

EXHIBIT

"A"

**CITY OF ROUND ROCK AGREEMENT FOR
PROFESSIONAL CONSULTING SERVICES FOR
LEADERSHIP, GOVERNANCE AND STRATEGIC PLANNING
WITH
LYLE SUMEK ASSOCIATES, INC.**

THE STATE OF TEXAS

§

THE CITY OF ROUND ROCK

§

KNOW ALL BY THESE PRESENTS

§

COUNTY OF WILLIAMSON

§

COUNTY OF TRAVIS

§

§

THIS AGREEMENT for professional consulting services related to Leadership, Governance and Strategic Planning (the "Agreement") is made and entered into on this ____ day of the month of _____, 2022 by and between the CITY OF ROUND ROCK, a Texas home-rule municipal corporation with offices located at 221 East Main Street, Round Rock, Texas 78664-5299, (the "City") and LYLE SUMEK ASSOCIATES, INC., with offices located at 9 Flagship Court, Palm Coast, Florida 32177-3373 (the "Consultant").

RECITALS:

WHEREAS, City desires to contract for professional services generally described as consulting services for the Leadership, Governance and Strategic Planning; and

WHEREAS, desires to contract with Consultant for such professional services; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties and obligations hereunder.

NOW, THEREFORE, WITNESSETH:

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follows:

1.01 EFFECTIVE DATE, DURATION, AND TERM

This Agreement shall be effective on the date this Agreement has been signed by each party hereto, and shall remain in full force and effect unless and until it expires by operation of the term indicated herein, or is terminated or extended as provided herein.

The term of this Agreement shall be for sixty (60) months from the effective date hereof.

City reserves the right to review the Agreement at any time and may elect to terminate the Agreement with or without cause or may elect to continue.

2.01 PROPOSAL FOR SERVICES

Consultant has issued its proposal for services for the tasks delineated therein, such proposal for services being appended to this Agreement as Exhibit "A" titled "Scope of Work," which document is attached hereto and incorporated herein by reference for all purposes.

3.01 SCOPE OF SERVICES

Consultant shall satisfactorily provide all services described herein and as set forth in Exhibit "A." Consultant's undertaking shall be limited to performing services for City and/or advising City concerning those matters on which Consultant has been specifically engaged. Consultant shall perform services in accordance with this Agreement, in accordance with the appended proposal for services, and in accordance with due care and prevailing consulting industry standards for comparable services.

4.01 LIMITATION TO SCOPE OF SERVICES

Consultant and City agree that the scope of services to be performed is enumerated in Exhibit "A" and herein, and may not be changed without the express written agreement of the parties as set forth in Section 9.01. Notwithstanding anything herein to the contrary, the parties agree that City retains absolute discretion and authority for all funding decisions, such to be based solely on criteria accepted by City which may be influenced by but not be dependent on Consultant's work.

5.01 CONTRACT AMOUNT

In consideration for the professional consulting services to be performed by Consultant pursuant to the Scope of Services and related reimbursable expenses for travel and office expenses (Exhibit "A"), City agrees to pay Consultant a total sum not-to-exceed **Two Hundred Ninety-Five Thousand and No/100 Dollars (\$295,000.00)** for the term of the Agreement in accordance with fees set forth in the attached Exhibit "A."

6.01 INVOICE REQUIREMENTS; TERMS OF PAYMENT

Invoices: To receive payment, Consultant shall prepare and submit detailed invoices to the City, in accordance with the delineation contained herein, for services rendered. Such invoices for professional services shall track the referenced Scope of Work, and shall detail the services performed, along with documentation for each service performed. Payment to Consultant shall be made on the basis of the invoices submitted by Consultant and approved by the City. Such invoices shall conform to the schedule of services and costs in connection therewith.

Should additional backup material be requested by the City relative to service deliverables, Consultant shall comply promptly. In this regard, should the City determine it necessary, Consultant shall make all records and books relating to this Agreement available to the City for inspection and auditing purposes.

Payment of Invoices: The City reserves the right to correct any error that may be discovered in any invoice that may have been paid to Consultant and to adjust same to meet the requirements of this Agreement. Following approval of an invoice, the City shall endeavor to pay Consultant promptly, but no later than the time period required under the Texas Prompt Payment Act described in Section 8.01 herein. Under no circumstances shall Consultant be entitled to receive interest on payments which are late because of a good faith dispute between Consultant and the City or because of amounts which the City has a right to withhold under this Agreement or state law. The City shall be responsible for any sales, gross receipts or similar taxes applicable to the services, but not for taxes based upon Consultant's net income.

7.01 PROMPT PAYMENT POLICY

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, any payment to be made by the City to Consultant will be made within thirty (30) days of the date the City receives goods under this Agreement, the date the performance of the services under this Agreement are completed, or the date the City receives a correct invoice for the goods or services, whichever is later. Consultant may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b). This Prompt Payment Policy does not apply to payments made by the City in the event:

- (a) There is a bona fide dispute between the City and Consultant, a contractor, subcontractor, or supplier about the goods delivered or the service performed that cause the payment to be late; or
- (b) There is a bona fide dispute between Consultant and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- (c) The terms of a federal contract, grant, regulation, or statute prevent the City from making a timely payment with federal funds; or
- (d) The invoice is not mailed to the City in strict accordance with any instruction on the purchase order relating to the payment.

8.01 NON-APPROPRIATION AND FISCAL FUNDING

This Agreement is a commitment of the City's current revenues only. It is understood and agreed that the City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of the City does not appropriate funds sufficient to purchase the

services as determined by the City's budget for the fiscal year in question. The City may affect such termination by giving Consultant a written notice of termination at the end of its then-current fiscal year.

9.01 SUPPLEMENTAL AGREEMENT

The terms of this Agreement may be modified by written Supplemental Agreement hereto, duly authorized by City Council or by the City Manager, if the City determines that there has been a significant change in (1) the scope, complexity, or character of the services to be performed; (2) an increase in costs; or (3) the duration of the work. Any such Supplemental Agreement must be executed by both parties within the period specified as the term of this Agreement. Consultant shall not perform any work or incur any additional costs prior to the execution, by both parties, of such Supplemental Agreement. Consultant shall make no claim for extra work done or materials furnished unless and until there is full execution of any Supplemental Agreement, and the City shall not be responsible for actions by Consultant nor for any costs incurred by Consultant relating to additional work not directly authorized by Supplemental Agreement.

10.01 TERMINATION; DEFAULT

Termination: It is agreed and understood by Consultant that the City may terminate this Agreement for the convenience of the City, upon thirty (30) days' written notice to Consultant, with the understanding that immediately upon receipt of said notice all work being performed under this Agreement shall cease. Consultant shall invoice the City for work satisfactorily completed and shall be compensated in accordance with the terms hereof for work accomplished prior to the receipt of said notice of termination. Consultant shall not be entitled to any lost or anticipated profits for work terminated under this Agreement. Unless otherwise specified in this Agreement, all data, information, and work product related to this project shall become the property of the City upon termination of this Agreement, and shall be promptly delivered to the City in a reasonably organized form without restriction on future use. Should the City subsequently contract with a new consultant for continuation of service on the project, Consultant shall cooperate in providing information.

Termination of this Agreement shall extinguish all rights, duties, and obligations of the City and the terminated party to fulfill contractual obligations. Termination under this section shall not relieve the terminated party of any obligations or liabilities which occurred prior to termination.

Nothing contained in this section shall require the City to pay for any work which it deems unsatisfactory or which is not performed in compliance with the terms of this Agreement.

Default: Either party may terminate this Agreement, in whole or in part, for default if the Party provides the other Party with written notice of such default and the other fails to satisfactorily cure such default within ten (10) business days of receipt of such notice (or a greater time if agreed upon between the Parties).

If default results in termination of this Agreement, then the City shall give consideration to the actual costs incurred by Consultant in performing the work to the date of default. The cost of the work that is useable to the City, the cost to the City of employing another firm to complete the useable work, and other factors will affect the value to the City of the work performed at the time of default. Neither party shall be entitled to any lost or anticipated profits for work terminated for default hereunder.

The termination of this Agreement for default shall extinguish all rights, duties, and obligations of the terminating Party and the terminated Party to fulfill contractual obligations. Termination under this section shall not relieve the terminated party of any obligations or liabilities which occurred prior to termination.

Nothing contained in this section shall require the City to pay for any work which it deems unsatisfactory, or which is not performed in compliance with the terms of this Agreement.

11.01 NON-SOLICITATION

Except as may be otherwise agreed in writing, during the term of this Agreement and for twelve (12) months thereafter, neither the City nor Consultant shall offer employment to or shall employ any person employed then or within the preceding twelve (12) months by the other or any affiliate of the other if such person was involved, directly or indirectly, in the performance of this Agreement. This provision shall not prohibit the hiring of any person who was solicited solely through a newspaper advertisement or other general solicitation.

12.01 CITY'S RESPONSIBILITIES

Full information: The City shall provide full information regarding project requirements. The City shall have the responsibility of providing Consultant with such documentation and information as is reasonably required to enable Consultant to provide the services called for. The City shall require its employees and any third parties who are otherwise assisting, advising or representing the City to cooperate on a timely basis with Consultant in the provision of its services. Consultant may rely upon written information provided by the City and its employees and agents as accurate and complete. Consultant may rely upon any written directives provided by the City or its designated representative concerning provision of services as accurate and complete.

Required materials: Consultant's performance requires receipt of all requested information reasonably necessary to provision of services. Consultant agrees, in a timely manner, to provide City with a comprehensive and detailed information request list, if any.

13.01 INDEPENDENT CONTRACTOR STATUS

Consultant is an independent contractor, and is not the City's employee. Consultant's employees or subcontractors are not the City's employees. This Agreement does not create a

partnership, employer-employee, or joint venture relationship. No party has authority to enter into contracts as agent for the other party. Consultant and the City agree to the following rights consistent with an independent contractor relationship:

- (1) Consultant has the right to perform services for others during the term hereof.
- (2) Consultant has the sole right to control and direct the means, manner and method by which it performs its services required by this Agreement.
- (3) Consultant has the right to hire assistants as subcontractors, or to use employees to provide the services required by this Agreement.
- (4) Consultant or its employees or subcontractors shall perform services required hereunder, and the City shall not hire, supervise, or pay assistants to help Consultant.
- (5) Neither Consultant nor its employees or subcontractors shall receive training from the City in skills necessary to perform services required by this Agreement.
- (6) City shall not require Consultant or its employees or subcontractors to devote full time to performing the services required by this Agreement.
- (7) Neither Consultant nor its employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of the City.

14.01 CONFIDENTIALITY; MATERIALS OWNERSHIP

Any and all programs, data, or other materials furnished by the City for use by Consultant in connection with services to be performed under this Agreement, and any and all data and information gathered by Consultant, shall be held in confidence by Consultant as set forth hereunder. Each party agrees to take reasonable measures to preserve the confidentiality of any proprietary or confidential information relative to this Agreement, and to not make any use thereof other than for the performance of this Agreement, provided that no claim may be made for any failure to protect information that occurs more than three (3) years after the end of this Agreement.

The parties recognize and understand that the City is subject to the Texas Public Information Act and its duties run in accordance therewith.

All data relating specifically to the City's business and any other information which reasonably should be understood to be confidential to City is confidential information of City. Consultant's proprietary software, tools, methodologies, techniques, ideas, discoveries, inventions, know-how, and any other information which reasonably should be understood to be confidential to Consultant is confidential information of Consultant. The City's confidential

information and Consultant's confidential information is collectively referred to as "Confidential Information." Each party shall use Confidential Information of the other party only in furtherance of the purposes of this Agreement and shall not disclose such Confidential Information to any third party without the other party's prior written consent, which consent shall not be unreasonably withheld. Each party agrees to take reasonable measures to protect the confidentiality of the other party's Confidential Information and to advise their employees of the confidential nature of the Confidential Information and of the prohibitions herein.

Notwithstanding anything to the contrary contained herein, neither party shall be obligated to treat as confidential any information disclosed by the other party (the "Disclosing Party") which: (1) is rightfully known to the recipient prior to its disclosure by the Disclosing Party; (2) is released by the Disclosing Party to any other person or entity (including governmental agencies) without restriction; (3) is independently developed by the recipient without any reliance on Confidential Information; or (4) is or later becomes publicly available without violation of this Agreement or may be lawfully obtained by a party from any non-party. Notwithstanding the foregoing, either party will be entitled to disclose Confidential Information of the other to a third party as may be required by law, statute, rule or regulation, including subpoena or other similar form of process, provided that (without breaching any legal or regulatory requirement) the party to whom the request is made provides the other with prompt written notice and allows the other party to seek a restraining order or other appropriate relief. Subject to Consultant's confidentiality obligations under this Agreement, nothing herein shall preclude or limit Consultant from providing similar services for other clients.

Notwithstanding the foregoing, either party will be entitled to disclose Confidential Information of the other to a third party as may be required by law, statute, rule or regulation, including subpoena or other similar form of process, provided that (without breaching any legal or regulatory requirement) the party to whom the request is made provides the other with prompt written notice and allows the other party to seek a restraining order or other appropriate relief. Subject to Consultant's confidentiality obligations under this Agreement, nothing herein shall preclude or limit Consultant from providing similar services for other clients.

Neither the City nor Consultant will be liable to the other for inadvertent or accidental disclosure of Confidential Information if the disclosure occurs notwithstanding the party's exercise of the same level of protection and care that such party customarily uses in safeguarding its own proprietary and confidential information.

Notwithstanding anything to the contrary in this Agreement, the City will own as its sole property all written materials created, developed, gathered, or originally prepared expressly for the City and delivered to the City under the terms of this Agreement (the "Deliverables"); and Consultant shall own any general skills, know-how, expertise, ideas, concepts, methods, techniques, processes, software, or other similar information which may have been discovered, created, developed or derived by Consultant either prior to or as a result of its provision of services under this Agreement (other than Deliverables). Consultant's working papers and Consultant's Confidential Information (as described herein) shall belong exclusively to the Consultant. City shall have a non-exclusive, non-transferable license to use Consultant's

Confidential Information for City's own internal use and only for the purposes for which they are delivered to the extent that they form part of the Deliverables.

15.01 WARRANTIES

Consultant represents that all services performed hereunder shall be performed consistent with generally prevailing professional or industry standards, and shall be performed in a professional and workmanlike manner. Consultant shall re-perform any work not in compliance with this representation.

16.01 LIMITATION OF LIABILITY

Should any of Consultant's services not conform to the requirements of the City or of this Agreement, then and in that event the City shall give written notification to Consultant; thereafter, (a) Consultant shall either promptly re-perform such services to the City's satisfaction at no additional charge, or (b) if such deficient services cannot be cured within the cure period set forth herein, then this Agreement may be terminated for default.

In no event will Consultant be liable for any loss, damage, cost or expense attributable to negligence, willful misconduct or misrepresentations by the City, its directors, employees or agents.

In no event shall Consultant be liable to the City, by reason of any act or omission relating to the services provided under this Agreement (including the negligence of Consultant), whether a claim be in tort, contract or otherwise, (a) for any consequential, indirect, lost profit, punitive, special or similar damages relating to or arising from the services, or (b) in any event, in the aggregate, for any amount in excess of the total professional fees paid by the City to Consultant under this Agreement, except to the extent determined to have resulted from Consultant's gross negligence, willful misconduct or fraudulent acts relating to the service provided hereunder.

17.01 INDEMNIFICATION

Consultant and the City each agree to indemnify, defend and hold harmless the other from and against amounts payable under any judgment, verdict, court order or settlement for death or bodily injury or the damage to or loss or destruction of any real or tangible property to the extent arising out of the indemnitor's negligence in the performance of this Agreement.

Consultant agrees to indemnify, defend and hold harmless the City from and against any and all amounts payable under any judgment, verdict, court order or settlement for Third Party claims of infringement of any trade secrets, copyrights, trademarks or trade names alleged to have occurred and arising from the deliverables provided by Consultant to the City in connection with the performance of this Agreement. Should the City's use of such deliverables be determined to have infringed, Consultant may, at its option: (i) procure for the City the right to continue using such deliverables provided or (ii) replace or modify them to make their use non-

infringing while yielding substantially equivalent results. If neither of the above options is or would be available on a basis that is commercially reasonable, then Consultant may terminate this Agreement, the City shall return such deliverables provided, and Consultant will refund to the City the fees paid for the deliverables provided. This infringement indemnity does not cover claims arising from the combination of such deliverables with products or services not provided by Consultant; the modification of such deliverables by any person other than Consultant; deliverables complying with or based upon (1) designs provided by or at the direction of the City or (2) specifications or other information provided by or at the direction of the City; or use of systems, materials or work performed in a manner not permitted hereunder or by another obligation of the City to Consultant.

The indemnities in this section are contingent upon: (1) the indemnified party promptly notifying the indemnifying party in writing of any claim which gives rise to a claim for indemnification hereunder; (2) the indemnifying party being allowed to participate in the defense and settlement of such claim; and (3) the indemnified party cooperating with all reasonable requests of the indemnifying party (at the indemnifying party's expense) in defending or settling a claim. The indemnified party shall have the right, at its option and expense, to participate in the defense of any suit or proceeding through counsel.

18.01 ASSIGNMENT AND DELEGATION

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party may assign any rights or delegate any duties under this Agreement without the other party's prior written approval, which approval shall not be unreasonably withheld.

19.01 LOCAL, STATE AND FEDERAL TAXES

Consultant shall pay all income taxes, and FICA (Social Security and Medicare taxes) incurred while performing services under this Agreement. The City will not do the following:

- (1) Withhold FICA from Consultant's payments or make FICA payments on its behalf;
- (2) Make state and/or federal unemployment compensation contributions on Consultant's behalf; or
- (3) Withhold state or federal income tax from any of Consultant's payments.

If requested, the City shall provide Consultant with a certificate from the Texas State Comptroller indicating that the City is a non-profit corporation and not subject to State of Texas Sales and Use Tax.

20.01 COMPLIANCE WITH LAWS, CHARTER AND ORDINANCES

A. Consultant, its consultants, agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the

City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Consultant shall further obtain all permits, licenses, trademarks, or copyrights required in the performance of the services contracted for herein, and same shall belong solely to the City at the expiration of the term of this Agreement.

B. In accordance with Chapter 2271, Texas Government Code, a governmental entity may not enter into a contract with a company for goods and services unless the contract contains written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this contract. The signatory executing this Agreement on behalf of Consultant verifies Consultant does not boycott Israel and will not boycott Israel during the term of this Agreement.

C. In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has provision in the contract verifying that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Agreement on behalf of Consultant verifies Consultant does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

D. In accordance with 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has provision in the contract verifying that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement. The signatory executing this Agreement on behalf of Consultant verifies Consultant does not boycott energy companies, and it will not boycott energy companies during the term of this Agreement.

21.01 FINANCIAL INTEREST PROHIBITED

Consultant covenants and represents that Consultant, its officers, employees, agents, consultants and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials or equipment that will be recommended or required hereunder.

22.01 DESIGNATION OF REPRESENTATIVES

The City hereby designates the following representative authorized to act in its behalf with regard to this Agreement:

Monique Adams
Administration Department
221 E. Main Street
Round Rock, Texas 78664
(512) 218-3234
madams@roundrocktexas.gov

23.01 NOTICES

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

- (1) When delivered personally to recipient's address as stated herein; or
- (2) Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

Notice to Consultant:

Lyle Sumek Associates, Inc.
9 Flagship Court
Palm Coast, FL 3217-3373

Notice to City:

City Manager, City of Round Rock
221 East Main Street
Round Rock, TX 78664

AND TO:

Stephan L. Sheets, City Attorney
309 East Main Street
Round Rock, TX 78664

Nothing contained in this section shall be construed to restrict the transmission of routine communications between representatives of the City and Consultant.

24.01 APPLICABLE LAW; ENFORCEMENT AND VENUE

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of Texas.

25.01 EXCLUSIVE AGREEMENT

The terms and conditions of this Agreement, including exhibits, constitute the entire agreement between the parties and supersede all previous communications, representations, and agreements, either written or oral, with respect to the subject matter hereof. The parties expressly agree that, in the event of any conflict between the terms of this Agreement and any other writing, this Agreement shall prevail. No modifications of this Agreement will be binding on any of the parties unless acknowledged in writing by the duly authorized governing body or representative for each party.

26.01 DISPUTE RESOLUTION

The City and Consultant hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

27.01 SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion of provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion of provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

28.01 STANDARD OF CARE

Consultant represents that it is specially trained, experienced and competent to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed, whether by Consultant or designated subconsultants, in a manner acceptable to the City and according to generally accepted business practices.

29.01 GRATUITIES AND BRIBES

City, may by written notice to Consultant, cancel this Agreement without incurring any liability to Consultant if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Consultant or its agents or representatives to any City Officer, employee or elected representative with respect to the performance of this Agreement. In addition, Consultant may be subject to penalties stated in Title 8 of the Texas Penal Code.

30.01 RIGHT TO ASSURANCE

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure an anticipatory repudiation of this Agreement.

31.01 MISCELLANEOUS PROVISIONS

Time is of the Essence. Consultant agrees that time is of the essence and that any failure of Consultant to complete the services for each phase of this Agreement within the agreed project schedule may constitute a material breach of this Agreement. Consultant shall be fully responsible for its delays or for failures to use reasonable efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Consultant's failure to perform in these circumstances, City may withhold, to the extent of such damage, Consultant's payments hereunder without a waiver of any of City's additional legal rights or remedies. City shall render decisions pertaining to Consultant's work promptly to avoid unreasonable delays in the orderly progress of Consultant's work.

Force Majeure. Notwithstanding any other provisions hereof to the contrary, no failure, delay or default in performance of any obligation hereunder shall constitute an event of default or breach of this Agreement, only to the extent that such failure to perform, delay or default arises out of causes beyond control and without the fault or negligence of the party otherwise chargeable with failure, delay or default; including but not limited to acts of God, acts of public enemy, civil war, insurrection, riots, fires, floods, explosion, theft, earthquakes, natural disasters or other casualties, strikes or other labor troubles, which in any way restrict the performance under this Agreement by the parties.

Section Numbers. The section numbers and headings contained herein are provided for convenience only and shall have no substantive effect on construction of this Agreement.

Waiver. No delay or omission by either party in exercising any right or power shall impair such right or power or be construed to be a waiver. A waiver by either party of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach or of any other covenant. No waiver of discharge shall be valid unless in writing and signed by an authorized representative of the party against whom such waiver or discharge is sought to be enforced.

Multiple Counterparts. This Agreement may be executed in multiple counterparts, which taken together shall be considered one original. The City agrees to provide Consultant with one fully executed original.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates hereafter indicated.

City of Round Rock, Texas

Lyle Sumek Associates, Inc.

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

By: _____
Printed Name: _____
Title: _____
Date Signed: _____

For City, Attest:

By: _____
Meagan Spinks, City Clerk

For City, Approved as to Form:

By: _____
Stephan L. Sheets, City Attorney

5-YEAR PROPOSAL**LEADERSHIP, GOVERNANCE AND
STRATEGIC PLANNING****Mayor and City Council****City of Round Rock****February 2022****Program Outcomes****➤ GOVERNANCE: ENHANCING THE PERFORMANCE AND EFFECTIVENESS OF
THE MAYOR – CITY COUNCIL**

- Mayor – City Council: Framework for Effectiveness
- “House Rules”
- Protocols: Daily Operating Guidelines for the Mayor – City Council
- Roles and Responsibilities: Mayor – City Council
- Expectations and Actions for Effectiveness: Mayor – City Council

➤ VISION, GOALS, PLAN (5-YEAR), and, MISSION FOR THE CITY OF ROUND ROCK

- Vision 2037: A Vision Statement with defined, value-based principles that describe the preferred future in 15 years for the City of Round Rock
- Goals for 2027: Four to six Goals with measurable objectives which become major focus areas for the City of Round Rock
- Plan 2022 – 2027: A Plan to realize the Vision, to enhance the Mission and to achieve the Goals with an analysis of major challenges and opportunities and specific deliverable actions
- Mission: A Mission Statement that defines what should be the primary purposes of the City of Round Rock with operating guidelines and service priorities

➤ STRATEGIC DISCUSSION ON CRITICAL ISSUES

- Critical Issues: key issues shaping the City of Round Rock’s future
- Strategy: desired outcomes, potential partners, activities, timeframe

➤ **ACTION AGENDA FOR 2021**

- Policy Agenda for 2022: A Top “10” list of Top and High Priority policy related actions for the Mayor and City Council to address during the next year
- Management Agenda for 2022: A Top “10” List of Top and High Priority management or administrative actions for the next year
- Major Projects for 2022: A list of key projects to be completed or requiring significant work for the next year
- Action Outlines 2022: For prioritized actions including activities/milestones, timeframe, responsible party/team
- Guidelines for Budget and Capital Projects: direction, priorities

➤ **MAKING THE STRATEGIC PLANNING PROCESS WORK FOR THE CITY OF ROUND ROCK**

Institutionalizing the process in the governance process and the organization

- Progress Matrix or Status Reports
- Marketing the Plan to the Community
- Incorporation into Policy Reports, Budget Plan Development, Program Development, Project Planning

Program Outline

ACTIVITY 1: Strategic Planning Activity Outline for the City of Round Rock

The consultant will consult with the designated person to finalize purposes, work products, activities, and time frames.

ACTIVITY 2: Mayor – City Council Background Interviews

The consultant will interview the Mayor, each member of the City Council, and City staff. The purposes of each interview are to:

- Gain background on the City of Round Rock and the community
- Discuss their vision for the future, mission of City of Round Rock, goals for 2027
- Identify and discuss issues today and opportunities on the horizon
- Focus on key topics for the Workshop

During the interview, the questions are likely to explore the following information:

1. During the past year, what are the major successes for the City of Round Rock?
2. What did not get accomplished this past year or is in progress and needs to continue for the next year?
3. As you talk with residents, what are their messages to you about issues today and their desires for the future?
4. What are Round Rock's primary strengths, weaknesses, opportunities and threats?
5. What is your desired legacy for the Round Rock community?
6. As you look to the future, what are the major challenges facing the City of Round Rock?
7. Success for the City of Round Rock in 2037 means . . .?
8. What do you believe are the most important 5-year goals for the City of Round Rock?
9. During the next year, what are the specific, major issues that you feel need to be addressed by the City of Round Rock?
10. What suggestions do you have for increasing the effectiveness of the Mayor and City Council?
11. What other topics do you feel need to be addressed during the workshop?

Additional questions are likely to be added to this list based upon further discussion.

ACTIVITY 3: Interview Analysis and Preparation of Leader's Guide 2022 – a Working Document for Management Team

The consultant will analyze the interview data and prepare a summary of:

- Vision 2037 Rough Outline Draft: Statement with defined principles
- Working Draft Goals for 2027 with Objectives
- Potential Targets for Action 2022
- Mission Rough Outline Draft: Purpose of City Government with defined principles and core services
- Topics for Strategic Discussions

These drafts will be placed in a Leader's Guide – A Working Document for Management that will be used and modified during the Strategic Planning process.

ACTIVITY 4: Strategic Planning Session 1 for Management Team

A one-day Strategic Planning Session 1 will be held. The purpose of this session is to:

- Provide background on Strategic Planning
- Review accomplishments from the past year
- Focus on Vision, Mission Plan for the City of Round Rock
- Identify topics for Mayor and City Council Workshop

The specific agenda will be developed and submitted to the designated person. The Workshop should be flexible, adjusting to your needs, and should be fun in order to maximize the learning experience.

ACTIVITY 5: Preparation of Leaders' Guide 2022 for Mayor and City Council

The Consultant will analyze the interview data and prepare a summary of:

- Vision 2037 Rough Draft: Statement with defined principles
- Mission Rough Draft: Purpose of City Government with defined principles
- Working Draft Goals for 2027 with Objectives
- Working Draft Plan 2022 – 2027
- Potential Targets for Action 2022

These drafts will be placed in a Leader's Guide – A Working Document that will be used and modified during the Mayor and City Council Workshop.

ACTIVITY 6: Leadership and Strategic Planning Workshop I for Mayor and City Council

A 1½ – 2 days Leadership and Strategic Planning Workshop will be conducted for the Mayor and City Council. The specific agenda will be developed based upon the interviews. A typical outline for a Leadership and Strategic Planning Workshop follows:

1. Keys to City Success: Effective Leadership and Teamwork
2. Realities for 2022: for Cities, for the City of Round Rock
3. Strategic Planning Model the for City of Round Rock
4. Performance Report 2021
5. Round Rock Vision 2037
6. City of Round Rock: Mission and Core Services
7. Strategic Discussion on Critical Issues: Outcomes, Problems, Key Issues and Direction
8. Goals for 2027
9. Plan 2022 – 2027: Initial Draft
10. Governance: Mayor – City Council in Action

ACTIVITY 7: Strategic Planning Workshop 2 for Management Team

A one-day Strategic Planning Workshop 2 is suggested for the Management. This workshop will focus on:

- Vision 2037: Review, Reality Test
- Goals 2027: Review, Reality Test
- FOR EACH GOAL
 - Outcome-based Objectives: Review
 - Value to Residents: Review
 - Challenges and Opportunities with Short Term Priority
 - Actions 2022 with Initial Priority
- City of Round Rock Mission and Service's: Review
- Action Outlines 2022: Development (with Key Issues, Activities/Milestones, Time Frame, Responsible Party)

ACTIVITY 8: Leadership and Strategic Planning Workshop 2 for the Mayor and City Council

Leadership and Strategic Planning Workshop 2 (2 – 4 hours) will be held for the Mayor and City Council. The purposes of this Workshop are:

- Plan 2022 – 2027: Refinement and Finalization
- Action Agenda 2022: Policy Agenda 2022 - Top Priority, High Priority; Management Agenda 2022 – Top Priority, High Priority
- Action Outlines on Key Issues: 2022
- Actions to Make the Strategic Planning Process Work for Round Rock
- Governance: Mayor – City Council in Action

ACTIVITY 9: Governance: Mayor-City Council in Action

Governance Workshop will be conducted for the Mayor-City Council. The purposes of this Workshop are:

- Mayor-City Council Success means...
- Mayor and City Council Desired Image in the Community
- House Rules: Code of Conduct and Civility
- Protocols: Mayor-City Council and City Manager Guidelines
- Roles, Responsibilities and Suggested Actions for:
 - Mayor
 - City Council
 - City Manager
 - Council Meetings
 - Social Media Guidelines

ACTIVITY 10: Strategic Discussions

Strategic Workshop will be conducted to have a candid discussion of critical topics (e.g. COVID-19, Equity and Inclusion, etc.). The discussion will focus on the following topics:

- Desired Outcomes
- Problems
- Key Issues
- Direction

ACTIVITY 11: Final Reports for the Mayor and City Council

As a follow-up to the workshop, the following reports will be prepared for the Mayor and City Council:

- Strategic Plan 2022 – 2027 - 2037
- Executive Summary 2022 – 2027 – 2037 (small booklet)
- Action Agenda 2022 with Monthly Calendar
- Leader's Guide 2022
- Plan in Brief 2022 (1 page/2-sided, laminated)
- Performance Report 2021

These reports become working documents for the next year.

STRATEGIC FRAMEWORK

VISION 2037
*“Desired Destination for the
City of Round Rock”*

PLAN 2027
“Map to the City of Round Rock’s Destination”

EXECUTION
“Route for Next Year”

MISSION
“Responsibilities of the City of Round Rock”

BELIEFS
“How the City of Round Rock Should Operate”

STRATEGIC FRAMEWORK BASIC ELEMENTS

VISION

**“What We Want to Become –
Our Preferred Future as Defined in Value-Based Principles.”**

PLAN

**“Our Road Map for 5 Years – How to Realize Our Vision with
Achievable Goals Defined Through: Objectives, Meaning to
Our Residents, Challenges and Opportunities, Actions 2022,
Major Projects 2022 and Actions on the Horizon.”**

EXECUTION

**“Actions to Implement the Plan – A Work Program for Next Year
with a “To Do” List for Mayor, City Council and Management – To
be Completed with Accountability for the Results.”**

MISSION

**“Purposes of City Government – Determined in Service Businesses
Defined in: Operating Elements, Business Successes, Challenges and
Opportunities and Service Improvements 2022.”**

BELIEFS

**“Our Core Beliefs Which are the Foundation for Our City
Government – Creating a Corporate Culture of Action and
Accountability, the Primary Value, As Defined in Performance
Standards to Guide Behaviors and Actions.”**

HOW WE CONDUCT OUR BUSINESS

Fee Estimate

Leadership and Strategic Planning

City of Round Rock

January 2021

ESTIMATED BILLING TIME:

Number of days scheduled is flexible and is based on the needs of the City.

ACTIVITY 1	Strategic Planning with City Manager/City Manager's Office for Round Rock (continues throughout the process)	12 hours
ACTIVITY 2	Mayor – City Council Background Interviews	12-14 hours
ACTIVITY 3	Interview Analysis and Preparation of Leader's Guide 2022 – a Working Document for Management Team	16 hours
ACTIVITY 4	Strategic Planning Session 1 for Management Team	10-14 hours
ACTIVITY 5	Preparation of Leaders' Guide 2022 for Mayor and City Council	8.hours
ACTIVITY 6	Leadership and Strategic Planning Workshop I for Mayor and City Council Preparation, Session, Organizing Report Materials	20-24 hours
ACTIVITY 7	Strategic Planning Workshop 2 for Management Team	14-16 hours
ACTIVITY 8	Governance Workshop	12-24 hours
ACTIVITY 9	Strategic Discussion on Critical Issues	12-24 hours
ACTIVITY 10	Leadership and Strategic Planning Workshop 2 for the Mayor and City Council Preparation Session, Organize Materials	12-16 hours
ACTIVITY 11	Final Reports for the Mayor and City Council	16-24 hours

- *Cancellation/unavailability of individuals may result in additional charges*

CONSULTATION FEES:

Individual consultation _____ \$ 250.00 per hour for 2022 & 2023; the fee for the following 3 years – 2024, 2025, & 2026 will then be \$275.00 per hour for the last 3 years of the contract.

_____ \$2,000.00 per day on-site
(8 hours)

The total cost will depend on the activities and is likely to range from completion + expenses + products.

EXPENSES:

_____ Additional Costs

Including, but not limited to:

- *Travel/Auto Expenses*
- *Telephone Usage/Fax Usage Fee (billed at \$12.00/hr – this is not include the consultation fee)*
- *Assessment Instruments*
- *Accommodations and Meals*
- *Typing, Duplication, Binding, Shipping*
- *Products:*
 - *Strategic Plan (coil bound)*
 - *Executive Summary (booklet)*
 - *Action Agenda 2022*
 - *Leader's Guide Summary Report*
 - *Plan in Brief*

EXHIBIT A