



## PROFESSIONAL/CONSULTING SERVICES AGREEMENT

This SERVICES AGREEMENT ("Agreement") is entered into by and between the undersigned, Weaver and Tidwell, L.L.P ("Contractor"), 75-0786316 (Social Security Number or Federal I.D. No.), located at 24 Greenway Plaza, Suite 1800, Houston, TX 77046 and City of League City ("City"), a City in the State of Texas, located at 300 W. Walker, League City, Texas 77573.

Services: Contractor will perform the designated services and/or products as set forth in **Exhibit A**, which is attached and incorporated for all purposes.

Term and Termination: This agreement shall begin on July 9, 2014, and shall terminate on May 31, 2017, with an option to renew the contract for an additional 2 year period, through May 31, 2019. This agreement may be terminated by either party upon thirty (30) days written notice or immediately by CITY in the event of breach by Contractor. CITY may terminate this Agreement with or without cause upon thirty (30) days prior written notice to the Contractor. Upon such termination, CITY shall pay Contractor, at the rate set out in **Exhibit B**, for Services satisfactorily performed up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, CITY will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.

Compensation: Contractor shall be paid for the services and reimbursable travel expenses, if any, as set forth in **Exhibit B**, attached and incorporated for all purposes. CITY shall pay Contractor in accordance with the Texas Government Code 2251. Contractor must submit invoices for all services, which invoices must include dates of service and details of services provided. Payment for delivery of services rendered shall not be unreasonably withheld or delayed. If CITY disapproves any amount submitted for payment by Contractor, CITY shall give Contractor specific reasons for disapproval in writing. Upon resolution of any disputed charges, Contractor shall submit an amended invoice covering any remaining charges to CITY.

Relationship of the Parties: Contractor is an independent contractor and is not an employee, partner, joint venture, or agent of CITY. Contractor understands and agrees that he/she will not be entitled to any benefits generally available to City of League City employees. Contractor shall be responsible for all expenses necessary to carry out the services under this agreement, and shall not be reimbursed by CITY for such expenses except as otherwise provided in this agreement.

Travel: Contractor  shall  shall not be reimbursed for travel conducted in the pursuit of this contract and appropriate per diem as outlined in **Exhibit B** attached hereto and incorporated for all purposes. Documentation of travel costs (original receipts) shall be provided by the contractor for all travel related expenses except mileage on personal automobile. Original



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receipts are required for travel expenses related to hotel, rental car, commercial airlines, parking, taxi, etc.

**Intellectual Property:** This agreement shall be an agreement for services and the parties intend and consider any work created as a result of this agreement, including any and all documentation, images, products or results, to be a work for hire under federal copyright law. Ownership of the work shall belong to and remain the exclusive property of CITY. The work may be edited at any time within the City's discretion. If the work would not be considered a work-for-hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title and interest to City of League City, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the work, CITY maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the Work in any form of medium, expression or technology now known or hereafter developed, at any time within the City's discretion. Contractor shall not sell, disclose or obtain any other compensation for the services provided herein. If the work is one to which the provisions of 17 U.S.C. § 106A apply, the Contractor hereby waives and appoints CITY to assert on the Contractor's behalf the Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for City purposes.

**Confidentiality:** During the course of the work and/or services to be provided under this agreement, Contractor may come in contact with confidential information of CITY. Contractor agrees to treat as confidential the information or knowledge that becomes known to Contractor during performance of this agreement and not to use, copy, or disclose such information to any third party unless authorized in writing by CITY. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Contractor shall promptly notify CITY of any misuse or unauthorized disclosure of its confidential information and upon expiration of this agreement shall return to CITY all confidential information in Contractor's possession or control. Contractor shall further comply with all City information security policies that may apply and shall not make any press releases, public statements or advertisement referring to the services provided under this agreement or the engagement of Contractor without the prior written approval of CITY.

**Warranties and Representations:** Contractor warrants and agrees that Contractor shall perform the Services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any Service performed on premises owned or controlled by CITY, Contractor warrants and agrees that Contractor will perform the Services in compliance with all city Rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.

**Licenses/Certifications:** Contractor agrees to obtain, at its own cost, any and all approvals,



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licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, required for the performance of the Services.

**Performance/Qualifications:** Contractor agrees and represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under this Agreement. Contractor warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.

**Conflict of Interest:** Contractor warrants, represents, and agrees that Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of the Services hereunder. Contractor further warrants and affirms that no relationship or affiliation exists between Contractor and CITY that could be construed as a conflict of interest with regard to this Agreement.

**Insurance:** For the entire term of the Agreement ("Term"), Contractor shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence or medical malpractice insurance (whichever applies). If, during the Term, Contractor will enter City property, Contractor shall also maintain the following insurance: (i) Worker's Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name CITY as Additional Insured. Contractor shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City. Contractor shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

**Indemnification:** Contractor shall indemnify and hold harmless City, and each of its directors, officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages and liabilities, including without limitation attorneys' fees and reasonable litigation costs, arising out of, connected with, or resulting from any acts or omissions of Contractor or any agent, employee, subcontractor, or supplier of Contractor in the execution or performance of this contract, to the extent the claim arises from negligence, willful act, breach of contract or violation of law.

**Force Majeure:** Neither CITY nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.



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Notices: Any notice given under this contract by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.

Texas Family Code Child Support Certification: Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment may be withheld if this certification is inaccurate.

State Auditor: Contractor understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.

Jurisdiction: Any disputes under this agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.

Alternative Dispute Resolution: To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by CITY and the Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Director of Finance of CITY shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor, (ii) neither the issuance of this Contract by CITY nor any other conduct, action or inaction of any representative of CITY relating to this contract constitutes or is intended to constitute a waiver of CITY's or the state's sovereign immunity to suit; and (iii) CITY has not waived its right to seek redress in the courts.

Entire Agreement: This agreement and the attached Audit Engagement Letter, dated June 30, 2014, pages 1-11, contain the entire agreement between the parties and supersedes any and all prior agreements, arrangements, and understanding, oral or written between the parties relating to this agreement. This agreement may not be modified except by mutual written agreement of the parties executed subsequent to this agreement.

Authority: Contractor warrants and represents that Contractor has full power and authority to enter into and perform this agreement and to make the grant of rights contained herein. The



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person signing on behalf of CITY represents that he/she has authority to sign this agreement on behalf of CITY.

Weaver and Tidwell, L.L.P

City of League City

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

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

Name: Kevin Sanford

Name: R. Mark Rohr

Title: Partner

Title: City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*Note: Modification of this Form requires approval by the Office of City Attorney.*



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**EXHIBIT "A"**  
**SERVICES**

**1. Services:**

Contractor will serve as:

Auditor for the City's financial statements for the fiscal years ending September 30, 2014, 2015, and 2016. This contract may be extended for the audits of fiscal year 2017 and 2018.

**2. Deliverables:**

Contractor will deliver the following (Attach additional sheet, if necessary):

1. Refer to separate audit engagement letter dated June 30, 2014, pages 1-11
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_



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EXHIBIT "B"  
COMPENSATION

1. **Compensation (Select one item):**

Contractor shall be paid a **not-to-exceed** fee per page 11 of the attached engagement letter for the 2014 fiscal year audit which shall be \$71,000 for the audit plus \$6,000 for the first major program and \$3,000 for each additional major program.

For the 2015 fiscal year audit, the fee will be \$73,500 for the audit, plus \$6,000 for the first major program, and \$3,000 for each additional program.

For the 2016 fiscal year audit, the fee will be \$76,000 for the audit, plus \$6,000 for the first major program, and \$3,000 for each additional program.

OR

Compensation shall be based on a **daily rate** of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for \_\_\_\_\_ (\_\_\_\_) days between \_\_\_\_\_ and \_\_\_\_\_, \_\_\_\_\_ (year).

OR

Compensation shall be based on an **hourly rate** of \_\_\_\_\_ dollars (\$\_\_\_\_\_) for a total amount of \_\_\_\_\_ (\_\_\_\_) Service hours.

Total compensation paid by CITY to Contractor for Services shall not exceed fee itemized per the attached engagement letter dollars (\$\_\_\_\_\_), which amount does not include applicable sales tax or reimbursable expenses (below), without the express written consent of CITY.

Compensation will be made upon completion of services and in accordance with the Texas Prompt Payment Act.

2. **Reimbursable Travel Expenses:**

Reimbursable Travel Expenses under this Agreement and charged to CITY will not exceed zero dollars (\$0):

**Reimbursable Expenses included in this agreement are listed as follows:**

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

Reasonable expenses related to meals, lodging, mileage, and coach class airfare that Contractor incurs may be covered if required to complete obligations herein (collectively "**Travel Expenses**"). Contractor agrees and acknowledges that in regard to reimbursement for Travel



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expenses, Contractor shall be subject to the State of Texas Travel Reimbursement Guide, as may be amended from time to time. Further, Contractor agrees and acknowledges that Contractor will not be reimbursed by CITY for expenses that are prohibited or that exceed the allowable amounts set forth in the Travel

Reimbursement Guide. Airfare reimbursements will be provided for general coach seating only and must be approved in advance by CITY. All requests for reimbursement of Travel Expenses must be accompanied by a signed invoice accompanied by original substantiating receipts.