produce any documents or files, or to make our personnel available as witnesses with respect to any engagement, you will, so long as we are not a party to the proceeding in which the information is sought, reimburse us for our time and expenses, as well as the reasonable fees and expenses of our counsel, incurred in responding to such requests.
- e. **Time Limitation on Claims.** No claim or action by either party, regardless of whether the claim is in contract, in tort, at law or in equity, arising out of or relating to any matter under this Agreement, any SOW, or any other formal or informal agreement to provide services, may be

brought by either party (i) more than 24 months after the party first knows or has reason to know that the claim or cause of action has occurred or (ii) more than 48 months following the completion of the Services, whichever period is shorter. This section may shorten, but in no event will it extend, any period of limitation on actions otherwise provided by applicable law.

- f. **Indemnification for Unintended Use of Work Product.** Unless prohibited by law, regulation or professional standards, the Client will indemnify and hold harmless, Clark Nuber, its affiliates, subcontractors and their respective personnel (collectively, the 'Indemnified Parties') from any and all costs, expenses, settlements, penalties or interest ("Liability"), resulting from any use of our Services or the associated deliverables by you or a third party which is not specified in the SOW or otherwise authorized by Clark Nuber. It does not apply to any Liability resulting directly from the intentional misconduct of the Indemnified Parties.

5. Dispute Resolution, Governing Law

- a. **Mediation.** Clark Nuber and the Client both believe that most disagreements can be resolved to mutual satisfaction in a friendly, nonthreatening environment. While the Client and Clark Nuber do not expect there to be any problems with their relationship, disagreements can occur. Therefore, the Client and Clark Nuber agree that any dispute arising from or relating in any way to services provided by Clark Nuber under this Agreement (including the scope, nature and quality of services performed by Clark Nuber, its fees and any other terms of this Agreement) shall first be submitted to mediation and neither the Client nor Clark Nuber will initiate legal proceedings of any kind until after mediation has occurred. The Client and Clark Nuber agree that an impartial third party, acceptable to both the Client and Clark Nuber, shall be appointed to mediate, the Client and Clark Nuber shall pay an equal percentage of the mediator's fees and expenses, and the mediation shall be confidential in all respects, as allowed or required by law.
- b. **Governing Law.** The Client and Clark Nuber agree that this Agreement will be interpreted under the laws of the State of Washington or federal law, if applicable, and further agree that venue for any cause of action or claim for relief arising out of or relating in any way to services provided by Clark Nuber under this Agreement shall be in the Superior Court of King County, Washington, Seattle Case Assignment area, or the United States District Court for the Western District of Washington, if appropriate under federal law. ***The parties also waive trial by jury***

and agree that any dispute or claim should be resolved by a judge without a jury. _____/s/

6. **Third-Party Service Providers.** We may from time to time, and at our sole discretion, use third-party service providers, including entities, contractors and/or software vendors, in serving your account, which may include service providers located outside the United States. Client acknowledges that their information may be disclosed to such service providers in order to assist us in the timely and cost-effective delivery of professional services to Client. Subject to the terms of this Agreement, we will remain responsible for the work provided by any such third-party service providers.

7. Confidentiality and Data Security

- a. We are committed to maintaining the confidentiality and security of your Confidential Information (as such term is defined in section 7.c. below). Accordingly, we maintain internal policies, procedures, and safeguards to protect your Confidential Information. We will use reasonable precautions to protect your information, but we have no obligation to employ any measures that you do not regularly employ in protecting your information. In addition, we will secure confidentiality agreements with all service providers to maintain your Confidential Information, and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your Confidential Information to others. In the event we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your Confidential Information with the third-party service provider.
- b. We may also disclose Confidential Information if required by a court or governmental agency, but we will use commercially reasonable efforts to inform you prior to disclosure. To the extent that there are any conflicts between any confidentiality obligations contained in any prior agreement between you and us, the provisions of this section shall control. **By agreeing to an SOW, you specifically authorize the disclosures described in this section 7.**
- c. "Confidential Information" means (i) information contained in your financial and business records, (ii) information reported on your tax returns and (iii) other information concerning you or your business that is marked "confidential" or otherwise identified as "confidential" in writing at the time of disclosure. Confidential Information does not include information (i) that is or becomes publicly available or generally known to persons in your

industry without breach of our obligations under this section or (ii) received by us after the termination of this Agreement. The confidentiality provisions in this Agreement supersede any other confidentiality obligations contained in any prior agreement between the parties.

8. Transmission of Data

- a. By your signature, you authorize us to transmit, update and store information digitally and to transmit your information over the Internet. We will employ systems and services that utilize industry-standard encryption protocols, which may include a secure internet portal, for document transfer with you or your authorized personnel. It is your responsibility to notify us when your authorized portal users or other personnel should no longer have access to the portal or to your confidential information. The portal is intended for the transfer of data and should not be used for temporary or permanent document storage. Clark Nuber reserves the right to delete all documents at the end of each project without prior notification. Under no circumstances will documents be retained on portals for more than 24 months. If you have unique security needs, a discussion should be held with our Director of IT prior to the engagement. Our *Privacy Policy*, *Client Confidentiality*, and *Security Overview* are available on our web site.
- b. If Client is unable or unwilling to utilize our secure portal for transfer of documents, you agree to authorize Clark Nuber, in writing, to transfer documents using other digital means, including email, and utilizing our standard procedures for transmitting documents over the internet.
- c. Emails and other electronically stored and transmitted information may be diverted, intercepted, altered, read, disclosed or otherwise used by or communicated to unauthorized third parties. While we will use resources and select suppliers of computer services that we determine provide highly secure environments, the security and protection of email and other electronically stored or transmitted data cannot be guaranteed or warranted. Accordingly, we will not be responsible for and specifically disclaim any liability for any information security breaches whatsoever, unless such breach is the result of our intentional misconduct, subject to the limitations in Section 4.

9. **Fees and Payment Terms.** We will bill you for Services on a monthly basis or upon completion of project milestones at our discretion and based upon the nature of the services. Unless otherwise

specified, fees and expenses quoted in the SOW are estimates and are not contingent on the results of the Services. Our invoices will be due 30 days after invoice date. Amounts not paid by month-end will accrue finance charges of 1% per month on the past due balance. In the event that you are unable or unwilling to complete periodic progress payments as they are due, you agree we may suspend our work and/or withdraw entirely from the engagement. If we do so, specific time deadlines which are the responsibility of the Client, including tax and government filings utilizing our work product, may go unmet resulting in penalties or other adverse consequences. Further, the Client agrees to pay for all Services rendered and expenses incurred up to the date of our withdrawal even if a service cannot be completed.

10. Document Retention, Subpoena, Privilege

- a. **Document Retention.** We will retain our own documentation for our engagements, including copies of documents provided to us, so that we may be better able to assist you with your professional needs and, in some cases, to comply with legal or professional requirements. Under our firm's document retention policy, we will keep our documentation for a period of at least seven years following completion of the engagement. The Client agrees we are free to destroy such records at our sole discretion after that seven-year period without any notice to the Client.
- b. **Subpoena.** In the event that we receive a subpoena or summons requesting documents or other evidence relating to an engagement, we may be compelled to comply. We will make a commercially reasonable effort to notify you before responding to any request. You may, within the time permitted for our firm to respond to any request, take such action, as you deem appropriate to protect information from disclosure. If you take no action within the time permitted for us to respond, or if your action does not result in a judicial order protecting us from supplying requested information, we may construe your inaction or failure as consent to comply with the request.
- c. **Privilege.** In certain circumstances, information, particularly Confidential Information, may be protected by an accountant/client privilege; which you are responsible for recognizing, asserting and maintaining. You must notify us if you wish to claim any privilege, and we will cooperate with your reasonable instructions relating to the privilege. Any questions concerning the availability, maintenance, waiver, and process for asserting a privilege should be directed to your legal counsel.

11. General Business Terms

- a. **Requests for Services.** In responding to requests for Services made by your officers, managers, employees or agents which are outside of the scope of any SOW, we will presume that all requests have been authorized by you or your internal procedures. If you wish to limit the individuals who can request Services, you must notify us of any limitations in writing.
- b. **Conflicting Engagements.** If we at any time determine in our sole discretion that a conflict exists that would impair our independence or prevent us from providing our Services in accordance with applicable professional standards and ethical rules, we will notify you of the conflict and may withdraw from or modify our engagement to provide professional Services under any SOW to the extent that such withdrawal is required or permitted by applicable professional standards and ethical rules. You agree to advise us of other actual or potential engagements involving Clark Nuber.
- c. **Changes in Laws, Regulations & Standards.**

Changes to applicable law, regulations, and accounting and professional standards could materially or adversely affect the performance of the Services. Such changes may also increase the time required to complete the Services and our professional fees.
- d. **No Legal or Investment Advice.** Services under any SOW do not constitute legal or investment advice. We recommend that you retain competent legal counsel and investment advisors for such purposes.
- e. **Non-Solicitation.** The parties acknowledge that Clark Nuber has incurred significant expense related to the training, development and employment of professional staff assigned to assist on projects for the Client and would suffer damage if those employees were to terminate employment with Clark Nuber to accept an offer of employment with the Client. In the event that an employee terminates employment with Clark Nuber in order to accept an offer of employment with the Client, the Client agrees that Clark Nuber would suffer loss. The Client agrees that if an employee accepts employment with the Client or any affiliated entities during the term of an engagement or within twelve months after the termination of an engagement, Client will pay Clark Nuber an amount equal to 40% of the annual Clark Nuber salary as reasonable compensation for our loss. This payment is in addition to the fees and expenses otherwise billable under any SOW. The parties further acknowledge that the solicitation for

employment or actual employment of a Clark Nuber employee by the Client could impair Clark Nuber's independence with respect to the Client and/or could result in a delay of service delivery, additional costs, or the potential withdrawal from the engagement.

- f. **Termination.** You may terminate an SOW at any time by written notice to us. Subject to any restrictions imposed by applicable ethical rules, we may terminate any SOW at any time upon written notice to you. Termination for any reason will not affect your obligation to pay us for fees and expenses incurred prior to termination, or in transferring files to and otherwise cooperating with any successor accountant or other service provider. If you terminate any SOW after we have commenced performing Services under a fixed fee arrangement, you will be obligated to pay us the entire fixed fee upon termination.
- g. **Survival of Provisions.** All provisions of this Agreement will survive the termination or cancellation of any SOW or the Agreement, except that (i) we will not have any obligation to provide Services after termination and (ii) except as provided in sections 4.d., 10.b., 11.e., and 11.f., you will not have any obligation to pay us for any Services that we perform after termination.
- h. **Entirety of Agreement.** This Agreement, including any SOW, and Appendices, signed or otherwise acknowledged by all parties constitute the entire agreement between Clark Nuber and the Client, superseding all proposals, oral or written, and all other communications, with respect to the terms of this engagement between the parties. In the event that any portion of this Agreement is determined to be invalid or unenforceable, the balance of this Agreement shall remain in full force and effect; and the unenforceable provision will be modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties. In the event of a conflict between these Terms & Conditions (including any Appendix), and an SOW, these Terms & Conditions will prevail.
- i. **Amendments, Waivers and Consents.** Neither this Agreement nor an SOW may be amended except by our mutual written agreement. No waiver of any breach of these Terms & Conditions or an SOW will be effective unless the waiver is in writing and signed by the party against whom the waiver will be enforced. No waiver of any one breach will be deemed a waiver of any other or subsequent breach.

- j. **No Assignment, 3rd Party Beneficiaries.** You may not assign an SOW or this Agreement to any other party without our prior written consent. Except as stated in an SOW, there are no third-party beneficiaries of our Services.
- k. **Authority to Sign; Binding Effect.** You represent and warrant to Clark Nuber that the person signing this Agreement, or any SOW, is expressly authorized to execute it on behalf of, and such signing is effective to bind Client, its affiliates, and any other persons or entities for whose benefit any of the Services are provided.
- l. **Independent Contractor.** For all services that we perform, we will be an independent contractor and not your employee, agent or partner, and we will determine the method, details and means of performing our services. We assume full and sole responsibility for the payment of all compensation and expenses of our employees and for all applicable employee withholdings.
- m. **Newsletters and Similar Communications.** We may as a courtesy from time to time send newsletters, emails, explanations of tax law developments or similar communications to selected clients, former clients or other interested parties. These communications are of a general nature and are not definitive advice. We do not send all such communications to all clients, former clients or interested parties. These newsletters do not establish or continue a client relationship with any person, and they do not constitute an undertaking on our part to monitor tax or other issues for you or for any other parties.