

Contract for Mosquito Management Services

City of Burleson, Texas



**TDA SPCS 0666439
TDA 0714984**

P.O. Box 831863
Richardson, Texas 75083

Office: 214-612-8044

Email: Info@MunicipalMosquito.com

www.MunicipalMosquito.com

Licensed and Regulated by: Texas Department of Agriculture P.O. Box 12847 Austin, TX 78711-2847 Phone
(866) 918-4481, Fax (888) 232-2567

1. **RETENTION OF SERVICES** City hereby retains Municipal Mosquito to provide Mosquito Management Services for the City mosquito control program. Municipal Mosquito shall provide Contingent Mosquito Management Services per the Scope of Work attached as "Attachment A" which is incorporated for all purposes herein. Municipal Mosquito shall be compensated for those Contingent Mosquito Management Services by the City according to the Fee Schedule attached as "Attachment B" which is incorporated for all purposes herein.

2. **TERM AND TERMINATION**

2.1 **TERM** This Contract is for a 36-month term beginning on the date the Contract is finally executed by both Parties, herein the "Effective Date."

2.2 **TERMINATION** In the event of a perceived breach of this Contract by either Party, the non-breaching Party shall provide written notice to the breaching Party with fifteen days opportunity to cure or resolve the perceived breach. The City and/or Municipal Mosquito may then terminate this Contract for any reason, or no reason, with thirty (30) days written notice to the other Party. In addition, the City reserves the right to terminate this agreement at any time during the term hereof, for convenience and without cause. The city shall exercise this option by giving the Contractor 30 days' written notice of termination. Termination of this Contract by the City shall not waive any other rights or warranties available to the City at law or in equity.

3. **LOCATION DESCRIPTION** The services which are described in this Contract shall be strictly limited to the geographic area which is commonly known as being within the corporate limits of the City, the Counties of Johnson and Tarrant, and the State of Texas. Municipal Mosquito shall not be required by the terms hereof to render the herein before described services in any geographic location not situated within the confines of the area designated above.

4. **CONDITIONS OF PROPOSED SERVICES**

4.1 **LIABILITY AND INDEMNITY** MUNICIPAL MOSQUITO SHALL INDEMNIFY CITY AND ITS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, CAUSED BY OR RESULTING FROM THE DIRECT ACT OF MUNICIPAL MOSQUITO IN THE COURSE OF THE PERFORMANCE OF THIS CONTRACT AND, ON THE CONDITION THAT ANY SUCH CLAIM WHICH MAY BE ASSERTED: (1) ARISES FROM BODILY INJURY, INCLUDING DEATH; (2) ARISES FROM THE DAMAGE TO OR DESTRUCTION OF TANGIBLE PROPERTY; AND (3) IS CAUSED IN WHOLE OR IN PART BY AN INTENTIONAL OR GROSSLY NEGLIGENT ACT OR OMISSION OF MUNICIPAL MOSQUITO. LIABILITY FOR ANY ACTION OF MUNICIPAL MOSQUITO SHALL BE LIMITED TO THE INSURANCE COVERAGE WHICH IS PROVIDED BY MUNICIPAL MOSQUITO PURSUANT TO THE TERMS AND CONDITIONS HEREOF, AND WHICH SHALL BE AGREED UPON IN ADVANCE OF THE EFFECTIVE DATE AND SHALL NOT CHANGE DURING THE SERVICE TERM UNLESS AGREED IN WRITING BY THE PARTIES. IT IS ACKNOWLEDGED AND AGREED BY THE PARTIES THAT ANY LIABILITY OF MUNICIPAL MOSQUITO IN CONNECTION WITH THE SERVICES TO BE RENDERED HEREUNDER SHALL NOT INCLUDE ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY DAMAGES BASED ON ANY LOST SALES OR PROFIT. THIS PARAGRAPH SHALL SURVIVE THE TERMINATION OF THIS CONTRACT.

4.2 **WARRANTIES** Municipal Mosquito warrants that during the period of time any services shall be rendered by Municipal Mosquito to City, Municipal Mosquito will have in full force and effect the insurance coverage as required by the City. Municipal Mosquito shall provide certificates of insurance to City upon request therefore, Municipal Mosquito warrants that, in the course of rendering the services which it is to perform hereunder, it will exercise, in its performance of said services, the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services. Other than the foregoing warranties, Municipal Mosquito makes no express or implied warranties,

including without limitation, any expressed or implied warranties of merchantability or fitness for a particular purpose.

4.3 **DISCLAIMERS** Municipal Mosquito has not been engaged to perform any procedure(s) which would result in the eradication of the mosquito population in any particular area. Mosquito remediation is an imprecise science and results are affected by many conditions which are outside the control of Municipal Mosquito. Accordingly, Municipal Mosquito disclaims any warranty, representation or guarantee, of any type, regarding: (1) the absence or existence of mosquito-borne diseases, in or adjacent to the known mosquito habitats in the Proposed Area; (2) the probability of any human or animal contracting any mosquito borne disease or infection, either before, during or after the completion of the services to be rendered by Municipal Mosquito hereunder; and (3) Municipal Mosquito cannot guaranty the outcome or effectiveness of any Contingent Mosquito Management Services performed under the Contract.

4.4 **INDEPENDENT CONTRACTOR** The Parties acknowledge and agree that neither Municipal Mosquito nor any member of its staff is an agent, employee, or representative of City in connection with the services to be performed hereunder. Rather, Municipal Mosquito is an independent contractor in connection with the services to be performed hereunder. As an independent contractor, Municipal Mosquito shall be responsible for employing and directing such personnel and agents as it may require from time to time in connection with the performance of the services to be rendered hereunder. Municipal Mosquito shall exercise complete authority over members of its staff and its agents and shall be fully responsible for their actions. Municipal Mosquito acknowledges that neither it nor any member of its staff is entitled to unemployment insurance benefits or workers' compensation benefits from City, its elected officials, agents, or any program administered or funded by City.

4.5 **INSURANCE**

4.5.1 Municipal Mosquito shall maintain, at a minimum, the insurance coverage detailed below throughout the term of this Contract. Prior to performing any Services under this Contract, Municipal Mosquito shall deliver certificates documenting this coverage to the City. The City may elect to have Municipal Mosquito submit its entire policy for inspection.

A. Commercial General Liability Insurance

\$1,000,000 each occurrence; \$2,000,000 aggregate

B. Automobile Liability Insurance

Coverage on vehicles involved in the work performed under this Contract:

\$1,000,000 per accident on a combined single limit basis; or

\$500,000 bodily injury each person; \$1,000,000 bodily injury each accident;

and

\$250,000 property damage

The named insured and employees of Municipal Mosquito shall be covered under this policy. The City shall be named an Additional Insured, as its interests may appear. Liability for damage occurring while loading, unloading and transporting materials for the provisions of the Services under this Contract shall be included under this policy.

C. Worker's Compensation

Coverage A: statutory limits

Coverage B: \$1,000,000 each accident

\$1,000,000 disease -policy limit

\$1,000,000 disease -each employee

5. **PAYMENT** Payment for all Contingent Mosquito Management Services shall be due within thirty

(30) days of receipt of invoice by Municipal Mosquito by City. Payment which is not received on a timely basis shall be subject to interest at statutorily stated rates. Total of all payments during the term as listed in section 2, sub-section 2.1 shall not exceed \$48,000.00 USD

6. REQUEST FOR CONTINGENT SERVICES To request performance of Contingent Mosquito Management Services City shall send a request in writing to Municipal Mosquito and, upon receipt of a written Contract by Mosquito Management for performance of such services, City shall reply in writing approving such charges. City acknowledges and accepts that Municipal Mosquito does its best to estimate charges for Contingent Mosquito Management Services in advance, but that Municipal Mosquito cannot guarantee the final price for any Contingent Mosquito Management Services.

7. MISCELLANEOUS

7.1 AUTHORITY TO EXECUTE CONTRACT The undersigned officers and/or agents of the Parties hereto are the properly authorized officials and have the necessary authority to execute this Contract on behalf of the Parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect. City agrees to provide Municipal Mosquito proof of authority to enter the Contract upon request, and to notify Municipal Mosquito of any change in such authority to act.

7.2 NOTICE Where the terms of this Contract require that notice in writing be provided, such notice shall be deemed delivered three (3) days following the deposit of the notice in the United States mail, postage prepaid, and sent by certified mail, return receipt requested and properly addressed as follows:

To City:	To Contractor:
City of Burleson Attn: City Manager 141 W Renfro Street Burleson, Texas 76028	Municipal Mosquito Attn: Patrick Prather P.O. Box 831863 Richardson, Texas 75083

7.3 ASSIGNMENT This Contract is not assignable without the prior written consent of City.

7.4 ENTIRE CONTRACT, AMENDMENT This Contract represents the entire and integrated Contract between the City and Municipal Mosquito and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by a written instrument signed by both City and Municipal Mosquito.

7.5 APPLICABLE LAW The validity of this Contract and of any of its terms or provisions, as well as the rights and duties of the Parties hereto, shall be governed by the laws of the State of Texas. This Contract shall be performable and all compensation payable in Dallas County, Texas. Venue and exclusive jurisdiction under this Contract lies in Dallas County, Texas.

7.6 SEVERABILITY If any clause, paragraph, section or portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the Parties shall be deemed to have contracted as if said clause, section, paragraph or portion had not been in the Contract initially.

7.7 CONSIDERATION This Contract is executed by the Parties hereto without coercion or duress and with substantial consideration, the sufficiency of which is hereby acknowledged.

7.8 REPRESENTATION Each signatory representing this Contract has been read by the

party for which this Contract is executed and that such party has had an opportunity to confer with its counsel.

7.9 **WAIVER** Waiver or any breach of this Contract by either party, or the failure of either party to enforce any of the provisions of this Contract, or the failure of either party to enforce any of the provisions of this Contract, at any time, shall not in any way affect, limit or waive such party's right thereafter to enforce and compel strict compliance of the Contract.

7.10 **MISCELLANEOUS DRAFTING PROVISIONS** This Contract shall be drafted equally by all Parties hereto. The language of all parts of this Contract shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against any party shall not apply. Headings in this Contract are for the convenience of the Parties and are not intended to be used in construing this document.

7.11 **COUNTERPARTS** This Contract may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

8. **ACCEPTANCE OF CONTRACT** Municipal Mosquito, pursuant to the terms and conditions set forth above, proposes to provide services within the Scope of Work to City at the rates set forth in the Fee Schedule. To accept this Contract, City shall: (1) provide Municipal Mosquito proof of authority to enter the Contract on behalf of City, and (2) return a fully executed copy of the Contract, intact, to Municipal Mosquito at the address indicated hereon.

IN WITNESS THEREOF, the Authorized Representatives have executed this Contract on the dates written below.

Authorized Representative of the City of Burleson, Texas

Signature [Signature] Title City Manager

Print name Bryan Langley Date 3/4/22

Witness [Signature]

Accepted by PRP Services, L.L.C. d/b/a Municipal Mosquito

By [Signature] Title Executive Director

Date 09 March 2022

The acceptance of this Contract is not valid until it is countersigned by Municipal Mosquito and returned to the City of Burleson, Texas.

ATTACHMENT A

SCOPE OF WORK

I. CONSULTING, REPORTING, AND EDUCATION

a. **Fee Specifications** The Consulting, Reporting, and Education fee is a fixed rate price for all consulting, reporting, and education during the annual Contract term. This fee and signed Contract are due by April 1st to preserve the pricing and Scope of Work that have been defined.

b. **Consulting** Municipal Mosquito annually generates terrain maps, current street maps, digital route maps, and consultation with City staff for information and history regarding mosquitoes, sites, populations, species, and locations prior to initiating any treatment services.

c. **Reporting** Municipal Mosquito shall provide written and digital documentation of all services provided to City and retain application records as directed by Texas Department of Agriculture Structural Pest Control Service (TDA/SPCS) and TCEQ NPDES.

d. **Education** Municipal Mosquito will assist City staff during City hall, public, City council, and similar public education and outreach meetings. Municipal Mosquito will also brief the City Council as requested.

CONTINGENCY MOSQUITO MANAGEMENT

Should mosquito activity or disease dictate and/or the City request, Municipal Mosquito shall be available to provide Contingency Mosquito Control services described in this Scope of Work. Any Contingency Mosquito Management services will be performed as directed and in accordance with the provisions of this Contract, this Scope of Work, and the Fee Schedule.

II. LARVAL SURVEILLANCE AND CONTROL

a. **Site Inspection** Individual inspections will be conducted as directed with monitoring of known and newly discovered potential larval mosquito development sites. Routine revision and updating of maps and sites is ever evolving and a key part of effective mosquito control program.

b. **Larvicide Application** When appropriate and necessary, applications will be made of appropriately labeled larvicidal materials at U.S. EPA approved labeled dosage rates. Mapping of treated sites and documentation to meet state requirements will be provided to the City.

c. ***Aedes aegypti* and *Aedes albopictus* Specific Larviciding Service** Larval mosquito inspection and control application is a different process for *Aedes aegypti* and *Aedes albopictus* mosquitoes due to small container and cryptic larval development sites often in close proximity to residential structures. Should intensive larval control become necessary due to an imported or locally transmitted emerging arbovirus, an hourly rate will be applied to the larval control field operations. Larval control may be performed through hand larviciding or via liquid larviciding through mist/ULV applicators. Access to private property is sometimes necessary for these larviciding services. The City shall make Code Enforcement and/or Environmental officers available to assist Municipal Mosquito personnel with private property inspections.

III. ADULT MOSQUITO SURVEILLANCE

a. **Reiter Gravid Trap Surveillance** This trap selects toward gravid, or egg laden, *Culex spp.* female mosquitoes. Gravid female mosquito surveillance is crucial since these female mosquitoes have taken a blood meal to develop eggs and are potentially infected with West Nile virus. Service will be as directed for surveillance of the adult *Culex* mosquito population. Mosquito samples will be delivered to Tarrant County Public Health for Identification and disease testing.

b. **BG Sentinel Trap Surveillance for Emerging Arbovirus Vectors** *Aedes aegypti* and *Aedes albopictus* adult mosquitoes are vectors for many known and emerging arboviruses such as Zika virus and Dengue. The BG Sentinel trap works differently than the Reiter Gravid trap and is designed to mimic human respiration selectively attracting *Aedes spp.* mosquitoes. Municipal Mosquito will set and collect BG Sentinel traps, at the City's direction. These traps will be used to ascertain population densities of disease vector species. Trap catch information will be used to help determine disease response strategies and trapped mosquitoes may be tested for disease utilizing real-time RT-PCR.

IV. DISEASE TESTING

a. **Emerging Arbovirus Disease Testing** Municipal Mosquito's local third party laboratory confirms presence of mosquito borne Zika virus, Chikungunya virus, Dengue, and other emerging arboviruses through real-time RT-PCR technology with results available within 24 to 48 hours. Test results are forwarded to Municipal Mosquito, compiled, and made available to City for disease response planning. Assay materials are archived onsite at the Laboratory facility so confirmation testing may be completed if directed.

V. ADULT MOSQUITO CONTROL

a. **Pre-Treatment Operational Procedures** Municipal Mosquito will follow strict integrated mosquito management guidelines and will only adulticide when authorized by the City and legally allowable according to product labeling. All adult mosquito control applications will be made only after written permission is obtained from the City and City staff shall notify Municipal Mosquito at least 24 hours prior to altering any previously agreed upon schedule(s).

b. **Product** Municipal Mosquito currently utilizes a water based synergized permethrin formulation for Ultra Low Volume ("ULV") adult mosquito applications and recommends mid-level labeled application rate of active ingredient per acre. Other materials, application rates, and chemical classes may be utilized for specialty applications and different rates may apply. City must advise Municipal Mosquito regarding the desired application rate at least 24 hours in advance of any requested fogging services.

c. **Adult Mosquito Control Equipment** For street level and off-road UTV Mounted applications, Municipal Mosquito primarily utilizes industry standard ULV fogging equipment. For focused application techniques, Municipal Mosquito utilizes backpack ULV/misting machines and/or handheld Thermal Foggers from various manufacturers. During any adult mosquito application, technicians will record via real-time and recorded GPS various events that occur during the application sequence, i.e. operator and/or vehicle identification, ground speed, "No Spray Zones", type of insecticide, total insecticide dispensed, and total area or distance treated. Municipal Mosquito application equipment is annually calibrated and analyzed for proper droplet pattern to insure correct operation and application.

VI. MISCELLANEOUS

a. **Response Guarantee** Municipal Mosquito guarantees a next business day response time for larval control and surveillance service requests. Adult Mosquito Control service requests are

guaranteed 48 hours from time of notification for commencement of control operations.

b. Private Property Access For all mosquito related activities, The City will obtain and/or furnish right-of-access on any Non-City-owned project site for Municipal Mosquito to perform any requested inspections, tests, surveillance, application, or investigation in relation to the Scope of Services. Municipal Mosquito will take reasonable precautions to avoid and/or minimize damage to the personal or real property in the performance of such inspections, tests, surveillance, applications, or investigations.

Note: All defined terms within the Contract are hereby incorporated to this Attachment.

ATTACHMENT B

FEE SCHEDULE

Payment for all Contingent Mosquito Management Services shall be made based on the following fee schedule and upon the terms set forth in Section 5 of the Contract.

<u>Service Provided</u>	<u>Item Price</u>
Consulting, Reporting, And Education Fee	\$400.00 per annum

<u>Service Provided</u>	<u>Item Price</u>
CONTINGENT MOSQUITO MANAGEMENT	AD HOC
ADULT MOSQUITO SURVEILLANCE SERVICES	
Gravid Trap (per trap event)	\$110.00 each
BG Sentinel Trap (Per Trap Event)	\$180.00 each
1-10	\$175.00 each
11+	
BG Sentinel Trap Set Plus Identification (speciated and enumerated) (per trap event)	\$210.00 each
1-11+	
LARVAL SURVEILLANCE AND CONTROL SERVICES	
<i>Aedes aegypti</i> and <i>Aedes albopictus</i> Specific Larviciding Service	
Inspection Based Hand Larviciding	\$190.00 per <u>one</u> hour
UTV Mounted Liquid Larviciding** -street level, alley, utility easement	\$185.00 per 0.25 (1/4) linear mile
Back-pack Liquid Larviciding** -any area inaccessible to vehicles or where small-scale application is needed	\$300.00 per 0.10 (1/10) linear mile
**liquid larviciding is an alternative means of delivering larval control materials from easements and alleys to backyards and cryptic breeding sources. This alternative delivery becomes necessary when physical access to private property (backyards) is difficult to obtain.	

Area(s) of Mosquito Concern Investigation, Inspection, and Treatment - investigation and inspection based larvicide application - public property, City owned property, and/or private property as directed	\$135.00 per <u>one</u> hour
TESTING SERVICES	
Emerging Arbovirus Disease Testing - real time RT-PCR third party testing	\$50.00 per test pool of 50 mosquitoes
Insecticide Resistance Testing - CDC bottle bioassay method - staff trained by CDC personnel	\$450.00 per location
ADULT MOSQUITO CONTROL	
Truck Mounted ULV Fogging - mid-label rate of application - water-based synergized permethrin product	\$42.00 per <u>one</u> linear mile
UTV Mounted ULV Fogging - mid-label rate of application - water-based synergized permethrin product	\$180.00 per <u>one</u> linear mile
Backpack ULV Fogging - maximum rate of application Backpack Residual Mist - small scale application to areas inaccessible to vehicle	\$175.00 per <u>0.25</u> (1/4) linear mile at
Thermal Fogging - maximum rate of application	\$225.00 per <u>0.25</u> linear mile
Residual Barrier Spray - residual application for heavy vegetation areas	\$85.00 per <u>200</u> linear feet

Note: All defined terms within the Contract are hereby incorporated to this Attachment.

ATTACHMENT C

City of Burleson Addendum to Vendor's Contract Additional Provisions

Vendor Name: PRP Services, LLC d/b/a Municipal Mosquito (“Vendor”)

Vendor Address: PO Box 831863, Richardson, Texas 75083

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.
 - 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 State of Texas 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. Vendor agrees that, to the extent Vendor owes any debt or delinquent taxes to the State of Texas, any payments or other amounts Vendor is otherwise owed under this Contract shall be applied toward the debt or delinquent taxes until the debt or delinquent taxes are paid in full. Vendor agrees to comply with all applicable laws regarding satisfaction of debts or delinquencies to the State of Texas.
 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. Force Majeure. Neither party is required to perform any term, condition, or covenant of the Agreement, if performance is prevented or delayed by a natural occurrence, a fire, an act of God, an act of terrorism, or other similar occurrence, the cause of which is not reasonably within the control of such party and which by due diligence it is unable to prevent or overcome.
9. Entire Agreement. This Addendum and the Vendor's Contract Form constitute the entire Agreement between the parties and may not be waived or modified except by a written agreement signed by the parties.
10. Savings Clause. If a court of competent jurisdiction finds any provision of this Addendum and the Vendor's Contract Form 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.
11. Conflicts Of Interest. By executing this Agreement, Contractor and each person signing on behalf of Contractor 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.
12. 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.

13. Contractor 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.

14. 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.

15. Survival. The terms of this Addendum shall survive any closing or termination of the Agreement.

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.

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

City of Burleson, Texas:

By: _____

Printed: Bryan Layton

Title: City Manager

Date: 3/4/22

For the Vendor:

By: _____

Printed: Patrick Prather

Title: Executive Director

Date: 09 March 2022