

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES ("Agreement") is made and entered into by and between **THE CITY OF FORT WORTH**, a home rule municipal corporation of the State of Texas (hereinafter referred to as "City"), acting by and through its duly authorized Assistant City Manager, and **INTERNATIONAL SISTER CITIES ASSOCIATION OF FORT WORTH INC.**, a non-profit Texas corporation (hereinafter referred to as "**Contractor**"), acting by and through its duly authorized Executive Director.

RECITALS

WHEREAS, since 1985, the Fort Worth Sister Cities program has been fostering relationships between the City of Fort Worth and communities around the globe; and

WHEREAS, these relationships provide a public benefit by promoting tourism and understanding, contributing to the overall cultural vitality of the community, and providing educational and business opportunities for the City of Fort Worth and its citizens; and

WHEREAS, City wishes to engage Contractor to continue to provide services in connection with the Sister Cities program.

NOW, THEREFORE, in consideration of the mutual covenants herein expressed, the parties agree as follows:

AGREEMENT

1. SCOPE OF SERVICES.

Contractor covenants and agrees to fully perform, or cause to be performed, with good faith and due diligence, the following services and objectives (collectively the "**Services**"): coordination of cultural, educational, business and sports exchanges between the City and its Sister Cities counterparts; coordination of meeting facilities, hotel accommodations, and travel plans in conjunction with Sister Cities activities; attendance at meetings as requested by City officials; and other services relating to Sister Cities activities as the City may request from time to time.

2. COMPENSATION.

In consideration of the Services to be performed hereunder by Contractor, the City promises and agrees to pay Contractor in one installment the sum total of Fifty Thousand (\$50,000.00) ("**Funds**") per Contract Year. For purposes of this Agreement, a Contract Year refers to a period beginning on October 1 and ending on September 30 of the following calendar year. The Funds shall be expended to perform the Services as set forth in Section 1 above.

3. REPORTING OF EXPENDITURES.

a. Contractor shall deliver to the City Manager's Office an Annual Statement of the receipts and expenditures of Funds detailing how the Funds were expended by Contractor to accomplish performance of the Services.

b. Each Annual Statement must be prepared and signed by a Certified Public Accountant or by a representative of the Contractor who has received the **Training for City of Fort Worth Fund Recipients: Reporting Requirements and Financial Tools Required to Complete the Reports** ("**Fiscal Training**") no later than **December 31, 2018**. If the Contractor deviates from this reporting requirement, the Contractor will be considered in non-compliance with this Agreement.

c. Each Annual Statement must be submitted to the City Manager's Office not later than the 15th day of the first month after the end of each year. Therefore, each respective Annual Statement

must be submitted not later than October 15th of each year.

d. Any non-compliance by Contractor under Section 3 of this Agreement may jeopardize the Contractor's ability to receive future funding from the City. In addition, failure to comply with Section 3 or any other term of this Agreement may result in forfeiture of grant monies not yet disbursed and/or required reimbursement of all monies awarded.

4. REPORTING OF SERVICES.

Not later than the 15th day of the first month after the end of the Fiscal Year, Contractor shall submit to the City Manager's Office a report of Services provided during the preceding Fiscal Year, and each such Annual Award Report shall be attached hereto, incorporated herein, and made a part of this Agreement for all purposes. Therefore, each respective the Annual Services Report must be submitted not later than October 15th of each year. Contractor shall be subject to a review by the City of its services and activities in performance of this Agreement.

5. TERM AND TERMINATION.

This Agreement shall be for a term beginning October 1, 2018 and ending September 30, 2023.

a. Either party may cancel this Agreement upon thirty (30) days' notice in writing to the other party of such intent to terminate.

b. The City may terminate this Agreement immediately for any violation by Contractor of Section 3, "Reporting of Expenditures" or Section 4, "Reporting of Services," above.

c. As to the City's performance of the obligations in this Agreement, Contractor acknowledges and agrees that the City is a governmental entity, and because of statutory, constitutional and City Charter provisions, it cannot commit to the funding of the City's obligations described herein beyond each fiscal year. Therefore, the funding obligations of the City described herein are subject to and conditioned upon the City Council of the City appropriating for each fiscal year sufficient funds to satisfy such obligations. In the event no funds or insufficient funds are appropriated by the City in any fiscal period for any payments hereunder, City will notify the Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds shall have been appropriated.

d. In the event of any termination under this Section 5, Contractor shall reimburse to City all Funds that Contractor has received under this Agreement for purposes of discretionary distribution but that it not otherwise committed or encumbered by contract.

6. TRAINING.

The Chief Executive Officer, Executive Officer, or Chief Financial Officer of Contractor shall receive Fiscal Training no later than December 31, 2018. Evidence of receipt of such training shall be submitted to the City Manager's Office. Contractor shall be responsible for training its representatives at its own cost and expense.

7. RIGHT TO MONITOR SERVICES.

Contractor covenants and agrees to fully cooperate with City in monitoring the effectiveness of the Services to be performed under this Agreement, and City shall have access at all reasonable hours to offices and records of Contractor for the purpose of such monitoring.

8. INDEPENDENT CONTRACTOR.

Contractor shall operate hereunder as an independent contractor and not as an officer, agent, servant, or employee of City. Contractor shall have exclusive control of and the exclusive right to control

the details of the Services performed hereunder and all persons performing same and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, subcontractors, and program participants. The doctrine of *respondeat superior* shall not apply as between the City and Contractor, its officers, agents, servants, employees, subcontractors, or program participants. Nothing herein shall be construed as creating a partnership or joint enterprise between City and Contractor. It is expressly understood and agreed that no officer, agent, employee, or subcontractor of Contractor is in the paid service of City.

9. LIABILITY AND INDEMNIFICATION.

CITY SHALL IN NO WAY OR UNDER ANY CIRCUMSTANCES BE RESPONSIBLE FOR ANY PROPERTY BELONGING TO CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, OR PROGRAM PARTICIPANTS THAT MAY BE LOST, STOLEN, DESTROYED, OR IN ANY WAY DAMAGED. CONTRACTOR HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS OR SUITS CONCERNING SUCH PROPERTY. Contractor covenants and agrees to indemnify, hold harmless and defend, at its own expense, City and its officers, agents, servants, and employees from and against any and all claims or suits for property loss or damage and/or personal injury, including death, to any and all persons, of whatsoever kind or character, whether real or asserted, arising out of or in connection with the execution, performance, attempted performance, or nonperformance of this Agreement and/or the operations, activities, and services described herein, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants, employees, contractors, OR subcontractors of city; and Contractor hereby assumes all liability and responsibility of City and its officers, agents, servants, and employees for any and all claims or suits for property loss or damage and/or personal injury, including death, to any and all persons, of whatsoever kinds or character, whether real or asserted, arising out of or in connection with the execution, performance, attempted performance, or non-performance of this agreement and/or the operations, activities, and services described herein, whether or not caused in whole or in part, by alleged negligence of officers, agents, servants, employees, contractors, or subcontractors of city. Contractor likewise covenants and agrees to and does hereby indemnify and hold harmless City from and against any and all injury, damage, or destruction of property of City, arising out of or in connection with all acts or omissions of Contractor, its officers, members, agents, employees, subcontractors, invitees, licensees, or program participants, whether or not caused, in whole or in part, by alleged negligence of officers, agents, servants, employees, contractors, or subcontractors of city. Contractor agrees to and shall release City, its agents, employees, officers, and legal representatives from all liability for injury, death, damage, or loss to persons or property sustained in connection with or incidental to performance under this Agreement, even if the injury, death, damage, or loss is caused by City's sole or concurrent negligence.

Contractor shall require all of its subcontractors to include in their subcontracts a release and indemnity in favor of City in substantially the same form as above.

This Section shall survive the expiration or termination of this Agreement.

10. MISAPPROPRIATION OF FUNDS.

In the event it is determined that Contractor has misused, misapplied or misappropriated all or any part of the funds provided hereunder, Contractor agrees to indemnify, hold harmless and defend the City of Fort Worth, its officers, agents, servants, and employees, from and against any and all claims or suits resulting from such misuse, misapplication, or misappropriation.

11. CHARITABLE IMMUNITY.

If Contractor, as a charitable or nonprofit organization, has or claims an immunity or exemption (statutory or otherwise) from and against liability for damage or injury, including death, to persons or property, Contractor hereby expressly waives its rights to plead defensively such immunity or exemption as against the City.

12. ASSIGNMENT AND SUBCONTRACTING.

Contractor shall not assign or subcontract all or any part of its rights, privileges, or duties under this Agreement without the prior written consent of City, and any attempted assignment or subcontract of same without such prior written approval shall be void and constitute a breach of this Agreement.

13. COMPLIANCE WITH LAWS, ORDINANCES, RULES AND REGULATIONS.

Contractor, its officers, agents, employees, and subcontractors shall abide by and comply with all federal, state, and local laws, including all ordinances, rules, and regulations of City. It is agreed and understood that, if City calls to the attention of Contractor any such violation on the part of Contractor or any of its officers, agents, employees, or subcontractors, then Contractor shall immediately desist from and correct such violation.

14. NON-DISCRIMINATION COVENANT.

Contractor, in the execution, performance, or attempted performance of this contract and Agreement, will not discriminate against any person or persons because of disability, age, familial status, sex, race, religion, color or national origin, nor will Contractor permit its officers, agents, employees, or subcontractors to engage in such discrimination. This Agreement is made and entered into with reference specifically to Chapter 17, Article III, Division 3, of the City Code of the City of Fort Worth ("Discrimination in Employment Practices"), and Contractor hereby covenants and agrees that Contractor, its agents, employees, and subcontractors have fully complied with all provisions of same and that no employee, or employee-applicant has been discriminated against by either Contractor, its agents, employees, or subcontractors.

15. INSURANCE.

Contractor shall procure and shall maintain during the term of this Agreement the following insurance coverage:

1. Commercial General Liability (CGL): \$1,000,000.00 per occurrence, with a \$2,000,000.00 annual aggregate limit, in a form that is acceptable to the City's Risk Manager.
2. Non-Profit Organization Liability or Directors & Officers Liability: \$1,000,000.00 per occurrence, with a \$1,000,000.00 annual aggregate limit, in a form that is acceptable to the City's Risk Manager.

Contractor's insurer(s) must be authorized to do business in the State of Texas for the lines of insurance coverage provided and be currently rated in terms of financial strength and solvency to the satisfaction of the City's Risk Manager.

Each insurance policy required herein shall be endorsed with a waiver of subrogation in favor of the City. Each insurance policy required by this Agreement (except for policies of workers' compensation or accident/medical insurance, if required) shall list the City as an additional insured. City shall have the right to revise insurance coverage requirements under this Agreement.

Contractor further agrees that it shall comply with the Texas Workers' Compensation Act and shall provide sufficient compensation insurance to protect Contractor and City from and against any and all Workers' Compensation claims arising from the work and services provided under this Agreement.

16. RIGHT TO AUDIT RECORDS.

Contractor agrees that the City shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine, whether in hard copy or electronic format, any directly pertinent books, documents, papers, and records of the Contractor involving transactions relating to this Agreement. Contractor agrees that the City shall have access during normal working hours to all necessary Contractor facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. The City shall give Contractor reasonable advance notice of intended audits.

Contractor further agrees to include in all of its subcontractor agreements hereunder a provision to the effect that the subcontractor agrees that the City shall, until the expiration of three (3) years after final payment under the subcontract or this Agreement, have access to and the right to examine, whether in hard copy or electronic format, any directly pertinent books, documents, papers, and records of such subcontractor involving transactions relating to the subcontract or this Agreement, and further that City shall have access during normal working hours to all subcontractor facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this paragraph. City shall give subcontractor reasonable advance notice of intended audits.

This Section shall survive the expiration or termination of this Agreement.

17. GOVERNING LAW AND VENUE.

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Should any action, whether real or asserted, at law or in equity, arise out of the execution, performance, or attempted performance of this Agreement, venue for said action shall lie in Tarrant County, Texas.

18. NOTICES.

Notices to be provided hereunder shall be sufficient if forwarded to the other party by hand-delivery or via U.S. Postal Service certified mail, postage prepaid, to the address of the other party shown below:

City Manager Office
City of Fort Worth
200 Texas St.
Fort Worth, Texas 76102
(817) 392-6143

Mae Ferguson
President/CEO
Internat'l Sister Cities Assoc. of Fort Worth, Inc.

Fort Worth, Texas
(817) 632-7104

19. NO WAIVER.

The failure of City or Contractor to insist upon the performance of any term or provision of this Agreement or to exercise any right conferred herein shall not be construed as a waiver or relinquishment to any extent of City's or Contractor's right to assert or rely upon any such term or right on any future occasion.

20. DISCLOSURE OF CONFLICTS AND CONFIDENTIAL INFORMATION.

Contractor hereby warrants to the City that Contractor has made full disclosure in writing of any existing or potential conflicts of interest related to Contractor's services under this Agreement. In the event that any conflicts of interest arise during the time in which this Agreement is in effect, Contractor hereby agrees immediately to make full disclosure to the City in writing.

Contractor, for itself, its officers, agents, and employees, further agrees that it shall treat all information provided to it by the City ("City Information") as confidential and shall not disclose any such information to a third party without the prior written approval of the City. Contractor shall store and maintain City Information in a secure manner and shall not allow unauthorized users to access, modify, delete, or otherwise corrupt City Information in any way. Contractor shall notify the City immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised.

21. SEVERABILITY.

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

22. FORCE MAJEURE.

The City and Contractor shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement. If either party is unable, either in whole or part, to fulfill its obligations under this Agreement due to acts of God; strikes, lockouts, or other industrial disturbances; acts of public enemies; wars; blockades; insurrections; riots; epidemics; public health crises; earthquakes; fires; floods; restraints or prohibitions by any court, board, department, commission, or agency of the United States or of any state; declaration of a state of disaster or of emergency by the federal, state, county, or City government in accordance with applicable law; issuance of a Level Orange or Level Red Alert by the United States Department of Homeland Security; any arrests and restraints; civil disturbances; or explosions; or some other reason beyond the party's reasonable control (each a "Force Majeure Event"), the obligations so affected by such Force Majeure Event will be suspended only during the continuance of such event.

23. HEADINGS NOT CONTROLLING.

Headings and titles used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

24. COMPLIANCE WITH STATE ANTI-BOYCOTT LAW.

Contractor acknowledges that in accordance with Chapter 2270 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. ***By signing this Agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.***

25. REVIEW OF COUNSEL.

The parties acknowledge that each party and its counsel have had the opportunity to review and revise this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibit hereto.

26. ENTIRETY OF AGREEMENT.

This written instrument (together with all exhibits and schedules attached hereto and incorporated herein) constitutes the entire understanding of the parties hereto concerning the subject matter and transaction addressed herein. Any prior or contemporaneous, oral or written agreement that purports to vary from the terms hereof shall be void.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have executed this agreement in multiples in Fort Worth, Tarrant County, Texas, to be effective October 1, 2018.

CITY OF FORT WORTH:

INTERNATIONAL SISTER CITIES ASSOC. OF FORT WORTH, INC.:

By: _____
Fernando Costa
Assistant City Manager

By: _____
Mae Ferguson
President/CEO

Date: _____

Date: _____

ATTEST:

ATTEST:

Mary Kayser
City Secretary

Name:
Title:

Date: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY:

Denis C. McElroy
Assistant City Attorney

Date: _____

CONTRACT AUTHORIZATION:

M&C: _____
Date Approved: _____

STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Mae Ferguson**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the **International Sister Cities Association of Fort Worth, Inc.** and that he/she executed the same as the act of said **International Sister Cities Association of Fort Worth, Inc.** for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2018.

Notary Public in and for the State of Texas

STATE OF TEXAS §

COUNTY OF TARRANT §

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared **Fernando Costa**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the **City of Fort Worth** for the purpose and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, A.D. 2018.

Notary Public in and for the State of Texas