

Professional Services Agreement

I. The Parties. This Service Contract (“Agreement”) made no later than January 18, 2021 as signified by the latest signing date of this document (“Effective Date”), is by and between:

Service Provider: Parker's Choice Consulting, with a mailing address of 211 Sparerib Road, Marble Falls, Texas, 78654 (“Service Provider”),

AND

Client: City of Pflugerville, with a mailing address of 100 E. Main St, Pflugerville, Texas, 78660 (“Client”).

Service Provider and Client are each referred to herein as a “Party” and, collectively, as the “Parties.”

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual promises and agreements contained herein, the Client hires the Service Provider to work under the terms and conditions hereby agreed upon by the Parties:

II. Term. The term of this Agreement shall commence on the Effective Date and terminate upon the Service being completed by the Service Provider.

III. The Service. The Service Provider agrees to provide the following: Wireless communications infrastructure, planning, and installation, as noted and defined in Exhibit A - Estimate 1082.

Hereinafter known as the “Service”.

Service Provider shall provide, while providing the Service, that he/she/they shall comply with the policies, standards, and regulations of the Client, including local, State, and Federal laws and to the best of their abilities.

The Service Provider is not obligated under this Agreement to perform the Service at locations other than the agreed and designed wireless planned locations unless otherwise agreed upon by the Parties at the Client's mailing address mentioned in Section I or by mutual agreement via email of the Signatories recorded below.

IV. Payment Amount. The Client agrees to pay the Service Provider the following: Estimate 1082 and resultant Purchase Order Total of \$294,500 available as multiple draws as 1) services are rendered, 2) equipment is ordered, 3) installation sites are completed. All products and services for this project are registered with the Texas Interlocal Purchasing System (TIPS) and Service Provider will report payments to TIPS as required by the competitive purchasing vehicle. Change Orders requested or required by Client shall be quoted separately and may not be included in the initial Estimate Amount.

Hereinafter known as the “Payment Amount”.

V. Payment Method. The Client shall pay the Payment Amount when invoiced with NET-15 Terms. Payment may be by authorized bank note or ACH payment at the Client's discretion.

Hereinafter known as the “Payment Method”. The Payment Amount and Payment Method collectively shall be referred to as “Compensation”.

VI. Retainer. The Client is not required to pay a retainer as part of this Agreement. The Compensation shall be paid in accordance with the terms of this Agreement.

VII. Inspection of Services. Any Compensation shall be subject to the Client inspecting the completed Services of the Service Provider. If any of the Services performed by the Service Provider pursuant to this Agreement are defective or incomplete, the Client shall have the right to notify the Service Provider, at which time the Service Provider shall promptly correct such work within a reasonable time.

VIII. Return of Property. Upon the termination of this Agreement, all property provided by the Client, including, but not limited to, keys, access cards, equipment, and any other items must be returned by the Service Provider. Failure to do so may result in a delay in any final payment made by the Client.

IX. Time is of the Essence. Service Provider acknowledges that time is of the essence in regard to the performance of all Services.

X. Confidentiality. Service Provider acknowledges and agrees that all financial and accounting records, lists of property owned by Client, including amounts paid, therefore, client and customer lists, and any other data and information related to the Client's business is confidential ("Confidential Information"). Therefore, except for disclosures required to be made to advance the business of the Client and information which is a matter of public record, Service Provider shall not, during the term of this Agreement or after its termination, disclose any Confidential Information for the benefit of the Service Provider or any other person, except with the prior written consent of the Client.

a.) Return of Documents. Service Provider acknowledges and agrees that all originals and copies of records, reports, documents, lists, plans, memoranda, notes, and other documentation related to the business of the Client containing Confidential Information shall be the sole and exclusive property of the Client and shall be returned to the Client upon termination of this Agreement or upon written request of the Client.

b.) No Release. Service Provider agrees that the termination of this Agreement shall not release him/her/they from the obligations in this Section.

XI. Taxes. Service Provider shall pay and be solely responsible for all withholdings, including, but not limited to, Social Security, State unemployment, State and Federal income taxes, and any other obligations related to employees or subcontractors of Service Provided.. Service Provider will coordinate with Client to ensure their non-taxable status is utilized to minimize costs where possible. In addition, Service Provider shall pay all applicable sales or use taxes on the labor provided and materials furnished or otherwise required by law in connection with the Services performed.

XII. Independent Contractor Status. Service Provider acknowledges that he/she/they are an independent contractor and not an agent, partner, joint venture, nor an employee of the Client. Service Provider shall have no authority to bind or otherwise obligate the Client in any manner, nor shall the Service Provider represent to anyone that it has a right to do so. Service Provider further agrees that in the event the Client suffers any loss or damage as a result of a violation of this provision, the Service Provider shall indemnify and hold harmless the Client from any such loss or damage. Client shall have no right to direct the work of Service Provider except to the extent of inspections to insure compliance with the work specifications.

XIII. Safety. Service Provider shall take all reasonable and necessary steps for protecting its employees, sub-Service Providers, material suppliers, and all other persons from risk of death, injury or bodily harm arising from or in any way related to the Services or the site where it is being performed ("Work Site"). Service Provider agrees to act in accordance with the rules and regulations administered by federal law and OSHA. Service Provider shall be solely responsible and liable for any penalties, fines, or fees incurred fees incurred caused by Service Provider's negligence. Client shall provide Work Sites meeting ordinances, laws, rules, and regulations as required by local, state, federal and OSHA/MSHA requirements as the case may dictate.

XIV. Alcohol and Drugs. Service Provider agrees that the presence of alcohol and drugs are prohibited on the Work Site and while performing their Services. Service Provider will take all reasonable and necessary steps to insure that no representative or any of their agents, employees, or subcontractors are are present with or under the influence of these substances while on any Client Work Site.

XV. Successors and Assigns. The provisions of this Agreement shall be binding upon and inured to the benefit of heirs, personal representatives, successors, and assigns of the Parties. Any provision hereof which imposes upon the Service Provider or Client an obligation after termination or expiration of this Agreement shall survive termination or expiration hereof and be binding upon the Service Provider or Client.

XVI. Default. In the event of default under this Agreement, the defaulted Party shall reimburse the non-defaulting Party or Parties for all costs and expenses reasonably incurred by the non-defaulting Party or Parties in connection with the default.

XVII. No Waiver. No waiver of any provision of this Agreement shall be deemed or shall constitute a continuing waiver, and no waiver shall be binding unless executed in writing by the Party making the waiver.

XVIII. Governing Law. This Agreement shall be governed by and shall be construed in accordance with the laws in the State of Texas.

XIX. Severability. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

XX. Additional Terms & Conditions. Products, services, and installation to be provided by Parker's Choice Consulting and its contractors, vendors, and assigns. Time lines will be determined by weather, competing projects scheduled prior to PO issuance, site access and IT infrastructure programming as provided by Client.

XXI. Entire Agreement. This Agreement and its associated rider, attached hereto as Exhibit B, constitutes the entire agreement between the Parties to its subject matter and supersedes all prior contemporaneous agreements, representations, and understandings of the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all Parties.

IN WITNESS WHEREOF, the Parties hereto agree to the above terms and have caused this Agreement to be executed in their names by their duly authorized officers.

Client's Signature _____

Print Name _____ Date _____

Title _____

Service Provider's Signature _____

Print Name **Josh Parker** _____ Date **1/7/21** _____

Title **Owner** _____

Parker's Choice Consulting

Exhibit A

211 Sparerib Road
Marble Falls 78654 US
+1 5129005898
Josh@parkerschoice.net
parkerschoice.net

Estimate

ADDRESS	SHIP TO	ESTIMATE	1082
City of Pflugerville	City of Pflugerville	DATE	12/10/2020
100 E Main St	100 E Main St	EXPIRATION	01/22/2021
Suite #200	Suite #200	DATE	
Pflugerville, TX 78660	Pflugerville, TX 78660		
TIPS 200105-5051	TIPS 200105-5051		

SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
FreqCoord	Frequency Coordination and FCC Filings 2020-2021 per radio unit 2020-2021	14	300.00	4,200.00
Consulting	Consulting Services, WAN Wireless Planning, 3rd Party Vendor Wireless/Cellular Technical 2020-2021 Includes: Review of Wireless Master Plan deployment Phase 1, support of Phase 2, and reviews of future planning Sub-Contractor Interview, reviews, coordination	1	30,000.00	30,000.00
Consulting	Design Phase 2 Includes: Mesh design review, product selection, and integrator coordination for Wireless Master Plan Phase 2	1	15,000.00	15,000.00
Mesh Nodes	Mesh Nodes, Power, Antenna, and cabling Phase 2	28	3,750.00	105,000.00
Installation Labor	28 Water/Wastewater Sites currently in Phase 2	28	2,100.00	58,800.00
Programming/Certification	Mesh Design, Programming, Certification Phase 2	28	500.00	14,000.00
Tower Hardware SubComponents	Towers/Monopoles/Mountings Phase 2	15	4,500.00	67,500.00
TOTAL				\$294,500.00

Accepted By

Accepted Date

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
 CERTIFICATION OF FILING**

Certificate Number:
 2021-703498

Date Filed:
 01/06/2021

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
 Parker's Choice Consulting
 Marble Falls, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
 City of Pflugerville Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
 1082
 wireless network design, coordination, hardware and software installation.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

re: City of Pflugerville Wireless Master Plan Phase 2 Estimate 1082

To Whom It May Concern:

Parker's Choice Consulting does:

(i) it does not Boycott Israel; and

(ii) will not Boycott Israel during the term of the contract.

A handwritten signature in black ink, appearing to read "Josh Parker". The signature is written in a cursive style with a large, looping initial "J".

1/6/21

**GOVERNMENTAL CONTRACT AND PURCHASING RIDER
FOR THE CITY OF PFLUGERVILLE, TEXAS**

(Version June 25, 2020)

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 identified below 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. Application. This Governmental Rider applies to, is part of, and takes precedence over any conflicting provision in or attachment to the Contract (Contract) (attached hereto) of Parkers Choice Consulting, (Vendor). The Contract involved in this Rider is described as follows:

Title of Contract: Parkers Choice Consulting Professional Services Agreement, Estimate 1082.

2. Payment Provisions. The City's payments under the Contract, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code. City reserves the right to modify any amount due to contractor presented by invoice to the city if necessary, to conform the amount to the terms of the contract.

3. 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.

4. Best Value Determination. All competitive bids or proposals received shall be evaluated based on the best value for the City. Best value shall be determined any relevant criteria specifically listed in the solicitation and by considering all or part of the criteria listed below:

- a. Bid price.
- b. Reputation of the bidder and of bidder's goods and services.
- c. The quality of the bidder's goods or services.
- d. The extent to which the goods or services meet the City's needs.
- e. Bidder's past relationship with the City. All vendors shall be evaluated on their past performance and prior dealings with the City to include, but not limited to, failure to meet specifications, poor quality, poor workmanship, and late delivery.

This Contract was selected by way of approved Cooperative Purchasing Agreement (TIPS).

5. Local Preference. The City Council supports the local preference option for purchasing. In accordance with Chapter 271.9051 of the State of Texas Local Government Code, the City Council may choose to award a competitive bid to a bidder whose principal place of business is in the City limits, provided that this bid is within 5% of the lowest bid price received. *This Contract was selected by way of approved Cooperative Purchasing Agreement (TIPS).*

6. 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. *This Contract was selected by way of approved Cooperative Purchasing Agreement (TIPS).*

7. Abandonment or Default. A contractor who abandons or defaults the work on the contract and causes the City to purchase the services elsewhere 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.

8. 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.

9. 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. The City shall be obligated for the quoted billable costs of any equipment and supplies which the Contractor has procured on their behalf, and is necessary to the execution of the agreement, prior to notice of cancellation. Contractor will submit final invoices for all outstanding balances within 15 days of notice to cancel.

10. 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.

11. 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 contract 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.

12. 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.

13. The City of Pflugerville may not enter into a contract with a company for goods and services unless the contract 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) by accepting this purchase order, the vendor (Professional or other applicable term defining the contracting party) verifies that it does not Boycott Israel, and agrees that during the term of this agreement (contract as applicable) will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended.

14. 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)

15. 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 the willful misconduct 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.

16. 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.

17. 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)

18. 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.

19. 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)

20. 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.

21. 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.

CITY OF PFLUGERVILLE, TEXAS
PURCHASING RIDER

22. 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, 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. 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.

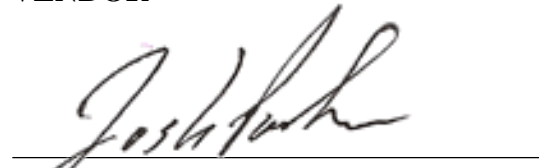
23. Any provision of the Contract is void and unenforceable if it authorizes Contractor to amend the Contract at its sole discretion or otherwise without a negotiated and signed amendment to the Contract.

CITY OF PFLUGERVILLE, TEXAS

VENDOR

By: _

City Manager



Title: Owner

Date: _

Date: 1/7/21