

Estimate No.: 24-106
July 12, 2024

City of Burleson
Attn: Mrs. Michelle McCullough, P.E., CFM
141 W. Renfro Street
Burleson, Texas
email: mmccullough@burlesontx.com

ESTIMATE
CONSTRUCTION MATERIALS TESTING SERVICES FOR
BURLESON BP WEST SIDE SEWER
BURLESON, TEXAS

Dear Mrs. McCullough,

We are pleased to submit this estimate for providing construction materials engineering services on the above referenced project. **We understand we have been selected to provide these services based on our qualifications.**

Estimate - Defined

This is an ESTIMATE and should in no way be considered a lump sum proposal. CMJ will only bill for actual services performed. Services performed beyond the estimated items and quantities may exceed the estimated testing budget. Fewer services performed than estimated may be lower the estimated testing budget.

The total testing cost is dependent upon the contractor's means and methods, such as the size of areas/amount of items ready for testing per site visit, size/rate of concrete placements, method of masonry grouting (once per day or several times per day, pumping or hand placement), etc. As the contractor typically schedules our services, the actual number of site visits required are beyond our control. Based on our experience, we have made assumptions as to the means and methods the individual contractors may choose to follow.

Scope of Work

Our scope of service is based on our review of the project plans and specifications. We propose to service this project on a call out, as-needed basis. **All same-day service requests will be charged the greater of either \$290 or our actual rescheduling costs based on the project's unit fees, for each site visit performed. Service requests may be made Monday through Friday 7:00 am to 5:00 pm and should be received 24-hours in advance but no later than 3:00 PM of the day prior to service. CMJ will make every effort to service same day service requests but cannot guarantee your request will be serviced without the required prior notice.**



P: 817.284.9400
F: 817.589.9993

7636 Pebble Drive
Fort Worth, Texas 76118



CMJ ENGINEERING, INC.

City of Burleson
Burleson BP West Side Sewer
Burleson, Texas
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Earthwork

Laboratory testing of existing subgrade, fill, backfill, select fill and stabilized pavement subgrade materials; in-place moisture/density testing of same. In-place sieve analysis of stabilized pavement subgrade.

Cast-In-Place Concrete

Pre- and post-concrete placement reinforcing steel observation. On-site placement observation and testing to include slump, temperature, entrained air content, and the molding of test cylinders. Laboratory curing and testing of cylinders.

Project Budget

Based upon our understanding of the project specifications, our unit fees and estimated quantities for this project will be as stated on the budget attachment.

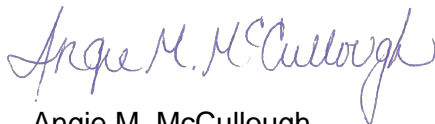
All fees for services performed which do not appear on the budget attachment will be based on our standard fee schedule. The final charges will be a function of the total services performed. All charges for laboratory services are F.O.B. our laboratory. **All same-day service requests will be charged the greater of either \$290 or our actual rescheduling costs based on the project's unit fees, for each site visit performed.**

The prices provided in the attached fee schedule will remain valid for forty-five (45) days from the date on this estimate, or for one year from that date if our services for this project are started within the forty-five (45) day period. Invoices will be submitted for these services on a monthly basis. These will be due and payable upon receipt. **CMJ will not supervise or direct work that is performed by the contractor or subcontractors and is not responsible for their means and methods utilized or the resultant outcome of their efforts.**

Closing

CMJ Engineering, Inc. appreciates the opportunity to submit this estimate. We have included the attached unit fees that correspond to our understanding of the required work scope that will be required of CMJ Engineering. Feel free to call us if you have any questions regarding our services or estimate. Following your authorization, we are ready to begin work and look forward to providing you with our services.

Respectfully,
CMJ ENGINEERING, INC.



Angie M. McCullough
Vice President



William Shireman
Project Manager



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F: 817.589.9993

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**ESTIMATE
CONSTRUCTION MATERIALS TESTING SERVICES FOR
BURLESON BP WEST SIDE SEWER
BURLESON, TEXAS**

<u>DESCRIPTION</u>	<u>NO</u>	<u>FEE</u>	<u>UNIT</u>	<u>AMOUNT</u>
<u>Earthwork</u>				
Lab Molded Soil-Cement Strength Specimens and Testing (Min. 3/Set)	0	\$ 320.00	set	\$ -
Moisture/Density Relations Soil-Cement (ASTM D558)	21	\$ 311.00	each	\$ 6,531.00
Moisture/Density Relations (ASTM D698)	19	\$ 207.00	each	\$ 3,933.00
Oversize Rock Correction (ASTM D4718)	0	\$ 154.50	each	\$ -
Liquid & Plastic Limit (ASTM D4318-B)	19	\$ 72.00	each	\$ 1,368.00
Laboratory Sieve Analysis (ASTM C117, D1140)	19	\$ 82.00	each	\$ 1,558.00
Laboratory Sieve Analysis (ASTM C136)	19	\$ 98.50	each	\$ 1,871.50
Earthwork Observation/Testing Including all Non-Test Pit				
In-Place Moisture/Density Testing by ASTM D6938 (Min. 4 Hours/Trip)	2500	\$ 85.50	hour	\$ 213,750.00
Additional Fee-Test Pit In-Place Moisture/Density Testing	0	\$ 18.00	each	\$ -
Nuclear Density Gauge Fee (Daily)	208	\$ 54.00	each	\$ 11,232.00
Vehicle Trip Charge	208	\$ 81.00	trip	\$ 16,848.00
Estimated Total for Earthwork Services:				<u>\$ 257,091.50</u>
<u>Concrete Observation/Testing</u>				
Concrete Test Cylinders (ASTM C31/39 - 4" x 8" - Min. 5/Set)	200	\$ 25.00	each	\$ 5,000.00
Concrete Testing Technician (Min. 4 hours/trip)	156	\$ 59.50	hour	\$ 9,282.00
Reinforcing Steel Observation without Testing (Min. 4 Hours/Trip)	0	\$ 80.00	hour	\$ -
Cylinder Pick Up	8	\$ 236.00	each	\$ 1,888.00
Vehicle Trip Charge	47	\$ 81.00	trip	\$ 3,807.00
Estimated Total for Concrete Observation/Testing Services:				<u>\$ 19,977.00</u>



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City of Burleson

Estimate No. 24-106

July 12, 2024

ESTIMATE CONSTRUCTION MATERIALS TESTING SERVICES FOR BURLESON BP WEST SIDE SEWER BURLESON, TEXAS

<u>DESCRIPTION</u>	<u>NO</u>	<u>FEE</u>	<u>UNIT</u>	<u>AMOUNT</u>
<u>Hourly Office Services</u>				
Senior Geotechnical Engineer (1.0 Hour Min Charge)	0	\$ 168.00	hour	\$ -
Project Manager - Initial Project Setup	2	\$ 113.00	hour	\$ 226.00
Senior Engineering Technician (Min. 4 Hours/Trip)	0	\$ 98.50	hour	\$ -
Clerical Staff	0	\$ 81.50	hour	\$ -
Same-day Insufficient Notice Fee	0	\$ 290.00	each	\$ -
Estimated Total for Hourly Services:				\$ 226.00

Estimated Total for Above Testing and Observation Services:

\$ 277,294.50

Notes:

1. Project Management fees will be charged as follows: 2 hours for initial project setup, foundation reconciliation at 3 minutes per pier, compliance review and statement of same at 3 minutes per report with a 1 hour minimum, post-tensioning compliance review at 0.50 hours per page with a 1.0 hour minimum and a 79G/house pad compliance report review and letter at 10 minutes per lot, if CMJ is informed at the start of this project of this need. Should the client choose not to sign CMJ's agreement and instead request CMJ to sign the client's contract, any time spent reviewing/revising client's contract will be billed at the above listed project management hourly rate. All other services that would be requested of a project manager will be billed as same. All compliance letter requests shall be made with sufficient notice to allow for a minimum of 10 businesses to complete the required report reviews and letter completion.
2. Overtime rates of 1.5 times the regular rate will be charged for hours worked or services performed over eight (8) hours per day or before 7:00 a.m. and/or after 5:00 p.m. Monday thru Friday. All lab and field services performed on Saturday, will be billed at 1.5 times the regular rate and will be billed at 2.0 times the regular rate for Sundays and recognized holidays.
3. All laboratory test fees are F.O.B. our laboratory. Engineering technician minimums and vehicle trip charges will apply to all trips to the job-site including sample pickups and specimen pickups.
4. A minimum amount of technician time and a vehicle trip charge will be billed for each call out, sample pickup or specimen pickup unless noted otherwise. Technician time is charged portal-to-portal from our Fort Worth office.
5. 4"x8" concrete compression test specimens will be used per ACI 318 requirements unless instructed otherwise.
6. Structural steel observation at fabrication shop fees based on facilities located in the Dallas-Fort Worth metroplex area.
7. Additional tests not specified in this fee schedule will be quoted upon request, or based on our current fee schedule.
8. Vehicle trip charge in excess of 25 miles from CMJ's office will be based on \$1.35/mile plus tolls, portal-to-portal our office.
9. Specimen collection fees as stated are either project specific or based on a maximum of 25 miles from CMJ.
10. All same-day service requests will be charged a minimum \$290 insufficient notice fee or actual rescheduling costs if greater.
11. All test-pit moisture-density testing will be charged a \$18.00 fee for each test in addition to standard hourly fee.
12. CMJ will not supervise or direct work that is performed by the contractor or subcontractors and is not responsible for their means and methods utilized or the resultant outcome of their efforts.

TERMS FOR CONSTRUCTION MATERIALS TESTING SERVICES

THE AGREEMENT

This AGREEMENT is made by and between CMJ ENGINEERING, INC., hereinafter referred to as CMJ, and the City of Burleson, hereinafter referred to as CLIENT.

The AGREEMENT between the parties consists of these TERMS, the attached ESTIMATE identified as ESTIMATE No. 24-106 dated July 12, 2024, and any exhibits or attachments noted in the ESTIMATE. Together, these elements will constitute the entire AGREEMENT superseding any and all prior negotiations, correspondence, or agreements either written or oral. Any changes to this AGREEMENT must be mutually agreed to in writing.

STANDARD OF CARE

CLIENT recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by CMJ will be based solely on information available to CMJ. CMJ is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed.

Services performed by CMJ under this AGREEMENT are expected by CLIENT to be conducted in a manner consistent with the professional skill and care ordinarily provided by competent engineers practicing under the same or similar circumstances and professional license. (this is called the "Standard of Care"). The Standard of Care shall solely govern CMJ's performance of the Services. Under no circumstance is any warranty, expressed or implied, made in connection with the providing of CMJ's services.

SITE ACCESS AND SITE CONDITIONS

CLIENT will grant or obtain free access to the site for all equipment and personnel necessary for CMJ to perform the work set forth in this AGREEMENT. CLIENT will notify any and all possessors of the project site that CLIENT has granted CMJ free access to the site. CMJ will take reasonable precautions to minimize damage to the site, but it is understood by CLIENT that, in the normal course of work, some damage may occur and the correction of such damage is not part of this AGREEMENT unless so specified in the ESTIMATE.

CLIENT is responsible for accurately delineating the locations of all subterranean structures and utilities. CMJ will take reasonable precautions to avoid known subterranean structures, and CLIENT waives any claim against CMJ arising from damage done to subterranean structures and utilities not identified or accurately located.

SAMPLE DISPOSAL

CMJ will retain samples transported to the geotechnical laboratory for testing for a period of thirty (30) days following submission of the report covering those samples. Further storage or transfer of samples can be made at CLIENT'S expense upon CLIENT'S prior written request.

MONITORING

If CMJ is retained by CLIENT to provide a site representative for the purpose of monitoring specific portions of construction work or other field activities as set forth in the ESTIMATE, then this phrase applies. For the specified assignment, CMJ will report observations and professional opinions to CLIENT. No action of CMJ or CMJ'S site representative can be construed as altering any AGREEMENT between CLIENT and others. CMJ will report to CLIENT any observed geotechnically-related work which, in CMJ'S professional opinion, does not conform with plans and specifications. The CMJ has no right to reject or stop work of any agent of the CLIENT. Such rights are reserved solely for CLIENT. Furthermore, CMJ'S presence on site does not in any way guarantee the completion or quality of the performance of the work of any party retained by CLIENT to provide field or construction-related services.

CMJ will not be responsible for and will not have control or charge of specific means, methods, techniques, sequences or procedures of construction or other field activities selected by any agent or agreement or CLIENT, or safety precautions and programs incident thereto.

BILLING AND PAYMENT

CLIENT will pay CMJ in accordance with the procedures indicated in the ESTIMATE and its attachments. Invoices will be submitted to CLIENT by CMJ, and will be due and payable upon presentation. If CLIENT objects to all or any portion of any invoice, CLIENT will so notify CMJ in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. In the absence of written notification described above, the amount as stated on the invoice will be paid.

Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. At the option of the CMJ, CLIENT will pay an additional charge of one-and-one-half (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, except for any portion of the invoiced amount in dispute and resolved in favor of CLIENT. Disputed amounts withheld by the client which are subsequently resolved in favor of the CMJ will carry the additional charge, as described above, effective thirty (30) days from the date of the original invoice. In the event CLIENT fails to pay CMJ within sixty (60) days after invoices are rendered, CLIENT agrees that CMJ will have the right to consider the failure to pay the CMJ's invoice as a breach of this AGREEMENT.

This AGREEMENT may be terminated by either party seven (7) days after written notice in the event of any breach of any provision of this AGREEMENT or in the event of substantial failure of performance by the other party, or if CLIENT suspends the work for more than three (3) months. In the event of termination, CMJ will be paid for services performed prior to the date of termination plus reasonable termination expenses, including, but not limited to the cost of completing analyses, records, and reports necessary to document job status at the time of termination.

NON-SOLICITATION OF CMJ ENGINEERING AND TESTING, INC. EMPLOYEES, CLIENTS, and PROSPECTS

~~CLIENT recognizes CMJ's legitimate interest in protecting CMJ's relationships with its employees. Accordingly, CLIENT agrees that, during the CLIENT's engagement with CMJ, CLIENT shall not engage in any conduct which could in any way jeopardize or disturb any relationship of CMJ with any employee. CLIENT further agrees that CLIENT shall not, at any time during the Term of this Agreement and for a period of twelve (12) months following the termination of the Agreement (i) directly or indirectly, solicit, attempt to solicit, induce, offer employment to, hire, or otherwise retain any individual employed with CMJ during the aforementioned period~~

INJUNCTIVE RELIEF

CLIENT recognizes that the rights and privileges granted to CLIENT by this agreement and CLIENT's corresponding obligations to CMJ are of a special, unique and extraordinary character, the loss of which may not be reasonably or adequately compensated for in damages in any action at law. Accordingly, CLIENT understands and agrees that CMJ shall be entitled to seek equitable relief, including a temporary restraining order and preliminary and permanent injunctive relief, to prevent a breach of any other section in this Agreement. This entitlement shall not be construed as limiting CMJ's remedies at law or in equity.

RISK ALLOCATION

Many risks potentially affect CMJ by virtue of entering into this AGREEMENT to perform professional engineering services on behalf of CLIENT. The principal risk is the potential for human error by CMJ. For CLIENT to obtain the benefit of a fee which includes a nominal allowance for dealing with CMJ'S liability, CLIENT agrees to limit CMJ'S liability to CLIENT and to all other parties for claims arising out of CMJ'S performance of the services described in this AGREEMENT. The aggregate liability of CMJ will not exceed the amount of the CMJ'S fee for negligent professional acts, errors, or omissions.

Limitations on liability and indemnities in this AGREEMENT are business understandings between the parties voluntarily and knowingly entered into, and shall apply to all theories of recovery including, but not limited to breach of contract, warranty, tort (including negligence), strict or statutory liability, or any other cause of action, except for willful misconduct or gross negligence. The parties also agree that CLIENT will not seek damages in excess of the limitations indirectly through suits with other parties who may join CMJ as a third-party defendant. Parties means CLIENT and CMJ and their officers, employees, agents, affiliates, and subcontractors.

Both CLIENT and CMJ agree that they will not be liable to each other, under any circumstances, for special, indirect, consequential, or punitive damages arising out of or related to this AGREEMENT.

DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS

CLIENT represents that CLIENT has made a reasonable effort to evaluate if hazardous materials are on or near the project site, and that CLIENT has informed CMJ of CLIENT's findings relative to the possible presence of such materials.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. CMJ and CLIENT agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. CMJ and CLIENT also agree that the discovery of unanticipated hazardous materials may make it necessary for CMJ to take immediate measures to protect health and safety. CLIENT agrees to compensate CMJ for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials.

CMJ agrees to notify CLIENT when unanticipated hazardous materials or suspected hazardous materials are encountered. CLIENT agrees to make any disclosures required by law to the appropriate governing agencies. CLIENT also agrees to hold CMJ harmless for any and all consequences of disclosures made by CMJ which are required by governing law. In the event the project site is not owned by CLIENT, CLIENT recognizes that it is CLIENT'S responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

Notwithstanding any other provision of the AGREEMENT, CLIENT waives any claim against CMJ arising from CMJ'S discovery of unanticipated hazardous materials or suspected hazardous materials, including, but not limited to, any costs created by delay of the project and any cost associated with possible reduction of the property's value.

CLIENT will be responsible for ultimate disposal of any samples secured by CMJ which are found to be contaminated. This includes any soil or rock cuttings, and contaminated drilling or wash water which is generated as a consequence of drilling activities.

INDEMNIFICATION

To the extent permitted by law, and subject to the limitations as to liability and damages provided by law, and without waiving its governmental immunity CLIENT shall indemnify and hold harmless CMJ, its officers, directors, agents, and employees from and against all claims (including negligence), damages, losses, and expenses, including but not limited to reasonable and necessary attorney's fees, arising out of or related to the work or services of the CLIENT or its agents, employees, consultants and contractors of any tier or any third party under the client's control. Notwithstanding the foregoing, except for claims for bodily injury or death of the CLIENT, its agents, or its subcontractors of any tier, CLIENT shall not be required to indemnify or hold harmless CMJ against a claim caused by negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of contract by CMJ, its agents or employees, or any third party under CMJ's control, other than the client or its agent, employee, or subcontractor of any tier.

DISPUTE RESOLUTION

All claims, disputes, and other matters in controversy between CMJ and CLIENT arising out of or in any way related to this AGREEMENT will be submitted to "alternative dispute resolution" (ADR) before and as a condition precedent to other remedies provided by law. If and to the extent CLIENT and CMJ have agreed on methods for resolving such disputes, then such methods will be set forth in the "Alternative Dispute Resolution Agreement" which, if attached, is incorporated into and made a part of this AGREEMENT. If no specific ADR procedures is set forth in this AGREEMENT, then it shall be understood that the parties shall submit disputes to mediation as a condition precedent to litigation.

If a dispute at law arises from matters related to the services provided under this AGREEMENT and that dispute requires litigation instead of ADR as provided above, then:

- (1) the claim will be brought and tried in judicial jurisdiction of the court of the county where CMJ's principal place of business is located and CLIENT waives the right to remove the action to any other county or judicial jurisdiction, and
- (2) the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, and other claim related expenses.

GOVERNING LAW AND SURVIVAL

The law of the State of Texas will govern the validity of these TERMS, their interpretation and performance.

If any of the provisions contained in this AGREEMENT are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired. Limitations of liability and indemnities will survive termination of this AGREEMENT for any cause.

* * *

The parties have read the foregoing, understand completely the terms, and willingly enter into this AGREEMENT which will become effective on the date signed below by CLIENT.

CLIENT COMPANY NAME

CMJ ENGINEERING, INC.

CLIENT SIGNATURE

SIGNATURE

CLIENT PRINTED NAME

ANGIE M. MCCULLOUGH

POSITION

Vice President
POSITION

DATE

July 12, 2024
DATE

**City of Burleson
Addendum to Vendor's Contract
Additional Provisions**

CMJ ENGINEERING, INC.

7636 PEBBLE DRIVE, FORT WORTH, TX 76118

The City of Burleson, Texas ("City") and the Vendor are this day entering into a contract for and, for the mutual convenience, the parties are using the standard contract and/or purchase order form provided by Vendor (the "Vendor's Contract Form").

This Addendum ("Addendum"), duly executed by the parties, is incorporated into the Vendor's Contract Form and made an integral part thereof. This Addendum and the Vendor's Contract Form shall be referenced to hereafter collectively as the "Agreement".

In the event of a conflict between any provision in this Addendum and any other provision in the Agreement or any other exhibit to the Agreement, the terms provided in this Addendum shall govern and control.

Additional Provisions

1. Limitation of Vendor's Contract Form. The Vendor's Contract Form is, with the exceptions noted herein, generally acceptable to City. Nonetheless, because certain standard clauses that may appear in the Vendor's Contract Form cannot be accepted by City, because of its status as a political subdivision of the State of Texas, and in consideration for the convenience of using provisions in the Vendor's Contract Form instead of negotiating a separate contract document, the parties agree that none of the provisions listed below, if they appear in the Vendor's Contract Form, shall have any effect or be enforceable against City:
 - i. Requiring City to maintain any type of insurance either for City's benefit or for the Vendor's benefit.
 - ii. Renewing or extending the Agreement beyond the contract term or automatically continuing the contract period from term to term.
 - iii. Requiring or stating the terms of the Vendor's Contract Form shall prevail over the terms of this Addendum in the event of conflict.
 - iv. Requiring the application of the law of any state other than Texas in interpreting or enforcing the Agreement, or resolving any dispute under the Agreement. The Agreement and the obligations of the parties shall be construed and enforced in accordance with the laws of the State of Texas.
 - v. ~~Releasing the Vendor or any other entity or person from its legal liability, or limiting liability, for unlawful or negligent conduct or failure to comply with any duty recognized or imposed by applicable law.~~
 - vi. Requiring any total or partial compensation or payment for lost profit or liquidated damages by City if the Agreement is terminated before the end of the contract term.
 - vii. Changing the time period within which claims can be made or actions can be brought under the laws of the State of Texas.
 - viii. Binding City to any arbitration provision or to the decision of any arbitration board, commission, panel or other entity.

- ix. Obligating City to pay costs of collection or attorneys' fees.
 - x. Requiring City to provide warranties.
 - xi. ~~Obligating City to indemnify, defend or hold harmless any party.~~ * See change on Page 4
 - xii. Granting a security interest in City's property or placing a lien on City's property.
2. Payment Terms. Payment will be made upon submittal and approval of a valid invoice. City shall make payment in accordance with Chapter 2251 of the Texas Government Code. It is the policy of the City to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice.
3. Applicable Law; Venue. This Agreement is subject to and governed by the laws of the State of Texas. Any disputes arising from or relating to this Agreement shall be resolved in a court of competent jurisdiction located in Johnson County, Texas, or the federal courts for the United States for the Northern District of Texas. The parties hereto irrevocably waive any right to object to the jurisdiction of such courts in any dispute arising from or relating to this Agreement.
4. Tax Exempt Status. As a political subdivision of the State of Texas, City is tax exempt in the State of Texas. Tax exemption certification will be furnished upon request.
5. Termination Due to Lack of Appropriations. If City should not appropriate or otherwise receive funds sufficient to purchase, lease, operate, or maintain the equipment or services set forth in this Agreement, City may unilaterally terminate this Agreement effective on the final day of the fiscal year through which City has funding. City will make every effort to give Vendor at least thirty (30) days written notice prior to a termination for lack of appropriations. In the event of termination due to a lack of appropriations, City will pay Vendor for all undisputed fees and expenses related to the equipment and/or services City has received, or Vendor has incurred or delivered, prior to the effective date of termination.
6. No Waiver of Governmental Immunity. The Vendor expressly acknowledges City is a political subdivision of the State of Texas and nothing in the Agreement will be construed as a waiver or relinquishment by City of its right to claim such exemptions, privileges, and immunities as may be provided by law. Neither the execution of the Agreement by City nor any other conduct, action, or inaction of any representative of City relating to the Agreement constitutes or is intended to constitute a waiver of City's sovereign immunity to suit.
7. Public Information. Vendor acknowledges that City is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. The City's compliance with the Texas Public Information Act shall not violate the Agreement. Upon City's written request, Vendor will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of City. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Vendor agrees that the Agreement can be terminated if the Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

8. Entire Agreement. This Agreement constitutes the entire agreement between the parties and may not be waived or modified except by a written agreement signed by the parties.
9. Savings Clause. If a court of competent jurisdiction finds any provision of this Agreement illegal, ineffective or beyond contractual authority of either party, then the offending provision will be stricken and the remainder of the agreement between the parties will remain in effect.
10. Conflicts Of Interest. By executing this Agreement, Vendor and each person signing on behalf of Vendor certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of City Council, city manager, deputy city manager, city secretary, department heads, or deputy department heads of the City has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof, in violation of Section 132 of the Home Rule Charter of the City.
11. Anti-Boycotting Provisions. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - i. Pursuant to Section 2271.002 of the Texas Government Code, Vendor certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - ii. Pursuant to SB 13, 87th Texas Legislature, Vendor certifies that either (i) it meets an exemption criterion under SB 13, 87th Texas Legislature; or (ii) it does not boycott energy companies, as defined in Section 1 of SB 13, 87th Texas Legislature, and will not boycott energy companies during the term of the Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - iii. Pursuant to SB 19, 87th Texas Legislature, Vendor certifies that either (i) it meets an exemption criterion under SB 19, 87th Texas Legislature; or (ii) it does not discriminate against a firearm entity or firearm trade association, as defined in Section 1 of SB 19, 87th Texas Legislature, and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
12. Vendor Certification Regarding Business With Certain Countries And Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Vendor certifies Vendor (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
13. Relationship of the Parties. The parties agree that in performing their responsibilities under this Agreement, they are in the position of independent contractors. This Agreement is not intended to create, does not create, and shall not be construed to create a relationship of employer-employee. Vendor, Vendor's employees, and anyone else working at Vendor's direction is an independent contractor and not an employee or servant of the City. Nothing in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer-employee between Vendor, Vendor's employees, and anyone else

working at Vendor’s direction. Vendor, Vendor’s employees, and anyone else working at Vendor’s direction shall at all times remain an independent contractor with respect to the service to be performed under this Agreement.

- 14. Survival. The terms of this Addendum shall survive any closing or termination of the Agreement.
- 15. No Indemnification by City. The Parties expressly acknowledge that the City’s authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the City is invalid. Nothing in this Agreement requires that the City incur debt, assess, or collect funds, or create a sinking fund.
- 16. Conflict. In the event of a conflict between any provision in this Addendum and any other provision in the Agreement or any other exhibit to the Agreement, the terms provided in this Addendum shall govern and control.
- 17. Counterparts; PDF Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed, intending thereby to be legally bound.

City of Burleson, Texas:

By: _____

Name: _____

Title: _____

Date: _____

CMJ ENGINEERING, INC.
DocuSigned by:
By: Angie McCullough
0A148FDTCBFA4CE...

Name: Angie McCullough

Title: Vice President

Date: 8/2/2024

*** xi. Obligating City to release and hold harmless**
To the extent permitted by law, and subject to the limitations as to liability and damages provided by law, and without waiving its governmental immunity CLIENT shall release CMJ, its officers, directors, agents, and employees from and against all claims (including negligence), damages, losses, and expenses, including but not limited to reasonable and necessary attorney’s fees, arising out of or related to the work or services of the CLIENT or its agents, employees, consultants and contractors of any tier or any third party under the client’s control. Notwithstanding the foregoing, except for claims for bodily injury or death of the CLIENT, its agents, or its subcontractors of any tier, CLIENT shall not be required to release CMJ against a claim caused by negligence or fault, the breach or violation of a statute, ordinance, governmental regulation, standard, or rule, or the breach of contract by CMJ, its agents or employees, or any third party under CMJ’s control, other than the client or its agent, employee, or subcontractor of any tier.