

transportation and all other facilities necessary for the execution and completion of the work covered by the Scope of Services. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words that so applied have well known, technical or trade meaning shall be held to refer to such recognized standards.

3.3 All minor details of the work not specifically mentioned in the Scope of Services but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are set forth in this Agreement. Contractor will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise, the term "extra work" as used in this Agreement shall be understood to mean and include all work that may be required by City to be done by Contractor to accomplish any alteration or addition to the work as shown on the Project Drawings. It is agreed that Contractor shall perform all extra work under the direction of the City's Representative when presented with a written work order signed by the City's Representative, subject, however, to the right of Contractor to require written confirmation of such extra work order by City. Payment for extra work shall be as agreed in the work order.

3.4 Contractor agrees to indemnify, defend, and save City harmless from all claims growing out of any demands of subcontractors, laborers, workmen, mechanics, materialmen, and suppliers of machinery and parts thereof, equipment, power tools, all supplies incurred in the furtherance of the performance of this contract. When City requests, Contractor shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived.

ARTICLE IV PAYMENT

4.1 City agrees to pay Contractor for all services authorized in writing and properly performed by Contractor the total construction price not to exceed **TWO THOUSAND EIGHT HUNDRED AND NO/100 DOLLARS (\$2,800.00)** in accordance with Scope of Services, subject to additions or deletions for changes or extras agreed upon in writing. Unless otherwise provided herein, payment to the Contractor shall be monthly based on the Contractor's monthly progress report and detailed monthly itemized statement for services that shows the names of the Contractor's employees, agents, contractors performing the services, the time worked, the actual services performed, the rates charges for such service, reimbursable expenses, the total amount of fee earned to date, and the amount due and payable as of the current statement, in a form reasonably acceptable to the City. Monthly statements shall include authorized non-salary expenses with supporting itemized invoices and documentation. The City shall pay such monthly statements within thirty (30) days after receipt and City verification of the services and expenses unless otherwise provided herein.

4.2 City reserves the right to delay, without penalty, any partial payment when, in the opinion of City, Contractor has not made satisfactory progress on the construction of this Project based on the Scope of Services and the Completion Schedule Estimate.

4.4 The total amount to be paid pursuant to this Agreement is specified in Section 4.1, above. City may deduct from any amounts due or to become due to Contractor any sum or sums owing by Contractor to City. In the event of any breach by Contractor of any provision or obligation of this Agreement which is not timely cured after receipt of notice from City, or in the event of the assertion by other parties of any claim or lien against City, or the City's premises, arising out of Contractor's performance of this Agreement, City shall have the right to retain out of any payments due or to become due to Contractor an

amount sufficient to completely protect the City from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by Contractor.

4.5 City may, on account of subsequently discovered evidence, withhold the whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

- (1) Defective work not remedied.
- (2) Claims filed or reasonable evidence indicating possible filing of claims.
- (3) Failure of Contractor to make payments promptly to subcontractors or for material or labor which City may pay as an agent for the Contractor.
- (4) Damages to another contractor or subcontractor.

When the above grounds are removed, or Contractor provides a surety bond satisfactory to City which will protect City in the amount withheld because of said grounds, City will release the amounts withheld.

4.6 Unless otherwise provided in the Scope of Services the Contractor shall be responsible for all expenses related to the services provided pursuant to this Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet, and email charges.

ARTICLE V RESPONSIBILITIES

5.1 Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all materials, construction, installation, and other services furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or deficiencies in the installation and construction of the Project components to conform as shown in the Project Drawings and specifications.

5.2 Neither City's review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Contractor shall be and remain liable to City in accordance with applicable law for all damages to City caused by Contractor's negligent performance of any of the services furnished under this Agreement.

5.3 The rights and remedies of City under this Agreement are as provided by law.

ARTICLE VI TIME FOR PERFORMANCE

6.1 Contractor shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with City's requirements.

6.2 If Contractor's performance of this Agreement is delayed or interfered with by acts of City or others, Contractor may request an extension of time for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

6.3 No allowance of any extension of time, for any cause whatever, shall be claimed or made to Contractor, unless Contractor shall have made written request upon City for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless City and Contractor have agreed in writing upon the allowance of additional time to be made.

6.4 Contractor hereby agrees to commence work not later than ten (10) calendar days of the written Notice to Proceed. The Project will be considered substantially complete when items within the Scope of Services are completed.

ARTICLE VII OWNERSHIP OF PROJECT & WARRANTY

7.1 Contractor warrants that title to all work, including all equipment and materials incorporated into the Project, will pass to City no later than the time of final payment. Contractor further warrants that upon payment by City, all Work for which payments have been received from City shall be free and clear of liens, claims, security interest or other encumbrances in favor of Contractor or any other person or entity whatsoever.

7.2 Contractor agrees to assign to City at the time of final completion of the Scope of Services any and all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees to perform the Project in such manner so as to preserve any and all manufacturer's warranties. If necessary, as a matter of law, Contractor may retain the right to enforce directly any such manufacturers' warranties during the two-year period following the date of final acceptance of the Project by City.

7.3 Contractor warrants the labor and materials provided in association with the Scope of Service for a period of one (1) year from the date of final completion and acceptance of the Project.

ARTICLE VIII TERMINATION

8.1 City may suspend or terminate this Agreement for cause or without cause at any time by giving Contractor thirty (30) days prior written notice. If the suspension or termination is without cause, payment to Contractor, in accordance with the terms of this Agreement, will be made on the basis of services reasonably determined by City to be satisfactorily performed to the date of suspension or termination. Such payment will be due upon delivery of all instruments of service to City.

8.2 Should City require a modification of this Agreement with Contractor, and if City and Contractor fail to agree upon a modification to this Agreement, City shall have the option of terminating this Agreement and Contractor's services hereunder at no additional cost other than the payment to Contractor, in accordance with the terms of this Agreement, for the services reasonably determined by City to be properly performed by Contractor prior to such termination date.

ARTICLE IX INSURANCE

9.1 During the term of this Agreement, Contractor shall maintain in full force and effect the following insurance:

- (1) A comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to

Contractor's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$1,000,000.00 per occurrence for injury to persons (including death), and for property damage;

- (2) Automobile liability insurance covering any vehicles owned and/or operated by Contractor, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage; and
- (3) Statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of Contractor's employees involved in the provision of services under this Agreement with policy limit of not less than \$500,000.00.

9.2 All insurance and certificate(s) of insurance shall contain the following provisions:

- (1) Name City, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance;
- (2) Provide for at least thirty (30) days prior written notice to City for cancellation or non-renewal of the insurance;
- (3) Provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance. Contractor shall provide written notice to City of any material change of or to the insurance required herein.

9.3 All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

9.4 A certificate of insurance evidencing the required insurance and all endorsements shall be submitted prior to commencement of services.

ARTICLE X 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 CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY PARTIES") 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 ONE OF MORE OF THE CITY PARTIES OR BREACH OF THE CITY PARTIES' OBLIGATIONS HEREUNDER. CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY CONTRACTOR'S NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES,

REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE NEGLIGENCE OF ONE OR MORE OF THE CITY PARTIES, IN WHOLE OR IN PART, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY THE CITY PARTIES ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION 10 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 XI
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 XII
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 XIII
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 XIV
MISCELLANEOUS**

14.1 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.

14.2 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.

14.3 Default of Contractor. If Contractor fails to comply or becomes disabled and unable to comply with the provisions of this Agreement as to the quality or character of the service or time of performance, and the failure is not corrected within ten (10) days after written notice by City to Contractor, City may, at its sole discretion without prejudice to any other right or remedy:

- (1) Terminate this Agreement and be relieved of the payment of any further consideration to Contractor except for all work determined by City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of Contractor to and from meetings called by City at which Contractor is required to attend, but shall not include any loss of profit of Contractor. In the event, of such termination, City may proceed to complete the services in any manner deemed proper by City, either by the use of its own forces or by resubletting to others; and
- (2) City may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of Contractor.

14.4 Adjustments in Services. No claims for extra services, additional services, or changes in the services will be made by Contractor without a written agreement with City prior to the performance of such services.

14.5 Execution Becomes Effective. This This Agreement will be effective upon signing of the Agreement by authorized representatives of Contractor and City (“Effective Date”).

14.6 Right-of-Access. City will obtain and/or furnish right-of-access on any project site for Contractor to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services. Contractor will take reasonable precautions to minimize damage to the personal or real property in the performance of such surveys, tests, studies and investigations.

14.7 Assignment. Contractor may not assign this Agreement in whole or in part without the prior written consent of City. In the event of an assignment by Contractor to which City has consented, the assignee shall agree in writing with City to personally assume, perform, and be bound by all the covenants and obligations contained in this Agreement.

14.8 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.

14.9 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, unless the subject matter of the dispute is required by law to be filed in federal court, in which case the venue shall be in the United States District Court for the Northern District of Texas (Dallas Division). The Parties agree to submit to the personal and subject matter jurisdiction of said Court.

14.10 Amendments. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the Parties except as may be otherwise provided therein.

14.11 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.

14.12 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.

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

14.14 No Waiver of Immunity. The Parties agree that City has not waived immunity by entering into and performing its respective obligations under this Agreement.

14.15 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, Texas
Attn: James Quin, City Administrator
400 N JJ Lemmon Road
Hutchins, Texas 75141
Phone: (972) 225-6121
Email: jquin@cityofhutchinstx.gov

With Copy to:

Nichols | Jackson, L.L.P.
Attn: Joseph J. Gorfida, Jr., City Attorney
500 North Akard Street, Suite 1800
Dallas, Texas 75201
Phone: (214) 965-9900
Email: jgorfida@nicholsjackson.com

If intended for Contractor:

Barcnas Concrete TX, LLC
Attn: _____
510 Cherry Street
Forreston, Texas 76041
Phone: _____
Email: _____

14.16 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.

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

14.18 Sales and Use Tax. Contractor understands and acknowledges that City is a governmental entity and exempt from the payment of state and local sales and use taxes for certain materials and equipment conveyed to City as part of this Project or otherwise incorporated into the Project. City agrees to provide Contractor such documentation as may otherwise be required by state law to allow Contractor to avoid payment of sales and uses taxes for materials and equipment with respect to the Project to the extent allowed by law.

14.19 Audits and Records. Contractor agrees that during the term hereof, 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 City or date of termination if sooner.

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

14.21 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.

14.22 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.

14.23 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.

14.24 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 Quin, City Administrator

Approved as to form:

By: _____
Joseph J. Gorfida, Jr., City Attorney
(12-02-2025: 4918-3818-6622, v. 1)

EXECUTED this _____ day of _____, 2025.

BARCENAS CONCRETE TX, LLC

By: _____
Name: _____
Title: _____

EXHIBIT "A"
Scope of Services



205 W Hickman St
Hutchins , Tx 75141

Back patio (25ft x 9ft)

Materials:

- 1- Forms , nails and wire
- 2- Rebar 3/8
- 3- Concrete
- 4- Labor

Total = \$2,800

NOTE : Job includes materials and labor work



(469) 658 6165 / (469)-350-8097



barcenasconcrete@outlook.com