

STATE OF TEXAS §
 § **AGREEMENT FOR PROFESSIONAL SERVICES**
COUNTY OF DALLAS §

This Agreement for Professional Services (“Agreement”) is made by and between the City of Farmers Branch, Texas (“City”) and **Lockwood, Andrews & Newnam, Inc.** corporation licensed in Texas (“Professional” or “LAN”) (each a “Party” and collectively the “Parties”), acting by and through their authorized representatives.

RECITALS:

WHEREAS, City desires to engage the services of Professional as an independent contractor/consultant, and not as an employee, to provide a physical assessment of twenty-one (21) separate facilities located throughout the City of Farmers Branch furthermore described in Exhibit “A”, Facility Condition Assessment Proposal Details and Exhibit “B”, the List of Facilities (the “Scope of Services”) (the “Project”) on the terms and conditions set forth in this Agreement; and

WHEREAS, Professional desires to render services for City on the terms and conditions set forth in this Agreement.

NOW THEREFORE, in exchange for the mutual covenants set forth herein, and other valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

Article I
Term

1.1 This Agreement shall commence on the last date of execution hereof (“Effective Date”) and continue until Professional completes the services and City has accepted the same, unless sooner terminated as provided herein.

Article II
Scope of Service

2.1 Upon written notice to proceed by City, Professional agrees to provide to City the Project services as set forth in the Scope of Services and incorporated herein by reference. Professional shall not be entitled to any claim for extra services, additional services or changes in the services without a written agreement with City prior to the performance of such services.

2.2 The Professional shall perform the services: (i) with the professional skill and care ordinarily provided by competent architects or engineers, as the case may be, practicing in the same or similar locality and under the same or similar circumstances and professional license; and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect or engineer, as the case may be.

2.3 The Parties acknowledge and agree that any and all opinions provided by Professional in connection with the Scope of Services represent the professional judgment of Professional, in accordance with the professional standard of care applicable by law to the services performed hereunder.

2.4 Upon payment of all amounts due Professional hereunder, all materials and reports prepared by Professional in connection with this Agreement shall become the property of City. City shall have the right to publish, disclose, distribute, and otherwise use such materials and reports only for those purposes for which they were intended. Subject to the foregoing, Professional shall upon completion of the services, or earlier termination, provide City with reproductions of all drawings, materials, specification, reports, maps, and exhibits prepared by Professional pursuant to the Scope of Services.

Article III Schedule of Work

3.1 Professional agrees to complete the required services in accordance with the Project Schedule outlined in the Scope of Services.

Article IV Compensation and Method of Payment

4.1 Professional will be compensated in an amount not to exceed One Hundred Fifty Thousand Dollars and No/100 (\$150,000.00), as set forth in the Scope of Services.

4.2 Payments shall be billed and paid monthly based on an estimated percentage of the Project's completeness. Progress payment amount totals may, and likely will, vary from month-to-month. If an invoice is not paid within 30 days of issue, interest will be charged on the principal balance shown on the invoice. Interest will be calculated pursuant to Texas Government Code Chapter 2251.

4.3 Unless otherwise provided in the Scope of Services, Professional 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 Devotion of Time; Personnel; and Equipment

5.1 Professional shall devote such time as reasonably necessary for the satisfactory performance of the services under this Agreement. Should City require additional services not included under this Agreement, Professional shall make reasonable effort to provide such additional services within the time schedule without decreasing the effectiveness of the performance of services required under this Agreement and shall be compensated for such additional services on a pre-approved lump sum basis, or as otherwise agreed between the Parties.

5.2 To the extent reasonably necessary for Professional to perform the services under this Agreement, Professional shall be authorized to engage the services of any agents, assistants, persons, or corporations that Professional may deem proper to aid or assist in the performance of the services under this Agreement. Professional shall provide written notice to and approval from City prior to engaging services not referenced in the Scope of Services. The cost of such personnel and assistance shall be included as part of the total compensation to be paid Professional hereunder and shall not otherwise be reimbursed by City unless provided differently herein.

5.3 Professional shall furnish the facilities, equipment, and personnel necessary to perform the services required under this Agreement unless otherwise provided herein.

5.4 Professional shall submit monthly progress reports and attend progress meetings as may be required by City from time to time based upon Project demands. Each progress report shall detail the work accomplished and special problems or delays experienced on the Project during the previous report period, and the planned work activities and special problems or delays anticipated for the next report period.

Article VI

Default; Force Majeure

6.1 Default; Notice to Cure. A party shall be deemed in default under this Agreement if the party is in breach of a material provision of this Agreement and said breach is not cured within fifteen (15) days written notice of default by the other party. In the event the breaching party has notified the other party in writing that it is diligently working to cure the breach and has provided reasonable written evidence in support of the same, the breaching party shall not be deemed in default until the thirtieth (30th) day following the non-breaching party's notice of default.

6.2 Default by Professional. In addition to default under Section 6.1 above, the Professional shall be in default under this Agreement if the Professional fails to comply or becomes disabled and unable to comply with the provisions of this Agreement related to the Professional's performance of the services, including the quality or character of the services or time of performance for any material component of the services. If such default is not corrected within ten (10) days from the date of City's written notice to the Professional regarding the same, City may, at its sole discretion without prejudice to any other right or remedy:

Terminate this Agreement and be relieved of the payment of any further consideration to Professional except for all services 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 Professional to and from meetings called by City at which Professional is required to attend, but shall not include any loss of profit of Professional or other consequential damages. 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 re-subletting to others; or

City may, without terminating this Agreement or taking over the services, furnish the necessary labor, materials, equipment, supplies and/or assistance necessary to remedy the situation, at the expense of the Professional.

6.3 Force Majeure. To the extent either party of this Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, or a government restriction, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party's control and not attributable to its malfeasance, neglect or nonfeasance (each an event of "Force Majeure"), the time for performance of such obligation (other than a payment obligation) may be extended for a period equal to the time lost by reason such event, provided, that the party complies with the provisions of this section. Specifically, the party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating: (1) how and why their performance was so prevented, (2) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (3) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this Agreement as soon as reasonably practicable. A failure to timely provide the foregoing notice shall be a waiver of any claim for Force Majeure.

Article VII

Termination; Suspension

7.1 Termination Upon Default. In the event that either party believes the other party has committed a material breach of this Agreement or is otherwise in default of its obligations herein, the notifying party shall provide written notice to the defaulting party specifying the nature of the alleged default. The defaulting party shall have thirty (30) days from receipt of such notice to cure the alleged default. If, after 30 days, the defaulting party fails to cure the default, then the notifying party may terminate this Agreement for default.

7.2 Termination by Convenience. Notwithstanding any other provision of this Agreement, either party may terminate this Agreement at any time for convenience upon thirty (30) days written notice. In the event of City termination for convenience, the Professional shall receive full compensation for all work completed at the time of the termination plus any reasonable costs borne by the Professional as a result of early termination.

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

Article VIII Miscellaneous

8.1 Promotional Use of Project. Professional may take video or photographs of the Project, as well as use such photos, City logo/service mark, and identify and name the Project and City for the purposes of external marketing, promotional media, or submission of the Project to award programs. Professional shall not include confidential or proprietary information to the extent the City has previously advised in writing specific information or areas are considered such. City may revoke this right at any time upon written notice. This section shall survive termination.

8.2 Reliance on City-Provided Information. Unless explicitly stated otherwise in this agreement, Professional may rely upon the documents, measurements, data, and other information provided by the City in performing Professional's services.

8.3 Intellectual Property.

- (a) "Intellectual Property" as used in this Agreement shall mean any and all copyrightable works, copyrighted works, patentable inventions, patented inventions, trademarks, service marks, trade secret, know-how, or other proprietary information.
- (b) "Work Product" as used in this Agreement shall mean any and all work created by Professional in performing its services under this Agreement including, without limitation, any renderings, drawings, plans, calculations, models, data, and/or documents, whether in electronic format or hard copies.
- (c) "Deliverable" as used in this Agreement shall mean a Work Product required to be delivered to City under the Agreement and actually delivered to City by Professional.
- (d) City shall own all Deliverables delivered to City by Professional.
- (e) Professional shall own any and all Intellectual Property rights in or made a part of any Work Product and/or Deliverable. Upon City's final and full payment of all fees under the Agreement, and provided there is no dispute between City and Professional related to the Agreement or the services provided by Professional under the Agreement, Professional shall grant City an irrevocable, royalty-free, world-wide license to use the Intellectual Property in any Work Product and/or Deliverable for the sole purpose for which the Intellectual Property was created and on the specific project that is the subject of the Agreement.
- (f) City shall not use the Intellectual Property in any Work Product or Deliverable for any unlicensed purpose without the prior written consent of Professional.

8.4 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.

8.5 Assignment. Professional may not assign this Agreement without the prior written consent of City. In the event of an assignment by Professional 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.

8.6 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.

8.7 Governing Law. The laws of the State of Texas shall govern this Agreement without regard to any conflict of law rules; and venue for any action concerning this Agreement shall be in the State District Court of Dallas County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

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

8.9 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.

8.10 Independent Contractor. It is understood and agreed by and between the Parties that Professional, in satisfying the conditions of this Agreement, is acting independently, and that City assumes no responsibility or liabilities to any third party in connection with these actions. All services to be performed by Professional pursuant to this Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of City. Professional 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.

8.11 Notice. All notices required by this Agreement shall be in writing and addressed to the parties at the addresses set forth on the signature page(s) of this Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this section). All notices shall be delivered by (a) personal delivery, (b) certified or registered mail (in each case, return receipt requested, postage prepaid), (c) nationally recognized overnight courier (with all fees pre-paid), or (d) email of a pdf document containing the required notice. Such notice or document shall be deemed to be delivered or given, whether actually received or not, (i) when received if delivered or given in person, (ii) if sent by United States mail, three (3) business days after being deposited in the United States mail as set forth above, (iii) on the next business day after the day the notice or document is provided to a nationally recognized carrier to be delivered as set forth above, or (iv) if sent by email, the next business day. A confirmation of delivery report that reflects the time that the email was delivered to the recipient's last notified email address is prima facie evidence of its receipt by the recipient, unless the sender receives a delivery failure notification indicating that the email has not been delivered to the recipient.

8.12 Insurance.

- (a) Professional shall during the term hereof maintain in full force and effect the following insurance: (i) commercial general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to Professional's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$3,000,000.00 per occurrence for injury to persons (including death), and for property damage and \$5,000,000.00 in the aggregate; (ii) a policy of automobile liability insurance covering any vehicles owned and/or operated by Professional, 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; (iii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of Professional's employees involved in the provision of services under this Agreement with policy limit of not less than \$500,000.00; and (iv) Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limit of not less than \$2,000,000.00 per claim and \$2,000,000.00 in the aggregate.
- (b) All insurance shall be endorsed to provide 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 and Professional Liability; (2) 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, except for Professional Liability Insurance. A specific endorsement needs to be added to all policies, with a copy of the endorsement provided to the City that indicates the insurance company will provide to the City at least a thirty (30) day prior written notice for cancellation, non-renewal, and/or material changes of the policy. In the event the companies providing the required insurance are prohibited by law to provide any such specific endorsements, Professional shall provide at least thirty (30) days' prior written notice to the City of any cancellation, non-renewal and/or material changes to any of the policies of insurance.
- (c) 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. All policies must be written on a primary basis, non- contributory with any other insurance coverage and/or self-insurance maintained by the City.
- (d) A certificate of insurance and copies of the policy endorsements evidencing the required insurance shall be submitted to the City prior to commencement of services. On every date of renewal of the requires insurance policies, Professional shall cause a certificate of insurance and policy endorsements to be issues evidencing the requires insurance herein and delivered to the City. In addition, the Professional shall within ten (10) business days after written request provide the City with certificates of insurance and policy endorsements for the insurance required herein.

8.13 Indemnification. PROFESSIONAL DOES HEREBY AGREE, COVENANT AND CONTRACT TO WAIVE ANY AND ALL CLAIMS, RELEASE, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS CITY COUNCIL, OFFICERS, EMPLOYEES, FROM AND AGAINST ALL LIABILITY, CAUSES OF ACTION, CITATIONS, CLAIMS, COSTS, DAMAGES, DEMANDS, EXPENSES, FINES, JUDGMENTS, LOSSES, PENALTIES OR SUITS, TO THE EXTENT CAUSED BY THE NEGLIGENCE, INTENTIONAL CONDUCT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE PROFESSIONAL, ITS AGENT, ITS CONSULTANT UNDER CONTRACT, OR ANY OTHER ENTITY OVER WHICH THE PROFESSIONAL EXERCISES CONTROL SUBJECT TO THE LIMITATIONS IN TEXAS LOCAL GOVERNMENT CODE §271.904 AND TEXAS CIVIL PRACTICE AND REMEDIES CODE §130.002(B). INDEMNIFIED ITEMS SHALL INCLUDE REASONABLE ATTORNEYS' FEES AND COSTS, COURT COSTS, AND SETTLEMENT COSTS IN PROPORTION TO THE PROFESSIONAL'S LIABILITY. THE PROFESSIONAL'S OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY PROFESSIONAL UNDER THIS AGREEMENT. THIS PROVISION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

8.14 Notice of Claim. Professional shall promptly advise City in writing of any claim or demand against City, related to or arising out of Professional's acts or omissions under this Agreement and shall see to the investigation of such claims or demand at Professional's sole cost and expense; provided, that City, at its option and at its own expense, may participate in such investigation without relieving Professional of any of its obligations hereunder. Professional's obligations under this section shall not be limited to the limits of coverage of insurance maintained or required to be maintained under this Agreement.

8.15 Counterparts. This Agreement may be executed by the Parties 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 Parties.

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

8.17 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.

8.18 Prohibition of Boycott Israel and Energy Companies; Prohibition of Discrimination against Firearm Entities and Firearm Trade Associations.

- (a) Professional verifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended.

- (b) Professional verifies that it does not Boycott Israel 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) Professional 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 Professional is a sole proprietor, a non-profit entity, or a governmental entity; and only applies if: (i) Professional has ten (10) or more full-time employees and (ii) this Agreement has a value of \$100,000.00 or more to be paid under the terms of this Agreement.

8.19 No Waivers. A party's failure to insist on strict performance of this Agreement or to exercise any right or remedy upon breach of this Agreement will not constitute a waiver of the performance, right, or remedy. A party's waiver of the other party's breach of any provision in this Agreement will not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provision. A waiver is binding only if set forth in a writing signed by the waiving party.

8.20 Immunities. Nothing in this Agreement shall be deemed to waive any immunity, sovereign, governmental, official, qualified or otherwise, from liability or suit, which the City may have or assert, except as may be provided by law, all such immunities being hereby expressly retained.

8.21 Time is of the Essence. Time is of the essence with respect to the performance by the parties of their respective obligations hereunder.

SIGNED AND AGREED this _____ day of _____, 2026.

For City:

For Professional:

CITY OF FARMERS BRANCH, TEXAS

LOCKWOOD, ANDREWS & NEWNAM, INC.

By: _____
Ben Williamson
City Manager

By: _____
Jeff Thomas, P.E.
Vice President

Date:

Date: 19 December 2025

Notice Address:
City of Farmers Branch

Notice Address:
LOCKWOOD, ANDREWS & NEWNAM, INC..

Attn: City Manager
13000 William Dodson Parkway
Farmers Branch, Texas 75234
Benjamin.williamson@farmersbranchtx.gov

Attn: Jeff Thomas, Vice President
8350 N. Central Expressway, Suite 300
Dallas, Texas 75206-1631
JRThomas@lan-inc.com

APPROVED AS TO FORM:

David M. Berman, City Attorney