

This is **EXHIBIT J**, consisting of 8 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated March 11, 2025.

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## Special Provisions

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The following Amendments are made to the Agreement:

Article 3.02.B. – the Article shall be amended as follows:

- If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, *may be adjusted equitably by agreed written consent between Owner and Engineer.*

Article 3.02.C – the Article shall be amended as follows:

- If Owner authorizes changes in the scope, extent, or character of the Specific Project, or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, *may be adjusted equitably by agreed written consent between Owner and Engineer.*

Article 3.02.E – the Article shall be amended as follows:

- If Engineer fails, through its own fault, to complete the performance required in a Task Order within the time set forth, as duly adjusted, then Owner shall be entitled to the recovery of *any damages as allowed by state law* resulting from such failure.

Article 4.01.A – the Article shall be amended as follows:

- *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices, the terms of Exhibit C, and the specific Task Order. Engineer shall submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt, *in accordance with the Texas Prompt Payment Act, as applicable.*

Article 4.02.D – this Article shall be struck from the Agreement.

Article 6.01.B - the Article shall be amended as follows:

- *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is *solely* attributable to deficiencies in Owner-furnished information.

Article 6.01.C - the Article shall be amended as follows:

- *Consultants:* Engineer may retain such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to *approval* by Owner.

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Article 6.01.E.3 - the Article shall be amended as follows:

- Each Task Order is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date of the Task Order. The following may be the basis for modifications to ~~Owner's responsibilities or to~~ Engineer's scope of services, times of performance, or compensation:

Article 6.02.A - the Article shall be amended as follows:

- For each design performed or furnished, Engineer shall be responsible only for those Construction Phase services that have been expressly required of Engineer in the authorizing Task Order. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction, and Owner assumes all responsibility for the application and interpretation of the Construction Contract Documents, review and response to Contractor claims, Construction Contract administration, processing of Change Orders and submittals, revisions to the Construction Contract Documents during construction, construction observation and review, review of Contractor's payment applications, and all other necessary Construction Phase administrative, engineering, and professional services. ~~Owner waives all claims against Engineer that may be in any way connected to Construction Phase administrative, engineering, or professional services except for those services that are expressly required of Engineer in the authorizing Task Order.~~

Article 6.03.C - the Article shall be amended as follows:

- Owner may make and retain copies of Documents for information and reference in connection with the use of the Documents on the Specific Project. Engineer grants Owner a limited license to use the Documents on the Specific Project, extensions of the Specific Project, and for related uses of the Owner, ~~subject to receipt by Engineer of full payment due and owing for all services relating to preparation of the Documents~~, and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Specific Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Specific Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; ~~(3) Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and its Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (34) such limited license to Owner shall not create any rights in third parties.~~

Article 6.05.A - the Article shall be amended as follows:

- Commencing with the Effective Date of the Agreement, Engineer shall procure and maintain insurance as set forth in **Exhibit G, "Insurance."** Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer and shall provide any defense provided for under the general liability insurance policy in conformance with Tex. Loc. Gov't Code Sec. 271.904.

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Article 6.05.B - this Article shall be struck from the Agreement.

Article 6.05.D - the Article shall be amended as follows:

- Engineer shall deliver to the Owner certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished promptly after the Effective Date of the Agreement and at renewals thereafter during the life of this Agreement.

Article 6.05.E - this Article shall be struck from the Agreement.

Article 6.06.C.2.c - this Article shall be struck from the Agreement.

Article 6.06.C - this Article shall be struck from the Agreement.

Article 6.06.D - this Article shall be modified as follows:

- Owner may terminate a Task Order or this Agreement for Owner's convenience, effective upon Engineer's receipt of notice from Owner.

Article 6.06.F.2 - this Article shall be struck from the Agreement.

Article 6.07.A - this Article shall be modified as follows:

- This Agreement is to be governed by the Laws and Regulations of the state of Texas and jurisdiction is in any district court in Medina County, Texas.

Article 6.10.A.3 - this Article shall be modified as follows:

- It is acknowledged by both parties that Engineer's scope of services does not include any services related to unknown or undisclosed Constituents of Concern.

Article 6.10.A.5 - this Article shall be struck from the Agreement.

Article 6.11.B - this Article shall be struck from the Agreement.

Article 6.11.C - this Article shall be struck from the Agreement.

Article 6.11.E - this Article shall be struck from the Agreement.

Article 6.11.F - this Article shall be struck from the Agreement.

Exhibit A Article A1.05.A.25 - this Article shall be modified as follows:

- *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor.

Exhibit B Article B2.01.A.2 - this Article shall be modified as follows:

- Give instructions to Engineer regarding Owner's procurement of construction services (including instructions regarding advertisements for bids, instructions to bidders, and requests for proposals, as applicable), Owner's construction contract practices and requirements, insurance and bonding requirements, electronic transmittals during construction, and other information necessary for the finalization of Owner's bidding-related documents (or requests for proposals or other construction

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procurement documents), and Construction Contract Documents. Furnish copies (or give specific directions requesting Engineer to use copies already in Engineer's possession) of all design and construction standards, Owner's standard forms, general conditions (if other than EJCDC® C-700, Standard General Conditions of the Construction Contract, 2013 Edition), supplementary conditions, text, and related documents and content for Engineer to include in the draft bidding-related documents (or requests for proposals or other construction procurement documents), and draft Construction Contract Documents, when applicable.

Exhibit B Article B2.01.A.3 - this Article shall be modified as follows:

- Furnish to Engineer any other available information pertinent to the Specific Project including reports and data relative to previous designs, construction, or investigation at or adjacent to the Site, any information in the Owner's possession related to real property, zoning regulations, utility infrastructure, geotechnical reports, etc.

Exhibit B Article B2.01.A.4 - this Article shall be struck from the Agreement.

Exhibit B Article B2.01.A.6 - this Article shall be struck from the Agreement.

Exhibit B Article B2.01.A.9 - this Article shall be struck from the Agreement.

Exhibit B Article B2.01.A.10 - this Article shall be modified as follows:

- If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer, *when needed*.

Exhibit B Article B2.01.A.11 - this Article shall be modified as follows:

- If more than one prime contract is to be awarded for the Work designed or specified by Engineer, other work is to be performed at or adjacent to the Site by others or by employees of Owner, or if Owner arranges to have work performed at the Site by utility owners, then Owner shall coordinate such work unless Owner designates an individual or entity to have authority and responsibility for coordinating the activities among the various prime Contractors and others performing work. In such case Owner shall define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin, *when needed*.

Exhibit B Article B2.01.A.13 - this Article shall be modified as follows:

- *When requested by Owner under a Task Order*, examine all alternative solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, risk manager, insurance counselor, financial/municipal advisor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

Exhibit B Article B2.01.A.14 - this Article shall be modified as follows:

- *Advise* Engineer regarding any need for assistance in evaluating the possible use of Project Strategies, Technologies, and Techniques, as defined in Exhibit A.

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Exhibit B Article B2.01.A.17 - this Article shall be modified as follows:

- Furnish, *when needed*, to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.

Exhibit B Article B2.01.A.18 - this Article shall be modified as follows:

- Attend and participate in the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Site visits, *as needed*, to determine Substantial Completion and readiness of the completed Work for final payment.

Exhibit B Article B2.01.A.19 - this Article shall be struck from the Agreement.

Exhibit B Article B2.01.A.20 - this Article shall be struck from the Agreement.

Exhibit C Article C2.05.A - this Article shall be struck from the Agreement.

Exhibit G Article G6.05.A.2 - this Article shall be struck from the Agreement.

Exhibit G Article G6.05.B.1 - this Article shall be modified as follows:

- Engineer identified in the Task Order for a Specific Project shall be listed on Owner's general liability policy of insurance as additional insured.

Exhibit G Article G6.05.B.2 - this Article shall be struck from the Agreement.

Exhibit G Article G6.05.C – this article shall be added to the Exhibit G as follows:

- C. Other Provisions
  1. Consultant agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
    - a. Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement under terms satisfactory to the City, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies.
    - b. Provide for an endorsement that the "other insurance" clause shall not apply to the City of Pflugerville where the City is an additional insured shown on the policy.
    - c. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.
  2. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Engineer Consultant shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Consultant's performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
  3. In addition to any other remedies the City may have upon Consultant's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Consultant to stop work hereunder,

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and/or withhold any payment(s) which become due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof.

4. Nothing herein contained shall be construed as limiting in any way the extent to which Engineer may be held responsible for payments of damages to persons or property resulting from Engineer's or its subcontractors' performance of the work covered under this Agreement.
5. It is agreed that, excepting Professional Liability, Engineer's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the Owner for liability arising out of operations under this Agreement.
6. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.
7. Consultant and any of its Subcontractors are responsible for all damage to their own equipment and/or property.

Exhibit H Article H6.09.A - this Article shall be modified as follows:

- **Mediation:** Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement, including any Task Order, or the breach thereof ("Disputes") to mediation by **[here insert name of mediator, or mediation service]**. Owner and Engineer agree to participate in the mediation process in good faith. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution method of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

Exhibit I Article I6.11.A.1 - this Article shall be modified as follows:

- **Engineer's Liability Limited to Amount of Insurance Proceeds:** Engineer shall procure and maintain insurance as required by and set forth in Exhibit G to this Agreement. Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all claims, losses, costs, or damages whatsoever arising out of, resulting from, or in any way related to the Specific Project or the Task Order from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied, of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants (hereafter "Owner's Claims"), shall not exceed the total insurance proceeds paid on behalf of or to Engineer by Engineer's insurers in settlement or satisfaction of Owner's Claims under the terms and conditions of Engineer's insurance policies applicable thereto (excluding fees, costs and expenses of investigation, claims adjustment, defense, and appeal), up to the amount of insurance required under this Agreement. If no such insurance coverage is provided with respect to Owner's Claims, then the total liability, in the aggregate, of Engineer and Engineer's officers, directors, members, partners, agents, employees, and Consultants to Owner and anyone claiming by, through, or under Owner for any and all such uninsured Owner's Claims shall be determined by Mediation.

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Other Provisions:

**ENGINEER covenants and agrees to INDEMNIFY and HOLD HARMLESS, the OWNER and the elected officials, employees, officers, directors, volunteers and representatives of the OWNER, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, or liability for damages caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the ENGINEER or the ENGINEER's agent, ENGINEER under contract, or another entity over which the ENGINEER exercises control. Such acts may include personal or bodily injury, death and property damage, made upon the OWNER directly or indirectly arising out of, resulting from or related to ENGINEER'S activities under this Agreement, including any negligent or intentional acts or omissions of ENGINEER, any agent, officer, director, representative, employee, consultant or subcontractor of ENGINEER, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of OWNER, its elected officials, employees, officers, directors, volunteers and representatives, in instances where such negligence causes personal injury, death, or property damage. In no event shall the indemnification obligation extend beyond the date with when the institution of legal or equitable proceedings for the professional negligence would be barred by any applicable statute of repose or statute of limitations.**

The provisions of this INDEMNITY are solely for the benefit of the Parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. ENGINEER shall advise the OWNER in writing within 24 hours of any claim or demand against the OWNER or ENGINEER known to ENGINEER related to or arising out of ENGINEER's activities under this AGREEMENT.

Duty to Defend – ENGINEER covenants and agrees to hold a DUTY TO DEFEND the OWNER and the elected officials, employees, officers, directors, volunteers and representatives of the OWNER, individually and collectively, from and against any and all claims, liens, proceedings, actions or causes of action, other than claims based wholly or partly on the negligence of, fault of, or breach of contract by the OWNER, the OWNER'S agent, the OWNER'S employee or other entity, excluding the ENGINEER or the ENGINEER'S agent, employee or sub-consultant, over which the OWNER exercises control. ENGINEER is required under this provision and fully satisfies this provision by naming the OWNER and those representatives listed above as additional insured under the ENGINEER'S general liability insurance policy and providing any defense provided by the policy upon demand by OWNER.

ENGINEER is required to perform services to the City under the standard of care provided for in Texas Local Government Code § 271.904 (d)(1-2).

Employee Litigation – In any and all claims against any Party indemnified hereunder by any employee of ENGINEER, any subcontractor/consultant, anyone directly or indirectly employed by

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any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for ENGINEER or any subcontractor/consultant under worker's compensation or other employee benefit acts.

Force Majeure - OWNER agrees that the ENGINEER is not responsible for damages arising from any circumstances such as strikes or other labor disputes; severe weather disruptions, natural disasters, fire or other acts of God; riots, war or other emergencies; or failure of any third party governmental agency to act in timely manner not caused or contributed to by ENGINEER.

Texas Government Code Compliance. ENGINEER acknowledges that the OWNER may not enter into an Agreement with a company for goods and services unless the Agreement contains a written verification from the company that; (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract. (Texas Government Code, Chapter 2270). ENGINEER, by entering into this Agreement, hereby verifies and certifies that it does not Boycott Israel and agrees that during the term of this Agreement will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended. The OWNER may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Further, Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Certificate of Interested Parties (TEC Form 1295). ENGINEER acknowledges that for contracts needing OWNER Council approval, the OWNER may not accept or enter into a contract until it has received from the ENGINEER a completed, signed, and notarized TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. ENGINEER understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the OWNER from entering into this Agreement. Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the OWNER. The TEC Form 1295 may accompany the bid or may be submitted separately but must be provided to the OWNER prior to the award of this Agreement. OWNER does not have the ability to verify the information included in a TEC Form 1295, nor has an obligation to undertake responsibility for advising ENGINEER with respect to the proper completion of the TEC Form 1295.

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