

## AGREEMENT

This Agreement is made and entered into as of December 1, 2023 by and between Sanders\Wingo Advertising, Inc. (hereinafter referred to as "Sanders\Wingo") a Texas corporation with its principal place of business at 303 N. Oregon, Suite 1200, El Paso, Texas 79901 and City of Laredo Convention and Visitors Bureau (hereinafter referred to as the "client") with its principal place of business at 101 Salinas Avenue, Laredo, Texas 78040. Sanders/Wingo and the client may be referred to in this agreement as the "parties".

### **1. ADVERTISING SERVICES**

A. For mutually agreed upon projects, Sanders\Wingo will furnish to client all of the services customarily furnished by advertising agencies in support of marketing activities. Without limiting the foregoing, Sanders\Wingo's services shall include input to the development of marketing plans and strategies, possible creation of advertising, collateral, point-of-sale and direct mail, and other services necessary to the preparation and execution, of the complete marketing plans, and purchase of the space, time or other means to be used for client advertising, endeavoring to secure the most advantageous rates available. Presently agreed upon projects may be listed or described in an attached Exhibit A, Scope of Work. Other agreed upon projects may be identified or described in subsequent communications between the parties.

B. Sanders\Wingo's services shall also include audits of all advertising placed, including verification of lineage actually run, examination of quality of reproduction and of positioning of printed advertisements, audits of radio and television affidavits of performance, and audits of all invoices for media, talent and production, and sales promotion program costs.

### **2. COMPENSATION**

A. Fees – Sanders\Wingo will provide the client with full agency account services for the presently agreed upon projects including those listed or described in the attached Exhibit A, Scope of Work, for a fee not to exceed \$379,000. Payments by the client to Sanders/Wingo are due net 30 days from the date of invoice.

Additional fees for execution of other phases will be agreed upon by the parties and will be made part of this agreement upon receipt of a signed client estimate, and shall reside within the \$379,000.

The following describes the general services that may be provided as agreed upon in Exhibit A and other agreed upon future projects, phases, and/or estimates.

1. Account Planning (for existing industry-specific research and customer information). Client specific strategic research and planning may be billed separately if not included in the scope of work.

2. Account Administration (for strategic oversight, day-to-day account management and client contact for all agency related assignments).

3. Active participation of creative team in client meetings.

4. Creative Execution as described in Exhibit A, Scope of Work.

5. Complete management of timelines and schedules to ensure optimal media/productions costs and consumer impact.

6. Executive consultation on matters pertinent to the overarching client strategy.

B. In addition to the compensation as described in A above it is agreed that Sanders\Wingo will bill the client for its expenses in connection with postage, outside research, and pre-approved Sanders\Wingo travel, personnel subsistence in connection with specific advertisements and commercials. Sanders\Wingo will bill the client for all approved out-of-pocket expenses detailed in this paragraph at net cost, within the allotted travel budget in Exhibit A. The travel budget resides within the \$379,000 that was approved by council.

C. Should Sanders\Wingo purchase media or engage in execution of production, Sanders\Wingo will bill client for the full amount of the resulting invoices plus an additional mark-up of 15%. This projected amount of markup is also included in the amount not to exceed as approved by Council and will be based on a percentage of the actual media buy. The timing of the billing to the client will be as follows:

1. Media and Digital Placement: billing will occur upon agreement of plan and rate and prior to placement

2. Outside Production Billing: Upon receipt of a signed estimate from client, Sanders\Wingo will bill the client 50% due net 10 days, and the remaining 50% will be billed upon the awarding of services to a vendor. These services will include print and broadcast production professional translation services and any other specialty work pre-approved by the client.

D. Procedures for Sanders\Wingo payments to vendors are as follows:

1. Media Vendors: vendor invoices are received by Sanders\Wingo in the month following the placement month, with an invoice date of the last day of the month. Some vendors may bill weekly or electronically. Payments are due to the vendors thirty (30) days from invoice date. For invoices without discrepancies, Sanders\Wingo will pay vendors within thirty (30) days of invoice date.

2. Other Vendors: undisputed vendor invoices are paid when due or within thirty (30) days of invoice date.

3. **ACCESS**

The Client has the right at all reasonable times and with reasonable notice of not less than 15 days to examine Sanders\Wingo's records of expenditure and internal expenses. Sanders\Wingo agrees to retain all records covering expenditures and expenses hereunder for a minimum of 12 months.

4. **COPYRIGHT AND TRADEMARK RIGHTS**

In the event that Sanders\Wingo prepares or procures material for the client that is subject to copyright and/or trademark protection, such copyrights or trademarks shall be owned by the client, and if the client desires that a copyright and/or trademark be registered, such copyright and/or trademark registration shall be in the name of client, and it will be the client's responsibility to pursue and obtain any such registrations. It is agreed that all copyrightable work created by Sanders\Wingo for the client shall be assigned by Sanders\Wingo to the client along with all copyrights in such work.

5. **INDEMNIFICATION AND INSURANCE**

A. The indemnification obligations created herein in each case require the Indemnitor to defend, indemnify, and hold the Indemnitee free and harmless from all costs, expenses, liability, claims, debts, contracts, actions and causes of action (hereinafter collectively called "Claims") arising out of, attributable to, or based on the particular events(s) or situation(s) giving rise to the indemnification. The indemnification obligations created herein shall apply to work undertaken while this agreement is in effect and shall survive the termination of this agreement.

B. To the extent allowed by law, the client hereby agrees to defend, indemnify, and hold Sanders\Wingo harmless against all Claims based on the following:

1. The accuracy of data and/or statements provided by the client;
2. Alleged violations of personal or property rights of anyone who the client informed Sanders\Wingo had released his or her personal or property rights with respect to the particular advertising element involved;
3. The client's failure to perform its obligations hereunder on account of the client's sole negligence or intentional or wrongful misconduct.

C. Sanders\Wingo hereby agrees to defend, indemnify, and hold the client harmless against all Claims based on the following:

1. Subject to the provisions of B(2) above, copyright infringement or invasion of privacy or the use of any advertising element which allegedly violates the personal or property rights of any third party;
2. Communications made in any advertising element which, while technically accurate, based on the data or statements provided by the client, are, nonetheless, unlawfully or improperly depicted in the particular advertising element involved on account of the negligence of Sanders\Wingo and without any negligence on the part of the client;

3. Violations of Sanders\Wingo's performance obligations hereunder which violations have not been the result of the client's sole negligence or intentional or wrongful misconduct.

D. Sanders\Wingo and the client will both take all reasonable precautions to assure that all advertising services, materials and copy supplied to the client shall not violate any laws or orders or regulations of any governmental agency

6. **NONCOMPETITION**

Prior to the termination of this agreement, Sanders\Wingo will not accept appointment as an advertising agency for any manufacturer or distributor of any products competing with any products of the client assigned to Sanders\Wingo hereunder without full discussion with and written agreement from the client.

7. **TERMINATION**

A. This Agreement will continue for a twelve-month period, beginning on the date of execution with an option to renew for two (2) additional one (1) year periods. The agreement may be terminated or modified by either party at any time upon at least 90 days prior written notice mailed to the other, whichever occurs first. Such notice will be deemed given as of the date of mailing certified postage pre-paid. The client will be responsible for those costs and expenses of Sanders\Wingo after the termination date only if such obligations were incurred prior to Sanders\Wingo's receipt of such termination notice and Sanders\Wingo has used its best efforts but has not been able to have such obligation extinguished or cancelled; or if client has given written authorization to Sanders\Wingo to incur the cost after the date of the notice of termination. Prior to the above provided for termination, the parties shall discuss the extension of this Agreement.

B. The rights, duties and responsibilities of Sanders\Wingo and the client shall continue in full force and effect until this agreement is terminated and until completion of any authorized activity, including the completion of plans for and the placing of advertisements the client has authorized Sanders\Wingo to place in any media whose closing dates fall within or after the 90-day notice period.

C. Upon termination of this Agreement, Sanders\Wingo shall transfer to the client all property and materials previously charged or chargeable to the client and all contracts and reservation for time, space, talent, and other advertising adjuncts entered into by Sanders\Wingo for the client, and all short rates and rebates which are for the account of the client. Where permitted, the client will assume all obligations and responsibilities of all such transferred contracts, reservations and non-cancelable commitments entered into by Sanders\Wingo on behalf of the client.

D. Sanders\Wingo will also return to the client all information provided by the client on the client's sales or marketing data and market research information. All plans, preliminary outlines, artwork, sketches, copy, films (including television commercials), photographs, manuscripts, and any other property and materials which are produced by reason of the terms of this agreement shall be the property of the client. Sanders\Wingo further agrees not to disclose confidential information to persons other than Sanders\Wingo personnel or agents without the client's prior

written consent, or unless said confidential information enters the public domain without fault of Sanders\Wingo and without provision for confidentiality being made by the client before such information enters the public domain or unless required to do so by law in which case Sanders\Wingo will notify the client in advance of disclosure, if possible and if permitted, and will work with the client to prevent disclosure, if possible, should the client decide to do so.

Furthermore, the client will determine in its sole discretion what information is confidential and Sanders\Wingo will not reveal any information possibly of a sensitive or proprietary nature until the client has determined such information is not confidential.

E. The client agrees to reimburse Sanders\Wingo for production costs of any uncompleted work previously authorized by the client. Such uncompleted work will be returned to the client and the client will have the right to complete (or have completed on its behalf) and use such material and ideas in its future advertising without further obligation to Sanders\Wingo.

F. All print, time, and talent contracts and the supervision of radio or TV properties will be assigned by Sanders\Wingo to the client or to a new agency, if the client so elects, not later than on the date of the termination of this agreement, so that a normal transition may take place. Sanders\Wingo agrees to cooperate with the client and with any new agency to effect an efficient transition in responsibilities.

#### **8. SANDERS\WINGO - CLIENT RELATIONSHIP**

Nothing herein shall be construed to establish an employer-employee or partnership relationship between Sanders\Wingo and the client. Sanders\Wingo's purchases for the client's advertising, and Sanders\Wingo's purchase of materials, services, and rights on behalf of the client will be made by Sanders\Wingo, as agent for the client and, as between the client and Sanders\Wingo, the materials, services and rights so acquired will be the property of the client and the client will be responsible for the cost of those acquisitions.

#### **9. DUTIES ON THIRD PARTY CONTRACTS**

Sanders\Wingo may be ultimately liable to performers for payments that may become due because of subsequent use of commercials by the client or its affiliates, agents or permittees. Therefore, the client will indemnify Sanders\Wingo against any loss and/or expenses Sanders\Wingo may sustain resulting from any claim, suit or proceeding made or brought against Sanders\Wingo for use of any Sanders\Wingo produced commercials by the client, the client's employees, dealers, affiliates, agents, permittees or by anyone else who obtained the materials from the client when such claim, suit or proceeding arises out of Sanders\Wingo's obligations under applicable union codes or contracts relating to the production of commercials made pursuant to this agreement and will not terminate with the termination of this agreement.

#### **11. TRADEMARK STANDARDS**

Sanders\Wingo will adhere to the client's trademark standards and policies which are in effect or which may be prescribed from time to time, and will take reasonable steps to have advertising reviewed by the client for proper trademark use.

**12. OWNERSHIP**

Sanders\Wingo shall use its best efforts to have all advertising materials prepared or procured by Sanders\Wingo, and accepted by the client, become the client's exclusive property. It is understood that there may be limitations contained in agreements with third parties which limit the use or ownership of said advertising materials. Sanders\Wingo shall inform the client of such limitations.

Any advertising materials prepared or proposed by Sanders\Wingo but not produced and published or broadcast within the term of this agreement and not subject to the provisions of paragraph 8 above shall remain the property of Sanders\Wingo and Sanders/Wingo shall have the right to use same as it sees fit, including use for any other clients, provided such use shall not involve the release of any confidential information regarding the client's business or methods of operation.

**13. WAIVER**

No waiver of any provision or of any breach of this agreement shall constitute a waiver of all other provisions or any other breach and no such waiver shall be effective unless made in writing and signed by an authorized representative. In the event that any provision of this agreement shall be illegal or otherwise unenforceable, such provision shall be severed, and the balance of the agreement shall continue in full force and effect.

**14. NOTICE**

All notices which either party is required or may desire to give the other party hereunder shall be given by addressing the communication to the address set forth hereunder and may be given by registered mail, fax, email, or personal delivery. Such notices shall be deemed given on the date of receipt if given by registered mail, fax, email, or personal delivery.

- A. To the client at:
- City of Laredo CVB
  - 101 Salinas Ave.
  - Laredo, Texas 78040
  - Attention: Joseph W. Neeb
  - City Manager, City of Laredo
- 
- City of Laredo CVB
  - 101 Salinas Ave.
  - Laredo, Texas 78040
  - Attention: Doanh "Zone" Nguyen
  - City Attorney, City of Laredo
- B. To Sanders\Wingo at:
- Sanders\Wingo Advertising, Inc.
  - 303 N. Oregon, Suite 1200

El Paso, Texas 79901  
Attention: Leslie Wingo  
CEO President

**15. ASSIGNMENT**

This Agreement may not be assigned by either party without the prior written consent of the other party.

**16. GOVERNING LAW**

This Agreement is performable in Webb County, Texas shall be governed by and construed in accordance with the laws of the state of Texas, without regard to conflict of laws principles. The parties agree that exclusive jurisdiction for any suit involving this agreement brought by one of the parties against the other shall be in state or federal court located in Webb County, Texas.

**17. LEGAL DISPUTES**

The parties agree to make all efforts possible to resolve legal disputes through arbitration in accordance to section 18. Notwithstanding the foregoing, parties may resolve disputes by any means necessary under the law. Once parties agree to Arbitration the decision shall be binding as per section 18.

**18. ARBITRATION**

Pursuant to Section 17, should parties agree to Arbitration, the Parties agree that any breach, controversy, cause of action, disagreement, dispute, or claim of any kind ("Dispute(s)") arising between the Parties, as a result of their dealings, relationships or otherwise, regardless of the nature or subject matter of the Dispute and including but not limited to those directly or indirectly arising out of or relating in any way to this Agreement or the breach or alleged breach of this Agreement, shall be resolved by three arbitrators in an arbitration proceeding held in accordance with the rules of the American Arbitration Association, or any successor organization thereto ("AAA"), as modified under this Agreement. The arbitration shall be conducted at a location chosen by the arbitrators as the most convenient and inexpensive considering the interests of everyone participating in the arbitration. AAA will provide the Parties with a list of 12 qualified arbitrators and each Party may strike up to 3 arbitrators from that list. From the remaining list of qualified arbitrators that were not struck by either Party, AAA shall select 3 to serve as the arbitrators. All discovery permitted by the arbitrators shall be completed within 60 days from the institution of the arbitration proceeding. The arbitration shall be conducted within 120 days from the institution of the arbitration proceeding. The arbitrators shall submit their written decision including any award within 30 days after conducting the arbitration. The decision need not state the reasons, grounds or basis for the decision, and shall be final and binding and enforceable by any court having jurisdiction, and it shall not be subject to appeal except to the limited extent required by law. The administrative fees or costs of the arbitration shall be borne one-half by each Party. The arbitrators, in their discretion, may (but are not required to) award attorney's fees and costs.

**19. ENTIRE AGREEMENT AND EXECUTION**

This agreement (a) constitutes the entire understanding between the parties, (b) may not be amended except in writing signed by both parties, and (c) shall bind and inure to the benefit of the successors and assigns of the parties hereto. This agreement may be executed by the parties (including by facsimile or electronic transmission) in any number of identical counterparts, all of which together shall constitute a single binding agreement between or among the parties. It shall not be necessary for the parties to execute the same counterpart for the various counterparts hereunder to constitute a binding agreement.

IN WITNESS WHEREOF, the authorized officers or agents of the parties have executed this agreement as of the date first written above.

City of Laredo

Sanders\Wingo Advertising, Inc.

By: *Joseph W. Neeb*  
Joseph W. Neeb, City Manager

By: *Leslie Wingo*  
Leslie Wingo, CEO

Date: 1-22-24

Date: Jan 11, 2024

City of Laredo- Approved as to form

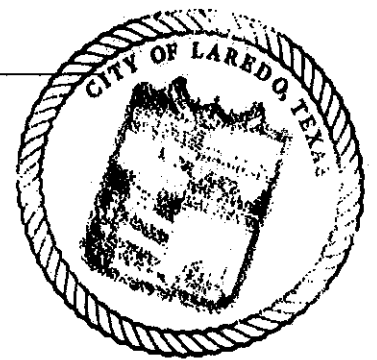
City of Laredo- Attested by

By: *Doanh "Zoni" Nguyen*  
Doanh "Zoni" Nguyen, City Attorney

By: *Jose A. Valdez Jr.*  
Jose A. Valdez Jr., City Secretary

Date: \_\_\_\_\_

Date: 1/22/24





## **EXHIBIT A**

### **Scope of Work**

#### **Part 1 Scope of Services**

Scope of Services \$120,000

- Ad Campaign
- Strategic Planning - Analyze media outlet options to determine those most suitable and submit advertising buy recommendations to LCVB \*Serve as liaison between Laredo and media representative \*Secure advertising contracts on behalf of Laredo CVB for all ad buys \*Place ads for billboard, print, radio, digital and TV buys
- Graphic Design / Creative Services
- Ad design
- Ad resizing
- Develop creative concepts to support cross-channel marketing efforts including: traditional, digital and social.
- Develop all versions of artwork required in the media plan to complete a successful campaign implementation and its results.
- Designs include: print publications, digital ads, billboards (both digital and static), e-newsletters, blogs, website, social media posts
- Design of social media banners, and other elements to maintain brand consistency throughout our channels
- Edits and revisions to the design and copy of current collateral material including planner guides
- Provide stock photography
- Public Relations
- Proactively identify opportunities for media coverage and schedule interviews to generate positive press coverage of Laredo.
- Develop messaging, draft news releases, monitor and report on story pitches and activities.
- Pitch Laredo to industry news and websites
- Communications and press release writing: Tourism
- Serve as liaison between Laredo and travel writers and influencers, securing contracts to be paid directly by LCVB and coordinate their visits.
- Account Management
- Preparation of presentations for select client meetings.
- Review campaign and business metrics and make recommendations on how to best optimize and strategize as needed.
- Incorporate analytics and metrics to allow for ongoing adjustments to the plan.
- Prepare media estimates for client approval.

## **Part 2 A la Carte**

A la Carte Services may include the following and should not exceed \$259,000.00 and will be agreed upon in the regular course of business and approved by client via signature on a client estimate, media plan or production estimate:

- Photography including Creative Direction
- News Monitoring Services
- Production of a :30s Destination Video/Edit
- TV Ad Production
- Research
- Visitors Guide
- Website - SEO, Optimize Copy and Coding
- Souvenir Design
- Mark-up for media placements
- Agency Travel