

LUCK DESIGN TEAM, LLC

AGREEMENT FOR PROFESSIONAL SERVICES

This agreement between the Client and the Consultant provides for the Professional Services described under Section 2 of this Agreement.

Client:
City of Bastrop
1311 Chestnut Street
Bastrop, Texas 78602

Consultant:
LUCK Design Team, LLC
9600 Escarpment Blvd.,745-4
Austin, Texas 78749

PROJECT NAME: Master Planning Design Services for the Bastrop Sports Complex Master Plan

LOCATED IN: Bastrop, Texas

SECTION 1

Client agrees to employ Consultant on the terms and conditions set forth in this Agreement for Professional Services (the "Agreement") in consideration of the stated fee and payment terms.

SECTION 2

BASIC SERVICES: Consultant agrees to perform Basic Services in conformance with the following descriptions, definitions, terms and conditions: basic services shall be defined as those services specifically described and set forth in the attached letter proposal (the "Proposal") dated **March 22, 2024**, from Consultant to Client. It is understood and agreed that Consultant's services and compensation under this agreement are limited to consulting services to the client and do not include participation in or control over the operation of any aspect of the project.

SECTION 3

ADDITIONAL SERVICES: All work performed by Consultant not specifically described in the Proposal and other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted practice in the Bastrop County area shall constitute Additional Services.

SECTION 4

COMPENSATION OF CONSULTANT: Client agrees to pay Consultant for the above described services in accordance with the following descriptions, definitions, terms and conditions.

- A. Basic Services: Compensation will be lump sum amount of: **\$26,200.00**
- B. Additional Services: Compensation will be charged based on the actual hours expended by Consultant's personnel and billed at Consultant's Standard Hourly Rates in effect at the time of invoice plus Reimbursable Expenses, both defined as follows:
1. Standard Hourly Rates are defined as the rates established from time to time by Consultant for its personnel and rate charged based on salaries paid to Consultant's personnel plus payroll burden (Social Security contributions, Federal and State unemployment taxes, Workers' Compensation, health and retirement benefits, incentive pay, sick leave, vacation and holiday pay applicable thereto) and a factor for overhead and profit.
 2. Reimbursable Expenses are defined as any and all expenses incurred by Consultant in connection with Additional Services and shall include transportation and subsistence, reproduction, subcontracts and similar items. Reimbursable Expenses shall be charged at the following rates:
 - a. Out-of-town transportation by Consultant's vehicles: at IRS's standard rates at time of occurrence.
 - b. All other Reimbursable Expenses: actual cost to Consultant plus a ten (10) percent service charge.

SECTION 5

INVOICE PROCEDURES AND PAYMENT: Consultant will invoice Client monthly for amounts earned under this Agreement. Client agrees to promptly pay Consultant at his office in Travis County, Texas, the full amount of each such invoice upon receipt. For services provided on a Lump Sum basis, the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby Consultant will estimate the percentage of the total work (provided on a Lump Sum basis) accomplished during the invoicing period. Monthly invoices shall include, separately listed, any charges for services for which time charges and/or unit costs shall apply. Such invoices shall also include, separately listed, any charges for Professional Associates and reimbursable costs. Receipt of invoices shall be presumed and Client shall be deemed to be in default if payment is not made within thirty days of the date of the invoice.

SECTION 6

USE AND REUSE OF CONSULTANT'S WORK PRODUCTS: All documents, including drawings, tracings, sketches, computations and specifications, prepared by Consultant pursuant to this Agreement, are instruments of service in respect of the Project. No one other than Client is entitled to rely on such documents without the previous written consent of Consultant. They are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other project. Any reuse in this respect without written verification or adaptation by Consultant for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Consultant and Client shall indemnify and hold harmless Consultant from all claims, damages, losses and expenses including attorney's fees arising out of or resulting there from. Any such verification or adaptation will entitle Consultant to further compensation as an Additional Service.

SECTION 7

CONSULTANT'S RELIANCE ON CLIENT AND THIRD PARTIES: Client agrees that Consultant may rely on the accuracy and validity of all information provided by Client, the work of third parties, and public records, and Consultant is not expected or required by Client to check them.

SECTION 8

CONSULTANT NOT SUPERVISOR: Unless specifically stated in the letter proposal defining the Basic Services provided in this Agreement, Consultant has no responsibility or authority for the supervision of any phase of the work at the site of the Project.

SECTION 9

PERMITTING: In cases where the scope of services requires Consultant to submit, on behalf of the Client, a permit application and/or approval by a third party of this contract, Consultant does not make any warranties, guarantees or representations as to the success of our effort on behalf of the Client. Payment for services rendered by Consultant is not contingent upon the successful acquisition of these permits.

SECTION 10

COST ESTIMATES: Client hereby acknowledges that Consultant cannot warrant that any cost estimate provided by Consultant will not vary from actual costs incurred by the Client.

SECTION 11

ACCESS TO SITE: Unless otherwise stated, the Consultant will have access to the site for activities necessary for the performance of the services. The Consultant will take reasonable precautions to minimize site impact due to these activities, but has not included in the fee the cost of restoration of any damage and will not be responsible for such costs.

SECTION 12

TERMINATION, SUSPENSION OR CANCELLATION: This Agreement may be terminated by Consultant or Client in accordance with the following terms:

- A. This Agreement may be terminated, suspended or canceled without cause at any time prior to completion of Consultant's services either by Client or by Consultant, upon seven (7) days' written notice to the other at the address of record set out above. Such termination shall release Consultant from any

further obligation to provide Basic or Additional Services to Client on this Agreement, but all obligations of Client shall continue.

- B. Client understands that Consultant's ability to work is predicated upon its ability to collect payment of invoices when due. If Client does not make timely payment of invoices related to this Agreement or any other contract in which Client has retained the services of Consultant, then Client authorizes Consultant, at its sole discretion, to terminate this Agreement and any other contract in which Client has retained the services of Consultant upon seven (7) days' notice to Client at its address of record set out above. Such termination shall release Consultant from any further obligation to provide Basic or Additional Services to Client on this Agreement and any other contract in which Client has retained the services of Consultant, but all obligations of Client shall continue.
- C. Client waives any and all claims it has against Consultant arising out of termination of this Agreement by Consultant. Client agrees that Consultant has no duty to perform further services for Client if Client has not timely paid all amounts due Consultant for previous services on this or any other Agreement. Client waives any and all claims, causes of action, or damages that it has or may have against Consultant for failure to perform further services under this or any other Agreement when Consultant has not been timely paid for previous services under this or any other Agreement with Client. Client agrees to indemnify and hold Consultant harmless for any and all claims made against Consultant by any person, firm, or corporation arising out of termination, suspension or cancellation of this or any other Agreement between Consultant and Client.
- D. On termination, suspension or cancellation either by Client or Consultant, Client shall pay Consultant all unpaid sums listed above as compensation for Basic Services and all unpaid sums for any Additional Services that have been performed by Consultant.

SECTION 13

LIMITATION OF LIABILITY: The owner agrees to limit the Consultant's liability to the Owner and to all construction Contractors and Subcontractors on the project, due to the Consultant's negligent acts, errors or omissions, such that the total aggregate liability of the Consultant's to all those named shall not exceed \$50,000 or the Consultant's total fee for services rendered on this project, whichever is greater.

SECTION 14

DISPUTE RESOLUTION: If a dispute arises between the parties as to the rights and obligations of the parties pursuant to this Agreement, the parties shall make a good faith effort to resolve the dispute before either party is declared in default or breach of the Agreement. Such effort shall include, if necessary, the appointment of an independent mediator to mediate the dispute between the parties. If the mediation is not successful, then either party may pursue remedies available to it under the law.

SECTION 15

IDEMNIFICATION: Consultant agrees to and shall indemnify and hold harmless the Owner, its officers, agents and employees (herein after referred to as the "Owner") 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 attorney's fees for injury of death of any person, for damage to any property, or for any breach of contract arising out of, or in connection with the work done by the Architect under this contract and caused by the sole or joint negligence of the Consultant. It is the expressed intention of the parties, hereto, both Consultant and Owner, that the indemnity provided for in the paragraph is indemnity by Consultant to indemnify and protect the Owner from the consequences of Architect's own negligence, whether that negligence is the sole or concurring cause of the resulting injury, death or damage. Such indemnity shall not apply however, to the liability arising from the personal injury, death or property damage of persons that is caused by or results from the negligence of the Owner. The indemnity provided in this section shall survive the termination or expiration of this Agreement. Nothing herein shall be construed so as to limit or waive Owner's sovereign immunity.

Consultant assumes full responsibility for its work performed hereunder and hereby releases, relinquishes and discharges Owner from all claims, demands, and causes of action of every kind and character for any injury to or death of any persons and/or any loss of or damage to any property, to the extent caused by and arising out of, or in connection with Consultant's negligent performance of services hereunder. This release shall apply with respect to Consultant's work regardless of whether said claims, demands, and causes of action are covered in whole or in part by insurance.

SECTION 16

INSURANCE: Architect shall maintain during the life of the Agreement the following minimum coverage:

1. Commercial general liability insurance, including personal injury liability, blanket contractual liability, and broad form property damage liability. The limit shall be not less than \$1,000,000.
2. Automobile bodily injury and property damage liability insurance with a limit of not less than \$1,000,000.
3. Statutory workers' compensation and employers' liability insurance as required by law.
4. Professional liability insurance.

SECTION 17

GOVERNING LAW AND PLACE OF PERFORMANCE: This Agreement shall be construed and enforced in accordance with the laws of Texas. This Agreement is performable by all parties in Bastrop County, Texas.

SECTION 18

BINDING AGREEMENT: Client, for himself and partners, if any, and Consultant, for itself, each binds himself or itself and its successors, executors, administrators and assigns to the other party to this Agreement and to partners, successors, executors, administrators and assigns of such other party in respect to all covenants of this Agreement. Neither Client nor Consultant shall assign, sublet, or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than Client and Consultant. Client's representative signing below warrants that he has full authority to bind Client to this Agreement and further warrants that Client has an ownership interest in the real property that is part of the Project. Client's representative signing below agrees to indemnify, save, and hold Consultant harmless for any and all claims, causes of action, and damages that may arise against Consultant if the representations contained in this section are not correct.

SECTION 18

ACCEPTANCE OF AGREEMENT: If this Agreement is not executed by Client within 60 days of the date tendered, it shall become invalid unless: (1) Consultant extends the time in writing; or (2) Client orally authorizes Consultant to proceed with the work, in which event the terms of the oral authorization shall be presumed to include all the terms of this agreement. Consultant's performance of work under the oral authorization shall be in reliance on the inclusion of all the terms of this Agreement in the oral authorization.

SECTION 20

ENTIRE AGREEMENT: This Agreement and the Proposal defining the Basic Services provided in this Agreement contain the entire contract between Client and Consultant.

CLIENT:

CONSULTANT:

Luck Design Team, LLC

By:

By:



Brent Luck

Title:

Title:

President

Date

:

Date:

March 22, 2024

The Texas Board of Architectural Examiners, PO Box 12337, Austin, TX 78711-2337, (512) 305-9000, www.tbae.state.tx.us, has jurisdiction over complaints regarding the professional practices of persons registered as Landscape Architects in Texas.