

Welcome to ClearGov!

Thanks for using our products and services. The Services are provided by ClearGov Inc. ("**ClearGov**").

By using our Services, you are agreeing to these terms (the "**Terms**"). Please read them carefully.

Defined Terms

Capitalized terms used in these Terms, and not otherwise defined herein, shall have the following meanings:

- "**Account**" means a registered user access point for the Service.
- "**ClearGov API**" means an application programming interface that provides access to the ClearGov Widgets.
- "**ClearGov Apps**" means a Web application available via the ClearGov Web Site that utilizes ClearGov Data to provide analytics; benchmarking and other services for comparison of municipal entities.
- "**ClearGov Data**" means any aggregated and normalized key metrics and benchmarking data collected by ClearGov for the creation of profiles and/or the provision of the Service.
- "**ClearGov Profile**" means the proprietary ClearGov infographic profile utilized as a template for the Customer Profile, including but not limited to the design, look and feel, functionality, etc. of such template.
- "**ClearGov Web Site**" means the Web site owned and operated by ClearGov and made available at the following URL: <http://www.ClearGov.com> and/or any successor site(s).
- "**ClearGov Widget**" means a graphical element that displays ClearGov Data and may be accessed via the ClearGov API.
- "**Customer**" means you and the municipal organization that you represent.
- "**Customer Data**" means any data provided directly to ClearGov by or on behalf of Customer pursuant to these Terms. Customer Data specifically excludes ClearGov Data as well as any anonymized, customized, modified or derivative works related to the Customer Data.
- "**Customer Profile**" means a customized version of the ClearGov Profile that incorporates public financial data and other key public metrics that are specifically relevant to Customer.
- "**Customer Site(s)**" means any Web site owned and operated by Customer.
- "**Documentation**" means any accompanying proprietary documentation made available to Customer by ClearGov for use with the Service, including any documentation available online or otherwise.
- "**Report**" means the resulting analysis shown via the ClearGov Apps for an individual Account. Each Report is considered a material part of the ClearGov Apps.
- "**Service(s)**" means the complete CIP including but not limited to the ClearGov API, ClearGov Apps, the ClearGov Data, the ClearGov Profile, the ClearGov Web Site, the ClearGov Widget, the Documentation, the Reports and the Software.
- "**Software**" means the source code and/or other code which are material parts of the Service.

Service Usage & Licenses

Account Password and Security. Customer shall protect its passwords and take full responsibility for Customer's own as well as any third party use of the Customer Account(s). Customer is solely responsible for any and all activities that occur under such Customer Account(s), except for any activities performed by ClearGov as set forth herein. Customer agrees to notify ClearGov immediately upon learning of any unauthorized use of a Customer Account or any other breach of security. From time to time, ClearGov's support staff may log in to the Service under Customer password in order to maintain or improve service, including providing Customer assistance with technical issues. Customer hereby acknowledges and consents to such access.

ClearGov License. Subject to the terms and conditions of these Terms, ClearGov grants Customer a limited, revocable, non-exclusive, non-transferable, non-distributable, worldwide license to utilize the Service for the following functionality:

- Profile Delivery. Customer may integrate and publish the Customer Profile within one or more Customer Sites.
- Apps Access. Customer may access the ClearGov Apps via Customer's Account to create and review Reports.
- API Access. Customer may access ClearGov Widgets via the ClearGov API and may distribute such ClearGov Widgets via one or more Customer Sites.

Term and Termination

The term hereof will commence when Customer first accesses the Service and continue in effect until terminated by either party. ClearGov may, in its sole discretion, terminate or suspend Customer's access to all or part of the Service for any or no reason and with no prior notice to Customer. Customer may terminate these Terms at any time by discontinuing use of the Service. Upon termination of these Terms for any reason, Customer shall immediately cease using the Service. The provisions of this Term and Termination section and all of the following sections shall survive the expiration or termination of these Terms.

Intellectual Property

General. Both parties may only use the other party's intellectual property as expressly set forth herein. Nothing in these Terms shall be construed in any manner to affect or modify either party's ownership rights in any preexisting or future works, trademarks, copyrights or technologies developed or created by either party, including without limitation, their respective proprietary software used in connection with the development and provision of their respective Web sites, databases, systems, products and/or services. Unless specifically agreed by the parties in writing, all intellectual property, including without limitation information that could become the subject of a patent, copyright or trade secret, developed by a party in the context of performing its obligations under these Terms shall be exclusively owned by that party and the other party shall cooperate with any reasonable requests to execute documents confirming such ownership.

Data Ownership and License. Customer Data shall remain the property of Customer, and Customer hereby grants ClearGov a limited, perpetual, irrevocable and royalty free right to 1) use, copy, modify, display the Customer Data for the purpose of providing the Service; 2) use, copy, display, distribute, publish, modify and/or otherwise utilize the Customer Data for ClearGov's normal business purposes.

Proprietary Rights Notice. The Service and all intellectual property rights in the Service are, and shall remain, the property of ClearGov. All rights in and to the Service not expressly granted to Customer in these Terms are hereby expressly reserved and retained by ClearGov without restriction, including, without limitation, ClearGov's right to sole ownership of the CIP, ClearGov API, ClearGov Apps, ClearGov Data, ClearGov Profile, ClearGov Web Site, ClearGov Widget, Documentation, Reports and Software. Without limiting the generality of the foregoing, Customer agrees not to (and to not allow any third party to): (a) sublicense, distribute, or use the Service outside of the scope of the license granted herein; (b) copy, modify, adapt, translate, prepare derivative works from, reverse engineer, disassemble, or decompile the Service or otherwise attempt to discover any source code or trade secrets related to the Service; (c) use the trademarks, trade names, service marks, logos, domain names and other distinctive brand features or any copyright or other proprietary rights associated with the Service for any purpose without the express written consent of ClearGov; (d) register, attempt to register, or assist anyone else to register any trademark, trade name, service marks, logos, domain names and other distinctive brand features, copyright or other proprietary rights associated with ClearGov other than in the name of ClearGov; or (e) remove, obscure, or alter any notice of copyright, trademark, or other proprietary right appearing in or on any item included with the Service. If the Service is being used by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), in accordance with 48 C.F.R. 227.7202-4 (for Department of Defense (DOD) acquisitions) and 48 C.F.R. 2.101 and 12.212 (for non-DOD acquisitions), the Government's rights in the Service, including its rights to use, modify, reproduce, release, perform, display or disclose any elements of the Service, will be subject in all respects to the commercial license rights and restrictions provided in these Terms.

Representations, Warranties, Indemnification and Liability

Representations. ClearGov represents and warrants that: (i) the Service shall be provided in accordance with, and shall not violate applicable laws, rules or regulations; and (ii) by using the Service, Customer will not violate or in any way infringe upon the personal or proprietary rights of any third party, (iii) the Service does not contain any virus, worm, Trojan horse, time bomb or similar contaminating or destructive feature; and (iv) ClearGov holds all necessary rights to permit the use of the Service and all components thereof provided to Customer under these Terms.

Indemnification.

- **By Customer.** At Customer's cost, Customer agrees to indemnify, hold harmless and defend ClearGov against any cost, loss or expense (including attorney's fees) resulting from any claims by third parties for loss, damage or injury arising out of or relating to (i) Customer's breach of any term or condition of these Terms, or (ii) Customer's violations of applicable laws, rules or regulations in connection with the Service.
- **By ClearGov.** At ClearGov's cost, ClearGov agrees to indemnify, hold harmless and defend Customer against any cost, loss or expense (including attorney's fees) resulting from any claims by third parties for loss, damage or injury arising out of or relating to (i) ClearGov's breach of any term or condition of these Terms, (ii) ClearGov's violation of any third party rights in connection with the Service or (iii) ClearGov's violations of applicable laws, rules or regulations in connection with the Service.

Disclaimer. THE SERVICE, ITS USE AND THE RESULTS OF SUCH USE ARE PROVIDED ON AN "AS IS," "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, CLEARGOV PROVIDES NO WARRANTIES (INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT), GUARANTEES, REPRESENTATIONS, PROMISES, STATEMENTS, ESTIMATES, CONDITIONS, OR OTHER INDUCEMENTS, EXPRESS, IMPLIED, ORAL, WRITTEN, OR OTHERWISE EXCEPT AS EXPRESSLY SET FORTH IN THIS DISCLAIMER SECTION.

Limitation of Liability. NEITHER CLEARGOV NOR CUSTOMER WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL (INCLUDING, WITHOUT LIMITATION, LOST PROFITS), OR INCIDENTAL DAMAGES, WHETHER BASED ON A CLAIM OR ACTION OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, INDEMNITY OR CONTRIBUTION, OR OTHERWISE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE EXCLUSION CONTAINED IN THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE FAILURE OF THE EXCLUSIVE REMEDY PROVIDED IN THE FOLLOWING SENTENCE. BOTH PARTIES' TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED \$10,000

THE FOREGOING SHALL NOT LIMIT A PARTY'S (A) INDEMNIFICATION OBLIGATIONS; OR (B) LIABILITY FOR ITS INFRINGEMENT OR MISAPPROPRIATION OF ANY PROPRIETARY RIGHTS OF THE OTHER PARTY. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED AS EXCLUDING OR LIMITING A PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY ARISING FROM ITS NEGLIGENCE OR ITS LIABILITY FOR FRAUD.

Essential Element. The provisions of this section are an essential element of the benefit of the consideration reflected in these Terms.

Miscellaneous

General. If any provision of these Terms is held to be unenforceable for any reason, such provision shall be reformed to the extent necessary to make it enforceable to the maximum extent permissible so as to implement the intent of the parties, and the remainder of these Terms shall continue in full force and effect. A waiver of any default is not a waiver of any subsequent default. These Terms shall be binding upon and inure to the benefit of the respective successors and permitted assigns of the parties hereto. The Software is controlled by U.S. Export Regulations, and it may not be exported to or used by embargoed countries or individuals.

Marketing Materials. Customer agrees that ClearGov may utilize Customer's name solely to identify it as a ClearGov Customer on the ClearGov Web site, in client lists and other marketing materials. Any other uses of Customer's name and/or logo (other than as included in the Creative and/or other items furnished to ClearGov by Customer) shall require Customer's prior written consent.

Jurisdiction. These Terms shall be governed by the applicable Massachusetts laws, without regard to its conflict of laws rules. Any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in the state of Massachusetts before a panel of three arbitrators. Such arbitration shall be administered by JAMS pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on an award, if any, may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The parties acknowledge that these Terms evidences a transaction involving interstate commerce. Notwithstanding the provision with respect to applicable substantive law, any arbitration conducted pursuant to the terms of these Terms shall be governed by the Federal Arbitration Act (9 U.S.C., Secs. 1-16).

Force Majeure. If the performance of these Terms or any obligations hereunder is prevented or interfered with by reason of fire or other casualty or accident, strikes or labor disputes, war or other violence, any law, proclamation, regulation, or requirement of any government agency, or any other act or condition beyond the reasonable control of a party hereto, that party upon giving prompt notice to the other party shall be excused from such performance during such occurrence.

Modification. ClearGov shall have the right to modify these Terms at any time by posting revised terms and conditions at the following URL: <http://www.ClearGov.com/terms-and-conditions>. Changes will be binding on the date they are posted (or as otherwise stated in any notice of such changes). Continued use of the Service will be considered acceptance by Customer of the then-current terms.

Titles & Subtitles. The titles and subtitles in these Terms are used for convenience only and are not to be considered in construing it.