

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
CITY OF SPRING HILL, TENNESSEE  
AND CHANDLERTHINKS, LLC**

**THIS AGREEMENT** is made this the 22<sup>nd</sup> day of January, 2019 by and between **CITY OF SPRING HILL, TENNESSEE** (hereinafter “City”), Chandlerthinks, LLC, 106 Mission Court, Suite 102A, Franklin, TN 37067 (hereinafter “Consultant”).

**WITNESSETH:**

**WHEREAS**, the City has determined to enter into an agreement with a consulting firm that affirms itself to have extensive experience in providing place branding; and

**WHEREAS**, the City submits that it has the authority to contract with Consultant to provide professional services for the work desired by the City; and

**WHEREAS**, by entering into this Agreement, Consultant affirms that it has extensive experience in developing a competitive identity for the purpose of building economic development, tourism, and community unity for the City of Spring Hill providing such services in a professional manner in accordance with the terms and conditions of this Agreement as well as the standard of care practiced by other consultants and professionals performing similar services within the industry.

**NOW, THEREFORE**, in consideration of the premises and recitals hereinabove set forth, which are incorporated herein by reference, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the mutual covenants contained herein, the City and Consultant agree as follows:

**ARTICLE 1 - SCOPE OF SERVICES TO BE RENDERED BY CONSULTANT**

1. Consultant shall perform all necessary professional services in a satisfactory and proper manner, consistent with the City’s requirements for the Project and by reference made a part hereof, including, but not be limited to, the following:

a. See Attached Exhibit A (Proposal to Provide Professional Services)

2. All documents prepared by Consultant that form a part of the services rendered hereunder shall, upon completion of the exhibits, draft reports, presentation material, etc. will become the property of the City. Such documents shall not be used by either party on any other project, except as reference materials.

3. The City will furnish all information, data, reports and maps as are existing and identified by Consultant as necessary for carrying out the work that are available to the City without cost to Consultant.

4. Consultant shall have the authority to request work assignments necessary to obtain additional information to revise the cost of service study if required.

**ARTICLE 2 – CITY’S RESPONSIBILITIES**

The City will provide to Consultant all criteria and full information as to the Project’s requirements, and shall furnish the following:

1. Provide Consultant with all known available information that is pertinent to the Project.

2. Meet with Consultant for ongoing discussions to assist in directing the consultant.
3. Give thorough and prompt consideration to all reports, exhibits or technical memorandums and other documents presented by Consultant and inform Consultant of all decisions within a reasonable time so as not to delay the work of Consultant (i.e. furnish approval or instructions for change).
5. Promptly schedule all required special meetings, serve all public and private notices, receive and act upon all protests.
6. Designate, in writing, a single person to act as Consultant point of contact with the City. The contact person for the City of Spring Hill will be Kayce Williams, Economic Development Coordinator. The alternate point of contact will be Victor Lay, City Administrator.
8. Give prompt written notice to Consultant when it is known that either the Project criteria or conditions have changed, or there is reason to believe Consultant work is deficient in intent or technical content.
9. Provide information previously assembled by others, including special census data, void analysis, marketing materials, and other special data or consultation.

### **ARTICLE 3 - TERM**

1. The services of the Consultant shall be undertaken and completed by September 30, 2019, unless otherwise agreed upon by the City. Additional time may be provided at the discretion of the City.

### **ARTICLE 4 - FEES**

1. In consideration of the performance of services rendered under this Contract, Consultant shall be compensated for services performed in accordance with Article 1, in the amount of Sixty -Four Thousand, Five Hundred Dollars (\$64,500.00). Reimbursable travel expenses shall not exceed One Thousand, Five Hundred Dollars (\$1,500.00) unless otherwise authorized in writing by the City. Reimbursable expenses shall be invoiced by the Consultant at direct expense to the City.
2. Invoices shall be submitted by Consultant to the City in monthly statements for services rendered, if any. The statements shall be based on percent completion of the lump sum amount, and incurred expenses. Each individual invoice shall be due and payable thirty (30) days after receipt.
3. If the City disputes any portion of Consultant invoices, the undisputed portion will be paid by the City, and Consultant will be notified in writing within ten (10) days of receipt of the exceptions taken to such invoice. The City and Consultant will attempt to resolve any payment dispute within sixty (60) days, and both parties agree that no action for collection thereon shall be filed within this time period.
4. If the City delays the Project for more than six months (6) beyond the designated date when work is scheduled to begin, which is more particularly defined as the date this Agreement is executed, then the lump sum as designated in Sub-Paragraph 1 of this Section shall be increased by three percent (3%) per year. The intent of this language is that the increase shall be cumulative, as a delay would cause Consultant to have to revisit the plans created in accordance with the designated start date as defined herein.

### **ARTICLE 5 – NOTICE**

All notices, certificates or other communications hereunder shall be deemed sufficiently given and shall be deemed given when delivered by hand-delivery or mailed by first class, postage prepaid, registered or certified mail and addressed as follows:

If to Consultant:                            Attn: Steve Chandler  
    Title: Owner/Brand Strategist  
    106 Mission Court, Suite 102A  
    Franklin, TN 37067

If to City:                                     Attn: Victor Lay  
    Title: City Administrator  
    199 Town Center Parkway  
    Spring Hill, TN 37174

Copy to:                                        Patrick M. Carter, Esq.  
    City Attorney  
    P.O. Box 1431  
    Columbia, TN 38402-1431

**ARTICLE 6 - TERMINATION**

1.            This Agreement may be terminated by either party upon thirty (30) days' written notice should the other party fail substantially to perform in accordance with the terms outlined herein through no fault of the party initiating the termination.

2.            This Agreement may be terminated by Consultant in the event that the City permanently abandons the Project.

3.            In the event of termination by either party, Consultant shall be compensated for all services performed prior to the termination date.

**ARTICLE 7 - DISPUTE RESOLUTION AND GOVERNING LAW**

1.            The City and Consultant shall attempt to resolve conflicts or disputes under this Agreement in a fair and reasonable manner and agree that if an informal resolution cannot be achieved, the parties shall submit the matter to a mutually agreed upon mediator in an attempt to resolve the dispute through the mediation process. Such mediation process shall be initiated by a request in writing by either party.

2.            The mediation provision can be waived by the mutual consent of the parties or by either party if such party's right would be irrevocably prejudiced by a delay in initiating a legal proceeding.

3.            Governing Law, Venue and Jurisdiction: This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee. The venue and jurisdiction for any dispute arising pursuant to this Agreement shall be in the Circuit Court for Maury County, Tennessee.

**ARTICLE 8 - BREACH**

1.            The term "breach of agreement" specifically includes, but is not limited to, failure to comply with any applicable federal, state or local laws or regulations.

2. One or more waivers of breach of any provision of this Agreement by any party shall not be construed as a waiver of subsequent breach of the same provision, nor shall it be considered a waiver of any other then existing or subsequent breach of a different provision.

3. The substantially prevailing party in any legal proceeding hereunder by and between the parties shall be entitled to their reasonable attorney's fees and court costs incurred in said legal proceeding.

#### **ARTICLE 9 - MODIFICATION**

This Agreement shall not be modified unless such modifications are evidenced in writing in the form of a written Amendment, which is signed by both the City and Consultant. Should any changes in the design of the Project be necessary, the City's designee shall report such change to Consultant in writing. If the City determines that any changes in work are necessary to complete the Project, then Consultant shall be allowed compensation based upon the original contract terms, including the additional work in the overall cost of the construction of the Project.

#### **ARTICLE 10 - INDEMNITY AND HOLD HARMLESS**

1. City shall agree to indemnify and hold Consultant its officers, agents and/or employees, harmless from and against any and all lawsuits, damages and expenses, including court costs and attorneys' fees, by reason of any claim and/or liability imposed, claimed and/or threatened against the City, its officials, agents and/or employees, for damages because of bodily injury, death and/or property damages arising out of or in consequence of the performance of services under this Agreement to the extent that such bodily injuries, death and/or property damages are attributable to the negligence of the City, its agents, employees, or any other entity for which the City may be found to be legally liable. This provision shall survive the completion of all services, obligation and duties provided pursuant to the Project, or the termination of this Agreement for any reason.

2. Consultant shall agree to indemnify and hold the City, its officers, agents and/or employees, harmless from and against any and all lawsuits, damages and expenses, including court costs and attorneys' fees, by reason of any claim and/or liability imposed, claimed and/or threatened against Consultant, its officials, agents and/or employees, for damages because of bodily injury, death and/or property damages arising out of or in consequence of the performance of services under this Agreement to the extent that such bodily injuries, death and/or property damages are attributable to the negligence of Consultant, its agents, employees, or any other entity for which Consultant may be found to be legally liable. This provision shall survive the completion of all services, obligation and duties provided pursuant to the Project, or the termination of this Agreement for any reason.

#### **ARTICLE 11 – INSURANCE**

Consultant shall maintain, during the term of this Agreement, or any extension hereof, the following insurance policy, written by an insurance company authorized to do business within the State of Tennessee, and furnish City, in duplicate, Certificates of Insurance as evidence thereof:

1. Worker's Compensation: Providing coverage in compliance with the laws of the state in which any part of the work is to be performed, and Employer's Liability Coverage in the minimum amount of the statutory limit for each occurrence.

2. Comprehensive (Commercial) General Liability Insurance: Bodily injury and property damage combined single limit in the minimum amount of \$1,000,000.00 for each occurrence.

3. Automobile (Business) Liability Insurance: Bodily injury and property damage combined single limit in the minimum amount of \$1,000,000.00 for each occurrence, \$1,000,000.00 aggregate.

4. Professional Liability Insurance: Professional liability insurance covering claims arising from errors, omissions or negligent acts committed in the performance of professional services under this Agreement with limits of \$1,000,000.00.

#### **ARTICLE 12 - SEVERABILITY**

In the event any provision of this Agreement or any instrument delivered in connection herewith shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof or thereof.

#### **ARTICLE 13 - BINDING EFFECT**

This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective heirs, administrators, successors and assigns.

#### **ARTICLE 14 - INDEPENDENT CONTRACTOR RELATIONSHIP**

It is specifically understood that Consultant relationship with City shall be that of independent contractor and Consultant shall in no sense be considered an agent or employee of City, nor shall Consultant be, as a result of the relationship established by this Agreement, entitled to or eligible to participate in any benefits or privileges extended or given by City to its employees, notwithstanding this Agreement.

#### **ARTICLES 15 - HEADINGS AND EXHIBITS**

The paragraph headings in this Agreement are for convenience only, and they form no part of this Agreement and shall not affect its interpretation.

#### **ARTICLE 16 - FORCE MAJEURE**

Consultant shall not be liable to City or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond Consultant reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, or Governmental Authorities approval delays which are not caused by any act or omission by Consultant and unusually severe weather. Consultant agrees to notify City of the existence and nature of any delay.

#### **ARTICLE 17 – ENTIRE AGREEMENT**

This Agreement and accompanying documents contain the entire agreement between the parties with respect to the subject matter hereof and all prior or contemporaneous written or oral agreements with respect to the subject matter hereof are superseded hereby.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be signed by its authorized representative, and Consultant has caused this Agreement to be signed in its corporate name by its authorized representative as of the day and year first written above.

**CITY OF SPRING HILL, TENNESSEE**

By: \_\_\_\_\_  
Rick Graham, Mayor

**Steve Chandler, Owner  
CHANDLERTHINKS, LLC**

By: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

DRAFT