

## FIRST ADDENDUM TO AGREEMENT

This First Addendum to the Services Agreement (“First Addendum”) is made by and between the City of Hutchins, Texas (“Client” or “City”) and Dact Way LLC (“Vendor”), (individually as the “Party” or collectively as the “Parties”), acting by and through their authorized representatives.

### RECITALS

**WHEREAS**, the Parties desire to enter into that certain Services Agreement (the “Contract” or “Agreement”) under which Vendor shall provide cleaning services to the City at locations specified in the Agreement; and

**WHEREAS**, the Parties wish to enter into this First Addendum that will (i) require Vendor to provide and maintain insurance coverage set forth in Exhibit “A” attached hereto for the duration of the Agreement; (ii) provide an indemnification clause; (iii) allow the Agreement to be construed under the laws of the State of Texas with jurisdiction in Dallas County, Texas; and, (iv) provide miscellaneous provisions.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. That **Section 10**, titled **Governing Law**, shall be amended, to read as follows:

“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.”

2. That new **Section 11**, titled **Insurance**, shall read as follows:

“Vendor must provide City with a certificate or copy of its insurance policy(s) evidencing the coverage and coverage provisions identified below no later than ten (10) days prior to the Performance. All insurance companies and coverage must be authorized by Vendor to transact business in the State of Texas and must have an A.M. Best’s rating A- or greater.

All such insurance, with the exception of workers compensation, shall name City as an additional insured and provide for a waiver of subrogation against City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of the insurance. Each policy and renewals or replacements thereof shall provide that it will not be canceled, non-renewed or material change except with thirty (30) days advance written notice to City. Evidence of such insurance shall be provided to City by delivering certificate(s) of insurance and policy endorsements.

**Coverage and Limits.** The insurance required under this paragraph shall provide for the following coverages and limits:

- a. Workers' compensation and employers' liability insurance as required by applicable law and the Special Provisions to this Agreement.
- b. Commercial general liability insurance for bodily injury and property damage, including limited contractual liability coverage in not less than the following amounts:
  - i. General Aggregate Limit \$2,000,000 each occurrence and
  - ii. Each Occurrence Limit \$1,000,000 each occurrence.

**Commercial automobile liability** insurance coverage, including non-owned and hired, covering all owned, hired, or non-owned vehicles including the loading or unloading thereof with limits not less than \$1,000,000.”

4. That new **Section 12**, titled **Indemnification**, shall read as follows:

**“CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF VENDOR PURSUANT TO THE AGREEMENT. VENDOR HEREBY WAIVES ALL CLAIMS AGAINST THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS “CITY”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY. VENDOR AGREES TO INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, ATTORNEYS’ FEES AND COSTS OF INVESTIGATION) AND ACTIONS BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY THE VENDOR’S NEGLIGENT PERFORMANCE OF SERVICES UNDER THE AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF VENDOR, ITS OFFICERS, DIRECTORS, SERVANTS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO SOLE NEGLIGENCE OF CITY). IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST CITY IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, VENDOR, ON NOTICE FROM CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT VENDOR’S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO CITY. VENDOR’S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE**

**OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY VENDOR UNDER THE AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THE AGREEMENT.”**

5. That new **Section 13**, titled **Miscellaneous**, shall read as follows:

- (a) “Entire Agreement. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under the Agreement.”
- (b) “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.”
- (c) “Assignment. Vendor may not assign this Agreement in whole or in part without the prior written consent of the City. In the event of an assignment by Vendor to which the City has consented, the assignee shall agree in writing with the City to personally assume, perform, and be bound by all the covenants, and obligations contained in this Agreement.
- (d) “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.”
- (e) “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 affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.”
- (f) “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.”
- (g) “Recitals. The recitals to the Agreement and this First Addendum are incorporated herein.”
- (h) “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.”
- (i) “Exhibits. The exhibits attached hereto are incorporated herein and made a part hereof for all purposes.”

- (j) “Audits and Records. Vendor agrees that during the term hereof, the City and its representatives may, during normal business hours and as often as deemed necessary, inspect, audit, examine and reproduce any and all of Vendor’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.”
- (k) “Conflicts of Interests. Vendor represents that no official or employee of City has any direct or indirect pecuniary interest in this Agreement.”
- (l) “Compliance with Federal, State & Local Laws. Vendor 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.”
- (m) “Compliance with Federal, State & Local Laws. Vendor 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.”
- (n) “Boycott Israel, Boycott Energy Companies, and Prohibition of Discrimination Against Firearm Entities and Firearm Trade Associations.
  - (i) Vendor 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.
  - (ii) Vendor verifies that it does not Boycott Energy Companies and agrees that during the term of the Agreement will not Boycott Energy Companies as that term is defined in Texas Government Code Section 809.001, as amended.
  - (iii) Vendor 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 (ii) will not discriminate during the term of the Agreement against a firearm entity or firearm trade association.
  - (iv) This section does not apply if Vendor is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Vendor has ten (10) or more fulltime employees and (ii) the Agreement has a value of \$100,000.00 or more to be paid under the terms of the Agreement.”

6. The Agreement shall continue in full force and effect except as amended herein. If any terms or conditions contained in the First Addendum are inconsistent with the Agreement, the terms and conditions contained in the First Addendum will be controlling.

*(signature page to follow)*

**SIGNED AND AGREED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**City of Hutchins, Texas**

By: \_\_\_\_\_  
James W. Quinn, City Administrator

**SIGNED AND AGREED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Dact Way LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
4860-8544-0428, v. 1



## SERVICES AGREEMENT

This Services Agreement (the "Agreement") is dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between Dact Way LLC, referred to as the "Vendor", a contract employee, and The City of Hutchins "Client".

**WHEREAS**, the Client is of the opinion that the Vendor has the necessary qualifications, experience and abilities to provide cleaning services to the Client.

**WHEREAS**, the Vendor is agreeable to providing such cleaning services to the Client on the terms and conditions set forth under this Agreement.

**NOW, THEREFORE**, in consideration of the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Vendor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

### 1. Services Provided; Scope; Duration.

The Client hereby agrees to engage the Contractor to provide the Client with the following cleaning services (the "Services"):

- The services specified in **Exhibit A**, will commence on **February 28, 2024**.
- The delivery of the Services will be at the following locations:
  - City Hall – 321 N Main St, Hutchins, TX 75141
  - Community Center – 500 W Hickman St, Hutchins, TX 75141
  - Atwell Public Library – 300 N Denton St, Hutchins, TX 75141
  - Police Station – 205 W Hickman St, Hutchins, TX 75141
- The time for delivery of the Services is:
  - Monday through Friday after 5pm.
  - City Hall/Police Station office cleans will be scheduled for every Thursday before 5pm.

### 2. Term of Agreement.

The term of this Agreement (the "Term") will be for one year from the date of this Agreement. The term will automatically renew for successive one year periods (each a "Renewal Term"). In the event that either Party wishes to terminate this Agreement, that Party will be required to provide 90 days' written notice to the other Party prior to the expiration of the current term.

In the event that either Party breaches a material provision under this Agreement, the nondefaulting Party may terminate this Agreement immediately and require the defaulting Party to indemnify the non-defaulting Party against all reasonable damages.



### **3. Compensation.**

The Vendor will charge the Client for the Services at the rate of **\$3,167.00 per month** (the "Compensation"). The Client will be invoiced every month, ten (10) days in advance before the end of each month. Invoices submitted by the Vendor to the Client are due within 15 days of receipt.

The Parties acknowledge that pricing under this Agreement is subject to periodic review and may be adjusted based on factors such as market conditions, changes in service requirements, or other relevant considerations. And adjustments will be communicated at least 90 days prior to the contract renewal dates and agreed upon by both parties in writing.

### **4. Confidentiality.**

Confidential information (the "Confidential Information") refers to any data or information relating to the business of the Client which would reasonably be considered to be proprietary to the Client including, but not limited to, accounting records, business processes, and client records and that is not generally known in the industry of the Client and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.

The Vendor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the Vendor has obtained, except as authorized by the Client or as required by law. The Vendor further agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any personal information of the Client, without the prior written consent of the Client. The obligations of confidentiality will apply during the Term and will survive indefinitely upon termination of this Agreement.

### **5. Return of Property**

Upon the expiration or termination of this Agreement, the Vendor will return to the Client any property, documentation, records, or Confidential Information which is the property of the Client.

### **6. Independent Vendor**

In providing the Services under this Agreement it is expressly agreed that the Vendor is acting as an independent contractor and not as an employee. The Vendor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service. The Client is not required to pay, or make any contributions to, any social security, local, state or federal tax, unemployment compensation, workers' compensation, insurance premium, profit-sharing, pension or any other employee benefit for the Vendor during the Term. The Vendor is responsible for paying, and complying with reporting requirements for, all local, state and federal taxes related to payments made to the Contractor under this Agreement.

### **7. Equipment.**

Except as otherwise provided in this Agreement, the Vendor will provide at the Vendor's own expense, any and all equipment, accessories, chemicals, solvents, cleaning fluids, workwear and any other supplies necessary to deliver the Services in accordance with the Agreement.





**8. Notice.**

All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given and delivered to the Parties at the following email addresses:

a. The City of Hutchins – [wrandal@cityofhutchins.org](mailto:wrandal@cityofhutchins.org)

b. Dact Way LLC – [Dactwayservices@gmail.com](mailto:Dactwayservices@gmail.com)

or to such other address as either Party may from time to time notify the other.

**9. Modification of Agreement.**

Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

**10. Governing Law.**

This Agreement will be governed by and construed in accordance with the laws of the State of Texas.

**AGREED TO BY:**

**The City of Hutchins**

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

**Dact Way LLC**

Sign: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_



## Exhibit A

### 1. **City Hall:**

- Cleaning and polishing surfaces in offices and meeting rooms.
- Cleaning and sanitizing restrooms.
- Dusting and wiping down furniture and fixtures.
- Disinfecting high-touch areas, such as doorknobs and light switches.
- Emptying trash bins and replacing liners.
- Vacuuming, sweeping and mopping of floors in common areas.

### 2. **Community Center:**

- Cleaning and sanitizing restrooms.
- Dusting and wiping down surfaces in meeting rooms and offices.
- Emptying trash bins and replacing liners.
- Spot cleaning any visible stains on carpets or furniture.
- Vacuuming, sweeping and mopping of floors in common areas.

### 3. **Library:**

- Cleaning and sanitizing restrooms.
- Dusting and cleaning bookshelves and display areas.
- Sanitizing public seating and study areas.
- Emptying trash bins and replacing liners.
- Vacuuming, sweeping and mopping of floors in common areas.

### 4. **Police Station:**

- Cleaning and sanitizing reception and waiting areas.
- Daily cleaning and disinfection of gym, holding cells and interview rooms.
- Disinfecting high-touch surfaces, including workstations and equipment.
- Emptying trash bins and replacing liners.
- Vacuuming, sweeping and mopping of floors in common areas.