

AGREEMENT FOR CARNIVAL RIDE AND GAME SERVICES AT DEUTSCHEN PFEST

This agreement (the "Contract") is entered into on this 8th day of July, 2025 between the City of Pflugerville ("City") and MacGregor Entertainment ("Contractor"), located at P.O. Box 239, Crawford, TX 76638.

BACKGROUND:

WHEREAS, the City of Pflugerville, Texas has been approached by MacGregor Entertainment to provide carnival rides and games for City-sponsored events;

WHEREAS, the City of Pflugerville desires to facilitate these events as they provide cultural enrichment and promote the general welfare and happiness of the community;

WHEREAS, an Agreement is necessary to memorialize the public purposes and rights and responsibilities for the use of Contractor's services in the successful execution of these events;

NOW, THEREFORE, IN CONSIDERATION OF the Parties agreeing to the obligations expressed in this Agreement, the CITY and the CONTRACTOR agree as follows:

I. SCOPE OF WORK

Contractor agrees to provide carnival rides, carnival games and event staffing at Deutschen Pfest. Services include but are not limited to:

- a. Ride Services: Providing carnival rides and games, including required setup, operation and removal.
- b. Event Coordination: Coordinating with City staff on schedules, ride layout and event information.

II. TERM OF CONTRACT

This Contract shall begin on July 9, 2025 and end on December 31, 2025, unless terminated earlier in accordance with the provisions of this agreement. The City reserves the right to extend this Contract for up to two (2) additional one-year periods upon mutual written agreement of both parties. Any extension shall be under the same terms and conditions as outlined in this Contract, unless otherwise negotiated and agreed upon in writing.

III. COMPENSATION

Contractor will be compensated as follows:

- a. Carnival rides and games not to exceed \$75,000.

IV. PAYMENT SCHEDULE

Deposits, as agreed upon by both parties, will be paid prior to the start of the event. A final payment will be paid by the conclusion of the event.

V. EXPENSES

Contractor is responsible for all costs related to their equipment, labor, and materials unless specifically agreed otherwise in writing.

VI. CITY RESPONSIBILITIES

- a. Provide Access: The City will provide reasonable access to event venues.
- b. Approvals: The City will approve all carnival rides and games in advance.

VII. INDEPENDENT CONTRACTOR

The Contractor is an independent contractor, not an employee or agent of the City. This Contract does not create any partnership, joint venture, or other similar relationship.

VIII. INSURANCE REQUIREMENTS

Contractor must maintain the following insurance policies during the term of the Contract:

- a. General Liability: Minimum \$1,000,000 per occurrence.
- b. Automobile Liability: Minimum \$500,000 per occurrence.
- c. Workers' Compensation: As required by Texas law.

The City shall be named as an additional insured on all applicable policies. Certificates of insurance must be provided before services commence.

IX. INDEMNIFICATION

CONTRACTOR SHALL INDEMNIFY, SAVE HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, ATTORNEY'S FEES AND ANY AND ALL OTHER COSTS OR FEES (WHETHER GROUNDED IN CONSTITUTIONAL LAW, TORT, CONTRACT, OR PROPERTY LAW, OR RAISED PURSUANT TO LOCAL, STATE OR FEDERAL STATUTORY PROVISION), ARISING OUT OF THE PERFORMANCE OF THE RESULTING AGREEMENT AND/OR ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, AND EMPLOYEES. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACTOR AND ANY EMPLOYEE OR SUB-CONTRACTOR OF CONTRACTOR SHALL NOT BE CONSIDERED AN EMPLOYEE OF THE CITY. THE CONTRACTOR SHALL NOT BE WITHIN PROTECTION OR COVERAGE OF THE CITY'S WORKERS' COMPENSATION INSURANCE, HEALTH INSURANCE, LIABILITY INSURANCE OR ANY OTHER INSURANCE THAT THE CITY FROM TIME TO TIME MAY HAVE IN FORCE AND EFFECT. CITY SPECIFICALLY RESERVES THE RIGHT TO REJECT ANY AND ALL CONTRACTOR'S EMPLOYEES, REPRESENTATIVES OR SUB-CONTRACTORS AND/OR THEIR EMPLOYEES FOR ANY CAUSE, SHOULD THE PRESENCE OF ANY SUCH PERSON ON CITY PROPERTY OR THEIR INTERACTION WITH CITY EMPLOYEES BE FOUND NOT IN THE BEST INTEREST OF THE CITY, HARASSING, OR IS FOUND TO INTERFERE WITH THE EFFECTIVE AND EFFICIENT OPERATION OF THE CITY'S WORKPLACE.

X. TERMINATION

- a. Termination for Convenience: Either party may terminate this Contract with 30 days' written notice.
- b. Termination for Cause: The City may terminate immediately upon Contractor's material breach of the Contract.

XI. CONFIDENTIALITY

Contractor agrees not to disclose any proprietary or confidential information obtained in the course of performing services under this Contract.

XII. DISPUTE RESOLUTION

In the event of a dispute, the parties agree to mediate in good faith before pursuing litigation. Venue for any legal proceedings shall be in Travis County, Texas.

XIII. MISCELLANEOUS

- a. Entire Agreement: This Contract constitutes the entire agreement between the parties.
- b. Amendments: Any changes to this Contract must be made in writing and signed by both parties.
- c. Governing Law: This Contract shall be governed by the laws of the State of Texas.
- d. Assignment: Contractor may not assign this contract.
- e. Service Requirements: Contractor agrees and will comply with any and all local, state or federal requirements with respect to the services rendered.

XIV. CHOICE OF LAW

Subject to the terms of the Contract, it is the intention of the Parties that this Contract, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of Texas, without regard to the jurisdiction in which any action or special proceeding may be instituted.

XV. VENUE

Venue for any action or proceeding in regard to this Contract will be in a court of competent jurisdiction in Travis County, Texas.

XVI. NOTICE

Notice of any action or proceeding in regard to this Contract must be provided to the Parties at the addresses and to the persons as stated below.

IF TO THE CITY:

Agent	<u>Jonathan Hanson</u>
Address	<u>400 Immanuel Rd, Pflugerville, TX 78660</u>
Phone	<u>512-990-6363</u>

IF TO MACGREGOR ENTERTAINMENT

Agent	_____
Address	_____
Phone	_____

EXECUTED and **AGREED** to as of the dates indicated below.

CITY OF PFLUGERVILLE

CONTRACTOR

(Signature)

Printed Name: Sereniah Breland

Title: City Manager

Date: _____

(Signature)

Printed Name: _____

Title: _____

Date: _____

XVII. ATTACHMENTS

- a. Attachment A: Detailed Scope of Work
- b. Attachment B: City of Pflugerville General Terms and Conditions

Attachment A: Detailed Scope of Work



MacGregor Entertainment

QUOTE

Date 5/21/25

Tate Macgregor
Cell: (254) 717-8860

P.O. Box 239 Crawford, TX 76638
macgregorentertainment@yahoo.com

We Specialize in Safe, Clean, Family Fun.

Billing Name City of Pflugerville

Billing Company City of Pflugerville

Address 700 n. Railroad Ave.

State/Province TX **Zip Code** 78660

Phone 512-990-6352 **Fax**

Email bazeg@pflugervilletx.gov

Event Date 10/17 + 10/28 - 2025 **Event Time(Start to Finish)** Up to 8 hrs per day

QTY	RIDE	Price per Unit	TOTAL
1	42ft Ferris Wheel	\$15,000	
1	35ft Carousel	\$7,000	
1	Berry go round	\$8,500	
1	Sizzler	\$10,000	
1	Zumer	\$10,000	
1	Carnival games	FREE	\$50,500
	4 game trailer- Basketball, Duck Pond, Balloon Store, Shooting Range. Prizes included.		
	+25% for second day of service	+ \$12,625	\$63,125

DEPOSIT REQUIRED \$31,562.50 due by 6/21/25 **TOTAL** \$63,125

Attachment B: City of Pflugerville General Terms and Conditions

City of Pflugerville General Terms and Conditions
Updated 10/22/2021

By submitting a response to a solicitation or bid, or by entering into a contract for goods or services and/or by accepting a purchase order, the contracting party agrees that the below terms and conditions shall govern all agreements with the City unless otherwise agreed to by a specifically executed provision within the contract and if permissible by law. Absent a specifically executed provision, the below terms are BINDING and SUPERSEDE any and all other terms and/or conditions whether oral or written.

1. Payments. City will pay Contractor for goods and services in accordance with Chapter 2251, *Texas Government Code*. City, a municipality in the State of Texas, is exempt from Texas Sales & Use Tax on goods and services in accordance with Section 151.309, *Texas Tax Code*, and Title 34 *Texas Administrative Code* ("TAC") Section 3.322

2. Multiyear Contracts. If the City's city council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution). It is understood and agreed the City shall have the right to terminate the agreement at the end of any City fiscal year if the governing body of the City does not appropriate funds sufficient to continue the contract, as determined by the City's budget for the fiscal year in question. The City may execute such termination by giving contractor a written notice of termination at the end of its then current fiscal year.

3. Local Preference. The City Council supports the local preference option for purchasing. In accordance with the State of Texas Local Government Code:

Texas Local Government Code Section 271.905 (b): In purchasing under this title any real property or personal property that is not affixed to real property, if a local government receives one or more bids from a bidder whose principal place of business is in the local government and whose bid is within three percent of the lowest bid price received by the local government from a bidder who is not a resident of the local government, the local government may enter into a contract with:

- (1) the lowest bidder; or
- (2) the bidder whose principal place of business is in the local government if the governing body of the local government determines, in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government created by the contract award, including the employment of residents of the local government and increased tax revenues to the local government.

Texas Local Government Code Section 271.9051 (b): In purchasing under this title any real property, personal property that is not affixed to real property, or services, if a municipality receives one or more competitive sealed bids from a bidder whose principal place of business is in the municipality and whose bid is within five percent of the lowest bid price received by the municipality from a bidder who is not a resident of the municipality, the municipality may enter into a contract for construction services in an amount of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000 with:

- (1) the lowest bidder; or
- (2) the bidder whose principal place of business is in the municipality if the governing body of the municipality determines, in writing, that the local bidder offers the municipality the best combination of contract price and additional economic development opportunities for the municipality created by the contract award, including the employment of residents of the municipality and increased tax revenues to the municipality.

4. No Ex-Parte Communications during Competitive Bidding Period. To insure the proper and fair evaluation of a response, the City prohibits ex parte communication (e.g., unsolicited) initiated by the proposed contractor to a City official or employee evaluating or considering the responses prior to the time a formal decision has been made. Questions and other communication from vendors will be permissible until 5:00 pm on the day specified as the deadline for questions. Any communication between responder and the City after the deadline for questions will be initiated by the appropriate City official or employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the response. Ex parte communication may be grounds for disqualifying the offending responder from consideration or award of the solicitation then in evaluation, or any future solicitation.

5. Abandonment or Default. A contractor who abandons or defaults the work on the contract and causes the City to purchase the services elsewhere may be charged for any increased cost of goods, materials and/or services related thereto and shall be considered disqualified in any re-advertisement of the service and may not be considered in future bids for the same type of work for a period of three years for the same scope of work, goods or services.

6. Disclosure of Litigation. Each contractor shall include in its proposal a complete disclosure of any civil or criminal litigation or investigation pending which involves the respondent or which has occurred in the past in which the respondent has been judged guilty or liable by a competent court regardless of whether the Court Order or Judgment is final or on appeal.

7. Cancellation., the City reserves the right to cancel the contract without penalty by providing 30 days prior written notice to the contracting party. Termination under this paragraph shall not relieve the contractor of any obligation or liability that has occurred prior to cancellation. **NOTE: This contract is subject to cancellation, without penalty, at any time the City deems the vendor to be non-compliant with contractual obligations.**

8. Annual Vendor Performance Review. The City reserves the right to review the vendor's performance at the end of each twelve month contract period and to cancel all or part of the agreement (without penalty) or continue the contract through the next period.

9. Compliance with other laws and certification of eligibility to contract. Any offer to contract with the City shall be considered an executed certification that the contractor will shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, (as amended during the contracting period) and any orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the resulting agreement, including without limitation, immigration laws, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. *Additionally, such offer shall indicate that the contractor has fully read and understood the terms and conditions for eligibility to contract with the City pursuant to Chapter 38 of the City's Ordinances and certifies they are in compliance with those local requirements.* When requested, the contractor shall furnish the City with satisfactory proof of its compliance within 10 days or any contract with the City is void.

10. Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

11. Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

12. Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

13. Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

14. Confidentiality. Any provision in the Contract that attempts to prevent the City's disclosure of information that is subject to public disclosure under federal or Texas law or regulation, or court or administrative decision or ruling, is invalid. (Chapter 552, Texas Government Code)

15. Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

16. Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

17. Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

18. Governing Law and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

19. Certificate of Interested Parties (TEC Form 1295). For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed 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. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

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 City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to the proper completion of the TEC Form 1295.

20. Amendment. Any provision of the Contract is void and unenforceable if it authorizes Contractor to amend the Contract at its sole discretion or otherwise without a negotiated and signed amendment to the Contract.

21. Texas Government Code Mandatory Provisions. The City 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.

22. Equal Employment Opportunity. Vendor agrees that during the performance of its contract it will:

1. Treat all applicants and employees without discrimination as to race, color, religion, sex, national origin, marital status, age, or handicap.

Identify itself as an "Equal Opportunity Employer" in all help wanted advertising or request. The Vendor shall be advised of any complaints filed with the City alleging that Vendor is not an Equal Opportunity Employer. The City reserves the right to consider its reports from its human relations administrator in response to such complaints in determining whether or not to terminate any portion of this contract for which purchase orders or authorities to deliver have not been included, however, the Vendor is specifically advised that no Equal Opportunity Employment complaint will be the basis for cancellation of this contract for which a purchase order has been issued or authority to deliver granted

23. Subcontracting. If subcontracting with another company or individual is proposed, that fact, along with providing the same information for the subcontractor that is required to be provided by the bidder under this solicitation, must be provided and clearly identified in the bid. Following the award of the contract, no additional subcontracting will be permitted without the express prior written consent of the City.

24. Attorney's fees; Legal Costs. The City will not agree to pay the selected firm's attorney's fees or other legal costs under any circumstances.

25. Advance Payments. The City will not make advance payments to a selected firm or any third party pursuant to this solicitation or resulting contract.

26. Gift of Public Property. The City will not agree to any terms or conditions that cause the City to lend its credit or grant public money or anything of value to the selected firm.

27. Procurement Laws. The City will not agree to any terms or conditions that cause the City to violate any federal, Texas, or local procurement laws, including its own charter.