

Article III Scope of Services

3.1 Professional shall perform the services in connection with the Project as set forth in the Scope of Services. Professional shall perform the services with: (i) the professional skill and care ordinarily provided by competent architects or engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect or engineer, as the case may be. If Professional is not a licensed engineer or registered architect, Professional shall perform the services: (i) with the skill and care ordinarily provided by similar professionals practicing in the same or similar locality and under the same circumstances and applicable licenses or certifications; and (ii) as expeditiously as is prudent considering the ordinary skill and care of similar competent professionals.

3.2 City shall, prior to commencement of services, provide Professional with the information set forth in the Scope of Services, if any.

3.3 The Parties acknowledge and agree that all opinions provided by Professional represent the best judgment of Professional.

3.4 Licenses. Professional represents to City that Professional possesses any and all licenses which may be required by the State of Texas or any other governmental entity having jurisdiction as may be necessary for the performance of Professional's services pursuant to this Agreement.

3.5 Information/Confidentiality. City will furnish to Professional such information with respect to the Project as Professional may reasonably request in order to render Professional's services effectively. Professional shall hold in strict confidence all information with respect to the Project which is furnished to Professional by City in confidence, and which is not otherwise publicly available and/or not required, as a matter of law or proper business practice, to be disclosed to a third party in connection with the services for the Project.

3.6 Deliverables. Upon execution of this Agreement, City has the right to use Professional's instruments of service, including but not limited to, reports, maps, cost estimates, recommendations, or other deliverables for the Project, provided that City substantially performs its obligations, including prompt payment of all sums when due under this Agreement. City's employees, agents, contractors, and subcontractors may reproduce applicable portions of the instruments of service for use in performing services or construction related to the Project. Upon payment of all amounts due Professional hereunder, all deliverables, materials, and reports prepared by Professional in connection with this Agreement shall become the property of City. City shall have the right to publish, disclose, distribute, and otherwise use such deliverables, materials and reports only for those purposes for which they were intended. Subject to the foregoing, Professional shall, upon completion of the services, or earlier termination, provide City with the deliverables, drawings, reports, maps, and materials prepared by Professional as set forth in the Scope of Services.

3.7 Conflict of Interest. Professional agrees to notify City and seek City's approval prior to Professional's retention by any other individuals or entities, which either directly or indirectly may create a conflict of interest in Professional's services under this Agreement. City may deny such approval for Professional's retention set forth above, in the event City, in City's sole and absolute discretion, should conclude that such retention would have an adverse effect on Professional's services under this Agreement.

3.8 Opinion of Probable Costs. Professional will, if required by the Scope of Services, furnish an opinion of probable Project development cost based on present day cost, but does not guarantee the accuracy of such estimates. Opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions and utilitarian considerations of operations and maintenance costs prepared by Professional hereunder will be made on the basis of Professional's cost of labor, material, equipment, or services furnished by others or over market conditions or contractor's methods of determining their prices.

Article IV Schedule of Work

The Professional agrees to commence services upon written direction from the City and to complete the required services in accordance with a work schedule established by the City (the "Work Schedule").

Article V Compensation And Method Of Payment

5.1 The City shall compensate the Professional for the services by payment of a fee asset out in the schedule attached in Exhibit "A". Professional shall invoice City on a monthly basis for the services performed. Payments shall be made to Professional within thirty (30) days of receiving Professional's invoice, provided there are no errors or discrepancies and that all work noted on the invoice has been completed. Professional shall not proceed with any task until receiving a work order from City. Issuance of work orders under this Agreement shall be at the sole discretion of City.

5.2 The Professional shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet and email charges.

Article VI Suspension of Work

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

Article VII

Devotion of Time, Personnel, and Equipment

7.1 Professional shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should City require additional services not included under this Agreement, Professional shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by City; and without decreasing the effectiveness of the performance of services required under this Agreement.

7.2 To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement. The cost of such personnel and assistance shall be borne exclusively by the Professional.

7.3 Professional shall furnish the facilities, equipment, telephones, facsimile machines, email facilities, and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

Article VIII Relationship of Parties

It is understood and agreed by and between the Parties that in satisfying the conditions of this Agreement, Professional 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 Professional pursuant to this Agreement shall be in that capacity of an independent contractor, and not as an agent or employee of City. Professional shall supervise the performance of their services and shall be entitled to control the manner and means by which their services are to be performed, subject to the terms of this Agreement. As such, the City shall not: train Professional, require Professional to devote their full-time services to City, or dictate Professional's sequence of work or location at which Professional performs their work.

Article IX 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 compensated 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 X Insurance

10.1 Professional shall during the term hereof maintain in full force and effect the following insurance: (1) a policy of insurance for bodily injury, death and property damage insuring all claims, demands or actions relating to Professional's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000 per occurrence for injury to persons (including death), and for property damage; (2) policy of automobile liability insurance covering any vehicles owned and/or operated by Professional, its officers, agents, and employees, and used in the performance of this Agreement; and (3) statutory Worker's Compensation Insurance covering all of Professional's employees involved in the provision of services under this Agreement.

10.2 All insurance and certificate(s) shall contain the following provisions: (1) name City, its officers, agents and employees as additional insureds as to all applicable coverage with the exception of Worker's Compensation Insurance; (2) provide for at least thirty (30) days prior written notice to City for cancellation, non-renewal, or material change of the insurance; (3) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

10.3 All insurance companies providing the required insurance shall either be authorized to transact business in Texas and at least "A" by AM Best or other equivalent rating service.

10.4 A certificate of insurance evidencing the required insurance shall be submitted to the City prior to commencement of services.

Article XI Indemnification

PROFESSIONAL DOES HEREBY COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, AND AGENTS, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, TO THE EXTENT CAUSED BY OR RESULTING FROM THE NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL, ITS AGENT, ITS CONSULTANTS AND CONTRACTORS UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PROFESSIONAL EXERCISES CONTROL.

INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE PROFESSIONAL'S LIABILITY.

THE PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

**Article XII
Miscellaneous**

12.1 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.

12.2 Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

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

12.4 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.

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

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

12.7 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 effect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

12.8 Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

12.9 Right-of-Access. Professional shall not enter onto private property without lawful right-of-access to perform required surveys, or other necessary investigations. Professional will take reasonable precautions to minimize damage to private and public property in the performance of such surveys and investigations. Any right-of-access to public or private property shall be obtained in accordance with the Scope of Services.

12.10 Recitals. The recitals to this Agreement are incorporated herein.

12.11 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 Coppell, Texas
Attn: City Manager
255 Parkway Blvd.
Coppell, Texas 75019
Facsimile No. (972) 304-3673

With copy to:

Robert Hager
Nichols | Jackson L.L.P.
500 North Akard Street
1800 Ross Tower
Dallas, Texas 75201
Phone: (214) 965-9900

If intended for Professional:

Verdunity
Attn: Kevin Shepherd, PE
2931 Ridge Road Suite 101 #670
Rockwall, Texas 75032
Phone: (214) 430-4450

Name of Entity
Contact
Address

12.12 Debarment and Suspension.

A. In accordance with 2 CFR Section 180.300, Professional verifies that Professional and its principals under this Agreement as described in 2 CFR Section 180.995 being duly sworn or under penalty or perjury under the laws of the United States that neither Professional nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, the State of Texas, or any of its departments or agencies.

B. If, during the term of this Agreement, Professional becomes debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation, Professional shall immediately inform City.

C. For agreements that are financed by Federal or State grants, Professional agrees that this section will be enforced on each of its subcontractors and will inform City of any violations of this section by subcontractors to this Agreement.

D. The certification in this section is a material representation of fact relied upon by City in entering into this Agreement.

12.13 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.

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

12.15 Audits and Records. Professional agrees that during the term hereof, City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine, and reproduce any and all of Professional'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.

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

12.17 Compliance with Federal, State & Local Laws. Professional 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.

12.18 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.

12.19 Boycott Israel; Boycott Energy Companies; and Prohibition of Discrimination against Firearms Entities and Firearm Trade Associations.

- A. Professional verifies that it does not Boycott Israel and agrees that during the term of the Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.
- B. Professional verifies that it does not Boycott Energy Companies and agrees that during the term of this Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended.
- C. Professional verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association as those terms are defined in Texas Government Code Section

2274.001, as amended; and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

- D. This section does not apply if Professional is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Professional has ten (10) or more full-time employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

(Signature Page to Follow)

EXECUTED this _____ day of _____, 2024.

CITY OF COPPELL, TEXAS

By: _____

Mike Land, City Manager

Approved as to form:

By: _____

Robert Hager, City Attorney

EXECUTED this _____ day of _____, 20__.

PROFESSIONAL NAME

By: _____

Name: _____

Title: _____

EXHIBIT “A”

Proposal

	Hours	Labor	Expenses*
Task 1			
EXISTING CONDITIONS MODEL			
Project Setup, Management & Coordination	64	\$16,000	\$2,000
Data Collection, Cleaning & Review	40	\$6,000	\$0
Property Tax Revenue Mapping	40	\$6,000	\$0
Sales Tax Revenue Mapping	56	\$8,400	\$0
Allocation of Current Budget Costs	32	\$4,800	\$0
Estimation and Allocation of Future/Unfunded Costs	32	\$4,800	\$0
Summary Report: Slide Deck Format	32	\$4,800	\$0
Phase 1 Subtotals		\$50,800	\$2,000
Task 2			
FUTURE DEVELOPMENT STRATEGIES			
Management & Coordination	64	\$16,000	\$2,000
Confirmation of Future Potential Development Strategies/Contexts	32	\$4,800	\$0
Prepare Comparison Models for Future Development Contexts	80	\$12,000	\$0
Summary Report: Slide Deck Format	40	\$6,000	\$0
Task 2 Subtotals		\$38,800	\$2,000
Task 3			
ENGAGEMENT AND EDUCATION			
Mtg 1: Community Presentation, "Strong Towns 101/Overview"	16	\$3,200	\$150
Mtgs 2-4: Existing Conditions Discussion (Staff, CC, Community)	48	\$7,200	\$500
Mtgs 5-7: Context Scenarios Discussion (Staff, CC, Community)	48	\$7,200	\$500
Mtg 8: Deep-Dive Workshop w CC & Staff to Discuss Final Results	24	\$3,600	\$2,000
Mtg 9: Community Presentation, Results and Next Steps	16	\$2,400	\$150
Mtg 10: Additional Presentation/Workshop (Where Needed)	16	\$2,400	\$500
Task 3 Subtotals		\$26,000	\$3,800
Task 4			
FINAL REPORT AND DELIVERABLES			
Management & Coordination	32	\$8,000	\$500
Draft Report for Client Review	80	\$12,000	\$0
Comment Resolution & Final Report	64	\$9,600	\$0
Organization of Electronic Files and Data	8	\$1,200	\$0
Task 4 Subtotals		\$30,800	\$500
Project Subtotals		\$146,400	\$8,300

BASE COST (NOT TO EXCEED)	\$146,400
ESTIMATED REIMBURSIBLE EXPENSES	\$8,300
TOTAL	\$154,700

*Reimbursables: Printing costs + supplies (estimated) + travel