

STATE OF TEXAS §
§ AGREEMENT FOR CONSULTING SERVICES
COUNTY OF DALLAS §

This Agreement for Consulting Services (“Agreement”) is made by and between the City of Hutchins, Texas (“City”) and BrandEra, Inc. (“Consultant”), (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

Recitals:

WHEREAS, City desires to engage the services of Consultant as an independent Consultant and not as an employee in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, Consultant desires to render rebranding and marketing services, as more fully set forth in Exhibit “A,” attached hereto and incorporated herein, and in accordance with the terms and conditions set forth in this Agreement;

NOW THEREFORE, in exchange for the mutual covenants set forth herein and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

Article I
Term

1.1 The Term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and shall continue until completion of the services under this Agreement, unless sooner terminated as provided herein.

1.2 Either Party may terminate this Agreement by giving thirty (30) days prior written notice to the other Party. In the event of such termination, Consultant shall be entitled to compensation for any services completed to the reasonable satisfaction of the City in accordance with this Agreement prior to such termination.

Article II
Contract Documents

2.1 This Agreement consists of the following items:

- A. This Agreement; and
- B. Scope of Services provided by Consultant (attached as Exhibit “A”).

2.2 In the event there exists a conflict in interpretation, the documents shall control in the order listed above. These documents shall be referred to collectively as “Contract Documents.”

**Article III
Scope of Work**

Consultant shall provide the services specifically set forth in Exhibit "A" attached hereto and incorporated herein.

**Article IV
Schedule of Work**

Consultant agrees to commence services upon written direction from the City and to complete the required services in accordance with a work schedule mutually established by the City and Consultant. Any work performed or expenses incurred by Consultant prior to Consultant's receipt of a written direction for work from the City shall be entirely at the Consultant's own risk.

**Article V
Compensation and Method of Payment**

5.1 City shall compensate Consultant for the services performed under this Agreement in an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00).

5.2 City shall pay Consultant within thirty (30) days of the receipt of a proper invoice provided there are no errors or discrepancies and that all work noted on the invoice has been completed. Any errors, discrepancies or the invoicing of work not completed may result in a delay in payment.

5.3 Consultant shall submit invoices for services rendered under this Agreement to:

City of Hutchins
Attn: Accounts Payable
P. O. Box 500
Hutchins, Texas 75141

**Article VI
Devotion of Time; Personnel; and Equipment**

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

6.2 To the extent reasonably necessary for Consultant to perform the services under this Agreement, Consultant shall be authorized to engage the services of any agents, assistants, persons, or corporations that Consultant 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 Consultant.

6.3 Consultant 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 VII Relationship of Parties

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

Article VIII Suspension of Work

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

Article IX Insurance

Consultant shall provide and maintain for the duration of this Agreement and, for the benefit of the City (naming the City, and its officers, agents and employees as additional insureds), insurance coverage as set forth in Exhibit "B." Consultant shall provide two (2) copies of the Certificate of Insurance verifying that Consultant has obtained the required insurance coverage for the City prior to the Effective Date of this Agreement.

Article X 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 Consultant may only be reimbursed 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 XI
Miscellaneous

11.1 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.

11.2 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.

11.3 Assignment. Consultant 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 Consultant 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.

11.4 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.

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

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

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

11.8 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.

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

11.10 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 the City:

With Copy to:

James W. Quin
City Administrator
City of Hutchins
321 North Main Street
Hutchins, Texas
Phone: (972) 225-6121

Joseph J. Gorfida, Jr.
Nichols Jackson, L.L.P.
500 North Akard Street
1800 Ross Tower
Dallas, Texas 75201
Phone: (214) 965-9900

If intended for Consultant:

Beth Owens
Brandera, Inc.
219 South Main Street
Suite 301
Fort Worth, Texas 76104

11.11 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.

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

11.13 Indemnification. **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 THE CONSULTANT PURSUANT TO THIS AGREEMENT. CONSULTANT 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 THE CITY. CONSULTANT AGREES TO INDEMNIFY AND SAVE HARMLESS THE 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 CONSULTANT'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF CONSULTANT, 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 THE CITY). IF ANY ACTION OR PROCEEDING SHALL BE BROUGHT BY OR AGAINST THE CITY**

IN CONNECTION WITH ANY SUCH LIABILITY OR CLAIM, CONSULTANT, ON NOTICE FROM THE CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT CONSULTANT'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO THE CITY. CONSULTANT'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONSULTANT UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT. CONSULTANT SHALL INDEMNIFY THE CITY FOR ANY FINES AND LEGAL FEES INCURRED BECAUSE EMPLOYEES, AGENTS, OR WORKERS SUPPLIED BY CONSULTANT ARE NOT AUTHORIZED TO WORK IN THE UNITED STATES.

11.14 Audits and Records. Consultant 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 Consultant'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 the City or date of termination if sooner.

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

11.16 Compliance with Federal, State & Local Laws: Consultant 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.

11.17 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.

11.18 Boycott Israel, Boycott Energy Companies, and Prohibition of Discrimination Against Firearm Entities and Firearm Trade Associations.

- (a) Consultant 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) Consultant 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) Consultant 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 this Agreement against a firearm entity or firearm trade association.

- (d) This section does not apply if Consultant is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Consultant has ten (10) or more fulltime 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 Hutchins, Texas

By: _____
James W. Quin, City Administrator

Approved as to form:

By: _____
Joseph J. Gorfida, Jr., General Counsel
(04-24-2024: 4880-3513-0297, v. 1)

EXECUTED this _____ day of _____, 2024.

Brandera, Inc.,

By: _____
Name: _____
Title: _____

**EXHIBIT “A”
Scope of Services**

Pricing

The following is indicative menu pricing for possible deliverables as mutually agreed upon by Vendor and The City. BrandEra typically works on a project-basis, but we have also provided some hourly rates below.

Consulting	\$100/hour
Monthly Retainer	
<ul style="list-style-type: none">• Meetings with Businesses & Stakeholders• Research/Consulting with Staff• Presentations to City Council• Ideation and Consensus Building	
Online Survey	
Survey Writing and Setup	\$1500/survey
Online Survey Report	\$1200/report
Focus Groups	
<ul style="list-style-type: none">• 1.5 Hour Session• Facilitated by BrandEra Moderator (By Zoom or In Person)• Client to Provide 12-15 Participants	
Survey Writing and Focus Group Facilitation	\$1800/group
Focus Group Survey Report	\$1200/group
Strategic Marketing Plan	\$2500-\$5000+
<ul style="list-style-type: none">• Goals & Objectives• Audience Profiles• Strategies & Tactics• Budgets & Timelines	
Positioning Statement & Creative Messaging Brief	\$2250
<ul style="list-style-type: none">• Features & Benefits• Wow Factors• Key Messages• Elevator Pitch• Brand Promise• Brand Voice & Tone	
Logo Development	\$2250/logo
<ul style="list-style-type: none">• Proprietary Creative Survey & Analysis• Production of 5-7 Initial Logos• Revisions of 2-3 Designs• Upon Approval, Render Final Logo and Provide Native Files/Formats	

Tagline (Package Pricing with Logo)	\$1250
<ul style="list-style-type: none"> • Proprietary Creative Survey & Analysis • Production of Lengthy List of Tagline Options • Revisions of List Based on Feedback • Upon Approval of Tagline, Render with Logo and Provide Native Files/Formats & Brand Board 	
Brand Style Guide	\$2500-\$7500
Creative Concept	\$2000/campaign
<ul style="list-style-type: none"> • Proprietary Creative Concept Survey • Creative Concept and Initial Graphics for One Deliverable • 3 Initial Concept Options • Revisions of One Concept • Upon Approval, Native Art Files Provided 	
Branded Advertising & Collateral Materials	
Pricing Based on Art Production/Project Management	
Assumes Photography and Printing are TBD	
Corporate Identity	
Letterhead, Business Cards, Envelope	\$1500
Email Signature	\$300
Ceremonial Proclamation Template	\$500
Letters of Commendation Template	\$500
Notepad	\$400
Presentation Deck	\$750+*
<i>*BrandEra will need more information to bid this deliverable accurately.</i>	
Zoom Background	\$400
Social Media Graphics	\$300/graphic
E-Newsletter Template	\$1600
Flyer - 8.5" X 11"; 2-sided	\$1800
Trifold Brochure - Flat: 8.5" x 11"; Finished Size: 3.33"x 8.5"	\$1800

Rack Card - 4" x 9"; 2-sided	\$1500
Postcard Mailer – 6" x 9"; 2-sided	\$1500
EDDM Mailer – Flat 12" x 15"; scored and folded to 12" x 7.5"	\$2250
Digital Banners - 3 Banner Package	\$900
Digital Billboard	\$1600
Full Page Print Ad	\$1550
Landing Page	\$1800
Website Graphics	\$1200

Photography – One Day on Location \$6750

- Scouting
 - Project Management & Art Direction
 - Photographer
- Photo Processing, Retouching, Photoshop, Talent and Talent Coordination not Included.*

Videography – One Day on Location/One :30 Video

\$1500-\$5000+

- Scriptwriting & Project Management
 - Scouting & Art Direction
 - Videography
 - Editing & Posting
- Music, VO, Graphic Treatments, Talent and Talent Coordination not Included.*
- *Price range based on quality and time spent.

EXHIBIT “B”
Insurance Requirements

Procurement and Evidence of Insurance. Contractor 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 the Texas Department of Insurance 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 \$1,000,000 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.