



## LETTER OF AGREEMENT

**THIS AGREEMENT** ("Agreement") is effective as of July 21, 2022, (the "Effective Date") by and between Cooksey Communications, Inc., a Texas corporation ("Cooksey" or "Contractor") whose address is 5525 N. MacArthur Blvd., Suite 530, Irving, Texas 75038; and the City of Joshua ("Client"), whose mailing address is 101 South Main Street, Joshua, Texas 76058.

Client desires to retain Cooksey as an independent contractor to provide **strategic communications and public engagement services related to its proposed municipal complex project**, including the services listed below in the **Scope of Work** section.

In consideration therefore, Client agrees to pay Cooksey a total project fee not to exceed FORTY-TWO THOUSAND DOLLARS (\$42,000), inclusive of hourly consulting fees totaling no more than \$32,500, video production fee of no more than \$7,500, plus five percent (5%) CSTIM fee of no more than \$2,000 covering routine expenses for the term of this Agreement, as outlined below. The maximum \$32,500 consulting fee would allow Cooksey to perform up to 162.5 hours of services at its current blended hourly billing rate of \$200.

In so contracting, the parties agree that Cooksey is an independent contractor and is not an employee, partner, or co-venture of the Client. The manner in which Cooksey's services are rendered shall be within Cooksey's sole control and discretion. Cooksey is not authorized to sign any sponsorship or other agreement on behalf of the Client without prior review and approval by an authorized party of the Client.

### Scope of Work

In consideration for the fees and the mutual covenants contained in this Agreement, the Client and Cooksey agree that Cooksey will provide the strategic communications and public engagement services listed below, not to exceed 162.5 hours of service as stipulated above:

- Providing strategic counsel on overall messaging and public engagement strategies related to the proposed municipal complex project
- Reviewing relevant City-provided materials including Council agenda packets, relevant Master Plans, project designs, financing proposals, etc. in order to identify the most salient key messages
- Developing a communications and public engagement plan, including key messages, recommended strategies and implementation timeline
- Developing content for the City's communications channels, including printed materials, social media, the City website and more pertaining to proposed municipal complex – potentially to include but not limited to copywriting and/or design of materials such as:
  - One-page project overview/flyer
  - FAQs (Frequently Asked Questions)
  - Social media infographics
  - Social media comment responses
  - E-newsletter article(s)

## ***Cooksey Communications Agreement for City of Joshua, July 2022, continued***

- Brief for City's quarterly mailer
- Other direct mail/postcards, as needed
- 2-3 minute video showcasing the need and the project designs/plans
- Town Hall meeting signage, handouts, displays and/or PowerPoint slides
- Webpage/microsite content
- Advertisements and public notices
- News releases and media advisories
- Scripts or talking points for City spokespersons/ambassadors

\*Please note: This agreement does not <sup>include</sup> including printing costs, other hard-copy production costs or postage costs, which would be estimated separately, after consultation with the City on designs, materials, and the preferred production and distribution options – see **Expenses and Exclusions** section below. As noted above, the Agreement does anticipate/include video production costs of up to \$7,500. If the video becomes longer or more complex, then Cooksey will advise the client and seek advance, written approval for any excess expenditures.

- Consulting on and assisting with planning and preparations for one or more Town Hall meetings, and other public engagement events as Cooksey and Client jointly deem necessary and advisable
- Assisting City spokespersons and community ambassadors with preparations for public presentations, media interviews and other public discussions about the project
- Identifying key influencers in the community who are critical for effective public engagement
- Facilitating outreach to media and other key stakeholder audiences, as needed, to deliver key messages about this initiative to the public
- Interfacing with the City Manager, City staff, City Council and the City's design-build consultant to formulate the communications and public engagement strategy and effectively align all spokesperson and outreach efforts
- Counseling City leadership and the City's design-build consultant on a communications strategy specifically pertaining to a bond election, or whatever funding mechanism is ultimately devised for this project, once that funding methodology has been determined
- Monitoring news coverage and social media coverage related to this project
- Providing other strategic communications and public engagement support services as needed, subject to the budget/hours limits described within this Agreement

### **Billing**

One-quarter (\$10,000) of the maximum consulting/video fee plus 5% CSTIM (\$500) will be pre-billed at the beginning of the engagement as a project retainer and is due immediately to engage Cooksey. The remainder of the fees due shall be billed as monthly progress invoices, as the project progresses and as work is performed by Cooksey, with invoices including a recap of services provided to date, but in no cases shall exceed the ~~not to exceed~~ maximum stipulated above, unless expressly approved in writing by the Client.

All invoices are due <sup>30</sup> ~~net 15~~ calendar days from the invoice date, unless expressly stipulated otherwise. Payments received after 30 calendar days of the invoice date shall be subject to late charges at a rate of one-and-a-half percent (1.5%) per month (18% per annum).

At the conclusion of the engagement, or monthly as appropriate, Cooksey will invoice the Client for any non-routine, out-of-pocket expenses incurred in performing the contracted services (see **Expenses and**

**Exclusions** section below), subject to the not-to-exceed maximum unless expressly agreed to in writing by the Client.

#### **Additional Fees/Hours**

If the Client requests new services or projects not specifically delineated in this Agreement, Cooksey will provide a written estimate of the hours and costs associated with those services or deliverables and will require advance, written approval before undertaking any additional work. Any such incidental work would be estimated and, if approved by the Client, performed at the billing rate described above, or as agreed to in writing.

#### **Expenses and Exclusions**

Cooksey, for the benefit of the Client, may incur non-routine, third-party expenses in the course of implementing the requested services, including but not limited to such items as newswire services, clipping services, photography, outsourced printing costs and other expenses charged by third-party vendors. Any such third-party vendor expenses will be billed directly by the vendor to the Client, unless otherwise agreed to mutually by Cooksey and the Client. Expenses handled by Cooksey will incur a 15 percent (15%) markup. Any individual, third-party vendor expenses over \$250 must be approved in advance, in writing, by the Client.

Should the Client require any creative services not described in the above Scope of Work as specific project inclusions, or any associated production expenses, these services and expenses would be estimated separately by Cooksey for the Client's advance, written approval prior to undertaking the services desired. Printing and production costs for hard-copy materials are expressly excluded from the consulting services fee and CSTIM fee specified above, since production quantities and materials have not been determined at this time.

#### **Client Services, Technology and Information Management (CSTIM) Fee**

Each invoice shall include Cooksey's standard CSTIM fee, calculated at five percent (5%) of the project fee, which covers routine internal expenses regularly incurred on all of its clients' behalf. These expenses include, but are not limited to, mileage incurred for travel to/from meetings and events (up to 100 miles from the Cooksey office); photocopies and in-house printing; courier or delivery charges; subscriptions for online media resources such as Cision (global media database and intelligence service); subscriptions for videoconferencing services (Zoom, WebEx, Microsoft Teams, etc.); maintenance of communications infrastructure for 24/7 client service; and subscriptions to base-level versions of electronic marketing services such as SurveyMonkey (Standard Annual plan only).

For the City of Joshua potential maximum consulting and video production fee of \$40,000, the total CSTIM fee would be \$2,000, which will be divided across each project invoice proportionally.

If Cooksey expects to incur any extraordinary, non-routine expenses that would exceed the amount covered by the CSTIM fee, Cooksey will notify the Client prior to incurring such charges and seek advance, written approval from the Client to invoice for those extraordinary expenses.

#### **Media Buying and Sequential Liability**

If Cooksey is placing or buying media for the Client (paid advertising), then the Client must provide written approval for and sign media plans before insertion orders and purchase orders can be created and submitted to the media organization. Unless expressly agreed otherwise in writing between Cooksey and the Client, purchases made by Cooksey on the Client's behalf shall be subject to a 15

percent (15%) markup, consistent with other external expenses where Cooksey is providing credit to the Client. This markup shall be waived only if the media organization is billing the Client directly for such media purchases.

All Cooksey-submitted insertion orders and purchase orders shall make it clear that responsibility for payment to the media organization lies with the Client, not with Cooksey. Cooksey shall only be responsible for timely payment to media when Cooksey has received timely payment from the Client. In cases where payment is not made in a timely manner to Cooksey, any late charges or other fees consequently assessed by the media organization shall be the sole responsibility of the Client.

#### **Term of Service and Renewal**

Services addressed in this Agreement are expected to last from the Effective Date stipulated above through the end of May 2023. If no project end date is specified, then Cooksey's provision of services shall end when the fee-covered hours have been exhausted, or until or until one year from the Effective Date, whichever comes first.

Either party may terminate this Agreement for any reason at any time upon 30 days' prior written notice to the other party. Should the Agreement be terminated prior to the Agreement-specified end date, then Cooksey will invoice the Client for all previously unbilled work that is completed to the Client's satisfaction by the end of the 30-day notice period.

When and if the initial project fee is exhausted, the parties may agree to renew the agreement upon terms mutually agreeable to both parties, as set forth in a separate, written document executed by both parties at such time.

#### **Confidentiality**

All confidential information will be held confidential by Cooksey and will not be discussed with outside parties without the Client's prior consent, unless required by applicable law.

#### **Indemnity** *To the extent authorized by Texas law,*

Client agrees to indemnify and save Cooksey harmless from and against all liability, including all actions, claims, damages, costs and attorneys' fees, which Cooksey may incur (or to which Cooksey may be a party), arising out of actions taken or statements made by Cooksey at the Client's direction or based upon information provided by the Client, and any and all losses, claims, damages, expenses or liabilities related to the use of Client's products or services except when such actions, claims, damages, costs and attorneys' fees result from gross negligence or willful misconduct by Cooksey.

Cooksey agrees to indemnify and save Client harmless from and against all liability, including all actions, claims, damages, costs and attorneys' fees, that the Client may incur (or to which the Client may be a party), arising out of related to Cooksey work product, excepting only when such actions, claims, damages, costs and attorneys' fees result from information, graphics or text provided to Cooksey by the Client.

#### **Client's Intellectual Property**

Cooksey shall not use or be entitled to any Client Intellectual Property, including but not limited to Client trademarks, trade dress, copyright, trade secrets or proprietary information, without the express written permission of the Client or as otherwise expressly stipulated elsewhere in this Agreement. Granting a license to use in any one instance shall not be deemed to be a license in any other instance.

**Cooksey's Intellectual Property**

Client shall not use or be entitled to any Cooksey intellectual property, including but not limited to media lists, Cooksey trademarks, trade dress, copyright, trade secrets or proprietary information, without the express written permission of Cooksey or as otherwise expressly stipulated elsewhere in this Agreement. Granting a license to use in any one instance shall not be deemed to be a license in any other instance.

**Please indicate your acceptance of the terms stated above by signing and returning a copy of this Agreement to Cooksey. Facsimile signatures received by electronic means shall be deemed originals.**

**Agreed to and Accepted by:**

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Mike Peacock, City Manager  
City of Joshua, Texas

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Date



7/13/22

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Colby Walton, Chairman and CEO  
Cooksey Communications

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Date