

STATE OF TEXAS

§

Professional Services Contract

COUNTY OF DALLAS §

This Professional Services Contract (hereinafter referred to as "Contract"), is entered into on this 20 day of June, 2022 and is effective immediately, by and between Weaver and Tidwell, L.L.P. (hereinafter referred to as "CONTRACTOR") and the **CITY OF COPPELL, TEXAS**, a municipal corporation located in Dallas County, Texas (hereinafter referred to as "CITY"), acting by and through its City Manager or his designee.

WITNESSETH:

THAT IN CONSIDERATION of the covenants and agreements hereinafter contained and subject to the terms and conditions hereinafter stated, the parties hereto do mutually agree as follows:

I.

Description of Work

For the consideration hereinafter agreed to be paid to CONTRACTOR by CITY, CONTRACTOR will conduct an independent audit of the funds of the CITY for the fiscal years ending September 30, 2022, and 2023 and 2024, with the option to extend this contract for an additional two-year period, and other related services (hereinafter referred to as "services"), as described in CONTRACTOR's Bid. The services will conform in every respect to this Contract and the following documents, which are included herein as Exhibit A & B, respectfully:

1. Exhibit A: CITY Request for Proposal (hereinafter referred to as "RFP");
2. Exhibit B: CONTRACTOR's Response (hereinafter referred to as "Bid") to the RFP.

All documents referred to above are incorporated herein as if set forth in full herein. In the case of conflict in the language of any of the documents listed above and this Contract, the terms and conditions of this Contract shall be final and binding on all parties. In the case of conflict in the language of the RFP and Bid, the terms and conditions of the RFP shall be final and binding on all parties.

II.
Term

This Contract shall commence on the day and year first written above and will terminate on the issuance of internal control recommendation letters or June 2025 whichever occurs first in accordance with the Bid. This Contract may be extended on a year-to-year basis, for a period not to exceed two (2) additional years, upon mutual consent of the CITY and CONTRACTOR. If CONTRACTOR desires to extend this Contract beyond the initial term, CONTRACTOR shall request such extension sixty (60) days prior to the expiration of the initial term or any extension thereof.

<u>Fiscal Year</u>	<u>Financial & Comprehensive Audit Fee</u>	<u>Prepare the ACFR</u>	<u>Single Audit</u>	<u>GASB87 Assistance</u>	<u>Total Fees</u>
2022	\$68,150	\$5,050	\$4,820	\$5,360	\$83,380
2023	\$70,375	\$5,160	\$4,960	\$5,530	\$86,025
2024	\$71,875	\$5,250	\$5,090	\$5,680	\$87,895

CITY may at its option prepare and/or type the ACFR in any one or all fiscal periods and reduce the amount of the CONTRACTOR's fee by \$5,050, \$5,160 and \$5,250 for fiscal years 2022, 2023, and 2024, respectively in any one or all fiscal periods CITY exercises this option.

CITY may at its option prepare and/or type the GASB 87 evaluation in any one or all fiscal periods and reduce the amount of the CONTRACTOR's fee by \$5,360, \$5,530, and \$5,680 for fiscal years 2022, 2023, and 2024, respectively in any one or all fiscal periods CITY exercises this option

Total payment to the contractor will not exceed the amount specified above for each fiscal period, unless other conditions necessitate additional services, which must be authorized in advance by City Manager and/or resolution of the Coppell City Council. CONTRACTOR's charges for services are not to exceed similar charges of CONTRACTOR for comparable services to other customers. CONTRACTOR will submit periodic billings for services rendered. No interest shall ever be due on late payments. Payments to CONTRACTOR will be in the amount shown by the quarterly statement and other documentation submitted and shall be subject to the approval of the Director of Finance. CITY shall not be liable under this Contract for any services which are unsatisfactory or which have not been approved by CITY.

CONTRACTOR will not be entitled to reimbursement for expenses incurred in accordance with this Contract unless CONTRACTOR has obtained the prior written consent of CITY to incur such expenses. For services not included in this Contract, it is agreed between CITY and CONTRACTOR that a separate agreement shall be entered into to cover such additional services.

Any and all charges made to CITY other than those specified in this Contract shall be fully explained in a signed writing delivered to the Director of Finance prior to incurring any charge or fee in excess of the amount stated in this Contract. Such written explanations shall include, but are not limited to:

1. nature of the additional charge.
2. basis for such charge;
3. hours;

4. persons involved;
5. hourly rate;
6. costs to be incurred;
7. a statement that services to be provided are not included in the basic Contract.

Any "out-of-pocket" expenses will require approval of the Director of Finance. CONTRACTOR will not incur such expenses until written approval is obtained.

CONTRACTOR and CITY recognize that the continuation of any contract after the close of any given fiscal year of CITY, which fiscal year ends on September 30th of each year, shall be subject to Coppell City Council budget approval.

III. **Scope of Services**

CONTRACTOR agrees to provide the services under this Contract in accordance with generally accepted auditing standards and to perform the services to the highest professional standards.

It is expressly understood and agreed that the scope of services for this Contract will include assistance by the City of Coppell Finance Department.

IV. **City's Responsibilities**

CITY agrees to perform the following services:

1. CITY's accounting staff will prepare necessary "prepared by client" (PBCs) workpapers normally required for the annual audit and will retrieve and reproduce documents necessary to the audit.
2. Provide adequate work space and physical facilities needed to complete services.
3. Printing and distribution of the final document, after CONTRACTOR has provided camera-ready originals (if this option has been selected).
4. Basic data processing support and staff assistance.
5. Typing of confirmation letters and other needed correspondence.

V. **Staff Requirements**

CONTRACTOR agrees that the staff assigned to CITY's audits shall contain at least one (1) person with two (2) or more years of governmental auditing experience. This person shall be at a senior or higher level. There shall be at least one (1) additional person that has completed a minimum of one (1) full year in

governmental auditing. In addition, CONTRACTOR shall provide and maintain a staffing level as required during the main audit period commencing on or about January 2 through January 26. The staff provided on site at CITY will be computer literate and knowledgeable of Excel.

VI. **Schedule**

- A. CONTRACTOR agrees to meet the following time deadlines for each fiscal period:
1. All workpapers to be prepared by CITY must be submitted, by written list, to CITY on or before August 24 of each year together with adequate written explanatory detail as to the purpose of the workpaper as well as the method to be used in preparing such workpapers and agreed upon timing.
 2. Preliminary audit work, conducted prior to year-end closing, may be scheduled by CONTRACTOR at a mutually agreeable time and date; however, such work must be completed by September 30.
 3. Year-end fieldwork must begin within the first week in January.
 4. Audit fieldwork must be completed by the end of the third week of January.
 5. Year-end audit adjustments and trial balances are to be submitted to CITY on or before January 26.
 6. Completion of the Comprehensive Annual Financial Report, the Single Audit Report, and Management Letter (ready for printing) by February 13.
 7. The Comprehensive Annual Financial Report, Single Audit Report and Management Letter shall be ready for distribution by February 23.
- B. The audit shall not be considered complete until the relevant federal and state agencies have approved the audit plan and accepted the Single Audit Report in writing, and the City of Coppell City Council have accepted the audit report.

VII. **Termination**

It is agreed and fully understood that CITY may, at its option and without prejudice to any other remedy it may be entitled to at law or in equity to, cancel or terminate this Contract upon thirty (30) days written notice to CONTRACTOR with the understanding that immediately upon receipt of said notice, all work being performed hereunder shall cease. CONTRACTOR shall be compensated in accordance with the terms of this Contract for all services performed through the date of receipt of notice; provided that CITY shall not be obligated to pay for any work which is unsatisfactory or not submitted in compliance with the terms of this

Contract. CONTRACTOR shall deliver all original source documents belonging to CITY immediately after notice of termination of this Contract has been received by CONTRACTOR.

VIII.
Ownership of Documents

All original source documents given to CONTRACTOR under this Contract are the sole property of CITY and shall be delivered to CITY, without restriction on future use.

IX.
Confidential Work

No reports, information, project evaluation, data or any other documentation developed by, given to, prepared by or assembled by CONTRACTOR under this Contract shall be disclosed or made available to any individual or organization by CONTRACTOR without the prior expressed written approval of the CITY.

X.
Contractor's Liability

Acceptance by CITY of any of CONTRACTOR's reports shall not constitute or be deemed a release of the responsibility and liability of CONTRACTOR, its employees, agents or associates for the accuracy and competency of their reports, information and other documents or services nor shall acceptance or approval be deemed to be the assumption of such responsibility by CITY for any defect, error or omission included in the documents prepared by CONTRACTOR, its employees, agents or associates.

XI.
Mailing Instructions

All notices, communications and reports required or permitted under the Contract shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the address shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing.

If intended for CITY, to:

Ms. Kim Tiehen
Director of Finance
City of Coppell
Coppell, Texas 75019

If intended for CONTRACTOR, to:

Weaver and Tidwell, L.L.P.
John DeBurro, CPA
12221 Merit Drive, Suite 1400
Dallas, TX 75251

XII.
Applicable Law

If any of the terms, provisions, covenants or conditions of this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provisions contained in this Contract and all other provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated and any other provisions of the Contract shall be considered as if such invalid, illegal or unenforceable provision had never been contained in this Contract.

XIII.
Default

If at any time during the term of this Contract, CONTRACTOR shall fail to commence the work, in accordance with the provisions of this Contract, or fail to diligently provide services in an efficient, timely and careful manner and in strict accordance with the provisions of this Contract, or fail to use an adequate number or quality of personnel to complete the work or fail to perform any of its obligations under this Contract, then CITY shall have the right, if CONTRACTOR shall not cure any such default after five (5) days written notice thereof, to terminate this Contract and complete the work in any manner it deems desirable, including engaging the services of other parties therefor. Any such act by CITY shall not be deemed a waiver of any other right or remedy of CITY. If after exercising any such remedy, the cost to CITY of the performance of the balance of the work is in excess of that part of the Contract sum which has not theretofore been paid to CONTRACTOR hereunder, CONTRACTOR shall be liable for and shall reimburse CITY for such excess.

XIV.
Monies Withheld

When CITY has reasonable grounds for believing that CONTRACTOR will be unable to perform this Contract fully and satisfactorily within the time fixed for performance; or that a meritorious claim exists or will exist against CONTRACTOR or CITY arising out of the negligence, error or omission of CONTRACTOR or CONTRACTOR's breach of any provision of the Contract, then CITY may withhold payment of any amount otherwise due and payable to CONTRACTOR under this Contract. Any amount so withheld may be retained by CITY, for that period as it may deem advisable to protect CITY against loss and CITY may, after written notice to CONTRACTOR, apply such money in satisfaction of any claim(s). This provision is intended solely for the benefit of CITY, and no other person or entity shall have any right against CITY or claim against CITY by reason of CITY's failure or refusal to withhold monies. No interest shall be payable by CITY on any amounts withheld under this provision. This provision is not intended to limit or in any way prejudice any other right of CITY.

XV.
Indemnification

CONTRACTOR shall and does hereby agree to indemnify and hold harmless CITY, its officers, agents and employees from any and all damages, loss or liability of any kind whatsoever, by reason of death or injury to property or third persons caused by negligent act, error or omission of CONTRACTOR, its officers, agents, employees, invites or other persons for whom CONTRACTOR is legally liable, with regard to the performance of this Contract; and CONTRACTOR will, at its own cost and expense, defend, pay on behalf of and protect CITY, its officers, agents and employees against any and all such claims and demands.

XVI.
Insurance

- A. CONTRACTOR shall at CONTRACTOR's own expense, purchase, maintain and keep in force during the term of this Contract such insurance as set forth below. CONTRACTOR shall not commence work under this Contract until CONTRACTOR has obtained all the insurance required and such insurance has been approved by CITY. All insurance policies provided under this Contract shall be written on an "occurrence basis" unless otherwise indicated. The insurance requirements shall remain in effect throughout the term of this Contract.
1. Professional Liability Insurance including contractual liability in an amount not less than \$500,000.
 2. Commercial General Liability Insurance: \$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage. This policy shall have no coverage removed by exclusions.
 3. Automobile Liability: \$500,000 combined single limit per accident for bodily injury and property damage. Coverage should be provided as a "Code 1," any auto.
 4. Workers' Compensation and Employees' Liability Statutory: Employer's Liability policy limits of \$100,000 for each accident, \$500,000 policy limit - Disease.
- B. Other Insurance Provisions
1. CITY shall be named as an additional insured on the Commercial General Liability and Automobile Liability insurance policies. These insurance policies shall contain the appropriate additional insured endorsement signed by a person authorized by that insurer to bind coverage on its behalf.
 2. Professional liability coverage. Should this coverage be provided on a "claims-made" form, the CONTRACTOR must maintain this policy for a period of four (4) years after completion of this project or purchase the extended reporting period or "tail coverage".

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to CITY.
4. Insurance is to be placed with insurers with a Best rating of no less than A: VII. The company must also be duly authorized to transact business in the State of Texas.
5. Workers' Compensation and Employers' Liability Coverage: The insurer shall agree to waive all rights of subrogation against CITY, its officials, employees and volunteers for losses arising from the activities under this Contract.
6. Certificates of Insurance completed on the Accord form only and endorsements effecting coverage required by this clause shall be forwarded to:

The City of Coppell
Risk Management
255 Parkway Blvd.
Coppell, Texas 75019

XVII.
Independent Contractor

CONTRACTOR covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of CITY; that CONTRACTOR shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between CITY and CONTRACTOR, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating a partnership or joint enterprise between CITY and CONTRACTOR.

XVIII.
Entire Agreement

This Contract embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties relating to matters herein, and except as otherwise provided herein, cannot be modified without written agreement of the parties.

XIX.
Successors and Assigns

CITY and CONTRACTOR each bind themselves, their successors, executors, administrators and assigns to the other party to this Contract. Neither CITY nor CONTRACTOR will assign, sublet, subcontract or transfer any interest in this Contract without the written consent of the other party. No assignment, delegation of duties or subcontract under this Contract will be effective without the written consent of the CITY.

XX.
Non-Waiver

It is further agreed that one (1) or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

XXI.
Headings

The headings of the Contract are for the convenience of reference only and shall not affect in any manner any of the terms and conditions hereof.

XXII.
Changes

CITY may, from time to time, require changes in the scope of the services to be performed under this Contract. Such changes as are mutually agreed upon by and between CITY and CONTRACTOR shall be incorporated by written modification to this Contract.

XXIII.
Performance of Work

CONTRACTOR, its associates and employees, shall perform all the work called for in this Contract. CONTRACTOR covenants and agrees that all of its associates and employees who work on this project shall be fully qualified to undertake same and competent to do the work described in this Contract.

XXIV.
No Third Party Beneficiary

For purposes of this contract, including its intended operation and effect, the parties (CITY and CONTRACTOR) specifically agree and contract that: (1) the contract only affects matters/disputes between the parties to this contract, and is in no way intended by the parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with CITY or CONTRACTOR or both; and (2) the terms of this contract are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either CITY or CONTRACTOR.

XXV.
Venue

The parties to this Contract agree and covenant that this Contract will be enforceable in Coppell, Texas, and that if legal action is necessary to enforce this Contract, exclusive venue will lie in Dallas County, Texas.

XXVI.
Procurement of Goods and Services from Coppell Businesses
and/Historically Underutilized Businesses

In performing this Contract, CONTRACTOR agrees to use diligent efforts to purchase all goods and services from Coppell Businesses whenever such goods and services are comparable in availability, quality and price.

As a matter of policy with respect to CITY projects and procurements, CITY also encourages the use, if applicable, of qualified contractors, subcontractors and suppliers where at least fifty-one percent (51%) of the ownership of such contractor, subcontractor or supplier is vested in racial or ethnic minorities or women. In the selection of subcontractors, suppliers or other persons in organizations proposed for work on the Contract, the CONTRACTOR agrees to consider this policy and to use its reasonable and best efforts to select and employ such company and persons for work on this Contract.

IN WITNESS WHEREOF, the parties have hereunto set their hands by their representatives duly authorized on the day and year first written above.

CONTRACTOR

BY _____
Signature

Printed/Typed Name

Printed/Typed Title

Tax Identification No.

WITNESS:

CITY OF COPPELL, TEXAS

Mike Land
City Manager

City of Coppell
Audit Services. 2022, 2023, 2024

APPROVED AS TO FORM:

BOB HAGER, City Attorney
THE STATE OF TEXAS §

Contractor Acknowledgement

COUNTY OF DALLAS §

BEFORE ME, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he executed same for and as the act and deed of _____, as _____ thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2017.

Notary Public in and For
The State of Texas

My Commission Expires:

Notary's Printed Name

THE STATE OF TEXAS §

City Acknowledgement

COUNTY OF DALLAS §

BEFORE ME, a Notary Public in and for the State of Texas, on this day personally appeared MIKE LAND, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that same was the act of said CITY OF COPPELL, TEXAS, a municipal corporation of the State of Texas, Dallas County, Texas, and as the City Manager thereof, and for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2022.

Notary Public In and For
The State of Texas

My Commission Expires:

Notary's Printed Name