



## Consulting Services Agreement

This consulting services agreement is between The Town of Bartonville, a Texas General Law Municipality (the "Town") and Ad Terram Consulting, LLC, a Texas Limited Liability Company (the "Consultant").

The Town desires to engage the Consultant for general land use planning and GIS consulting services, further described in Exhibit A. The parties therefore agree as follows:

### 1. ENGAGEMENT; SERVICES.

- a) Engagement. The Town retains the Consultant to provide, and the Consultant shall provide, the services described in Exhibit A (the "Services").
- b) Services. Without limiting the scope of Services described in Exhibit A, the Consultant shall:
  - i. perform the Services set forth in Exhibit A. However, if a conflict exists between this agreement and any term in Exhibit A, the terms in this agreement will control;
  - ii. devote as much productive time, energy, and ability to the performance of its duties under this agreement as may be necessary to provide the required Services in a timely and productive manner;
  - iii. perform the Services in a safe, good, and workmanlike manner using at all times adequate equipment in good working order;
  - iv. communicate with the Town about progress the Consultant has made in performing the Services;
  - v. supply all tools, equipment, and supplies required to perform the Services, except if the Consultant's work must be performed on or with the Town's equipment;
  - vi. provide services (including the Services) and end products that are satisfactory and acceptable to the Town and free of defects.
- c) Legal Compliance. The Consultant shall perform the Services in accordance with applicable laws, rules, or regulations.
- d) Town's Obligations. The Town shall make timely payments of amounts earned by the Consultant under this agreement and notify the Consultant of any changes to its procedures affecting the Consultant's obligations under this agreement at least 30 days before implementing those changes.

### 2. TERM AND TERMINATION.

- a) Term. This agreement will become effective as described in section 15. This agreement will continue until it is terminated in accordance with subsection 2(b).

- b) Termination. This agreement may be terminated:
  - i. by either party on provision of 15 days' written notice to the other party, with or without cause;
  - ii. by either party for a material breach of any provision of this agreement by the other party, if the other party's material breach is not cured within 15 days of receipt of written notice of the breach; or
  - iii. by the Town at any time and without prior notice, if the Consultant fails or refuses to comply with the written policies or reasonable directives of the Town, or is guilty of serious misconduct in connection with performance under this agreement.
- c) Effect of Termination. After the termination of this agreement for any reason, the Town shall promptly pay the Consultant for Services rendered before the date of notice of the termination. No other compensation, of any nature or type, will be payable after the termination of this agreement.

### 3. COMPENSATION.

- a) Terms and Conditions. The Town shall pay the Consultant an hourly rate of \$185.00, billable in 15-minute increments. Town shall be invoiced monthly for services performed. Payment of Consultant's invoices shall occur within 30 days from the date of the invoice.
- b) No Other Compensation. The compensation set out above and in Exhibit A will be the Consultant's sole compensation under this agreement.
- c) Expenses. Any ordinary and necessary expenses incurred by the Consultant in the performance of this agreement will be the Consultant's sole responsibility, with the following exceptions:
  - i. Mileage: Consultant's travel occurring while performing agreed-upon tasks or at the explicit request of Town will be billed at the Privately Owned Vehicle (POV) Mileage Reimbursement Rate published by the US. General Services Administration.
  - ii. Direct expenses necessary to perform tasks listed in Exhibit A, including printing or binding, shall be billed at cost plus fifteen percent (15%).
- d) Taxes. The Consultant is solely responsible for the payment of all income, social security, employment-related, or other taxes incurred as a result of the performance of the Services by the Consultant under this agreement, and for all obligations, reports, and timely notifications relating to those taxes. The Town has no obligation to pay or withhold any sums for those taxes.
- e) Other Benefits. The Consultant has no claim against the Town under this agreement or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

### 4. NATURE OF RELATIONSHIP.

- a) Independent Contractor Status.
  - i. The relationship of the parties under this agreement is one of independent contractors, and no joint venture, partnership, agency, employer-employee, or similar relationship is created in or by this agreement. Neither party may assume or create obligations on the other party's behalf, and neither party may take any action that creates the appearance of such authority.

- ii. The Consultant has the sole right to control and direct the means, details, manner, and method by which the Services will be performed, and the right to perform the Services at any time, place, or location. The Consultant shall perform the Services, and the Town is not required to hire, supervise, or pay any assistants to help the Consultant perform those Services. The Consultant shall provide insurance coverage for itself and its staff.

5. OTHER ACTIVITIES.

During the Term, the Consultant is free to engage in other independent contracting activities, except that the Consultant may not accept work, enter into contracts, or accept obligations inconsistent or incompatible with the Consultant's obligations or the scope of Services to be rendered for the Town under this agreement.

6. INDEMNIFICATION.

- a) Of Town by Consultant. At all times after the effective date of this agreement, the Consultant shall indemnify the Town from all damages, liabilities, expenses, claims, or judgments (including interest, penalties, reasonable attorneys' fees, accounting fees, and expert witness fees) (collectively, the "Claims") that the Town may incur and that arise from:
  - i. the Consultant's negligence or willful misconduct arising from the Consultant's carrying out of its obligations under this agreement;
  - ii. the Consultant's breach of any of its obligations or representations under this agreement.
- b) Of Consultant by Town. At all times after the effective date of this agreement, and to the extent allowed by law, the Town shall indemnify the Consultant from all Claims that the Consultant may incur arising from:
  - i. the Town's operation of its business;
  - ii. the Town's breach or alleged breach of, or its failure or alleged failure to perform under, any agreement to which it is a party; or
  - iii. the Town's breach of any of its obligations or representations under this agreement.However, the Town is not obligated to indemnify the Consultant if any of these Claims result from the Consultant's own actions or inaction.

7. GOVERNING LAW.

- a) Choice of Law. The laws of the state of Texas govern this agreement (without giving effect to its conflicts of law principles).
- b) Choice of Forum. Both parties consent to the personal jurisdiction of the state and federal courts in Denton County, Texas.

8. AMENDMENTS.

No amendment to this agreement will be effective unless it is in writing and signed by a party or its authorized representative.

9. ASSIGNMENT AND DELEGATION.

- a) No Assignment. Neither party may assign any of its rights under this agreement, except with the prior written consent of the other party. All voluntary assignments of rights are limited by this subsection.

- b) No Delegation. Neither party may delegate any performance under this agreement, except with the prior written consent of the other party.
- c) Enforceability of an Assignment or Delegation. If a purported assignment or purported delegation is made in violation of this section, it is void.

10. COUNTERPARTS; ELECTRONIC SIGNATURES.

- a) Counterparts. The parties may execute this agreement in any number of counterparts, each of which is an original but all of which constitute one and the same instrument.
- b) Electronic Signatures. This agreement, agreements ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by facsimile, email, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures.

11. SEVERABILITY.

If any one or more of the provisions contained in this agreement is, for any reason, held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions of this agreement, but this agreement will be construed as if those invalid, illegal, or unenforceable provisions had never been contained in it, unless the deletion of those provisions would result in such a material change so as to cause completion of the transactions contemplated by this agreement to be unreasonable.

12. NOTICES.

- a) Writing; Permitted Delivery Methods. Each party giving or making any notice, request, demand, or other communication required or permitted by this agreement shall give that notice in writing and use one of the following types of delivery, each of which is a writing for purposes of this agreement: personal delivery, mail, nationally recognized overnight courier (fees prepaid), or email.
- b) Addresses. A party shall address notices under this section to a party at the following addresses:

If to the Town:

Town of Bartonville  
Thad Chambers, Town Administrator  
1941 E Jeter Rd  
Bartonville, Texas 76226  
tchambers@townofbartonville.com

If to the Consultant:

Ad Terram Consulting, LLC  
Ryan Wells, Principal  
PO Box 387  
Farmersville, Texas 75442  
rwells@adterramconsulting.com

- c) Effectiveness. A notice is effective only if the party giving notice complies with subsections (a) and (b) and if the recipient receives the notice.

13. WAIVER.

No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this agreement will be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, and no waiver will constitute a continuing waiver, unless the writing so specifies.

14. ENTIRE AGREEMENT.

This agreement constitutes the final agreement of the parties. It is the complete and exclusive expression of the parties' agreement about the subject matter of this agreement. All prior and contemporaneous communications, negotiations, and agreements between the parties relating to the subject matter of this agreement are expressly merged into and superseded by this agreement.

15. EFFECTIVENESS.

This agreement will become effective when all parties have signed it. The date this agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature) will be deemed the date of this agreement.

16. NECESSARY ACTS; FURTHER ASSURANCES.

Each party shall use all reasonable efforts to take, or cause to be taken, all actions necessary or desirable to consummate and make effective the transactions this agreement contemplates or to evidence or carry out the intent and purposes of this agreement.

[SIGNATURE PAGE FOLLOWS]

Each party is signing this agreement on the date stated opposite that party's signature.

Town of Bartonville

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

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

Name: Thad Chambers  
Title: Town Administrator

Ad Terram Consulting, LLC

Date: August 25, 2023 \_\_\_\_\_



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

Name: Ryan A. Wells, AICP, CFM  
Title: Principal

## EXHIBIT A

### SCOPE OF SERVICES

Consultant shall perform the following services as requested by the Town of Bartonville:

#### Planning Services

- Land use and zoning analysis
- Site plan review
- Subdivision plat review
- Planning guidance
- Project-specific support
- Land use options analysis
- Concept plan preparation
- Detailed property evaluation
- Zoning code audit and analysis
- Zoning code amendments
- Development economic analysis

#### Geographic Information Systems

- Zoning map preparation and updates
- Site buffer and proximity analysis
- Natural resources inventory and analysis (geospatial)
- Address list preparation for public noticing
- Infrastructure mapping and inventory
- Web map development
- Specialized map preparation and demographic analysis for economic development
- Floodplain mapping

Consultant's attendance at the Town of Bartonville's Planning & Zoning Commission or Town Council meetings related to any of the tasks listed above or to fulfill other requirements may occur upon mutual agreement between the Town of Bartonville and Consultant.