

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement"), effective as of the 1st day of February 2023 ("Effective Date"), by and between the City of Mansfield, Texas ("CLIENT") and VIESTE, LLC, an Indiana Limited Liability Company, ("PROGRAM MANAGER"), with offices at 27299 Riverview Center Boulevard, Suite 200, Bonita Springs, FL 34134.

WITNESSETH

WHEREAS, CLIENT has chosen to undertake one or more projects that require additional staff support to execute as further described in Exhibit B, attached hereto and incorporated herein by reference ("PROJECT"); and

WHEREAS, CLIENT does not have staff expertise or availability to execute the PROJECT and prefers not to hire such staff; and

WHEREAS, CLIENT desires instead to retain PROGRAM MANAGER as its exclusive program manager and extension of staff to provide program management, project controls, financing, program, and capital program oversight services as described in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, CLIENT desires to engage PROGRAM MANAGER in this initial phase of the PROJECT programing and financial planning. At the completion of this initial phase CLIENT and PROGRAM MANAGER will evaluate the plan and determine scope and schedule of any future phases; and

WHEREAS, PROGRAM MANAGER and its affiliates constitute an organization of professional personnel who are experienced and fully qualified to perform the various functions with respect to the project management of the PROJECT; and

WHEREAS, CLIENT desires to engage PROGRAM MANAGER to provide the professional expertise required by it with respect to project management of the PROJECT, and PROGRAM MANAGER desires to be so engaged by CLIENT for this purpose.

NOW, THEREFORE, in consideration of the premises aforesaid and of the mutual covenants and undertakings hereinafter provided, the parties hereto agree as follows:

I. SERVICES

PROGRAM MANAGER will represent CLIENT and assist CLIENT in the development of the PROJECT with tasks described on the scope of services in **Exhibit A** ("Services"). The scope of services may be adjusted from time to time with mutual consent of CLIENT and PROGRAM MANAGER. Specifically required services will be addressed by this Agreement and an addenda to it that may be agreed by the parties.

II. PROJECT

The PROJECT being contemplated under this Agreement is identified and described on **Exhibit B** and may contain multiple task projects as directed by CLIENT.

III. PROGRAM MANAGER'S RESPONSIBILITIES

PROGRAM MANAGER shall, subject to the terms and provisions of this Agreement:

- Appoint one or more individuals who shall be authorized to act on behalf of PROGRAM MANAGER and with whom CLIENT may consult at all reasonable times and whose instructions, requests, and decisions will be binding upon PROGRAM MANAGER as to all matters pertaining to this Agreement and the performance of the parties hereunder.
- Use all reasonable efforts to complete the Services within the time period mutually agreed upon, except for reasons beyond its control.
- Perform the Services in accordance with generally accepted standards in existence at the time of performance of Services.

IV. CLIENT'S RESPONSIBILITIES

CLIENT shall at such times as may be required for the successful and expeditious completion of the Services:

- Provide all criteria and information as to CLIENT's requirements and designate a person with authority to act on CLIENT's behalf on all matters concerning the Services.
- Furnish the PROGRAM MANAGER all existing studies, reports, and other available data pertaining to the Services and obtain additional reports, data, and services as may be required for the PROJECT. PROGRAM MANAGER may be entitled to reasonably rely upon all such information, data, and the results of such other services in performing the Services hereunder.
- Engage any and all third-party professional resources required to advance the PROJECT.
- Provide all required capital resources to fund fees, expenses, and costs related to the advancement of the PROJECT.

V. COMPENSATION AND TERMS OF PAYMENT

The terms of compensation and payment are as follows:

- CLIENT will pay PROGRAM MANAGER a Program Management Fee payable monthly pursuant to the Fee Schedule as depicted in **Exhibit C**, incorporated herein by reference. All invoices will be due and payable on or before the 10th of each month for the prior months' work.
- Reimbursable Expenses will be billed monthly at the actual expense in addition to the Program Management Fee. Expenses will include, but not be limited to, travel, entertainment, document delivery, technology expenses directly related to the Services rendered under this Agreement. No Expenses will be incurred or billed without prior consent from CLIENT.

VI. TERMINATION

- A. The term of this Agreement shall be six (6) months from the Effective Date.
- B. Either party may terminate this Agreement upon written notice to the other party at least sixty (60) days prior to the date of termination. Upon receipt of such notice, PROGRAM MANAGER shall immediately discontinue all services and work in connection with the performance of this Agreement and shall proceed to cancel promptly all existing contracts and orders insofar as they relate to this Agreement.
- C. In the event of termination, PROGRAM MANAGER shall deliver to CLIENT all finished or unfinished documents, data, studies, surveys, drawings, maps, models, reports, photographs, etc., prepared by PROGRAM MANAGER under this Agreement.
- D. PROGRAM MANAGER shall be compensated for services performed and expenses incurred for satisfactory work up to the termination date. PROGRAM MANAGER shall receive a portion of fees and expenses permitted under this Agreement in direct proportion to percentage of work actually completed up to the termination date.

VII INDEMNITY

PROGRAM MANAGER does hereby covenant and agree to release, indemnify and hold harmless CLIENT and its officials, officers, agents, representatives, employees, and invitees from and against any and all liability, claims, suits, demands and/or causes of action, (including, but not limited to, attorney's fees and cost of litigation), which may arise by reason of death or injury to property or persons but only to the extent occasioned by any error, omission or negligent act of PROGRAM MANAGER, its officials, officers, agents, employees, invitees or other persons for whom PROGRAM MANAGER is legally liable with regard to the performance of this Agreement, and PROGRAM MANAGER will, at its own cost and expense, defend and protect CLIENT against any and all such claims and demands.

VIII. INSURANCE

PROGRAM MANAGER shall maintain throughout the period of the PROJECT, a standard form of errors and omissions insurance with an insurance company satisfactory to CLIENT. PROGRAM MANAGER shall also maintain insurance coverage for commercial general liability, automobile liability, and workers' compensation in forms and amounts satisfactory to CLIENT. PROGRAM MANAGER shall assure that any and all consultants engaged or employed by PROGRAM MANAGER carry and maintain similar insurance with reasonably prudent limits and coverage in light of the services to be rendered by such consultants. PROGRAM MANAGER shall submit to CLIENT proof of such insurance in amounts satisfactory to CLIENT. The maintenance in full current force and effect of such form and amount of insurance, in such amount as CLIENT shall have accepted, shall be a condition precedent to the PROGRAM MANAGER's exercise or enforcement of any rights under this Agreement. Insurance policies required for PROGRAM MANAGER shall include a provision requiring written notice to the CLIENT at least thirty (30) days prior to any cancellation, non-renewal or material modification of the policies. CLIENT shall be named as an additional insured on all insurance policies, except workers compensation and professional liability, required herein.

IX. ASSIGNMENT

Neither CLIENT nor PROGRAM MANAGER may assign their rights or delegate their duties without the written consent of the other party. Such consent shall not be unreasonably withheld. This Agreement is binding on CLIENT, PROGRAM MANAGER, and their successors and assigns, to the extent permitted by law.

X. INDEPENDENT CONTRACTOR

PROGRAM MANAGER shall be an independent contractor with respect to the Services to be performed hereunder. Neither PROGRAM MANAGER nor any of its authorized sub-consultants, nor the employees of either, shall be deemed to be the servants, employees, or agents of CLIENT. PROGRAM MANAGER S and its authorized sub-consultants will be solely responsible for providing compensation and benefits to their employees.

XI. MISCELLANEOUS

A. This Agreement constitutes the entire agreement between the parties hereto and supersedes any oral or written representations, understandings, proposals, or communications heretofore entered into by or on account of the parties and may not be changed, modified, or amended except in writing signed by the parties hereto. In the event of any conflict between this Agreement and any of the exhibits hereto, the terms of and provisions of this Agreement shall control. In the event of any conflict among the exhibits, the exhibit of the latest date shall control.

B. CLIENT represents that its engagement of PROGRAM MANAGER to perform the Services is not in breach of, or otherwise in violation of, any known contract, restriction, or covenant between CLIENT and any third party.

C. This Agreement shall be governed by the laws of the State of Texas. Venue for any dispute relating to this Agreement shall lie in Tarrant County, Texas.

D. In no event shall either party be liable to the other for indirect or consequential damages, including, but not limited to, loss of use, loss of profit, or interruption of business, whether arising in contract, tort (including negligence), statute, or strict liability.

E. In the event CLIENT uses a purchase order form to administer this Agreement, the use of such form shall be for convenience purposes only, and any typed provision in conflict with the terms of this Agreement and all preprinted terms and conditions contained in or on such forms shall be deemed stricken and null and void.

F. This Agreement gives no rights or benefits to anyone other than CLIENT and PROGRAM MANAGER and does not create any third-party beneficiaries to this Agreement.

G. By signature of this Agreement, PROGRAM MANAGER warrants to CLIENT that it has made full disclosure in writing of any existing conflicts of interest or potential conflicts of interest, including personal financial interests, direct or indirect, in property abutting the PROJECT and business relationships with abutting property owners. PROGRAM MANAGER further warrants that it will make disclosure in writing of any conflicts of interest which develop subsequent to the signing of this Agreement and prior to final payment under this Agreement.

H. PROGRAM MANAGER verifies and certifies that it does not and during the duration of this Agreement will not:

- boycott Israel as that term is defined in Texas Government Code Section 808.001 and Chapter 2271, as amended;
- do business with Iran, Sudan, or a foreign terrorist organization, as defined in Texas Government Code Chapter 2270, as amended;
- boycott energy companies as defined in Texas Government Code Section 809.001 and Chapter 2274, as amended; or
- discriminate against a firearm trade association as defined in Texas Government Code Chapter 2274, as amended.
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XII. CONFIDENTIALITY AND PROPRIETARY INFORMATION

The parties understand that they may work with others to concurrently pursue similar projects outside of this Agreement. No non-public information regarding the PROJECT contemplated under this Agreement will be shared with those other third parties unless expressly disclosed and approved in advance, in writing.

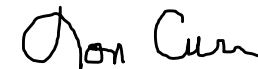
CLIENT represents that its engagement of PROGRAM MANAGER to perform the Services does not infringe upon, or otherwise in violation of, any intellectual property right held by any third party.

CLIENT is a local government under the laws of the State of Texas. Therefore, if any provision of this Agreement would be inconsistent with state law or CLIENT's Charter, it will not apply.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date.

CLIENT:
CITY OF MANSFIELD, TEXAS

PROGRAM MANAGER:
VIESTE, LLC



By: _____

By: Don Currise

Title: _____

Title: President/COO

DATE: _____

DATE: 1/23/23

EXHIBIT A
SCOPE OF SERVICES

ADMINISTRATIVE

- Attend regular monthly meetings/conference calls at the discretion of CLIENT
- Attend public and stakeholder meetings, including the TIRZ Board at the discretion of CLIENT
- Attend scheduled team meetings at the discretion of CLIENT
- Manage all project controls elements including, but not limited to:
 - Communication Model
 - Document Management Systems
 - Scheduling
 - Budgeting
 - Project Cost Controls

LEADERSHIP

- Lead capital and transaction structuring for the PROJECT
- Lead the development of PROJECT financial models
- Assemble and lead the PROJECT financing team
- Assemble and lead the PROJECT execution team
- Be responsible for day-to-day PROJECT management

PROJECT DEVELOPMENT AND OVERSIGHT

- Act as extension of staff
- Assist in creating the Master Development Plan (including phasing plan)
- Assist in creating Sources & Uses Matrix, Flow of Funds, and Capital Finance Plan
- Assist in creating a Marketing, PR, and Promotion Plan
- Assist in creating a Revenue Activation Plan (Naming Rights, Corporate Sponsorship, Philanthropy) to be executed as part of a subsequent contract
- Establish a course for the USL Soccer stadium project
- Prepare preliminary stadium program, conceptual design & budget
- Set up Project Controls elements:
 - Master Program Schedule
 - Master Program Budget
 - Program Accounting System
 - Communication Model
 - Document Management System

EXHIBIT B
PROJECT DESCRIPTION

The City of Mansfield, Texas (“Client”) approved a Tax Increment Reinvestment Zone #4 (the “Zone”), referenced as Harvest Pointe on December 12, 2022. The Zone contemplates mixed-use development over approximately 359 acres of undeveloped land at the southern edge of the City.

Client seeks assistance from a professional services firm with experience in overseeing similar complex, mixed-use developments. The Zone will be anchored by a multipurpose soccer stadium desired to be completed before the 2026 World Cup games.

VIESTE, LLC (“Program Manager”) will act in a “like staff” capacity overseeing the entire capital program for the Zone. These services will include program management related tasks and support in the capital formation tasks to be accomplished.

Program Manager will complete turnkey capabilities with regard to stadium programming, finance, design, construction, FF&E, commissioning, and operations with a desired opening of the soccer stadium in 2026 prior to the World Cup games being played. The Program Manager team will provide Client the opportunity to control its own destiny by allowing the stadium to be publicly owned and privately managed to not only control schedule but maximize long term value.

At the project level, we break those down into three components: soccer stadium, public (“Project Cost”) projects and private (Non-Project Cost) projects. On the stadium, Program Manager proposes to act as Client’s Owners Representative, having primary responsibility for its development. With regard to the public and private component projects, the Program Manager team would represent Client by overseeing the various project teams and their respective performance.

EXHIBIT C
FEE SCHEDULE

YEAR	QUARTER	MONTH	FEE
2023	Q1	January	\$ 74,140.00
		February	\$ 74,140.00
		March	\$ 74,140.00
	Q2	April	\$ 74,140.00
		May	\$ 74,140.00
		June	\$ 74,140.00
Total Fee:			\$444,840.00