**STATE OF TEXAS §**

 **§ CONTRACTOR SERVICES AGREEMENT**

**COUNTY OF COLLIN §**

This \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Services Agreement (the “Agreement”) is made by and between the City of Lucas, Texas (“City”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Contractor”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

**RECITALS:**

 **WHEREAS**, City desires to engage the services of Contractor as an independent contractor and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

 **WHEREAS**, Contractor desires to render \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ services within the corporate limits of the City, at the locations set forth and identified in the Scope of Work, which is attached hereto as Exhibit “A”;

 **NOW THEREFORE**, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

**Article I**

**Term**

 1.1 The Initial Term of this Agreement shall commence on the last day of execution hereof (the “Effective Date”) and continue for a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, unless sooner terminated as provided herein.

 1.2 City shall have the option to extend the term of this Agreement by providing written notice thirty (30) days prior to the expiration of the Initial Term, as the case may be.

 1.3 City may terminate this Agreement, with or without cause, by giving Contractor thirty (30) days prior written notice. In the event of such termination, Contractor shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

**Article II**

**Scope of Services**

The Parties agree that Contractor shall perform the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ services under this Agreement, at locations specified by the City, as identified and set forth in Exhibit “A”.

**Article III**

**Compensation**

The City shall compensate Contractor in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**Article IV**

**Suspension of Work**

The City shall have the right to immediately suspend work by Contractor if the City determines in its sole discretion that Contractor has, or will fail to perform, in accordance with this Agreement. In such event, any payments due Contractor shall be suspended until Contractor has taken satisfactory corrective action.

**Article V**

**Availability of Funds**

If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, this Agreement shall be canceled and Professional may only be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of services delivered under this Agreement or which are otherwise not recoverable. The cost of cancellation may be paid from any appropriations for such purposes.

**Article VI**

**Insurance**

6.1 Procurement and Evidence of Insurance. Prior to commencing the Services, and continuing until all Services to be performed under this Agreement have been completed, Contractor shall purchase and maintain insurance with a company or companies qualified to do business in Texas and rated at least “A” by AM Best or other equivalent rating service. All such insurance, with the exception of workers compensation, shall name City as an additional insured and provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of the insurance. Each policy and renewals or replacements thereof shall provide that it will not be canceled, non-renewed or material change except with thirty (30) days advance written notice ten (10) days for non-payment of premium) to City. Evidence of such insurance shall be provided to City by delivering certificates of insurance.

6.2 Coverage and Limits. The insurance required under this paragraph shall provide for the following coverages and limits:

a. Workers’ compensation and employers’ liability insurance as required by applicable law and the Special Provisions to this Agreement.

b. Commercial general liability insurance for bodily injury and property damage, including limited contractual liability coverage in not less than the following amounts:

i. General Aggregate Limit $2,000,000 each occurrence and

ii. Each Occurrence Limit $1,000,000 each occurrence.

6.3 Commercial automobile liability insurance coverage, including non-owned and hired, covering all owned, hired or non-owned vehicles including the loading or unloading thereof with limits not less than $1,000,000.

6.4 Umbrella liability insurance covering all operations with limits of liability not less than:

Bodily Injury and Property Damage Liability

 $5,000,000 each occurrence

 $5,000,000 aggregate

**Article VII**

**Indemnification**

 7.1 **Contractor agrees to indemnify, hold harmless and defend the City, its officers, agents and employees, both past and present, from and against liability for any and all claims, liens, suits, demands and actions for damages, injuries to persons (including death), property damage (including loss of use) and expenses, (including court costs, attorneys' fees and other reasonable costs of litigation) arising out of or resulting from Contractor's work and activities conducted in connection with or incidental to this Agreement and from any liability arising out of or resulting from intentional acts or negligence of the Contractor, including all such causes of action based upon common, constitutional or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of Contractor, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees and other persons.**

7.2 **It is the express intention of the parties hereto, both the City and Contractor, that the indemnity provided for in this Agreement indemnifies and protects the City from the consequences of Contractor's own negligence.**

 7.3 **Contractor further agrees that it shall at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, subcontractors, licensees, invitees and other persons, as well as their property, while in the vicinIty where the work is being done. iT IS expressly understood and agreed that City shall not be liable or responsible for the negligence or other fault of the Contractor, its officers, agents, employees, subcontractors, licensees, invitees or other persons associated with the Contractor.**

7.4 **Contractor agrees to indemnify and save the City harmless from all claims growing out of any demands of subcontractors, laborers, workers, mechanics, material men and furnishers of supplies, equipment, financing or any other goods or services, tangible or intangible. When the City so desires, Contractor shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.**

 7.5 In its sole discretion, City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. City reserves the right to provide a portion or all of its own defense; however, City is under no obligation to do so. Any such action by City is not to be construed as a waiver of Contractor’s obligation to defend City or as a waiver of Contractor’s obligation to indemnify City pursuant to this Agreement. Contractor shall retain City approved defense counsel within seven (7) business days of City’s written notice that City is invoking its right to indemnification under this Agreement. If Contractor fails to retain counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City.

**Article VIII**

**Miscellaneous**

 8.1 Entire Agreement. This Agreement constitutes the sole and only agreement between the Parties and supersedes any prior understandings written or oral agreements between the Parties with respect to this subject matter.

 8.2 Assignment. Contractor may not assign this Agreement in whole or in part without the prior written consent of the City. In the event of an assignment by Contractor to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.

 8.3 Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

 8.4 Governing Law. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in Collin County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

 8.5 Amendments. This Agreement may be amended by the mutual written agreement of the Parties.

 8.6 Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

 8.7 Independent Contractor. It is understood and agreed by and between the Parties that Professional, in satisfying the conditions of this Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Contractor pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Contractor shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement.

 8.8 Notice. Any notice required or permitted to be delivered hereunder may be sent by first class mail, overnight courier or by confirmed telefax or facsimile to the address specified below, or to such other party or address as either party may designate in writing, and shall be deemed received three (3) days after delivery set forth herein.

If intended for City, to:

City of Lucas, Texas

Attn: Joni Clarke

665 Country Club Road

Lucas, Texas 75002-7651

If intended for Contractor, to:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 8.9 Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto.

 8.10 Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.

 8.11 Audits and Records. Contractor agrees that during the term hereof, the City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of Contractor’s records relating to the services provided pursuant to this Agreement for a period of one year following the date of completion of services as determined by City or date of termination if sooner.

 8.12 Conflicts of Interests. Professional represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement.

8.13 Compliance with Federal, State & Local Laws. Contractor shall comply in performance of services under the terms of this Agreement with all applicable laws, ordinances and regulations, judicial decrees or administrative orders, ordinances, and codes of federal, state and local governments, including all applicable federal clauses.

 8.14 Force Majeure. No Party will be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, acts of terrorism or any similar cause beyond the reasonable control of such party, provided that the non-performing party is without fault in causing such default or delay. The non-performing Party agrees to use commercially reasonable efforts to recommence performance as soon as possible.

 8.15 No Boycott Israel. Pursuant to Texas Government Code Chapter 2270, the Contractor agrees that acceptance of these Terms & Conditions serves as written verification that Contractor: (1) does not boycott Israel, as defined by Texas Government Code Section 808.001; and (2) will not boycott Israel during the term of the contract.

8.16 Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization. Pursuant to Texas Government Code Chapter 2252, Subchapter F, Contractor affirms that is it not identified on a list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to a foreign terrorist organization.

**EXECUTED** this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2017.

###  City of Lucas, Texas

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Joni Clarke, City Manager

**EXECUTED** this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2017.

 Contractor

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**EXHIBIT “A”**

**Scope of Services**