

CONSTRUCTION AGREEMENT

THE STATE OF TEXAS

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KNOW ALL BY THESE PRESENTS:

COUNTY OF TRAVIS

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THIS CONSTRUCTION AGREEMENT (the “Agreement”) is made and entered into on this ____ day of May, 2025 (the “Effective Date”), by and between the **City of Manor, Texas**, a home-rule city and municipal corporation (hereinafter referred to as the “City”), and **DFW Holiday Kings** (hereinafter referred to as “Contractor”). The Contractor and the City may be at times referred to as the “Parties”.

NOW, THEREFORE, in consideration of the promises, mutual terms, conditions and covenants of this Agreement and the accompanying documents between Owner and Contractor and for and in consideration of payments as set forth therein, the receipt and sufficiency of which are hereby acknowledged, Contractor and the City, agree as follows:

1. **Scope of Services.** Contractor hereby agrees to commence and complete the following project as more specifically described in the Scope of Work attached hereto and incorporated herein as if fully set forth as **Exhibit “A”**, consisting of furnishing all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to construct and complete the project together with any and all extra work as described in the Scope of Work, and other drawings, maps, plans, specifications and printed or written explanatory matter thereof, all as approved by the City, all of which are made a part hereof, incorporated into this Agreement, and collectively evidence and constitute the entire Agreement (collectively, the “Scope of Work”).

2. **Controlling Document.** Should any term or condition that appears in the Scope of Work contradict or is not consistent with any term of this Agreement, the terms and conditions of this Agreement shall supersede and control over the terms and conditions in the Scope of Work. As a condition of this Agreement, Contractor understands and agrees the City is a municipal corporation of the State of Texas and is bound by certain statutory requirements and limitations when contracting for services. The terms of this Agreement are required to create a binding and legal agreement with the City.

3. **Term.** This Agreement shall be for a term beginning on the Effective Date and ending May 20, 2026, save and except annual internet services as indicated on the Scope of Work, if the parties agree to the additional service.

4. **Waiver.** Waiver of any breach of this Agreement shall not constitute waiver of any subsequent breach.

5. **Compensation.** In consideration for the services performed by Contractor, the City agrees to pay Contractor from available funds for satisfactory performance of this Agreement in the amounts and manner indicated on the Scope of Work, provided that the total amount for services under this Agreement shall not exceed Fifty Thousand and Seventy-Two Dollars and Forty-Six Cents (\$50,072.46), along with any additional amounts agreed upon by both parties included in the scope of work, subject to proper additions and deductions, and Owner agrees to make payments on account thereof as provided therein. Any increases in Compensation must be detailed in an amendment to this Agreement and are subject to the City’s budget reconciliation process. The City shall pay properly invoiced amounts for services performed within thirty (30) days of receipt of the invoice, except where the City has raised an objection to the invoice. Payment in full by the City to Contractor shall be made subject to Contractor submitting an affidavit that all bills have been paid in a form acceptable to the City.

6. Time is of the Essence. Contractor agrees that time is of the essence in this Agreement and for each calendar day of delay beyond the time established for completion of the work, the City may withhold from Contractor's compensation the sum of One Hundred Dollars (\$100.00) as stipulated damages for the delay.

7. WARRANTY AND DEGREE OF CARE. CONTRACTOR WARRANTS THAT ALL SERVICES PROVIDED BY CONTRACTOR SHALL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER IN ACCORDANCE WITH THE SPECIFICATIONS OF THIS AGREEMENT AND IN ACCORDANCE WITH THE DEGREE OF CARE AND SKILL ORDINARILY EXERCISED UNDER SIMILAR CIRCUMSTANCES BY COMPETENT CONTRACTORS IN TEXAS APPLICABLE TO THE TYPE OF SERVICES CONTEMPLATED HEREUNDER.

8. Non-Discrimination. Contractor hereby agrees to refrain from any activity in the performance of this Agreement that discriminates against any person or persons based upon race, color, creed, national origin, religion, sex, or communicable disease, in accordance with present federal and state laws.

9. Indemnification. Contractor shall indemnify, defend, and hold harmless the City and its officers, agents and employees against all claims, suits, demands, judgments, expenses, including attorney's fees, or other liability for personal injury, death, or damage to any person or property which arises in the performance of this Agreement. This indemnification provision, however, shall not apply to any claims, suits, damage, costs, losses, or expenses arising solely from the negligent or willful acts of the City; provided that for the purposes of the foregoing, the City's entering into this Agreement shall not be deemed to be a "negligent or willful act."

10. Independent Contractor. Contractor shall be fully responsible for its employees, including meeting all state and federal requirements for minimum wage, income tax withholding, workers' compensation, insurance, and all city, state, and federal requirements governing employer/employee relations. Contractor hereby certifies that it shall be and is in compliance with all such regulations, laws and requirements.

11. No Third-Party Benefit. Nothing herein expressed or implied is intended, or shall be construed, to confer upon or give to any person or entity, other than the parties, any right or remedy under or by reason of this Agreement.

12. Although drawn by the City, both Parties hereto expressly agree and assert that in the event of any dispute over its meaning or application, this Agreement shall be interpreted reasonably and fairly, and neither more strongly for nor against either party.

13. This Agreement is to be governed by and shall be construed in accordance with the laws of the State of Texas without regard to conflicts of law principles, thereof. Proper venue for any dispute or litigation shall be only in Travis County, Texas.

14. This Agreement and all rights and obligations contained herein may not be assigned by Contractor without the prior written approval of the City. However, Contractor shall have the right to employ such assistance as may be required for the performance of the project, including the use of subcontractors, which employment shall not be deemed an assignment of the Contractors' rights and duties hereunder.

15. Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

Notices to the City of Manor:
City of Manor
Attn: City Manager
105 E. Eggleston St.
Manor, TX 78653

Notices to Contractor:
DFW Holiday Kings
Attn: Sean Phoenix
807 Oak St
McKinney, Texas 75069

With a copy to:
The Knight Law Firm, LLP
Attn: Paige Saenz/Veronica Rivera
223 West Anderson Lane, Suite A-105
Austin, TX 78752

16. Entire Agreement. This Agreement and its exhibits contain the entire agreement between the parties with respect to the subject matter hereof and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

17. Compliance. Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to the City's ordinances and guidelines applicable to the services to be performed under this Agreement and good engineering practices.

18. This Contract may be executed in two or more counterparts, each of which will be deemed and original, but all of which together constitute one and the same instrument.

19. Verifications of Statutory Representations and Covenants. Contractor makes the following representations and covenants pursuant to Chapters 2252, 2271, 2274, and 2276, Texas Government Code, as heretofore amended (the "Government Code"), in entering into this Agreement. As used in such verifications, "affiliate" means an entity that controls, is controlled by, or is under common control with the Contractor within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit. Liability for breach of any such verification during the term of this Agreement shall survive until barred by the applicable statute of limitations, and shall not be liquidated or otherwise limited by any provision of this Agreement, notwithstanding anything in this Agreement to the contrary.

(a) Not a Sanctioned Company. Contractor represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Government Code. The foregoing representation excludes the Contractor and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization.

(b) No Boycott of Israel. Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and will not boycott Israel during the term of this Agreement. As used in the foregoing verification, "boycott Israel" has the meaning provided in Section 2271.001, Government Code.

(c) No Discrimination Against Firearm Entities. Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the

meaning provided in Section 2274.001(3), Government Code.

(d) No Boycott of Energy Companies. Contractor hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 2276.001(1), Government Code.

20. Form 1295. Texas law and the City requires that business entities, as defined in Texas Government Code, Section 2252.908, who contract with the City complete the on-line of Form 1295 "Certificate of Interested Parties" as promulgated by the Texas Ethics Commission (<https://www.ethics.state.tx.us/filinginfo/1295/>). Form 1295 is also required for any and all contract amendments, extensions or renewals. Prior to any payment to Contractor hereunder, Contractor shall provide proof of submission to the City Secretary that the appropriate Form 1295 documentation has been submitted.

21. Contractor represents and warrants that Contractor is registered to conduct business in the State of Texas and the individual executing this Agreement is authorized to bind the Contractor to his Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in duplicate originals and effective as of the Effective Date as it appears above.

CITY:
THE CITY OF MANOR, TEXAS

CONTRACTOR:
DFW Holiday Kings

Scott Moore, City Manager

By: _____

Name: _____

Title: _____

ATTEST:

Lluvia T. Almaraz, TMRC
City Secretary

Exhibit “A”
Scope of Work
(SEE ATTACHED)