

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is entered into as of the effective date (the "Effective Date") below, by and between GATEWAY PLANNING GROUP, INC. ("Contractor"), located at 3100 McKinnon Street, 7th Floor, Dallas Texas 75201, and CITY OF LEAGUE CITY ("Client"), 300 W. Walker, League City, TX 77573, attention Kris Carpenter.

1. **ENGAGEMENT.** Client hereby retains Contractor and Contractor hereby accepts engagement from Client to provide services for the Downtown form-based code in League City, Texas set forth in the tasks delineated on **Schedule "1"**, attached hereto (the "Services").

2. **COMPENSATION.** Client shall pay Contractor a fixed fee not to exceed \$49,000.00 based on the tasks set forth in **Schedule "1"**, plus any additional approved hourly charges, plus any preapproved reimbursable expenses, including, without limitation, travel, lodging, reprographics, facilities rental, workshop supplies, and plotting. Contractor shall invoice client on a monthly basis pursuant to a percentage completion of the tasks delineated in **Schedule "1"**, along with hourly charges and reimbursable expenses incurred to date. All invoices shall be due upon presentation and payable within thirty (30) days. Any local, state or federal taxes applicable to any of the services provided by Contractor shall be added to the amount due. Hourly services undertaken by Contractor and authorized by Client shall be compensated at the rate of \$375.00 per hour for senior principals, \$275.00 per hour for senior planners, \$1575.00 per hour for senior planners, and \$150.00 per hour for associate planners, unless other arrangements are made by mutual agreement. Contractor may sub-contract any portion of the Services set forth on **Schedule "1"**; provided, however, any increase in fees or compensation due to the use of such sub-contracted services shall be approved in writing and by Client.

3. **PROFESSIONAL STANDARDS.** Contractor shall be responsible, to the level of competency presently maintained by other practicing professionals in the same type of work in Client's community, for the professional and technical soundness, accuracy, and adequacy of the work furnished under this Agreement.

4. **TERMINATION.** Either Client or Contractor may terminate this Agreement by giving 30 days written notice to the other party. In such event, Client shall forthwith pay Contractor in full for all work previously authorized and performed prior to the effective date of termination. If no notice of termination is given, relationships and obligations created by this Agreement shall be terminated upon completion of all

applicable requirements of this Agreement.

5. **ACCESS TO RECORDS and WORKPRODUCT.** Contractor agrees that Client shall, until expiration of one (1) year after final payment by Client to Contractor, have access to and the right to examine and photocopy directly pertinent documents, papers and records of Contractor involving transactions relating to this Agreement. Upon forty-eight (48) hours notice, Contractor shall give Client access during normal working hours to all necessary facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. Contractor at all times shall retain co-ownership of all final work product resulting from this Agreement and may utilize it for marketing. Contractor shall retain sole ownership of source files, digital files, drafts and working documents for all work product.

6. **INSURANCE.** During the term of this Agreement and for two (2) years thereafter, Contractor shall keep in force General Liability and Professional Liability Insurance coverage up to \$1,000,000.00 per occurrence and \$1,000,000.00 in aggregate total coverage, respectively.

7. **ENTIRE AGREEMENT/ MODIFICATION.** This Agreement, including **Schedule "1"**, attached, is the entire agreement between the parties and supersedes all prior negotiations, agreements and understanding relating to the subject matter of this Agreement. This Agreement may only be modified or amended in writing. Email communication constitutes a writing if intended by both parties to be a writing under this paragraph.

8. **ASSIGNMENT.** Client understands that it may not assign this Agreement or its rights hereunder, or delegate any or all of its duties under this Agreement without written authorization from Contractor. Except for the use of sub-contractors to perform services, Contractor understands that it may not assign this Agreement or its rights hereunder, without written authorization from Client.

9. **LEGAL EXPENSES.** In the event that legal action is taken by either party to enforce any rights or remedies under this Agreement, it is hereby agreed that the successful or

prevailing party shall be entitled to receive any costs, disbursements and reasonable attorney's fees.

10. SEVERABILITY. In the event that any one or more of the provisions contained in this Agreement shall be held invalid, illegal or unenforceable in any respect, this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, and the enforceability of the remaining provisions contained herein shall not be impaired thereby.

11. BINDING EFFECT. The parties to this Agreement further agree that the promises, covenants, and conditions herein shall be binding upon the parties to this Agreement, their heirs, assigns, successors, administrators, and representatives forever.

12. INDEMNIFICATION AND HOLD HARMLESS. To the extent permitted by law, each party agrees to indemnify and hold the other party, its heirs, assigns, successors, administrators, and representatives harmless of and from any and all claims, actions, liabilities, losses, damages, suits or causes of action brought by any third party, person or entity as a result of any

incident, event or occurrence giving rise to such claims, to the extent such claims, actions, liabilities, losses, damages, suits or causes of action are caused by any negligent act, error or omission of the indemnifying party or any person or organization for whom indemnifying party is legally liable.

13. LIMITATION OF LIABILITY. Contractor's liability for any cause or combination of causes is, in the aggregate, limited to an amount no greater than the fee paid to Contractor hereunder or available insurance coverage delineated herein, whichever is greater.

14. GOVERNING LAW. It is understood and agreed by the parties that this Agreement shall be governed by and enforced in accordance with the laws of the State of Texas.

15. Contractor is not providing legal services nor engineering services in anyway; accordingly, legal or engineering review of the Contractor's work may be necessary.

IN WITNESS WHEREOF, this Agreement was executed by the parties as of the Effective Date signed below.

GATEWAY PLANNING GROUP, INC.

By: _____
C. Brad Lonberger
Its: Principal

Date: _____, 2016

CITY OF LEAGUE CITY

By: _____
Its: _____

Date: _____

Schedule "1"

Gateway Planning Group, Inc. shall undertake the tasks and provide the deliverables as follows:

Task 1: Project Organization + Kick-off

- A. Kick-off meeting to confirm consultant team and city staff coordination.
 Deliverable: Critical Path Timeline for project, Structure/Outline of zoning \$ 3,500

Task 2: Data Collection, Background Review + Analysis

- A. Collection of new data regarding GIS and parcel information, MTP, FEMA and other data required for proper mapping of the downtown area, mapping for base analysis and coordinate updates since 2014 analysis of downtown.
 B. Mapping of regulating plan to correspond with intended code area. \$3,500

Task 3: Form Based Code Drafting

- A. First Draft of Form Based Code, one revision from staff comments. \$12,000
 B. Second Draft of Form Based Code, one revision from staff comments. \$3,500
 C. Code draft and structure presentation to Historic Commission \$3,500
 D. Code draft and structure presentation to stakeholders \$3,500
 E. Joint Work Session with Planning & Zoning and City Council \$3,500
 F. Revise Code draft from input during joint work session \$2,000

Task 4: Adoption Process

- A. Planning & Zoning Commission Presentation with City Staff (one meeting; additional meetings hourly) \$3,500
 B. City Council Presentation with City Staff (one meeting; additional meetings hourly) \$3,500

Total Labor (excluding hourly additional revisions or meetings) \$42,000

Expenses for travel and other incurred project related costs \$4,000

Total Labor and Travel Costs \$46,000

Money allocated toward additional meetings and additional revisions \$3,000

Total amount not to exceed: \$49,000