

RICK HANNA, CBO - SERVICE AGREEMENT

1. **PARTIES:** This Base Agreement (Agreement) is between Rick Hanna, CBO (Contractor) and the City of Montgomery, Texas (Client).
2. **WORK:** The visual building inspection and/or plan review services to be supplied by Contractor at the request of the Client from and after the date of this Agreement. This Agreement shall be effective from the date hereof and shall continue until terminated by either party upon **ninety (90) days** written notice to the other; provided, however, that Contractor's obligations shall survive termination with respect to all Work supplied by or through Contractor prior to termination. The agreement is effective for one calendar year and shall automatically renew with the fees listed unless renegotiated beginning **ninety (90) days prior to the end of the agreement**. **Contractor agrees to provide the City of Montgomery with specific scope services with related fees as outlined in the addendum(s) to this service agreement.**
3. **PAYMENTS:** Contractor will submit invoices bi-monthly to the City of Montgomery for work performed. Invoices will include the date of service, job address, description of service and contracted price for services rendered. The Contractor will not be required to submit separate invoices for each individual service and/or job address. Contractor agrees to honor all bid prices submitted to City of Montgomery from the date of each subject bid through completion of the work. It is agreed that City of Montgomery shall be responsible for payment of invoices from the Contractor. There shall be no exceptions to this requirement. **Provided all requirements in this agreement have been met, payment will be made by the City of Montgomery to the Contractor within fifteen (15) days of receipt of invoice.** The City of Montgomery assures full and prompt payment of all sums due to Contractor pursuant to this Agreement. Delinquent invoices after thirty (30) days will accrue interest at a rate of 15% or the maximum amount permitted by law without regard to any client payments received.
4. **INDEPENDENT CONTRACTOR:** Contractor certifies that Contractor is an "independent contractor" and not an employee of City of Montgomery and as such, certifies that Contractor is solely responsible for all applicable taxes and charges including, but not limited to, withholding taxes, social security taxes and unemployment taxes on Contractor and Contractor's staff. Contractor certifies that, as an independent contractor, Contractor is not under the direction and control of City of Montgomery and certifies that Contractor may be employed by or contract with other companies/municipalities. Contractor certifies that Contractor uses its own vehicles, tools, computers and devices, office supplies, forms, telephone, internet services, and offices at the business address shown below and there has never been, nor will there be, during the term of this Agreement, an employer/employee relationship with City of Montgomery. Contractor certifies that this Agreement went into effect from the date of first performance as a Contractor for City of Montgomery (September 2004). Contractor may engage and supervise additional inspectors (certified by the International Code Council and state licensed as required) and additional office staff as needed to accomplish his duties as his expense.
5. **CONTRACTOR LICENSED SOFTWARE:** Contractor is the licensed owner of the Meritage Systems CommunityCore Solutions and all related "web-based and mobile tools software" utilized by the City of Montgomery. Use of the software by the City of Montgomery is permissible while under the terms of this Agreement with the Contractor. The City of Montgomery may only use the software during the term of this Agreement. Upon termination the City of Montgomery should cease use of the software other than during the 90-day period where Rick Hanna, CBO will allow the City of Montgomery to download and/or print information from the system. No process will be allowed that alters the documentation.

6. CONTRACT DOCUMENTS:

A. **CONTRACT DOCUMENTS** - This Agreement, together with any and all relevant addendums shall constitute the entire Contract Documents (Contract Documents) and there are no other agreements, oral or written, by and between the parties hereto, except as to Contractor's warranties under any prior or contemporaneous agreement with City of Montgomery which warranties are incorporated by reference herein for all purposes.

7. LICENSES AND CERTIFICATIONS: Contractor shall secure and pay for all licenses and certifications necessary for proper completion of the Work. Additionally, Contractor is responsible for all education and reference materials as may be required for such licenses and certifications.

8. COMPLIANCE WITH LAWS, ORDINANCES AND BUILDING CODES: All parties shall comply with all current applicable laws, ordinances, building codes and all rules, regulations, or orders of all public or regulatory authorities.

9. WARRANTY DISCLAIMER: Nothing in this Agreement shall be construed as a warranty expressed or implied by either Party.

10. INSURANCE:

A. **INSURANCE REQUIREMENTS** - Before commencing the Work as contemplated herein, Contractor shall procure and maintain at his sole cost and expense minimum insurance coverages from insurance companies satisfactory to City of Montgomery. Contractor shall, prior to the commencement of the Work hereunder, furnish City of Montgomery with satisfactory Certificates of Insurance naming the City of Montgomery as an additional insured and providing that no cancellation or other material change in the terms of the policy may be made without thirty (30) days prior written notice to City of Montgomery. City of Montgomery's receipt of satisfactory insurance certificates complying with the above requirements shall be a prerequisite to payment under this Agreement or any invoice.

11. NOTICES: To the extent not otherwise required by law, notices must be in writing and must be delivered by personal delivery, by certified mail return receipt requested, or by facsimile to the location for each party designated below.

Contractor: Rick Hanna, CBO
231 Tall Timbers Ln.
Huntsville, TX 77340
Phone: 888-479-1112
Fax: 888-479-1112
Electronic Mail: rhanna@rickhanna.com

City of Montgomery
101 Old Plantersville Rd.
Montgomery, TX 77316
Phone: 936-597-6434
Fax:
Electronic Mail:

Either party may change the location for notice upon written notice, delivered as described above.

12. ALTERNATIVE DISPUTE RESOLUTION: The parties to this Agreement specifically agree that the transactions contemplated herein involve interstate commerce.

A. **MEDIATION OR ARBITRATION:** Contractor agrees to and shall participate in any mediation or arbitration between the Client and any customer of the City of Montgomery if requested by the Client. The contractor shall be paid \$350 per hour of participation. Directly related expenses will be billed at cost. Rick Hanna, CBO nor any agents of Rick Hanna, CBO can warrant or guarantee the outcome of any matter.

B. **MEDIATION OR ARBITRATION BETWEEN CITY OF MONTGOMERY AND CONTRACTOR** - Contractor agrees that any dispute between City of Montgomery and Contractor (whether contract, warranty, tort, statutory, or otherwise) shall first be submitted to mediation and, if not settled during mediation, shall be submitted to binding arbitration as provided by the Federal Arbitration Act (9 U.S.C. §§ 1 et. seq.) or, if applicable, by similar state statute, and not by or in a court of law. All decisions respecting the arbitrability of any dispute

shall be decided by the arbitrator. The arbitrator shall have the right to award reasonable attorneys' fees and expenses, including those incurred in mediation and arbitration. The parties agree to work together in good faith to select a mediator and, if all disputes are not resolved by mediation, an arbitrator in the county where the subject property is located. If the parties are unable to agree on the appointment of a mediator and/or arbitrator, then the mediation or arbitration, or both, shall be conducted by the American Arbitration Association ("AAA") in accordance with its applicable rules and procedures provided, however, if there is any conflict between this Agreement and such rules or procedures, the provisions of this Agreement shall control. If for any reason the AAA is unable or unwilling to conduct the mediation or the binding arbitration, or both, either party may petition a court of general jurisdiction in the subject county to appoint a mediator or arbitrator, or both.

C. **ARBITRATION** - In any arbitration proceeding involving the parties:

- 1) All applicable Federal and State law shall apply;
- 2) All applicable claims, causes of action, remedies and defenses that would be available in court shall apply;
- 3) The proceeding shall be conducted by a single arbitrator selected by a process designed to ensure the neutrality of the arbitrator;
- 4) The parties shall be entitled to conduct reasonable and necessary discovery;
- 5) The arbitrator shall render a written award and, if requested by any party, a reasoned award;
- 6) Any award rendered in the proceeding shall be final and binding and judgment upon any such award may be entered in any court having jurisdiction.
- 7) The prevailing party shall be entitled to attorney's fees and costs as well as costs and expenses reasonably incurred.

D. **SURVIVAL** – Contractor and City of Montgomery agree – that notwithstanding anything to the contrary contained herein, the rights and obligations set forth in the mediation/arbitration provisions set forth above shall survive (1) the termination of this Agreement by either party; or (2) the breach of this Agreement by either party. The waiver or invalidity of any portion of the mediation/arbitration provisions set forth above shall not affect the validity or enforceability of the remaining portions of those provisions and/or this Agreement. City of Montgomery and Contractor further agree (1) that any dispute involving the directors, officers, employees and agents of either City of Montgomery or Contractor shall be resolved as set forth herein and not in a court of law; and (2) that City of Montgomery shall have the option to include Contractor as a party in any mediation and arbitration between City of Montgomery and any customer or client of City of Montgomery and, if City of Montgomery does opt to include Contractor in such mediation and arbitration, Contractor shall fully participate therein pursuant to the terms set forth above. If any party to this Agreement files a proceeding in any court to resolve any controversy, dispute or claim, such action shall not constitute a waiver of the right of such party or a bar to the right of any other party to seek arbitration of that or any other claim, dispute or controversy, and the court shall, upon motion of any party to the proceeding, direct that such controversy, dispute or claim be arbitrated in accordance with this Agreement.

13. FORCE MAJEURE: Any delay or nonperformance of any provision of this agreement by either party (other than payments) which is caused by events beyond the reasonable control of either party or by Acts of God, shall not constitute a breach and the time for performing shall be extended for a period equal to the duration of the event prevent performance.

14. INVALIDITY: It is understood and agreed by the parties hereto that if any of the clauses or provisions of this Agreement shall contravene or be invalid under the laws of the State of Texas, such contravention of invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular clause or provision held to be invalid, and the rights and obligations of Contractor and City of Montgomery shall be construed and enforced accordingly.

- 15. GENDER:** The "Contractor" and words "City of Montgomery," include singular or plural, individual, partnership or corporation, and the respective heirs, executors, administrators, successors, and assigns of City of Montgomery, Contractor and subcontractors, as the case may be. The use of any gender applies to all genders. If more than one party is named as Contractor, the obligation hereunder of each such party is joint and several.
- 16. BINDING AGREEMENT:** The Contract Documents are complimentary, and what is called for by anyone shall be binding as if called for by all. This Agreement shall remain in full force and effect from the execution date and until terminated in writing. This Agreement and the terms and covenants herein contained shall apply to and be binding upon the parties hereto, their heirs, successors and assigns. None of the rights, interests or obligations created by this Agreement may be assigned, transferred, or delegated in whole or in part by the parties hereto, and any such purported assignment transfer or delegation shall be void.
- 17. ASSIGNMENT:** Contractor shall not assign this Agreement or any payments due or to become due hereunder without the prior written consent of City of Montgomery.
- 18. ENTIRE AGREEMENT:** This Agreement contains the entire agreement among the parties, and no oral statements or prior written matters not specifically incorporated herein shall be of any force and effect. No variation, modification or changes hereof shall be binding on either party hereto unless set forth in a document executed by all the parties hereto. If there is a conflict between this Agreement and any terms contained in any proposal, invoice or other agreement between City of Montgomery and Contractor, the terms of this Agreement shall control.
- 19. TIME OF THE ESSENCE:** Time is of the essence in the performance of Contractor's obligations hereunder.
- 20. GOVERNING LAWS:** The laws of the State of Texas shall govern the validity, enforcement and interpretation of this Agreement. The obligations of the parties are performable in **Montgomery** County, Texas and the parties hereto consent to such venue for purposes of any action arising out of this Agreement. The parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

Effective as of September 1, 2022.

Contractor: Rick Hanna, CBO

City of Montgomery

By: _____

By: _____

Printed name: Rickey E. Hanna

Printed name: Byron Sanford

Title: Sole Proprietor

Title: Mayor

231 Tall Timbers Ln.

Huntsville, TX 77340

Phone: 888-479-1112

Fax: 888-479-1112

Electronic Mail: rhanna@rickhanna.com

101 Old Plantersville Rd.

Montgomery, TX 77316

Phone: 936-597-6434

Fax:

Electronic Mail:

Addendum "A"
Specific Scope of Service and Fees
September 1, 2022

Contractor agrees to provide services to the City of Montgomery as follows:

- (a) Serve as Building Inspector and Plumbing Inspector for construction, remodeling, and renovation of certain structures submitted to the City in accordance with the City Ordinances and building codes
- (b) Serve as Plan Reviewer and perform commercial and residential plan reviews with reports as requested, submitted to the City in accordance with the City Ordinances and building codes.
- (c) Report to Building Official, Director of Planning & Development or other city staff as assigned.
- (d) Advise the City Council of new and/or relevant state and federal regulations concerning building codes.
- (e) Work with the City of Montgomery regarding notifications of Code violations and participate in required hearings as needed.
- (f) Prepare Reports to the City Council as requested.

City of Montgomery shall designate a staff member to serve as Permit Technician to receipt all permit fees and enter permits in the CommunityCore system. Rick Hanna, CBO shall not be responsible for negotiating nor collecting fees. The City will be provided with up to three (3) sign-in accounts for the CommunityCore system for an annual fee of \$No charge during current contract year.

Inspector shall be paid from inspection fees and other fees collected by the City of Montgomery in accordance with the fee schedule below:

Structural Inspections (Foundation Make-up; Framing Rough; Energy Code Rough; Final Building and similar inspections as covered by Building Permit) - \$100 each up to 5,000sf covered area and \$20 for each additional 1,000sf covered area.

Mechanical, Electric, Plumbing and Irrigation Inspections (Ground; Rough; Top-Out; Final and similar inspections as covered by Trade Permits) - \$50 each up to 5,000sf covered area and \$10 for each additional 1,000sf covered area

Inspection requests with less than 24-hour notice – The deadline for requests for the following business day shall be received by Contractor by Noon. Inspection fee is Doubled for short request (based on availability & scheduling).

Change of Occupancy Inspection - \$50 each trip.

Non-Permit Inspection / Stop Work Notice - \$150 each trip.

Evaluations, Meeting Attendance, Special Requests - \$200 first hour and \$50 for each additional quarter hour on site and \$100 per hour for report preparation unless otherwise agreed upon by all parties.

Plan Reviews – 75% of the Plan Review Fee (one-half of Building Permit Fee) collected by City or as may be individually negotiated.

Permit Entry in Community Core – one-half of Base Fee (standard is \$50) (based on availability & scheduling).

CommunityCore and/or Permit Technician Training - \$50 per hour (based on availability & scheduling).