

STATE OF TEXAS §
 § **AGREEMENT FOR PHOTOGRAPHY SERVICES**
COUNTY OF DALLAS §

This Agreement for Photography Services (“Agreement”) is made by and between the City of Hutchins, Texas (“City”) and Dennis Fagan, Still and Moving Pictures (“Contractor”), (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

RECITALS:

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

WHEREAS, Contractor desires to provide photography services at locations designated by the City, as 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 are hereby acknowledged, the Parties agree as follows:

Article I
Term

The Term of this Agreement shall commence on the last date of execution hereof (“Effective Date”) and shall continue until Contractor completes the services specifically set forth in Exhibit “A,” unless sooner terminated provided herein.

Article II
Contract Documents

2.1 This Agreement consists of the following items:

- A. This Agreement; and
- B. Contractor’s Scope of Services (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 referenced to collectively as "Contract Documents".

Article III Scope of Services

Contractor shall provide the services specifically set forth in Exhibit "A."

Article IV Schedule of Work

Contractor agrees to commence services upon written direction from the City and to perform the required services in accordance with a schedule mutually agreed upon by the City and Contractor (the "Work Schedule"). Any work performed or expenses incurred by Contractor prior to Contractor's receipt of a Notice to Proceed from the City shall be entirely at Contractor's own risk.

Article V Compensation

5.1 City shall compensate Contractor in an amount not to exceed Forty-One Thousand One Hundred Dollars (\$41,100.00), as set forth in Exhibit "A", as follows:

- (a) \$13,700.00 due upon execution of this Agreement;
- (b) \$13,700.00 due twenty-one (21) days following execution of this Agreement; and
- (c) \$13,700.00 upon delivery and acceptance by the City of services provided under this Agreement.

5.2 City shall pay Contractor 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.

Article VI Devotion of Time; Personnel; and Equipment

6.1 Contractor 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, Contractor 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 Contractor to perform the services under this Agreement, Contractor shall be authorized to engage the services of any agents, assistants, persons, or corporations that Contractor 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 Contractor.

6.3 Contractor 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, Contractor 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 Contractor pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. Contractor 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, the City shall not: train Contractor, require Contractor to complete regular oral or written reports, require Contractor devote its full-time services to the City, or dictate Contractor's sequence of work or location at which Contractor performs its work.

Article VIII Suspension of Work

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

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 Contractor 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 X Insurance

Contractor 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 in full force and effect as set forth in Exhibit "B" attached hereto. Contractor shall provide signed Certificates of Insurance verifying that Contractor has obtained the required insurance coverage for the City prior to the Effective Date of this Agreement.

Article XI Indemnification

11.1 THE 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 CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS THE "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. CONTRACTOR 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 CONTRACTOR'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY ACT OR OMISSION ON THE PART OF CONTRACTOR, 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, CONTRACTOR, ON NOTICE FROM THE CITY, SHALL DEFEND SUCH ACTION OR PROCEEDINGS AT CONTRACTOR'S EXPENSE, BY OR THROUGH ATTORNEYS REASONABLY SATISFACTORY TO THE CITY. CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Article XII Termination

12.1 Termination for Cause. City may terminate this Agreement, with or without cause, by giving Contractor thirty (30) days prior written notice. In the event of such termination, Contractor 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.

12.2 Termination for Default. City shall terminate this Agreement immediately in the event Contractor fails to: (i) meet delivery schedules or (ii) otherwise conform to the specifications under this Agreement. Breach of contract or default authorizes the City to award the Agreement to another Contractor, purchase elsewhere, and charge the full increase in cost and handling to the defaulting Contractor.

Article XIII Miscellaneous

13.1 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.

13.2 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.

13.3 Assignment. Contractor 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 Contractor 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.

13.4 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.

13.5 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.

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

13.7 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.

13.8 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.

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

13.10 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 City:

City of Hutchins
Attn: James W. Quin
City Administrator
321 North Main
P. O. Box 500
Hutchins, Texas 75141
Phone: (972) 225-6121
j.quin@cityofhutchins.org

With a copy to:

Joseph J. Gorfida, Jr.
Nichols | Jackson
500 North Akard Street
1800 Ross Tower
Dallas, Texas 75201
Telephone: 214-965-9900
jgorfida@nicholsjackson.com

If intended for Contractor:

Dennis Fagan
915 East 37th Street
Austin, Texas 78705
Telephone: (512)-479-4103
Email: _____

13.11 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.

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

13.13 Audits and Records. Contractor 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 Contractor'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.

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

13.15 Compliance with Federal, State & Local Laws. Contractor 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.

13.16 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.

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

- (a) Contractor 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) Contractor 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) Contractor 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 Contractor is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Contractor 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.

13.18 No Excluded Nation or Foreign Terrorist Organization. Contractor certifies that Contractor is not engaged in active business operations within the Sudan, Iran, or a foreign terrorist organization and is not listed on the list of prohibited entities prepared and maintained by the Texas Comptroller of Public Accounts pursuant to Texas Government Code §§806.051, 807.051, or 2252.153.

(signature page to follow)

EXECUTED this _____ day of _____, 2025.

City of Hutchins, Texas

By: _____
James W. Quin, City Administrator

Approved as to form:

By: _____
Joseph J. Gorfida, Jr., City Attorney
(06-06-2025: 4917-8870-6635, v. 1)

EXECUTED this _____ day of _____, 2025.

Dennis Fagan, Still and Moving Pictures

By: _____
Name: _____
Title: _____

EXHIBIT "A"

Scope of Services



DENNIS FAGAN
STILL AND MOVING PICTURES

June 2, 2025

City of Hutchins
Mr. James Quin – City Administrator
321 North Main St., Box 500
Hutchins, Texas 75141

DRAFT AGREEMENT

Client: - City of Hutchins New City Hall

Description: Still photography shot in and around Hutchins at up to 14 locations as designated by Wanda and James.

DELIVERABLE A: Photography on theme of economic drivers such as industrial, shipping and cultural themes. Likely locations are Bird Sanctuary, Railroad Tracks, Fire Station, City Park, Water Pond, Country Road, Cowboy Hat, Longhorn Steer, Landscape, Inter-Modal Yard, Trinity River, Senior Center, Old City Hall, (Wildlife and Native plants as yet unspecified)

DELIVERABLE B: Fourteen finished photo mounted on quarter inch acrylic, shipped to City Hall and ready to hang in public areas. Fagan will hang are in one day. [If conditions require more than one seven-hour day, additional fee for second day of \$1600 per day will apply.]

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|--|--------------|
| One day of scouting with Wanda with follow up photos | \$ 1500.00 |
| Six five hour shooting days including setup and take down | 1600/9600.00 |
| Misc. expenses for Dennis including meals, travel, and lodging | 600/4,800.00 |
| Photo review process w Wanda - retouch reviews | 500.00 |
| Budget for paying model fees to recognizable faces in photos | 1500.00 |
| Postproduction retouching and prep for printing | 100/1400.00 |
| Prop budget for cowboy hat or misc. needs | 300.00 |
| (Finals sent for approval. Printing takes fourteen days for production.) | |
| Installation day of art [14] onto walls (with assistant) | 1900.00 |
| Fourteen images printed and adhered to quarter inch acrylic | 17,300.00 |
| SIZES: 36x36 (4), 36x72 (8), 40X95 (2) | |
| Shipping charges from Austin to Hutchins, Texas with insurance | 2,300.00 |

\$ 41,100.00 (non-taxable)

Terms: Third of this bid due to initiate project. Additional third 21 days after.
Balance due by check at delivery of prints to City Hall.

Designation of where each photo goes responsibility of Mary Ann.

Usage: unlimited usage and license transfers upon payment
[Please keep your files in safe location as we do not permanently archive photo files.]

915 East 37th Street, Austin, Texas 78705 512.479.4103

EXHIBIT "B"
Insurance Coverage Required

SECTION A. Contractor shall furnish a completed Insurance Certificate to the City, which shall be completed by an agent authorized to bind the named underwriter(s) to the coverages, limits, and termination provisions shown thereon, and which shall furnish and contain all required information referenced or indicated thereon. THE CITY SHALL HAVE NO DUTY TO AWARD THIS CONTRACT UNTIL CERTIFICATES HAVE BEEN DELIVERED TO THE CITY.

SECTION B. City reserves the right to review the insurance requirements of this section during the effective period of the contract end to require adjustment of insurance coverages and their limits when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, or the claims history of the industry as well as Contractor.

SECTION C. Subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof; at Contractor's sole expense, insurance coverage written by companies approved by the State of Texas and acceptable to the City, in the following type(s) and amount(s):

1. *Workers' Compensation*

(a) Statutory Limits:

(b) Employers' Liability - Worker's compensation as required by Texas law with the policy endorsed to provide a waiver of subrogation as to the city, employer's liability insurance of not less than \$100,000 for each accident.

2. *General Liability*

(a) Combined bodily injury - \$1,000,000 per occurrence and property damage

(b) General - \$1,000,000 aggregate. Where work is being performed in connection with an existing facility owned or leased by the City, the policy shall include fire legal liability of not less than \$100,000 per occurrence.

3. *Auto Liability*

(a) Bodily injury - \$500,000

(b) Property damage - \$300,000 or combined single limits. Comprehensive automobile and truck liability insurance, covering owned, hired and non-owned vehicles, with minimum limits of \$300,000, combined single limit each occurrence, for property damage, such insurance to include coverage for loading and unloading hazards.

Certificates of insurance of each policy shall be delivered to the City Purchasing office along with a statement of endorsement from each insurance company that such policy shall not be canceled, non-renewed, or materially changed without thirty days' written notice being given the City. Prior to the effective date of cancellation of such insurance, non-renewal, or material change, Contractor shall deliver to the City a replacement certificate in compliance with this contract.

Contractor will assume complete responsibility for any claim of property damage, loss, theft, or bodily injury, which may directly or indirectly arise from the Operation's performance under the terms of the contract. Contractor will hold harmless, release, and defend the City from all claims of liability that directly or indirectly arise under the terms of the contract. Contractor will be required to furnish the City a certificate and copies of public liability insurance in the minimum amount of \$1,000,000 for combined single limits.

- Alternatively, a State of Texas Certificate of Self-Insurance may be furnished in lieu of a certificate evidencing Worker's Compensation Insurance. Employers who have rejected the Act, and have not been certified as self-insured employers, may not be eligible for a contract award.

NOTE: The City of Hutchins shall be named as an additional insured party on Contractor's general liability policy and any excess/umbrella liability insurance policies.

4917-8870-6635, v. 1