AGREEMENT TO PROVIDE PROFESSIONAL SERVICES

THIS AGREEMENT ("Agreement") is entered into this **17th** day of **May**, **2022** effective immediately by and between the **Rick Trice** ("CONTRACTOR") and the CITY OF SAGINAW, TEXAS, a municipal corporation of the State of Texas ("CITY"). For convenience, the CONTRACTOR and the CITY may sometimes be referred herein collectively as "parties" and individually as a "party."

WITNESSETH

WHEREAS, CITY desires to engage the CONTRACTOR to provide professional services as more fully described on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, CONTRACTOR agrees to provide such work and services for the CITY in accordance with the terms of this Agreement;

NOW, THEREFORE, for the mutual promises set forth herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto mutually agree as follows:

1. **Employment of CONTRACTOR.**

(a) CITY agrees to engage the CONTRACTOR and the CONTRACTOR hereby agrees to perform the services described in Exhibit "A" attached hereto and incorporated herein by reference.

(b) Notwithstanding anything to the contrary contained in this Agreement, CITY and CONTRACTOR agree and acknowledge that CITY is entering into this Agreement in reliance on CONTRACTOR's special and unique abilities. CONTRACTOR accepts the relationship of trust and confidence established between it and the CITY by this Agreement. CONTRACTOR acknowledges that CONTRACTOR shall be solely responsible for determining the methods for performing the services described in Exhibit "A" attached hereto. CONTRACTOR covenants with CITY to use its best efforts, skill, judgment, and abilities to perform the work required by this Agreement and to further the interests of CITY in accordance with CITY's requirements, in accordance with the highest standards of CONTRACTOR's profession or business and in compliance with all applicable national, federal, state, municipal, laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. The CONTRACTOR warrants, represents, covenants, and agrees that all of the work to be performed by the CONTRACTOR under or pursuant to this Agreement shall be of the standard and quality which prevail among similar businesses and organizations of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances and involving the work to be performed in accordance with Exhibit "A" attached hereto and incorporated herein.

CONTRACTOR warrants, represents, covenants, and agrees that the work he performs will be accurate and free from any material errors.

(c) CONTRACTOR will be responsible for supplying all tools and equipment necessary for CONTRACTOR to provide the services set forth in Exhibit "A" attached hereto.

2. **Compensation.** The CITY agrees to pay the CONTRACTOR the fees set forth in Exhibit "A" attached hereto. Within fifteen (15) days of the end of the month within which services were rendered, CONTRACTOR shall provide City an invoice specifying the services provided during the previous month and the total amount owed by the City. Payment will be made by the CITY within thirty (30) days of receipt of an invoice from CONTRACTOR.

3. **Changes.** CITY may, from time to time require changes in the scope of services of the CONTRACTOR to be performed hereunder. Such changes, which are mutually agreed upon by and between CITY and the CONTRACTOR, shall be incorporated in written amendment to this Agreement.

4. **Services and Materials to be Furnished by CITY.** CITY shall furnish the CONTRACTOR with all available information and data CONTRACTOR requests pertinent to the execution of this Agreement. CITY shall cooperate with the CONTRACTOR in carrying out the work herein and shall provide adequate staff for liaison with the CONTRACTOR.

5. **Ownership of Documents.** All reports, plans, specifications, computer files and other documents prepared by CONTRACTOR pursuant to this Agreement shall be the property of the CITY. CONTRACTOR will deliver to the CITY copies of the prepared documents and materials. CONTRACTOR shall make all documents and related data and material utilized in developing the documents available to CITY for inspection whenever requested. CONTRACTOR may make copies of any and all such documents and items and retain same for its files. CONTRACTOR shall have no liability for changes made to or use of the drawings, specifications, and other documents by anyone other than CONTRACTOR subsequent to delivery of the prepared documents and materials. However, any such change or other use shall be sealed by the individual making the change or use and shall be appropriately marked to reflect what was changed or modified.

6. **Termination of Agreement.** Either party may terminate this agreement at any time by providing thirty (30) days written notice to the other party.

7. **Completeness of Contract.** This Agreement and the documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this contract or any part thereof shall have any validity or bind any of the parties hereto. If there is any conflict between the terms of this Agreement and the documents

attached hereto, the terms of this Agreement shall control. This Agreement may not be subsequently modified except by a writing signed by both parties.

8. **CITY Not Obligated to Third Parties.** CITY shall not be obligated or liable hereunder to any party other than the CONTRACTOR.

9. **Final Decisions.** Serving as a CONTRACTOR to the CITY, CONTRACTOR shall advise all parties that final decisions shall be made by the City Council and/or City Manager.

10. Indemnification. THE CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY AND ALL OF ITS OFFICERS, EMPLOYEES, COUNCIL MEMBERS AND AGENTS FROM ANY AND ALL CLAIMS BY THIRD PARTIES, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR DAMAGES, JUDGMENTS, ATTORNEY'S FEES, EXPENSES, INJUNCTIVE OR EQUITABLE RELIEF, INTEREST, PERSONAL INJURY, AND DEATH, THAT MAY ARISE FROM THE CONTRACTOR'S PERFORMANCE UNDER THIS AGREEMENT**. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT IS AN INDEMNITY EXTENDED BY CONTRACTOR TO INDEMNIFY, PROTECT, AND HOLD HARMLESS CITY AND/OR ITS OFFICERS, EMPLOYEES, COUNCIL MEMBERS, AND AGENTS FROM ALL LIABILITY, INCLUDING LIABILITY FOR THE CONSEQUENCES OF THE NEGLIGENCE OF CITY AND/OR ITS OFFICERS, EMPLOYEES, COUNCIL MEMBERS OR AGENTS WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE.**

11. **Insurance**. CONTRACTOR agrees to maintain insurance for comprehensive general liability, automobile liability insurance, workers' compensation and professional liability during the term of this Agreement in the amounts not less than those required of other professional consultants and contractors retained by CITY. CONTRACTOR shall provide CITY with evidence of such coverages in a form which is acceptable to the CITY. Such policies shall name the CITY, its officers, and employees as an additional insured and shall provide for a waiver of subrogation against the CITY.

12. **Personnel.** All of the services required hereunder will be performed by the CONTRACTOR or under CONTRACTOR's supervision, and all personnel engaged in the work shall be qualified to perform such services.

13. **Independent Contractor.** In performing the services under this Agreement, CONTRACTOR is acting as an independent contractor. No term or provision hereof be construed as making CONTRACTOR the agent, servant, or employee of the CITY or as creating a partnership or joint venture relationship between CONTRACTOR and the CITY.

14. **Assignability.** The parties hereby agree that CONTRACTOR may not assign, convey or transfer its interest, rights and duties in this Agreement without the prior written consent of CITY.

15. **Governing Law/Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any action brought to interpret or enforce the terms of this Agreement shall lie in Tarrant County, Texas.

16. **Authority to Sign.** The parties hereby warrant and represent that the undersigned persons have full authority and are duly authorized to sign on behalf of their respective principals and that such principals have duly authorized the transaction contemplated by this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, CITY and the CONTRACTOR have executed this Agreement as of the date first written above.

CITY OF SAGINAW, TEXAS

By: _____

Print Name:_____

Title:_____

By: _____

Print Name:_____

Title:_____

Exhibit A

CONTRACTOR agrees to perform the following services at a monthly set fee of ninety-four hundred dollars ($9,400).

1. Scope of Work – Work will include providing support and guidance to City Staff, as needed, for ongoing project management, engineering, CIP administration and other work specifically defined by the City Manager and Public Works Director. After-hours meetings (after 5 p.m.) is not included in the scope of services.

2. Term. Contract term will be three months with automatic renewal, in three-month increments, with cancellation by either party upon thirty-day notice.