

AGREEMENT FOR SERVICES

This Agreement (“Agreement”) is entered into by and between the TEXAS CITY (“CITY”) and NATIONAL SIGN PLAZAS, INC., an Arizona corporation (“Contractor”) (collectively, the “Parties”).

WHEREAS, City Code of Ordinances Section _____ allows City to install Sign Plazas within rights-of-way and,

WHEREAS, City desires to initiate a Homebuilder Sign Plaza Program designed to give direction to subdivisions, developers and homebuilders within the City, and to contract for the installation and maintenance of the Sign Plazas and sign panels,

WHEREAS, Contractor represents that it is an Arizona corporation authorized to do business in the State of TEXAS ; and

WHEREAS, Contractor desires to install Homebuilder Sign Plazas (“Sign Plazas”), Sign Panels (“Sign Panels”) as described more fully in this Agreement; and

WHEREAS, Contractor desires to maintain the Sign Plazas subsequent to this Agreement after their installation and to lease space on the Sign Plazas to developers and homebuilders and to bill and collect fees from the developers and homebuilders for itself and for the City; and,

WHEREAS, Contractor submitted a proposal that meets the City’s needs.

NOW, THEREFORE in consideration of these recitals and other good and valuable consideration, the value and receipt of which is acknowledged, City and Contractor agree as follows:

1. Recitals. The Recitals above are hereby incorporated into this Agreement by reference.
2. Contract Documents. The Contract Documents, which set forth the entire Agreement of the Parties, are named below. In the event of a conflict between the terms of two or more documents, they shall take priority in the order set forth below:
 - A. All applicable laws and regulations of the City of Texas City and the State of Texas.
 - B. This Agreement.

Each party shall comply with all of the terms, conditions and specifications contained in the Contract Documents.

1. Scope of Work Sign Plaza Program. Contractor shall perform the work set forth in the Contract Documents. In general, this work shall consist of the following:

In administrating the Sign Plaza Program, the contractor will:

- A. Construct, install, maintain and repair approved Sign Plazas and Sign Panels.
- B. Contract with developers and homebuilders for the lease of Sign Panels on the Sign Plazas.
- C. Assist City in determining appropriate locations for Sign Plazas.
- D. Assist City with identifying and removing all illegal off-premise signage.
- E. Attend meetings as necessary with City staff and developers to coordinate project.
- F. Collect all lease payments and remit to City, on a quarterly basis, an administrative fee as specified in Section 4.B of this document.

2. Definition, Purpose of Sign Plaza Programs and Specifications of Sign Plazas.

- A. Definition. For the purposes of this Agreement, a Sign Plaza is a structure placed in the City right of way for the purpose of displaying Sign Panels. The specifications of the Sign Plaza and Sign Panels are more fully developed in these Contract Documents.
- B. Purpose of Sign Plazas. The purpose of Sign Plazas is to provide direction for homebuyers, and the like, to the location of subdivisions, housing developments, homebuilders and new home sales within the City of Texas City while discouraging the placement of unsightly and hazardous off-site directional signs.
- C. Specifications of Sign Plazas and Sign Panels. Contractor agrees to manufacture and install Sign Plazas, Sign Panels and associated elements in accordance with the specifications in these Contract Documents and the following:
 1. Sign Plaza Structures shall not exceed twelve (12) feet above average grade. Structures shall be more completely described in Exhibit A.
 2. Sign Plazas shall be constructed of steel and/or aluminum and shall be capable of displaying up to ten (10) Sign Panels, doubled-sided, if necessary.
 3. A City identity panel will be designed for the City of Texas City, TX and shall be prominently displayed at the top of any Sign Plaza within the jurisdictional limits of City of Texas City and shall be visible on any side of a Sign Plaza which displays directional Sign Panels.

4. The color of all Sign Plaza Structures shall be TBD. All Sign Panels placed on Sign Plazas shall conform to Section 3.D.11 below. All Sign Panels placed on Wayfinding Signs shall conform to Section 3.D.12 below.
 5. The Contractor shall submit final design plans to the City for approval prior to installation of any Sign Plaza.
 6. No additions, tag sign streamers, attention-getting devices or other appurtenances shall be attached to any Sign Plaza or Sign Panel.
 7. Sign Plaza locations shall be approved and designated by the City with the assistance of the Contractor.
 8. At the City's request and direction, the Contractor shall remove and relocate any Sign Plazas within thirty (30) days of the receipt of written notice at no cost to the City.
 9. Contractor shall provide to the City a semi-annual inventory report of existing installed Sign Panels.
 10. Sign Panels placed on Sign Plazas shall contain only the name of a residential community, subdivision, homebuilder, City name and logo, the builder or developer's name and/or logo, the builder or developer's recognized color scheme, and directional information or the name of the builder/developer and logo and an appropriate directional arrow. Directional arrows will be of a uniform size; a line of text at the bottom of the Sign Panel with directional information is permissible. Fluorescent colors are not allowed. Reflective colors and text are permissible. Unless so authorized by City, the Sign Panels shall not appear to replicate the commonly accepted color schemes of motorist signs.
 11. Contractor shall, at its own cost, maintain, repair, replace and repaint each Sign Plaza as necessary or deemed necessary by the City. Upon notice by the City, Contractor agrees to undertake necessary repairs or replacement of any Sign Plaza, and the associated Sign Panels, within seventy-two (72) hours of receipt of notice.
 12. Contractor shall not install or maintain any Sign Plazas or Sign Panels within the City, which are not in compliance with the terms of this Agreement.
 13. Sign Panels on the Sign Plazas shall be constructed of a material suitable for the needs of exterior wear and treatment.
3. Number of Sign Plazas. The City has sole discretion to determine the number and placement of the Sign Plazas in its right-of-way. The City shall agree to allow the signage to direct homebuyers to each new housing community or public facility. Said signage shall be defined as one Sign Plaza at each location where homebuyers, citizens or the like require information regarding a change of direction and likewise where homebuyers, citizens or the like would need

reassurance to continue in a certain direction. Contractor may submit to City, at any time during the term of this Agreement, subsequent requests for the timely approval of additional Sign Plaza locations, as may be expressed by, but not limited to, homebuilders, developers, residential communities or citizens over the term of this Agreement.

4. Price and Payment Schedule for the placement of Sign Plazas and Sign Panels. Subject to the provisions in Paragraph 6 below, the price and payment schedule for Sign Plazas shall be as follows:
 - A. The Contractor will fabricate the Sign Plazas and Sign Panels at no cost to the City.
 - B. The Contractor will provide to the City the equivalent of 10% of available space on the approved and installed Sign Plazas, with no more than two City panels installed at any one location.
 - C. Contractor will collect, and remit to the City, an amount of ten dollars (\$10) per panel side per month, which has directional information, excluding that of public service panels, as an administrative fee for the entire term of this Agreement. Said fees shall be remitted within sixty (60) days of the end of each fiscal quarter. Fiscal quarters will be based on the Contractor's fiscal cycle, beginning October 1 and ending September 30.

5. Term of Agreement and Termination of Agreement
 - A. Term. The term of this Agreement is Five (5) years.

 - B. Renewal. At the end of the initial Five-year term, this contract will automatically renew for a term of Five (5) years unless either party provides at least ninety (90) days advanced notice of their intention(s) to terminate this Agreement.

 - C. Termination. This Agreement may be not be terminated by either party, except for breach as provided for in this Agreement:
 1. Termination by City. If Contractor breaches and fails to remedy said breach as provided for in this Agreement, the City may terminate this contract. Contractor shall remove the Sign Plazas within thirty (30) businesses days after receiving a written termination letter from the City.

 2. Termination by Contractor. If Contractor terminates this Agreement before the end of the term as stated in subsection A immediately above, Contractor agrees that the Sign Plazas shall remain in place and that the Sign Panels and all receivables from the placement of the Sign Panels shall become the property of the City. Further, Contractor agrees to promptly transfer all information related to the placement of the Sign Panels to the

City, including, but not limited to, the original sign service documents, an accounting of all open accounts, and all other relevant documents. After the transfer of all information, this Agreement shall be of no further effect.

6. Placement of Sign Panels on Sign Plazas. After the City's written approval and acceptance of the installed Sign Plazas, the City agrees to extend to Contractor an exclusive right to use the Sign Plazas for Sign Panel placements and to maintain the Sign Plazas and Sign Panels subject to the terms of this Agreement.
 - A. Contractor agrees to offer and place Sign Panels for homebuilders, developers and residential communities. Contractor further agrees to use Contractor's best efforts to place all available Sign Panels.
 - B. Contractor agrees that the placement fees for the Sign Panels will be set at market rate. Contractor shall be allowed an annual cost of living increase for the fees as determined by the Consumer Price Index.
 - C. Contractor agrees to maintain all aspects of the placement of the Sign Panels, including entering into sign placement service agreements, billing, collecting fees, and paying any applicable taxes and fees.
 - D. Contractor will remit to the City on a quarterly basis the amount of the City's Administrative Fee as specified in Section 5.B of this document.
 - E. Contractor agrees to provide an annual report to the City pertaining to the number of Sign Panels installed within the City, the amount billed and the collection of the City's amount Administrative Fees.
 - F. Contractor agrees that in no event will the City be liable for any fee payment or other fees related to the placement of the Sign Panels on the Sign Plazas.
 - G. Contractor agrees to include in all sign service agreements an assignment clause which will assign Contractor's rights to fee payment to the City in the event Contractor elects to terminate this Agreement pursuant to Paragraph 5.C.2 above.
 - H. Homebuilders, developers, and residential communities with sites located within the jurisdictional boundaries of the City, present and soon-to-be-annexed, shall at all times be allowed to participate in the Sign Plaza program. Further, the City agrees to allow participants to direct traffic to adjacent communities and sales offices that may lie outside of the City's jurisdictional boundaries, so long as neighboring cities also operate a homebuilder sign plaza program managed by Contractor.
 - I. City and Contractor agree that no Sign Panels other than those manufactured and installed by Contractor shall be allowed on the Sign Plaza Structures.

7. Maintenance of Sign Plazas:
- A. Contractor agrees to maintain the Sign Plazas and Sign Panels for the term of this Agreement.
 - B. Contractor agrees to replace damaged Sign Plazas and Sign Panels, as it deems necessary or as requested by the City.
 - C. Contractor agrees to provide to the City a telephone number and a contact person allowing the City to contact Contractor requesting maintenance on the Sign Plazas or Sign Panels 24 hours a day, seven days a week.
 - D. Contractor agrees to repair all Sign Plazas within five (5) business days of the receipt of the City's written request for repair. Contractor further agrees to remove for repair all Sign Panels within seventy-two (72) hours of written notification of the need of repair by the City. Sign Panel will be replaced within five (5) business days of the written notification.
 - E. Contractor agrees to maintain a regular maintenance schedule to check each Sign Plaza and Sign Panel for all necessary repairs and to complete those repairs promptly.
 - F. Contractor agrees to maintain the grounds around the base of the sign plazas.
 - G. Contractor agrees to maintain all Sign Plazas, Sign Panels in conformity with the terms of this Agreement.
8. Indemnification. Contractor agrees to indemnify, defend, and hold harmless the City, its officials, officers, officers, agents, and employees from: a) liability for damages resulting from injury, death, property damage, and economic loss suffered by any person as a result of the negligent or willful act or omission of the Contractor or the Contractor's officer, agent, employee, or subcontractor; and b) reasonable attorney fees, court costs, settlement expenses and litigation expenses related to liability described in subsection a) immediately above and/or relating to any claim or action asserting such liability against the City, its officials, officers, agents, and employees, unless said claim or action is the result of the negligent or willful act or omission of the City or the City's officer, agent, employee, or subcontractor.
9. Insurance. Contractor shall maintain in full force and effect throughout the entire term of this Agreement insurance with an insurance company authorized to conduct business in CITY OF TEXAS CITY, TX with the following policy limits.
- A. Comprehensive General Liability - \$2,000,000 combined aggregate
 - B. Automobile Liability - \$1,000,000
 - C. Workers Compensation
 - 1. Bodily Injury by Accident - \$1,000,000
 - 2. Bodily Injury by Disease - \$500,000

Upon written request, Contractor shall present a Certificate of Insurance in a form satisfactory to the City Attorney which shall name the City as an additional insured party on Contractor's Comprehensive General and Automobile Liability policies. If during the term of this Agreement, any such insurance is canceled, or if Contractor fails to renew same, or if the policy limits are reduced below the limits required above, such event shall constitute a default of this Agreement. Contractor shall immediately notify the City in writing if such an event occurs. Contractor shall have Five (5) business days to cure any such default.

10. Independent Contractor. Contractor shall, at all times herein, be an independent contractor and not an employee of the City, nor shall any of the Contractor's employees or subcontractors be an employee of the City.

11. Notice. Any notice required to be given pursuant to this Agreement may be personally served upon the parties or may be served by certified mail, return receipt required, to:

CITY: _____ CONTRACTOR:

City of Texas City

Attn: Mayor

1801 9th Avenue North

Texas City, TX 77590

Telephone: (409) 948-3111

National Sign Plazas, Inc.

Attn: Grant Hayzlett, President

2202 West Huntington Drive

Tempe, AZ 85282

Telephone: (480) 968-2978

12. Assignment and Subcontracting. Contractor may not delegate, assign or subcontract all or any part of the work except the fabrication and installation of the Sign Plaza and production of the Sign Panels, which require equipment, materials and expertise which the Contractor reasonably may not be expected to possess, without the City's prior written consent.

13. Miscellaneous. The Contract Documents represent the entire and integrated Agreement between the City and Contractor and supersedes all prior negotiations, representations of Agreements, whether written or oral, except as where noted. The Contract Documents may be modified only by a written document signed by both parties and approved by the Texas City City Council at a public meeting. This Agreement shall be governed under Texas State law.

14. Mutual Drafting. The City and the Contractor each has had opportunity to consult legal counsel regarding the drafting of this Agreement and the provisions of this Agreement shall not be construed against or in favor of either party.

15. Default and Remedies. If any Party fails to perform any of its obligations under the Contract Documents, such failure shall constitute a default. The non-defaulting Party shall give the defaulting Party written notice of the default. The defaulting Party shall have thirty (30) days after the receipt of such notice in

which to cure the default. Failure to cure the default shall constitute a breach of this Agreement. In the event of a breach, the non-breaching party may terminate this Agreement and may obtain any reasonable remedy provided by law.

In Witness Whereof, authorized parties have signed this Agreement on the dates indicated below.

City of Texas City, Texas

National Sign Plazas, Inc
an Arizona Corporation

By _____

By _____
Grant Hayzlett, President

Date _____

Date _____

Approved as to Legal Form

By _____
City Attorney

Exhibit "A"
Design Intent