

**GENERAL SERVICE AGREEMENT WITH
THE CITY OF GEORGETOWN, TEXAS**

This General Service Agreement is entered into and made effective on the 1st day of January, 2024 by and between the **City of Georgetown**, a Texas home-rule municipal corporation (the “City”), and _____, a _____ (the “Contractor”), for the following work: _____, as described in the Scope of Services, attached as **Exhibit A**.

1. **Consideration.** In consideration for the services performed in the Scope of Services and Contractor’s completion of work in conformity with this Agreement, the Contractor shall share fifty percent (50%) of net revenues with the Arts and Culture Program.
2. **Term.** This Agreement shall become effective on the date stated above The initial term of the Agreement is twelve (12) months.
3. **City Terms Prevail.** In the event there is a conflict between a term in **Exhibit A** and a term in this Agreement, the terms of this Agreement shall prevail.
4. **Contractor’s Payment.** Where applicable, all payments will be processed in accordance with Texas Prompt Payment Act, Texas Government Code, Subtitle F, Chapter 2251. The Contractor shall pay the City on the first day of each month. The City may charge a late fee (one percent plus the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday) for overdue payments.
5. **Non-Appropriation.** This Agreement is a commitment of City’s current revenues only. The City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of the city does not appropriate funds sufficient to purchase the services. The City may terminate for non-appropriation by giving the Contractor a written notice of termination at the end of its then current fiscal year.
6. **Executed Agreement. The Contractor shall not commence any work under this Agreement until the City provides written notice to proceed (the “Notice to Proceed”), which shall not occur until this Agreement is fully executed and all exhibits and other attachments are completely executed and attached to the Agreement.**
7. **Change Orders.** Changes will not be made, nor will invoices for changes, alterations, modifications, deviations, or extra work or services be recognized or paid, except upon the prior written order from authorized personnel of the City. The Contractor will not execute change orders on behalf of the City or otherwise alter the scope of the services except in the event of a duly authorized change order approved by the City as provided in this Agreement.
8. **Subcontractor.** The term “subcontractor” shall mean and include only those hired by and having a direct contract with Contractor for performance of work on the Project. The City shall have no responsibility to any subcontractor employed by a Contractor for

performance of work on the Project, and all subcontractors shall look exclusively to the Contractor for any payments due. The Contractor shall be fully responsible to the City for the acts and omissions of its subcontractors. Nothing contained herein shall create any contractual or employment relations between any subcontractor and the City.

9. Insurance. Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The policies, limits and endorsements required are set forth in **Exhibit D**. Contractor's insurance certificate satisfying the City insurance requirements is attached as **Exhibit E**.

10. INDEMNIFICATION. THE CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY THE CONTRACTOR, ITS AGENTS, REPRESENTATIVES, VOLUNTEERS, EMPLOYEES, OR SUBCONTRACTORS UNDER THIS AGREEMENT. SUCH INDEMNITY SHALL APPLY REGARDLESS OF WHETHER THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, OR LIABILITY ARISE IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY, ANY OTHER PARTY INDEMNIFIED HEREUNDER, THE CONTRACTOR, OR ANY THIRD PARTY.

11. RELEASE. THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE WORK TO BE PERFORMED HEREUNDER AND HEREBY RELEASES, RELINQUISHES, AND DISCHARGES THE CITY, ITS OFFICERS, AGENTS, VOLUNTEERS, AND EMPLOYEES FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO OR DEATH OF ANY PERSON AND ANY LOSS OF OR DAMAGE TO ANY PROPERTY THAT IS CAUSED BY, ALLEGED TO BE CAUSED BY, ARISING OUT OF, OR IN CONNECTION WITH THE WORK TO BE PERFORMED HEREUNDER BY CONTRACTOR, ITS AGENTS, REPRESENTATIVES, VOLUNTEERS, EMPLOYEES, OR SUBCONTRACTORS. THIS RELEASE SHALL APPLY REGARDLESS OF WHETHER SAID CLAIMS, DEMANDS, AND CAUSES OF ACTION ARE COVERED IN WHOLE OR IN PART BY INSURANCE AND REGARDLESS OF WHETHER SUCH INJURY, DEATH, LOSS, OR DAMAGE WAS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF THE CITY, ANY OTHER PARTY RELEASED HEREUNDER, THE CONTRACTOR, OR ANY THIRD PARTY.

- 12. Performance.** Contractor, its employees, associates, and/or subcontractors shall perform all the services described in the Scope of Services in a professional manner and be fully qualified and competent to perform those services. Contractor shall undertake the work and complete it in a timely manner in accordance with all applicable federal, state, and local statutes, regulations, ordinances, and other laws.
- 13. Termination for Convenience.** The City shall have the right to terminate this Agreement, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Agreement, with such exceptions, if any, specified in the notice of termination. The Contractor shall pay the City for any obligations incurred prior to the date of termination.
- 14. Termination for Cause.** In addition to the termination rights described above, either party may terminate this Agreement effective upon written notice to the other if the other breaches any of the terms and conditions of this Agreement and fails to cure that breach within thirty (30) days after receiving written notice of the breach. In the event of an incurable breach, the non-breaching party may terminate this Agreement effective immediately upon written notice to the breaching party. In addition to all other remedies available under law and in equity, the City may remove the Contractor from the City's Contractor list in the event that this Agreement is terminated for cause and any offer submitted by the Contractor may be disqualified for up to three (3) years.
- 15. Ownership of Documents.** The City shall retain ownership of all associated work products and documentation obtained from or created by the Contractor pursuant to this Agreement. Contractor shall deliver all documents or other work product to the City upon request, including original versions if specified in the request.
- 16. Taxes.** The City is exempt from payment of state and local sales and use taxes on labor and materials incorporated into the project. If necessary, it is the Contractor's responsibility to obtain a sales tax permit, resale certificate, and exemption certificate that shall enable the Contractor to buy any materials to be incorporated into the project and then resell the aforementioned materials to the City without paying the tax on the materials at the time of purchase.
- 17. Confidential Information.** Each party agrees not to use, disclose, sell, license, publish, reproduce or otherwise make available the information of the other party ("Confidential Information") except and only to the extent necessary to perform under this Agreement or as required by the Texas Public Information Act or other applicable law. Parties shall endeavor to designate Confidential Information as such at the time of disclosure. Each party agrees to secure and protect the other party's Confidential Information in a manner consistent with the maintenance of the other party's confidential and proprietary rights in the information and to take appropriate action by instruction or agreement with its employees, consultants, or other agents who are permitted access to the other party's Confidential Information to satisfy its obligations under this Section. This paragraph shall survive the term of the Agreement.

18. Notices. Any notice or communication permitted or required by this Agreement shall be deemed effective when personally delivered or deposited, postage prepaid, in the first-class mail of the United States properly, or sent via electronic means, addressed to the appropriate party at the address set forth below:

Notice to the Contractor:

Notice to the City:

City of Georgetown
ATTN: City Manager
P.O. Box 409
Georgetown, Texas 78627
david.morgan@georgetown.org

With a copy to:

City of Georgetown
ATTN: City Attorney
P.O. Box 409
Georgetown, Texas 78627
skye.masson@georgetown.org

19. Independent Contractor. The Agreement shall not be construed as creating an employer/employee relationship, a partnership, or joint venture. The Contractor's services shall be those of an independent contractor. This Agreement does not grant any rights or privileges established for employees of the City. Contractor shall not be within protection or coverage of any insurance that the City, from time to time, may have in force. The City will not be responsible for reporting or paying employment taxes or other similar levies that may be required by the United States Internal Revenue Service or other State or Federal agencies.

20. Force Majeure. The City and the Contractor will exert all efforts to perform the tasks set forth herein within the proposed schedules. However, neither the City nor the Contractor shall be held responsible for inability to perform under this Agreement if such inability is a direct result of a force substantially beyond its control, including but not limited to the following: strikes, riots, civil disturbances, fire, insurrection, war, embargoes, failures of carriers, acts of God, or the public enemy.

21. Nondiscrimination. The Contractor, with regard to the work performed by it after award and prior to completion of this Agreement, shall not discriminate on the basis of race, color, sex, or national origin in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The Contractor shall not participate

either directly or indirectly in the discrimination prohibited by any federal, state or local law.

- 22. Right to Audit.** The Contractor agrees that the representatives of the City shall have access to, and the rights to audit, examine, or reproduce, any and all Contractor records related to the performance under this Agreement. The Contractor shall retain all such records for a period of four (4) years after final payment on this Agreement or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.
- 23. Advertising and Publicity.** Contractor shall not advertise or otherwise publicize, without the City's prior written consent, the fact that the City has entered into the Agreement, except to the extent required by applicable law.
- 24. Contractor Certification Regarding Boycotting Israel.** Pursuant to Chapter 2271, Texas Government Code, Contractor certifies that it (1) does not currently boycott Israel; and (2) will not boycott Israel during the term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 25. Contractor Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 26. Contractor Certification Regarding Boycotting Energy Companies.** Pursuant to Chapter 2274, Texas Government Code, Contractor certifies that either (1) Contractor is a sole proprietorship or company with fewer than ten (10) employees or (2) Contractor does not currently boycott energy companies and will not boycott energy companies during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 27. Contractor Certification Regarding Boycotting Firearm and Ammunition Industries.** Pursuant to Chapter 2274, Texas Government Code, Contractor certifies that either (1) Contractor is a sole proprietorship or company with fewer than ten (10) employees or (2) Contractor does not currently boycott firearm and ammunition industries; and will not boycott firearm and ammunition industries during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 28. No Waiver.** No waiver or deferral by either party of any term or condition of this Agreement shall be deemed or construed to be a waiver or deferral of any other term or condition or subsequent waiver or deferral of the same term or condition.
- 29. Amendment.** This Agreement may only be amended by written instrument approved and executed by the parties.

- 30. Severability.** This Agreement is severable and if any one or more parts of it are found to be invalid, such invalidity shall not affect the remainder of this Agreement if it can be given effect without the invalid parts.
- 31. Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Texas. Venue shall be the applicable courts of Williamson County, Texas.
- 32. Dispute Resolution.** If either the Contractor or the City has a claim or dispute, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party in writing as soon as practicable after discovering the claim, dispute or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall make a good faith effort, in person or through generally accepted means, to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with, this Agreement. If the parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the parties may submit the matter to non-binding mediation upon written consent of authorized representatives of both parties. If the parties cannot resolve the dispute through mediation, then either party shall have the right to exercise any and all remedies available under law regarding the dispute. If there is a dispute between the Contractor and the City respecting any service provided or to be provided hereunder by the Contractor, the Contractor agrees to continue providing on a timely basis all services to be provided by the Contractor hereunder, including any service as to which there is a dispute.
- 33. Successors and Assigns.** This Agreement shall bind and inure to the benefit of the parties hereto and any subsequent successors and assigns, provided however, that no right or interest in the Agreement shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph.
- 34. Third-Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or the Contractor.
- 35. Duplicate Originals.** The parties may execute this Agreement in duplicate originals, each of equal dignity.
- 36. Exhibits.** All exhibits to this Agreement are incorporated and made part of this Agreement for all purposes.
- 37. Entire Agreement.** This Agreement, with all exhibits, attachments, and appendices attached, represents the entire and integrated agreement between the City and Contractor and supersedes all prior negotiations, representations, or agreements, whether written or oral, relating to the subject of this Agreement.

List of Exhibits

- A. Scope of Services
- D. Insurance Requirements
- E. Certificates of Insurance

[signatures on the following page]

CITY OF GEORGETOWN

CONTRACTOR

By:

By:

Name: David Morgan, City Manager

Name, Title:

Date:

Date:

EXHIBIT A
SCOPE OF SERVICES

The terms and conditions of this Agreement shall take precedence and control over any term or provision of the Scope of Services that in any way conflicts with, differs from, or attempts to alter the terms of this Agreement.

EXHIBIT B
INSURANCE REQUIREMENTS

I. The Contractor agrees to maintain the types and amounts of insurance required in this Agreement throughout the term of the Agreement. The following insurance policies shall be required:

- A. Commercial General Liability
- B. Business Automobile Liability
- C. Workers' Compensation
- D. Professional Liability

II. For each of these policies, the Contractor's insurance coverage shall be primary with respect to the City, its officials, agents, employees and volunteers. Any insurance or self-insurance carried or obtained by the City, its officials, agents, employees or volunteers, shall be considered in excess of the Contractor's insurance and shall not contribute to it. No term or provision of the indemnification provided by the Contractor to the City pursuant to this Agreement shall be construed or interpreted as limiting or otherwise affecting the terms of the insurance coverage. All Certificates of Insurance and endorsements shall be furnished to the City's Representative at the time of execution of this Agreement, attached hereto as Exhibit D, and approved by the City *before* work commences.

III. General Requirements Applicable to All Policies.

- A. Only licensed insurance carriers authorized to do business in the State of Texas shall be accepted.
- B. Deductibles shall be listed on the certificate of insurance and are acceptable only on an "occurrence" basis.
- C. "Claims made" policies are not accepted, except for Professional Liability insurance.
- D. Coverage shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) calendar days prior written notice has been given to the City of Georgetown.
- E. The Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. Each certificate shall contain the following provisions and warranties:
 - 1. The insurance company is licensed and authorized to do business in the State of Texas
 - 2. The insurance policy is underwritten on forms provided by the Texas State Board of Insurance or ISO
 - 3. All endorsements and coverages are included according to the requirements of this Agreement
 - 4. The form of notice of cancellation, termination, or change in coverage provisions is specified in this attachment

- F. The City of Georgetown, its officials, agents, employees, and volunteers are to be listed as Additional Insureds on the Commercial General Liability and Business Automobile Liability Policies. The coverages shall contain no special limitations on the scope of protection afforded the City, its officials, employees, and volunteers.

V. **Commercial General Liability** requirements:

- A. Coverage shall be written by a carrier rated “A: VIII” or better in accordance with the current A. M. Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence per project for bodily injury and property damage with a \$2,000,000 annual aggregate limit.
- C. Coverage shall be at least as broad as Insurance Service's Office Number CG 00 01.
- D. No coverage shall be excluded from the standard policy without notification of individual exclusions being attached for review and acceptance.
- E. The coverage shall not exclude: premises/operations; independent contracts; products/completed operations; contractual liability (insuring the indemnity provided herein); and where exposures exist, Explosion, Collapse and Underground coverage.
- F. The City shall be listed as Additional Insured, and the policy shall be endorsed to waive rights of subrogation, to be primary and non-contributory with regard to any self-insurance or insurance policy held by the City.

VI. **Business Automobile Liability** requirements:

- A. Coverage shall be written by a carrier rated “A:VIII” or better in accordance with the current Best Key Rating Guide.
- B. Minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury and property damage.
- C. The Business Auto Policy must show Symbol 1 in the Covered Autos portion of the liability section in Item 2 of the declarations page.
- D. The coverage shall include owned, leased or rented autos, non-owned autos, any autos and hired autos.

VII. **Workers' Compensation Insurance** requirements:

- A. Pursuant to the requirements set forth in Title 28, Section 110.110 of the Texas Administrative Code, *all* employees of the Contractor, the Contractor, *all* employees of any and all subcontractors, and all other persons providing services on the Project must be covered by a workers compensation insurance policy, either directly through their employer's policy (the Contractor's, or subcontractor's policy) or through an executed coverage agreement on an approved DWC form. Accordingly, if a subcontractor does not have his or her own policy and a coverage agreement is used, Contractors and subcontractors *must* use that portion of the form whereby the hiring Contractor agrees to provide coverage to the employees of the

subcontractor. The portion of the form that would otherwise allow them not to provide coverage for the employees of an independent Contractor may not be used.

- B. The workers compensation insurance shall include the following terms:
1. Employer's Liability limits of \$1,000,000 for each accident is required.
 2. "Texas Waiver of Our Right to Recover From Others Endorsement, WC 42 03 04" shall be included in this policy.
 3. Texas must appear in Item 3A of the Worker's Compensation coverage or Item 3C must contain the following: All States except those listed in Item 3A and the States of NV, ND, OH, WA, WV, and WY.

VIII. Professional Liability requirements:

- A. Coverage shall be written by a carrier rated "A:VIII" or better in accordance with the current A. M. Best Key Rating Guide.
- B. Minimum of \$1,000,000 per occurrence and \$2,000,000 aggregate, with a maximum deductible of \$100,000.00. Financial statements shall be furnished to the City upon request.
- C. For "claims made" policies, the availability of a 24-month extended reporting period is necessary. The retroactive date shall be shown on the certificate of liability insurance.

EXHIBIT C
CERTIFICATES OF INSURANCE