

PROFESSIONAL SERVICES AGREEMENT

STATE OF TEXAS §
COUNTY OF BEXAR § **KNOW ALL MEN BY THESE PRESENTS:**

This Professional Services Agreement (the “Agreement”) between the City of Leon Valley, Texas, a Texas municipal corporation (hereinafter referred to as “City”), and BB Inspection Services, LLC, a Texas limited liability corporation (hereinafter called “Contractor”), sometimes collectively referred to herein as the “Parties,” is for the purpose of procuring inspection services for the City.

RECITALS

WHEREAS, it is necessary that the City procure inspection services to perform the functions and duties specified in the applicable sections of City ordinances; and

WHEREAS, City desires to engage Contractor as the City’s Building Inspector; and

WHEREAS, Contractor is an independent contractor and shall perform the services described herein on a contract basis and not as an employee; and

WHEREAS, Contractor shall conduct inspection on an “as needed” basis for the City;

NOW, THEREFORE, in consideration of the foregoing and on the terms and conditions hereinafter set forth and for other good and valuable mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Contractor agree as follows:

**ARTICLE I
RESPONSIBILITIES**

1.1 Contractor’s Responsibilities

(a) Contractor hereby agrees and acknowledges that it shall perform all City building inspections in compliance with the City’s Code of Ordinances and any and all applicable state and federal laws.

(b) Contractor hereby agrees and acknowledges that City will not furnish the Contractor with a vehicle, tools, or an office, nor any employee benefits whatsoever to the Contractor, including retirement and health insurance.

(c) Contractor understands and agrees that inspections shall be performed within twenty-four (24) hours of notice from the City to perform such inspections.

(d) Contractor shall promptly prepare a report of an inspection performed by him and shall furnish such report to City within twenty-four hours of the time the inspection was performed.

(e) Contractor shall conduct himself in a professional manner when performing services for the City so as to protect the image and goodwill of the City when dealing with other and contractors.

(f) Contractor shall provide inspection services between the normal working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, unless otherwise requested.

(g) Contractor shall provide his own transportation to conduct inspections.

(h) Contractor shall be responsible for maintaining dues, fees, and professional qualifications and associations.

(i) Contractor shall devote as much productive time, energy, and ability to the performance of his duties under this Agreement as may be necessary to provide the required Services in a timely and productive manner.

(j) Communicate with the City about progress the Contractor has made in performing the Services.

1.2 Confidential Information

(a) Contractor will perform services for City which may require City to disclose confidential and proprietary information to Contractor or which may require City to grant authorization to Contractor to make or enter financial and legal transactions on behalf of the City. Confidential information includes, but is not limited to, any information of any kind, nature or description concerning matters affecting or relating to Contractor's services for the City, business operations of the City and/or, employee data, products, projects, drawings, plans, processes or other data of City. For financial and legal transactions, contractor shall obtain authorization from City prior to entering into such transactions. Contractor further agrees:

- A. to use reasonable network and data security to protect City.
- B. Not to reproduce confidential information or use the information for any purpose other than the performance of the work specified under Section 1.1 and 1.2.
- C. That upon request or upon termination of this Agreement, to deliver to City any notes, documents, equipment or material received from City created by or originating from his activities for City.
- D. City shall have the sole right to determine the treatment of any information that is part or project described under Section 1.1 and 1.2, including the right to keep information confidential and proprietary.

1.3 City's Responsibilities

(a) The City agrees to pay Contractor for services rendered pursuant hereto the following:

Residential Building Inspection	\$60.00
Commercial Building Inspection	\$60.00
Residential Plan Review	\$60.00
Commercial Plan Review (Hour)	\$95.00
Court Appearance (Hour)	\$95.00

(b) As compensation for services under this Agreement, the Contractor shall be paid the above fees as services are rendered on a monthly basis. Contractor will not be compensated for holidays, vacation time, or benefits. Contractor is responsible for complying with reporting requirements for all local, state and federal taxes related to payments made to Contractor under this Agreement.

(c) All fees paid to Contractor by City shall be based on invoices submitted to City in writing by Contractor for work performed. While invoices shall be submitted monthly, Payment shall be due in accordance with the City's regular payment practices.

ARTICLE II TERM

The term of this Agreement shall be three (3) years commencing on the date this Agreement is signed by all parties and terminating in year three on the date signed by all parties.

ARTICLE III TERMINATION

3.1 Termination With or Without Cause

(a) Notwithstanding anything in this Agreement to the contrary, City may terminate this Agreement for any reason subject to Section 3.2 and 6.17.

(b) Notwithstanding anything in this Agreement to the contrary, Contractor may terminate this Agreement for any reason subject to Section 3.2.

3.2 This Agreement may be terminated by either party by giving thirty (30) days written notice of termination to the other party.

**ARTICLE IV
INDEMNIFICATION**

CONTRACTOR COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY (AND THEIR ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES), INDIVIDUALLY AND COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, DEATH AND PROPERTY DAMAGE, MADE UPON CITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO CONTRACTOR' NEGLIGENCE, WILLFUL MISCONDUCT OR CRIMINAL CONDUCT IN ITS ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY SUCH ACTS OR OMISSIONS OF CONTRACTOR, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUBCONSULTANTS OF CONTRACTOR, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION ARE SOLELY FOR THE BENEFIT OF THE CITY AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY. CONTRACTOR SHALL PROMPTLY NOTIFY CITY, IN WRITING OF ANY CLAIM OR DEMAND AGAINST CITY, RELATED TO OR ARISING OUT OF CONTRACTOR' ACTIVITIES UNDER THIS AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT CONTRACTOR' COST TO THE EXTENT REQUIRED BY THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH. CITY SHALL HAVE THE RIGHT, AT THEIR OPTION AND AT THEIR OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING CONTRACTOR OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

IT IS THE EXPRESS INTENT OF THE PARTIES TO THIS AGREEMENT, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH, IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY, PROTECT AND HOLD HARMLESS CITY, FROM THE CONSEQUENCES OF CITY'S OWN NEGLIGENCE; PROVIDED HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE, AND IT SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF CITY IS THE SOLE CAUSE OF THE RESULTANT INJURY, DEATH, OR DAMAGE. CONTRACTOR FURTHER AGREES TO DEFEND, AT ITS OWN EXPENSE AND ON BEHALF OF AND IN THE NAME OF CITY ANY CLAIM OR LITIGATION BROUGHT AGAINST CITY (AND THEIR ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES), IN CONNECTION WITH ANY SUCH INJURY, DEATH, OR PROPERTY DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY, AS SET FORTH ABOVE.

THE CONTRACTOR SHALL ALSO INDEMNIFY CITY AND THEIR RESPECTIVE OFFICIALS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTIONS, SUITS AND LIABILITIES ARISING OUT OF THE CONTRACTOR' AND THE CONTRACTOR' GENERAL CONTRACTOR'S ACTIONS RELATED TO THE CONSTRUCTION OF THE IMPROVEMENTS.

IT IS THE EXPRESS INTENT OF THIS SECTION THAT THE INDEMNITY PROVIDED TO THE CITY SHALL SURVIVE THE TERMINATION AND/OR EXPIRATION OF THIS AGREEMENT AND SHALL BE BROADLY INTERPRETED AT ALL TIMES TO PROVIDE THE MAXIMUM INDEMNIFICATION OF THE CITY PERMITTED BY LAW.

**ARTICLE V
INSURANCE**

5.1 The Contractor shall maintain, at its own cost and expense, such usual, customary, and appropriate insurance including workers compensation insurance protecting Contractor and City from all claims for damages to persons and to property which may arise from any operations under this Agreement, or any of its amendments. All policies other than workers compensation shall name the City as an additional insured include a blanket waiver of subrogation as to the City.

5.2 The failure of the Contractor at any time to provide the insurance required by Section 5.1 shall be considered a material breach of this Agreement for which the City shall be entitled to damages, including termination of the Agreement for uncured violations.

Commercial General Liability	Each Occurrence	\$2,000,000
	Damage to rented Premise	\$1,000,000
	Personal & Adv Injury	\$2,000,000
	General Aggregate	\$4,000,000
	Errors and Omission	\$1,000,000

**ARTICLE VI
MISCELLANEOUS**

6.1 Binding Agreement.

The terms and conditions of this Agreement shall be binding on and inure to the benefit of the City and Contractor. The City Manager or its designated agent shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the City of Leon Valley, Texas.

6.2 Mutual Assistance.

City and Contractor will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

6.3 Representations and Warranties.

The Parties mutually represent and warrant to each other that they have the requisite authority to enter into this Agreement. The Parties agree to be bound hereby in the manner exclusively provided herein.

6.4 Assignment.

Contractor shall not assign its rights, duties, or obligations under this Agreement without the prior approval of the City whose consent may be withheld for any reason.

6.5 Notice.

Any notice required or permitted to be delivered hereunder shall be deemed delivered by email provided by the contractor below, or actual delivery, facsimile with receipt confirmation, or by depositing the same in the United States Mail, postage prepaid and certified with return receipt requested, addressed to the Party at the address set forth below:

IF INTENDED FOR CITY:

City of Leon Valley
6400 El Verde Road
Leon Valley, Texas 78238
Attn: City Manager

WITH A REQUIRED COPY TO:

City Attorney’s Office
4201 W. Parmer Lane
Building C, Suite 150
Austin, Texas 78727
Attn: City Attorney

IF INTENDED FOR CONTRACTOR:

BB Inspection Services, LLC

Either Party may designate a different address at any time upon written notice to the other party.

6.6 Governing Law.

The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement shall be in Bexar County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

6.7 Amendment.

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

6.8 Legal Construction.

In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

6.9 Interpretation.

Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

6.10 Entire Agreement.

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement.

6.11 Recitals.

The recitals to this Agreement are incorporated herein as findings of fact.

6.12 Paragraph Headings.

The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

6.13 Counterparts.

This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

6.14 Exhibits.

Any Exhibits attached hereto are incorporated by reference for all purposes.

6.15 Appropriation.

The Leon Valley City Council (“Council”) has appropriated, set aside and encumbered, and does hereby appropriate, set aside, and encumber, available and otherwise unobligated funds of the City in an amount sufficient to fund and pay all financial obligations of the City pursuant to this Agreement.

6.16 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.

6.17 Opportunity for Cure.

Should Contractor default in the performance of this Agreement, same shall be considered an “Event of Default”. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have ten (10) calendar days after receipt of the written notice, in accordance with Section 6.5, to cure such default. If Contractor fails to cure the default within such ten (10) day cure period, City shall have the right, without further notice or adoption of an ordinance or resolution, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Contractor to complete the work required in this Agreement.

EXECUTED the _____ day of _____, 2023.

CITY OF LEON VALLEY, a Texas municipal corporation

By: _____
Crystal Caldera
City Manager

APPROVED AS TO FORM:

By: _____
Nicole Warren
City Attorney

BB INSPECTION SERVICES, LLC, a Texas limited liability corporation

By:

