

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING THE SERVICES AGREEMENT BETWEEN THE TOWN OF ADDISON AND LANDRUM AND BROWN, INCORPORATED, FOR CONSULTING SERVICES TO NEGOTIATE CONTRACTS FOR AIRPORT MANAGEMENT SERVICES AT ADDISON AIRPORT, IN AN AMOUNT NOT TO EXCEED \$95,000.00, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The Services Agreement between the Town of Addison and Landrum & Brown, Incorporated, for consulting services to negotiate contracts for airport management services at Addison Airport, in an amount not to exceed \$95,000.00, a copy of which is attached to this Resolution as **Exhibit A**, is hereby approved. The City Manager is hereby authorized to execute the agreement.

SECTION 2. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the **14th** day of **JANUARY 2020**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Parker, City Secretary

Brenda N. McDonald, City Attorney

EXHIBIT A



SERVICES AGREEMENT

THIS SERVICES AGREEMENT (the "Agreement") is made and entered into as of _____ (the "Effective Date"), by and between Landrum & Brown, Incorporated, ("L&B"), an Ohio corporation, with offices at 4445 Lake Forest Drive, Suite 700 Cincinnati, OH 45242, and the Town of Addison, owner and operator of Addison Airport (the "Town") at 5300 Belt Line Road, Addison, Texas 75254.

In consideration of the mutual promises or covenants contained in this Agreement, the parties agree as follows:

Services

This Agreement establishes the terms and conditions under which L&B agrees to provide services to the Town. The Town's services are deemed to be business consulting Services and the Town agrees that any such Services shall not be relied on as legal opinion and that the Town shall seek all legal advice from the Town's legal counsel.

A detailed Scope of Work is included in Exhibit A.

Term, Termination, and Survival

Unless otherwise terminated as herein provided, the term of this Agreement shall commence on the Effective Date and shall continue until the Scope of Work has been completed and all deliverables are received.

L&B may terminate this Agreement if the Town defaults in any payment under this Agreement and does not cure said default within fifteen (15) days after receipt of L&B's written notice. In the event of any termination, L&B shall be entitled to reimbursement from the Town for its actual costs incurred, up to and including the date of termination.

Any terms of this Agreement which by their nature extend beyond termination of this Agreement shall survive and bind the parties and their successors and assigns.

Payment

The Town agrees to pay L&B for Services rendered under the Agreement pursuant to the pricing information contained in the Agreement. In addition to L&B's fees for Services, The Town agrees to reimburse L&B for all actual expenses, except administrative, overhead and the like, incurred in the course of providing Services to the Town including, but not limited to, travel and ordinary business expenses. Travel expenses will be reimbursed separately at cost and without markup. On hourly assignments, fees for travel time will be billed at one-half of the hourly rate. On hourly assignments, fees charged during travel assignments will have a minimum fee of one-half day at the hourly rate. L&B will bill the Town within thirty (30) days of the date of L&B's invoice. Payment shall be made to the address set forth in such invoice.

Relationship of the Parties

Nothing contained herein will be construed to place the parties in the relationship of partners, joint venturers, or principal and agent, and neither party has the power to obligate or bind the other in any matter whatsoever.

Representations and Warranties

L&B represents and warrants that all Services will be performed in a good and workmanlike manner consistent with good industry practice and in accordance with the specifications for such services provided in the Agreement. Except as explicitly stated in this Agreement, neither party makes any warranties and expressly disclaims any and all warranties, expressed or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The Town and L&B agree that this Agreement is predominantly an agreement for the provision of services.

Indemnification: Limitation of Liabilities

L&B, ITS OFFICERS, DIRECTORS, PARTNERS, CONTRACTORS, EMPLOYEES, REPRESENTATIVES, AGENTS, SUCCESSORS, ASSIGNEES, VENDORS, GRANTEEES AND/OR TRUSTEES (COLLECTIVELY REFERRED TO AS "CONTRACTOR" FOR PURPOSES OF THIS SECTION), AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS THE TOWN AND ITS OFFICERS, COUNCIL MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO AS "CITY" FOR PURPOSES OF THIS SECTION) FROM ANY AND ALL CLAIMS, DEMANDS, DAMAGES, INJURIES (INCLUDING DEATH) LIABILITIES AND EXPENSES (INCLUDING ATTORNEYS' FEES, WITH AN HOURLY RATE NOT TO EXCEED \$350.00/HOUR, AND COSTS OF DEFENSE) ARISING DIRECTLY OR INDIRECTLY OUT OF THE NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION OF PERFORMANCE OF CONTRACTOR UNDER THIS AGREEMENT. CONTRACTOR AGREES TO ACCEPT LIABILITY FOR INJURIES TO ITSELF OR OTHERS CAUSED BY ITS OWN NEGLIGENCE, MALFEASANCE, ACTION OR OMISSION IN RENDERING THE SERVICES UNDER THIS AGREEMENT. THIS INDEMNIFICATION PROVISION IS ALSO SPECIFICALLY INTENDED TO APPLY TO, BUT NOT BE LIMITED TO, ANY AND ALL CLAIMS, WHETHER CIVIL OR CRIMINAL, BROUGHT AGAINST CITY BY ANY GOVERNMENT AUTHORITY OR AGENCY RELATED TO ANY PERSON PROVIDING SERVICES UNDER THIS AGREEMENT THAT ARE BASED ON ANY FEDERAL IMMIGRATION LAW AND ANY AND ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS AND CAUSES OF ACTION OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, EXISTING OR CLAIMED TO EXIST, RELATING TO OR ARISING OUT OF ANY EMPLOYMENT RELATIONSHIP BETWEEN CONTRACTOR AND ITS EMPLOYEES OR SUBCONTRACTORS AS A RESULT OF THAT SUBCONTRACTOR'S OR EMPLOYEE'S EMPLOYMENT AND/OR SEPARATION FROM EMPLOYMENT WITH THE CONTRACTOR, INCLUDING BUT NOT LIMITED TO ANY

DISCRIMINATION CLAIM BASED ON SEX, SEXUAL ORIENTATION OR PREFERENCE, RACE, RELIGION, COLOR, NATIONAL ORIGIN, AGE OR DISABILITY UNDER FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION, AND/OR ANY CLAIM FOR WRONGFUL TERMINATION, BACK PAY, FUTURE WAGE LOSS, OVERTIME PAY, EMPLOYEE BENEFITS, INJURY SUBJECT TO RELIEF UNDER THE WORKERS' COMPENSATION ACT OR WOULD BE SUBJECT TO RELIEF UNDER ANY POLICY FOR WORKERS COMPENSATION INSURANCE, AND ANY OTHER CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE.

IN ITS SOLE DISCRETION, CITY SHALL HAVE THE RIGHT TO APPROVE OR SELECT DEFENSE COUNSEL, SUBJECT TO THE HOURLY RATE SET FORTH ABOVE, TO BE RETAINED BY CONTRACTOR IN FULFILLING ITS OBLIGATION HEREUNDER TO DEFEND AND INDEMNIFY CITY, UNLESS SUCH RIGHT IS EXPRESSLY WAIVED BY CITY IN WRITING. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF CONTRACTOR'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF CONTRACTOR'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. CONTRACTOR SHALL RETAIN CITY-APPROVED DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF CONTRACTOR FAILS TO RETAIN COUNSEL WITHIN SUCH TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF, AND OWNER SHALL BE LIABLE FOR ALL COSTS INCURRED BY CITY.

THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Notices

All notices which are required or may be given pursuant to this Agreement must be in writing and sent to the individual listed below or his successor at the address above first written. Notices shall be delivered by a recognized courier service such as Federal Express, USPS or UPS, with package tracing capability.

Change Orders

Either party may request in writing that L&B make changes, modifications, or enhancements to the Services being provided pursuant to this Agreement ("Service Changes"). The parties will meet to determine whether they desire for L&B to proceed with the making of the proposed Service Change. The parties must provide written approval (a "Change Order") to authorize the making of the Service Change. Change Orders will constitute part of the specific Agreement.

Confidentiality: Intellectual Property

Both parties shall adhere to the obligations and requirements of the state’s Pubic Information Act as may be applicable and the confidentiality provisions set forth hereafter are subject to those requirements. L&B agrees to regard and preserve as confidential all information related to the business and activities of the Town that may be obtained by L&B as a result of performing Services under this Agreement. The Town agrees to regard and preserve as confidential all information related to the business and activities of L&B that may be obtained by the Town as a result of this Agreement and the performance of Services contemplated hereby, including, without limitation, all information regarding pricing of Services. Both parties agree to hold such information in trust and confidence for the other party and not to disclose such information to any person, firm, or enterprise, or use any such information to its own benefit, or to the benefit of any third party, unless authorized in writing by the party in interest. Information shall not be considered confidential to the extent that such information is: (i) already known free of any restriction at the time it is obtained; (ii) subsequently learned from an independent third party free of any restriction; or (iii) generally available to the public.

In the course of performance under this Agreement, L&B may use products, materials, tools, and methodologies that are proprietary to L&B or to third parties (collectively, “Proprietary Items”). The Town will not have or obtain any rights in such Proprietary Items other than (i) to use them as authorized by L&B in writing from time to time solely for purposes of performing its responsibilities under this Agreement. If Proprietary Items are made available to the Town, they will be made available “AS IS” and without express or implied warranties of any kind. Nothing in this Agreement will preclude L&B from marketing, developing, or using for itself or others, services or products that are the same as or similar to those provided to the Town by L&B pursuant to this Agreement. Furthermore, L&B will continue to be free to use its general knowledge, skills, and experience and any ideas, concepts, know-how, and techniques related to the scope of this Agreement and used in the course of performing its obligations hereunder.

Governing Law: Venue

This Agreement shall be construed in accordance with the substantive laws of the State of Texas, without regard to conflicts of law principles thereof. L&B and the Town consent to the non-exclusive jurisdiction of a state or federal court situated in Dallas County, Texas, in connection with any dispute arising from or relating to this Agreement. L&B and the Town irrevocably waive, to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such proceeding brought in such a court and any claim that such proceeding brought in such a court has been brought in an inconvenient forum.

Not a Municipal Advisor

L&B is not registered with the U.S. Securities & Exchange Commission as a municipal advisor, is not acting as a municipal advisor, and does not assume any fiduciary duties or provide advisory services as described in Section 15B of the Securities Exchange Act of 1934 or otherwise. L&B does not make recommendations or advice regarding any action to be taken by our clients with respect to any prospective, new, or existing municipal financial products or

issuance of municipal securities including with respect to the structure, timing, terms or other similar matters concerning municipal financial products or the issuance of municipal securities.

MISCELLANEOUS PROVISIONS

No alteration or modification of this Agreement will be binding or effective unless in writing and signed by a duly authorized representative of both L&B and the Town. No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same or other provisions of this Agreement. This Agreement constitutes the entire agreement between the parties when executed by duly authorized signatories of L&B and the Town. This Agreement may be executed in any number of counterparts and any party hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. Neither party shall be liable for any default or delay in the performance of its obligations under this Agreement if and to the extent such default or delay is caused, directly or indirectly, by reason beyond the reasonable control of such party. Time is of the essence in performance of this Agreement.

BINDING EFFECT

This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors, and assigns when permitted by this Agreement.

ORDINANCES

Except as specifically provided in the Agreement Documents, the parties agree that Contractor shall be subject to all Ordinances of the City, whether now existing or in the future arising.

AUTHORITY TO EXECUTE

The individuals executing this Agreement on behalf of the respective parties below represent to each other and to others that all appropriate and necessary action has been taken to authorize the individual who is executing this Agreement to do so for and on behalf of the party for which his or her signature appears, that there are no other parties or entities required to execute this Agreement in order for the same to be an authorized and binding agreement on the party for whom the individual is signing this Agreement and that each individual affixing his or her signature hereto is authorized to do so, and such authorization is valid and effective on the date hereof.

ASSIGNMENT

This Agreement may not be assigned without the written agreement of both parties.

SOVEREIGN IMMUNITY

The parties agree that the City has not waived its sovereign immunity by entering into and performing its obligations under this Agreement.

ATTORNEYS' FEES

If any judicial or non-judicial proceeding is initiated for the purpose of enforcing a provision of this contract, the prevailing party shall be awarded reasonable, actual attorneys' fees in addition to all other costs associated with the proceeding.

NOTICE

Any notice provided or permitted to be given under this Agreement must be in writing and may be served by depositing same in the United States mail, addressed to the party to be notified, postage pre-paid and registered or certified with return receipt requested, or by delivering the same in person to such party via a hand-delivery service, Federal Express or any courier service that provides a return receipt showing the date of actual delivery of same, to the addressee thereof. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notification, the addresses of the parties shall be as follows:

If to Contractor, to: Landrum & Brown, Inc.
4445 Lake Forest Drive, Suite 700
Cincinnati, OH 45242

If to Town, to: Town of Addison
Attn: City Manager
5300 Belt Line Road
Dallas, Texas 75254

SEVERABILITY

In case 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 provision thereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

REPRESENTATIONS

Each signatory represents this Agreement has been read by the party for which this Agreement is executed and that such party has had an opportunity to confer with its legal counsel.

FORCE MAJEURE

If the performance of any covenant or obligation to be performed hereunder by any party is

delayed as a result of circumstances which are beyond the reasonable control of such party (which circumstances may include, without limitation, pending litigation, acts of God, war, acts of civil disobedience, fire or other casualty, shortage of materials, adverse weather conditions [such as, by way of illustration and not of limitation, severe rain storms or below freezing temperatures, or tornados] labor action, strikes or similar acts, moratoriums or regulations or actions by governmental authorities), the time for such performance shall be extended by the amount of time of such delay, but no longer than the amount of time reasonably occasioned by the delay. The party claiming delay of performance as a result of any of the foregoing "force majeure" events shall deliver written notice of the commencement of any such delay resulting from such "force majeure" event not later than seven (7) days after the claiming party becomes aware of the same, and if the claiming party fails to so notify the other party of the occurrence of a "force majeure" event causing such delay and the other party shall not otherwise be aware of such "force majeure" event, the claiming party shall not be entitled to avail itself of the provisions for the extension of performance contained in this subsection.

INDEPENDENT CONTRACTOR

The relationship between the Town and the Contractor is that of independent contractor, and the Town and the Contractor by the execution of this Agreement do not change the independent status of the Contractor. The Contractor is an independent contractor, and no term or provision of this Agreement or action by the Contractor in the performance of this Agreement is intended nor shall be construed as making the Contractor the agent, servant or employee of the Town, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship.

NO BOYCOTT OF ISRAEL

Pursuant to Texas Government Code Chapter 2270, Contractor's execution of this Agreement shall serve as verification that the Contractor does not presently boycott Israel and will not boycott Israel during the term of this Agreement.

MISCELLANEOUS DRAFTING PROVISIONS

This Agreement shall be deemed drafted equally by all parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Agreement are for the convenience of the parties and are not intended to be used in construing this document.

WHEREAS, the parties hereto entered into this Agreement as of the Effective Date.

LANDRUM & BROWN, INC.

TOWN OF ADDISON



By: _____
Name: Daniel Benzon
Title: Executive Vice President

By: _____
Name: Wesley S. Pierson
Title: City Manager



11279 Cornell Park Dr.
Cincinnati, OH 45242
USA
T +1 513 530 5333
F +1 513 530 1278
landrum-brown.com

Scope of Services Addison Airport (ADS), Town of Addison

November 25, 2019

Objective:

To serve as the lead negotiator for the Town of Addison in negotiation of airport management contracts for Addison Airport (ADS).

Scope & Process:

Dan Benzou will serve as lead negotiator. L.J. Marciano will provide negotiation support and analysis.

- Upon notice to proceed, Mr. Benzou will meet with Mr. Pierson, Ms. Pyles, and Ms. Mitchell to kickoff the project and discuss strategic goals. Also, the Town's 'negotiating team' will be established. This team should include Mr. Benzou, Ms. Pyles, and the Town's legal counsel, at minimum.
 - Two additional meetings will occur following the kickoff session to initially advise the parties of the Town's intentions and to provide a roadmap for discussions.
 - The principal of SAMI
 - An authorized representative for AECOM.
- The negotiating team will review the current airport management agreements, the L&B Powerpoint, and the strategic goals from the kickoff meetings. Following a negotiating team conference call, Mr. Benzou will draft a matrix of major deal points along with positions of the Town and anticipated considerations of the parties. The negotiating team will review and discuss strategies.
- Mr. Benzou will draft term sheets for the parties. The negotiating team will review and discuss. The term sheets will be presented to the parties prior to the first negotiating session.
- 1st negotiation session (note: We would plan to schedule a session with SAMI one day and AECOM the next day. We would follow up the sessions with a debrief for Mr. Pierson and senior staff).
- The Town's legal counsel would be responsible for modifications to the contracts. Mr. Benzou and the negotiating team would discuss changes, suggestions, and implications.
- Three additional negotiating sessions. It is anticipated (and budgeted) that there would be no more than four (4) in-person negotiating sessions and that there would be conference calls in between.
- Upon completion of the contracts, Mr. Benzou will draft a synopsis of the deals. At Mr. Pierson's request, Mr. Benzou would present the synopsis to Town Council. Mr. Benzou

Global Aviation Planning and Development



would serve as an advisor to the Town's senior staff on initial implementation planning for the new contracts or insourcing.

Price & Timing:

Fee will be billed monthly on an hourly basis at a rate of \$290/hr. for Mr. Benzon and \$250/hr. for Mr. Marciano. Labor fee budget is not-to-exceed \$95,000. Travel reimbursement will be billed separately at cost. It is anticipated that there will be six (6), one-person visits for this scope of services.

This project is anticipated to be seven months commencing on November 25, 2019 with completion planned by July 1, 2020.

Sincerely,

A handwritten signature in black ink that reads "Dan Benzon".

Dan Benzon
Executive Vice President