

**SECOND AMENDED AND RESTATED  
PROFESSIONAL SERVICES AGREEMENT**  
Plan Review, Inspections, Training, and Consulting Services

This Second Amended and Restated Professional Services Agreement ("Second Amended and Restated Agreement") is made by and between the **City of Farmers Branch, Texas** ("City"), and **Burgess Construction Consultants, Inc.** ("Professional") (each a "party" and collectively the "parties"), acting by and through their respective authorized representatives.

**RECITALS**

**WHEREAS**, the parties entered into that certain *Agreement for Professional Services* dated November 17, 2022 (the "Original Agreement") to provide Building and Energy Code Plan Review and inspection services for the City; and

**WHEREAS**, the parties thereafter entered into that certain *First Amended and Restated Agreement for Professional Services*, effective January 21, 2025 to provide revised terms of the City's Building and Energy Code Plan Review, training and inspections services; and

**WHEREAS**, it is the intent of the Parties that this *Second Amended and Restated Agreement* shall amend and restate the First Amended and Restated Professional Services Agreement and the Original Agreement in their entirety; and

**WHEREAS**, City desires to engage the Professional to perform certain work, training, and inspection services, hereinafter referred to only as "services", as further specified in the Scope of Services defined in Section 1 of this Agreement; and

**WHEREAS**, the Professional has expressed a willingness to perform said services in conformance with this Agreement.

**NOW, THEREFORE**, for and in consideration of the covenants and promises made one to the other herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**Section 1.      Scope of Services**

Upon written notice to proceed by the City, the Professional agrees to provide to the City plan review, inspections, training, and related consulting services on an as-needed basis ("Project"), in conformance with the Scope of Services attached hereto as **Exhibit "A"** and incorporated herein by reference (the "Scope of Services"). The Professional shall not be entitled to any claim for extra services, additional services, or changes in the services without a written agreement with the City prior to the performance of such services.

**Section 2.      Term of Agreement**

The term of this Second Amended and Restated Agreement shall become effective on the last date of execution hereof (the "Effective Date") and shall remain in effect until January 21, 2026. This Second Amended and Restated Agreement shall automatically renew for successive one (1) year terms unless sooner terminated as provided herein.

### **Section 3.      Professional's Obligations**

(a)      Performance of Services. The Professional shall furnish and pay for all labor, tools, software, materials, equipment, supplies, transportation, and management necessary to perform the services. To the extent reasonably necessary, the Professional may engage the services of any agents, assistants, or other persons that the Professional may deem proper to assist in the performance of the services under this Second Amended and Restated Agreement; provided, that the Professional shall be responsible for all costs related thereto, except as expressly authorized in writing in advance by the City.

(b)      Site Access. The City will endeavor to provide such rights of access on any project site as may be reasonably necessary for the Professional to perform any necessary studies, surveys, tests, or other required investigations in relation to the services; provided, that City shall have no obligation to (i) provide off-site access, (ii) provide access to private property for which City does not have an existing right to access, nor (ii) incur any costs associated with the access to be provided under this Second Amended and Restated Agreement.

(c)      Standard of Care. The Professional shall perform the services with the skill and care ordinarily provided by competent professionals practicing in the same or similar locality and under the same or similar circumstances and professional licenses. The Professional shall be responsible for the professional quality, technical accuracy, and the coordination of all services, including all Project Documents, designs, drawings, specifications, plans, reports, presentations and all other services furnished by the Professional under this Second Amended and Restated Agreement. The Professional shall, without additional compensation, correct or revise any errors or deficiencies in the services. The Professional shall further make, without expense to City, such revisions to the Project Documents as may be required to meet the needs of City and which are within the Professional's Scope of Services.

(d)      Additional Services. Should City require additional services not included under this Second Amended and Restated Agreement, the Professional shall make reasonable effort to provide such additional services in accordance with the fee schedule set forth in **Exhibit A**, and within the time schedule prescribed by the City; and without decreasing the effectiveness of the performance of services required under this Second Amended and Restated Agreement.

(e)      No Waiver of City's Rights. Neither the City's review, approval, acceptance of, nor payment for any of the services required under this Second Amended and Restated Agreement, shall be construed to operate as a waiver of any rights under this Second Amended and Restated Agreement or of any cause of action arising out of the performance of this Second Amended and Restated Agreement, and the Professional shall be and remain liable to City in accordance with applicable law for all damages to City caused by the Professional's negligent performance of any of the services furnished under this Second Amended and Restated Agreement.

(f)      Independent Contractor. It is understood and agreed by and between the parties that the Professional, while performing under this Second Amended and Restated Agreement, is acting independently, and that the City assumes no responsibility or liabilities to any third party in connection with the Professional's actions. All services to be performed by the Professional pursuant to this Second Amended and Restated Agreement shall be in the capacity of an independent contractor, and not as an agent or employee of the City. The Professional shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Second Amended and Restated Agreement. There is no intended third-party beneficiary to this Second Amended and Restated Agreement.

(g) Inspection of Records. The Professional grants the City and its designees the right to audit, examine or inspect, at the City's election, all of the Professional's Records (defined below) relating to the performance of services under this Second Amended and Restated Agreement, during the term of the Second Amended and Restated Agreement and any retention period herein. The City's audit, examination, or inspection of the Professional's Records may be performed by a City designee, which may include its internal auditors or an outside representative engaged by the City. The Professional agrees to retain the Professional's Records for a minimum of four (4) years following termination of the Second Amended and Restated Agreement, unless there is an ongoing dispute under the contract; then, such retention period shall extend until final resolution of the dispute. "Professional's Records" shall include any and all information, materials and data of every kind and character generated in connection with the services under this Second Amended and Restated Agreement. The City agrees that it will exercise its right to audit, examine or inspect the Professional's Records during regular business hours unless the City has provided advance written notice of an alternate time. Professional agrees to allow the City and its designees access to all of the Professional's Records, Professional's facilities, and the current or former employees of the Professional, to the extent deemed reasonably necessary by the City or its designee(s), to perform such audit, inspection or examination.

(h) Certification of No Conflicts. Professional hereby warrants to the City that the Professional has made full disclosure in writing of any existing or potential conflicts of interest related to the Professional's services under this Second Amended and Restated Agreement. In the event that any conflicts of interest arise after the Effective Date of this Second Amended and Restated Agreement, the Professional hereby agrees immediately to make full disclosure to the City in writing.

#### **Section 4. Performance Schedule**

(a) Time for Performance. The Professional shall perform all services as provided for under this Second Amended and Restated Agreement in a proper, efficient, timely, and professional manner in accordance with the City's requirements. In the event the Professional's performance of this Second Amended and Restated Agreement is delayed or interfered with by acts of the City or others, the Professional may request an extension of time in conformance with this Section 4 for the performance of same as hereinafter provided but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

(b) Extensions; Written Request Required. No allowance of any extension of time, for any cause whatever (including an event of Force Majeure as defined herein below), shall be claimed or made to the Professional unless the Professional shall have made a written request upon the City for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless the City and Professional have agreed in writing upon the allowance of additional time to be made.

#### **Section 5. Documents**

(a) Project Documents. All proposals, reports, studies, surveys, applications, drawings, plans, specifications, data, and other documents, whether in draft form or final form (including any electronic format) prepared by the Professional and its employees, consultants, subcontractors, agents, or representatives (collectively referred to in this section as "Professional") for the use and/or benefit of City in connection with this Second Amended and Restated Agreement ("Project Documents"). The Professional shall be deemed the authors of their respective components of the Project Documents. Notwithstanding, upon payment by City as required by this Second Amended and Restated Agreement, the City shall own, have, keep and retain all rights, title, and interest in and to all Project Documents, including all ownership, common law, statutory, and other reserved rights, including copyrights (except copyrights held by the Professional) in and to all Project Documents, whether in draft form or final form, which are

produced at City's request and in furtherance of this Second Amended and Restated Agreement. City shall have full authority to authorize any contractor(s), subcontractors, consultants, and material or equipment suppliers to reproduce applicable portions of the Project Documents to and for use in their execution of the services or for any other purpose. Acceptance and approval of the Project Documents by City shall not constitute nor be deemed a release of the responsibility and liability of Professional for the accuracy or competency of its designs, working drawings, specifications, or other documents; nor shall such approval be deemed to be an assumption of such responsibility by City for any defect in the designs, working drawings, and specifications, or any other documents prepared by Professional.

(b) Professional's Documents. All previously owned intellectual property of Professional, including but not limited to any computer software (object code and source code), tools, systems, equipment, or other information used by Professional or its suppliers in the course of delivering the Services hereunder, and any know-how, methodologies or processes used by Professional to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto ("Professional's Documents"), shall remain the sole and exclusive property of Professional. Notwithstanding, the Professional agrees that the City shall have the right to access all such information, and the City is granted the right to make and retain copies of the Professional's Documents. City acknowledges that any reuse of Professional's Documents without specific written verification or adaptation by Professional will be at City's sole risk and without liability or legal exposure to Professional.

(c) Confidential Information. Professional agrees it will notify City in writing if it considers specific information to be confidential or proprietary trade secrets and will use its best efforts to clearly mark all such information as "Confidential" and/or "Proprietary – Trade Secret" at the time it is delivered or made accessible to City. City acknowledges that all such designated information is considered by Professional to be confidential and the exclusive property of Professional. Notwithstanding the foregoing, Professional acknowledges that this Second Amended and Restated Agreement, and all services performed hereunder, are subject to the legal requirements of the Texas Public Information Act and that the City will have no obligation to protect or otherwise limit disclosure of any confidential or proprietary information if the Professional has not notified the City of such designation in conformance with this section. Professional agrees and covenants to protect any and all proprietary rights of City (or other persons) in any materials provided to the Professional by the City. Additionally, any materials provided to the Professional by the City shall not be released to any third party without the consent of the City and shall be returned intact to the City upon termination or completion of this Second Amended and Restated Agreement if instructed to do so by the City. In the event City delivers to Professional any information that has been expressly marked "Confidential" or has notified Professional is confidential or is the proprietary information of a third-party, Professional agrees it shall not disclose to anyone directly or indirectly during the term of this Second Amended and Restated Agreement or at any time thereafter, any such information, nor shall it use any such information for any purpose other than as reasonably necessary in connection with Professional's performance of the services under this Second Amended and Restated Agreement. Professional shall further, at its own expense, defend all suits or proceedings instituted against City and pay any award of damages or loss resulting from an injunction, against City, insofar as the same are based on any claim that materials or services provided under this Second Amended and Restated Agreement constitute an infringement of any patent, trade secret, trademark, copyright or other intellectual property rights. Notwithstanding, the foregoing confidentiality obligations shall not extend to and nothing herein shall limit either party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving party or its personnel; (ii) was or becomes available to the receiving party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed

by the receiving party without the use of any confidential information of the disclosing party; or (iv) is required to be disclosed by applicable law or court order.

## **Section 6.      Payment**

(a)      Compensation and Payment Terms. The Professional will be compensated for the services provided pursuant to this Second Amended and Restated Agreement in accordance with the fee schedule set forth in the Scope of Services. The Professional shall invoice the City monthly for each service performed. Unless otherwise provided herein, payment to the Professional shall be monthly based on the Professional's monthly detailed monthly itemized statement for services that identifies the names of the Professional's employees, agents, contractors performing the services, the time worked, the actual services performed, the rates charges for such service and the amount due and payable as of the current invoice, in a form reasonably acceptable to the City. The City shall pay such monthly statements within thirty (30) days after receipt and City verification of the services unless otherwise provided herein.

Unless otherwise provided in the Scope of Services, the Professional shall be responsible for all expenses related to the services provided pursuant to this Second Amended and Restated Agreement including, but not limited to, travel, copying and facsimile charges, telephone, internet, and email charges.

The rates set forth in the Scope of Services, if any, shall remain in effect during the term of this Second Amended and Restated Agreement. Any changes to established rates shall require the prior written consent of the City.

(b)      Deductions. The City may deduct from any amounts due or to become due to the Professional any sum or sums owing by the Professional to the City. In the event of any breach by Professional of any provision or obligation of this Second Amended and Restated Agreement, or in the event of the assertion by other parties of any claim or lien against City, or City's premises, arising out of Professional's performance of this Second Amended and Restated Agreement, City shall have the right to retain out of any payments due or to become due to Professional an amount sufficient to completely protect City from any and all reasonably anticipated loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by Professional.

## **Section 7.      Default; Force Majeure**

(a)      Default; Notice to Cure. A party shall be deemed in default under this Second Amended and Restated Agreement if the party is in breach of a material provision of this Second Amended and Restated Agreement and said breach is not cured within fifteen (15) days written notice of default by the other party. In the event the breaching party has notified the other party in writing that it is diligently working to cure the breach and has provided reasonable written evidence in support of the same, the breaching party shall not be deemed in default until the thirtieth (30<sup>th</sup>) day following the non-breaching party's notice of default.

(b)      Default by Professional. In addition to default under Section 7(a) above, Professional shall be in default under this Second Amended and Restated Agreement if Professional fails to comply or becomes disabled and unable to comply with the provisions of this Second Amended and Restated Agreement related to Professional's performance of the services, including the quality or character of the services or time of performance for any material component of the services. If such default is not corrected within ten (10) days from the date of the City's written notice to the Professional regarding the same, the City may, at its sole discretion without prejudice to any other right or remedy:

- (i) Terminate this Second Amended and Restated Agreement and be relieved of the payment of any further consideration to the Professional except for all services determined by the City to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of the Professional to and from meetings called by the City at which the Professional is required to attend, but shall not include any loss of profit of the Professional. In the event of such termination, the City may proceed to complete the services in any manner deemed proper by the City, either by the use of its own forces or by re-subletting to others; or
- (ii) The City may, without terminating this Second Amended and Restated Agreement or taking over the services, furnish the necessary labor, materials, equipment, supplies and/or assistance necessary to remedy the situation at the expense of the Professional.

(c) Force Majeure. To the extent either party of this Second Amended and Restated Agreement shall be wholly or partially prevented from the performance of any obligation or duty placed on such party by reason of or through the stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, or a government restriction, quarantine or mandatory closure order enacted in response to a pandemic or other public health crises, or other specific cause reasonably beyond the party's control and not attributable to its malfeasance, neglect or nonfeasance (each an event of "Force Majeure"), the time for performance of such obligation (other than a payment obligation) may be extended for a period equal to the time lost by reason such event, provided, that the party complies with the provisions of this section. Specifically, the party asserting Force Majeure (i) shall give prompt notice to the other party of the prevention of performance as soon as the asserting party is reasonably aware of such prevention, and (ii) has the burden of demonstrating: (1) how and why their performance was so prevented, (2) the period of time during which they were so prevented from performing (which under the facts may be equal to, or shorter or longer than, the duration of the Force Majeure event itself), and (3) that the party used commercially reasonable efforts to mitigate and/or eliminate such prevention and resumed performance under this Second Amended and Restated Agreement as soon as reasonably practicable.

## **Section 8. Termination; Suspension**

(a) Termination Upon Default. Either party may terminate this Second Amended and Restated Agreement upon written notice if the other party is in default of this Second Amended and Restated Agreement, subject to the defaulting party's right to cure in conformance with the terms of this Second Amended and Restated Agreement.

(b) Termination by City. The City shall be entitled to terminate this Second Amended and Restated Agreement, with or without cause, by providing thirty (30) days prior written notice to the Professional.

(c) Termination Following Request for Modification. Should the City require a modification of this Second Amended and Restated Agreement with the Professional, and in the event the City and the Professional fail to agree upon a modification to this Second Amended and Restated Agreement, the City shall have the option of terminating this Second Amended and Restated Agreement and Professional's services hereunder at no additional cost other than the payment to Professional, in accordance with the terms of this Second Amended and Restated Agreement, for the services reasonably determined by the City to be properly performed by Professional prior to such termination date.

(d) Suspension. The City reserves the right to suspend this Second Amended and Restated Agreement for the convenience of the City by issuing a written notice of suspension which shall describe the City's reason(s) for the suspension and the expected duration of the suspension. Such expected duration

shall, in no way, guarantee what the total number of days of suspension shall occur. Such suspension shall take effect immediately upon the Professional's receipt of said notice. Should such suspension extend past the expected duration identified by the City in its latest notice of suspension, Professional shall have the right to terminate this Second Amended and Restated Agreement if (i) Professional provides not less than thirty (30) days prior written notice to the City requesting to recommence the services, and (ii) the City does not recommence the services within the time requested.

## **Section 9.     Insurance**

(a)     The Professional shall during the term hereof maintain in full force and effect the following insurance: (i) a commercial general liability policy of insurance for bodily injury, death, and property damage including the property of the City, its officers, contractors, agents, and employees (collectively referred to as the "City") insuring against all claims, demands or actions relating to the work and services provided by the Professional pursuant to this Second Amended and Restated Agreement with a minimum combined single limit of not less than \$2,000,000.00 per occurrence for injury to persons (including death), and for property damage and \$2,000,000.00 aggregate including products and completed operations coverage of \$1,000,000.00. This policy shall be primary to any policy or policies carried by or available to the City; (ii) policy of automobile liability insurance covering any vehicles owned, non-owned and hired and/or operated by Professional, its officers, agents, and employees, and used in the performance of this Second Amended and Restated Agreement with policy limits of not less than \$1,000,000.00 combined single limit for bodily injury, death and property damage; (iii) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of Professional's employees involved in the provision of services under this Second Amended and Restated Agreement with policy limit of not less than \$1,000,000.00; and (iv) Professional Liability with policy limit of not less than \$2,000,000.00 per claim and \$2,000,000.00 in the aggregate, covering negligent acts, errors and omissions by Professional, its contractors, sub-contractors, consultants and employees in the performance of services pursuant to this Second Amended and Restated Agreement.

(b)     All insurance shall be endorsed to provide the following provisions: (1) name the City, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance and Professional Liability; (2) provide for a waiver of subrogation against the City for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance, except for Professional Liability Insurance; (3) provide a written notice for cancellation, non-renewal, and/or material changes of the policy in accordance with the policy provisions.

(c)     All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the City.

(d)     A certificate of insurance and copies of policy endorsements evidencing the required insurance shall be submitted to the City prior to commencement of the services. On every date of renewal of the required insurance policies, the Professional shall cause a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Professional shall, within ten (10) business days after written request, provide the City with certificates of insurance and policy endorsements for the insurance required herein.

**Section 10. Indemnification; Notice.**

CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF PROFESSIONAL PURSUANT TO THIS SECOND AMENDED AND RESTATED AGREEMENT. PROFESSIONAL HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS “CITY INDEMNITEES”) FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CITY INDEMNITEES. PROFESSIONAL AGREES TO INDEMNIFY AND SAVE HARMLESS THE CITY INDEMNITEES FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS’ FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY THE NEGLIGENT PERFORMANCE OF SERVICES UNDER THIS SECOND AMENDED AND RESTATED AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF PROFESSIONAL, ITS OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, CONTRACTORS, SERVANTS, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE FROM OR ARE ATTRIBUTED TO THE NEGLIGENCE OR WILFUL MISCONDUCT OF A CITY INDEMNITEE, IN WHOLE OR IN PART, IN WHICH CASE PROFESSIONAL SHALL INDEMNIFY THE CITY INDEMNITEES TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO PROFESSIONAL, ITS OFFICERS, AGENTS, OR EMPLOYEES AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION).

Notices of Claim. Professional shall promptly advise City in writing of any claim or demand against the City related to or arising out of Professional’s acts or omissions under this Second Amended and Restated Agreement and shall see to the investigation of such claims or demand at Professional’s sole cost and expense, provided, that City, at its option and at its own expense, may participate in such investigation without relieving Professional of any of its obligations hereunder. Professional’s obligations under this section shall not be limited to the limits of coverage of insurance maintained or required to be maintained under this Second Amended and Restated Agreement.

THE PROVISIONS OF THIS SECTION SHALL SURVIVE EXPIRATION OR TERMINATION OF THIS SECOND AMENDED AND RESTATED AGREEMENT FOR A PERIOD OF FOUR (4) YEARS.

**Section 11. Notice.**

All notices required by this Second Amended and Restated Agreement shall be in writing and addressed to the parties at the addresses set forth on the signature page(s) of this Second Amended and Restated Agreement (or to such other address that may be designated by the receiving party from time to time in accordance with this section). All notices shall be delivered by (a) personal delivery, (b) certified or registered mail (in each case, return receipt requested, postage prepaid), (c) nationally recognized overnight courier (with all fees pre-paid), or (d) email of a pdf document containing the required notice. Such notice or document shall be deemed to be delivered or given, whether actually received or not, (i) when received if delivered or given in person, (ii) if sent by United States mail, three (3) business days after being deposited in the United States mail as set forth above, (iii) on the next business day after the day the notice or document is provided to a nationally recognized carrier to be delivered as set forth above, or (iv) if sent by email, the next business day. A confirmation of delivery report which reflects the time that the email was delivered to the recipient’s last notified email address is prima facie evidence of its receipt by



the recipient, unless the sender receives a delivery failure notification, indicating that the email has not been delivered to the recipient.

## **Section 12.     Verifications by Professional**

Professional's execution of this Second Amended and Restated Agreement shall serve as its formal acknowledgment and written verification that:

(a) if the requirements of Subchapter J, Chapter 552, Government Code, apply to this Second Amended and Restated Agreement and Professional agrees that the Second Amended and Restated Agreement can be terminated if Professional knowingly or intentionally fails to comply with a requirement of that subchapter;

(b) pursuant to Texas Government Code Chapter 2270, that Professional's organization does not presently boycott Israel and will not boycott Israel during the term of this Second Amended and Restated Agreement; and

(c) pursuant to Texas Government Code Chapter 2251, that Professional's organization does not currently discriminate against firearm and ammunition industries and will not for the term of the contract. Discriminating means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with the firearm or ammunition industry or with a person or entity doing business in the firearm or ammunition industry, but does not include an action made for ordinary business purposes.

## **Section 13.     Miscellaneous**

(a) The Professional shall not assign or sublet this Second Amended and Restated Agreement, in whole or in part, without the prior written consent of the City. (b) Professional shall comply with all federal, state, county, and municipal laws, ordinances, resolutions, regulations, rules, and orders applicable to the services under this Second Amended and Restated Agreement. (c) The laws of the State of Texas shall govern this Second Amended and Restated Agreement; and the venue for any action concerning this Second Amended and Restated Agreement shall be in the state district courts of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said courts. (d) This Second Amended and Restated Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements, or stipulations bearing upon the meaning or effect of this Second Amended and Restated Agreement which have not been incorporated herein. (e) The exhibits attached hereto, if any, are incorporated herein and made a part hereof for all purposes. (f) Unless expressly provided otherwise herein, this Second Amended and Restated Agreement may only be modified, amended, supplemented, or waived by a mutual written agreement of the parties. (g) In the event any one or more of the provisions contained in this Second Amended and Restated Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions, and the Second Amended and Restated Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it. (h) Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Second Amended and Restated Agreement shall survive termination. (i) This Second Amended and Restated Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties. (j) Each party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Second Amended and Restated Agreement. (k) Subject to the provisions regarding assignment, this Second

Amended and Restated Agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK -  
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed and delivered this Second Amended and Restated Agreement as of the Effective Date.

For City:

For Professional:

CITY OF FARMERS BRANCH, TEXAS

BURGESS CONSTRUCTION  
CONSULTANTS, INC.

By: \_\_\_\_\_  
Benjamin W. Williamson  
City Manager

By: \_\_\_\_\_  
Ricky Sandlin  
Director of Operations

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

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

Notice Address:

City of Farmers Branch  
Attn: City Manager  
13000 William Dodson Pkwy  
Farmers Branch, Texas 75234  
E: benjamin.williamson@farmersbranchtx.gov

Notice Address:

Burgess Construction Consultants, Inc.  
Attn: Ricky Sandlin  
195 Murray Farm Road, Suite 200  
Fairview, Texas 75069  
E: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Stacy Henderson  
City Secretary

Approved as to Form:

By: \_\_\_\_\_  
Whitt Wyatt  
City Attorney  
[vf.04.09.2025]



195 Murray Farm Road, Suite 200  
Fairview, Texas 75069  
1-888-644-6489 toll-free  
214-888-7300 phone  
www.burgess-inc.com

Exhibit A - Scope of Services  
**CLIENT CHANGE ORDER**  
**Plan Review & Add'l Service Added**  
**(Municipal Division)**

This document dated **April 7, 2025** is an addendum to the Consulting Agreement dated **November 17, 2022** between **City of Farmers Branch** hereinafter called "Client" and Burgess Construction Consultants, Inc.

Client and Burgess Construction Consultants, Inc. agree to the fee changes as described here:

Up to 5,000 SF

Plan Review (Multi-Family/Commercial, Residential)	Fee
Commercial Plan Review	\$0.05 per sq. ft.
Residential Plan Review (New Construction)	\$0.07 per sq. ft.
Basic Plan Review Fee (Trade Permits, Solar Fences, etc.)	\$125 each
Inspections	Fee
Plumbing Underground	\$135 - per hour *Minimum 1 hour
Plumbing Rough	
Gas Rough	
Gas Underground	
Foundation Pre-Pour	
Electrical Underground	
Electrical Rough	
In Wall (Mechanical, Electrical or Plumbing)	
Plumbing Top-Out	
Mechanical Rough	
Framing Interior	
Framing Exterior	
Above Ceiling (Mechanical, Electrical or Plumbing)	
Sheathing (Shearwall only)	
Drywall Installation	

*TOGETHER... WE BUILD EXCELLENCE*

Gas Meter Release	<p><b>\$135 - per hour</b>  <i>*Minimum 1 hour</i></p>
Electrical Meter Release	
Electrical Meter Release	
Masonry Ties	
Stucco Lath	
Plumbing Final	
Mechanical Final	
Building Final	
Irrigation Rough (open ditch)	
Irrigation Final	
Customer Service Inspection	
Swimming Pool Belly Steel & Bonding	
Swimming Pool Deck Steel & Bonding	
Swimming Pool P-Trap	
Swimming Pool Pre-Plaster	
Swimming Pool Final	
Building Sewer Line	
Weather Barrier Fastening & Flashing	
Chimney Fireplace Chase Rough	
Door & Window Flashing	
Attic Crawlspace Ventilation	
Energy Rough (visual only)	
Energy Final (visual only)	
Solar Final	
Fire Final	
Certificate of Occupancy	

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Other Services	Fee
Tool Box Training Inspections (Up to 5,000 sqft)	\$175 per hour
Consulting Services	\$175 per hour

- ***Adjusted fee schedule will take effect upon direction of city official.***

This Change Order will not affect any previous Change Orders unless the requests are conflicting. If this Change Order conflicts with any previous Change Orders, the above changes will take precedence.

**These changes will take effect:**

- ☐ Immediately

☒ As of (Date): 04 / 07 / 2025

☐ All New POs After     /    /    

☐ New Starts After     /    /    

☐ Other \_\_\_\_\_

Client: City of Farmers Branch  
(Company Name)

Consultant: Burgess Construction Consultants, Inc.  
(Company Name)

By: \_\_\_\_\_  
(Authorized Signature) Date

By: \_\_\_\_\_  
(Authorized Signature) Date

Name: \_\_\_\_\_  
(Printed)

Name: Ricky Sandlin  
(Printed)

Title: \_\_\_\_\_  
(Printed)

Title: Director of Operations  
(Printed)

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Form Revision  
Date: 05.17.2021

*SINGLE-FAMILY • MULTI-FAMILY • COMMERCIAL*

Energy • Consulting • Thermography • Water Intrusion • Phase Inspections • Code Compliance Page 3 of 3  
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