

CITY OF PFLUGERVILLE PROPOSAL AND BID SCHEDULE

Proposal of Prota, Inc. (hereinafter called "Bidder"), doing business as a corporation / a partnership / an individual (strike out inapplicable terms), to the CITY OF PFLUGERVILLE (hereinafter called "Owner").

City of Pflugerville:

The Bidder, in compliance with your invitation for bids for the construction of Weiss Lift Station Riser Column Repair, having examined the Plans and Specifications and related documents, the site of the proposed Work, and being familiar with all of the conditions surrounding the construction of the proposed project, including materials and supplies, and to construct the project in accordance with the Plans, Specifications and Contract Documents, within the time set forth therein, and in performing the Work required under the Contract Documents, of which this proposal is part.

Bidder hereby agrees to commence work under this Contract on or before a date to be specified in written "Notice to Proceed" issued by the Owner and to Substantially and Finally Complete the Work within 30 and 45 consecutive calendar days thereafter.

Bidder acknowledges receipt of the following ADDENDA:

Addendum No. 1 dated July 20, 2021

Received July 21, 2021

Addendum No. 2 dated _____

Received _____

Bidder hereby acknowledges and agrees that the description of Work to be done at unit prices is intended principally to serve as a guide in evaluating bids and is not intended to fully describe all Work required.

Bidder further agrees that the Work to be done and material to be furnished at unit prices may be increased or diminished as may be considered necessary in the opinion of the Design Consultant and approved by the Owner to complete the Work fully as planned and contemplated, and that estimated quantities may be increased to cover additional work ordered by the Design Consultant and approved by the Owner, but not shown on the Plans or required by the Specifications, in accordance with the provisions of the General Conditions. Similarly, they may be decreased to cover deletion of the work so ordered.

Bidder hereby represents that the foregoing prices shall include all labor, materials, removal, overhead, profit, insurance, and any other costs from whatever source derived necessary to cover the finished work called for to complete the project. Changes shall be processed in accordance with applicable provisions of the General Conditions.

Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding, and also reserves all other rights afforded under applicable law whether stated in the Owner's proposal or not.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing and opening time for receiving bids.

Upon receipt of written Notice of Award of contract based on this bid, Bidder will execute the formal contract attached and deliver performance and payment bonds as required by the Contract Documents within ten (10) days.

The bid security attached in the sum of \$12,385.00 (five percent (5%) of the bid amount) shall become the property of the Owner in the event the contract and performance and payment bonds are not executed and delivered within the time above set forth, as liquidated damages for the delay and additional expense to the Owner caused thereby.

Bidder represents that the following Architects, Engineers, Consultants, Sub-Consultants, job-site superintendents, Subcontractors and suppliers, as applicable, shall be involved in Project construction.

Job Site Superintendent: Hector Bravo

Subcontractors:

- 1) WWTS - Cleaning of Lift Station
- 2) Xylem - By Pass Pumping System
- 3) T Morales - Electrical

Suppliers:

- 1) Core & Main

(Attach additional sheet if necessary)

Respectfully submitted:

Bidder: Prota, Inc.
(typed or printed name of organization)

Signature: 
(individual's signature)

Name: Michelle Borg
(typed or printed)

Title: CEO
(typed or printed)

Date: July 29, 2021
(typed or printed)

Business Address:

P.O. Box 342195
Austin, TX 78734

Email: info@protaconstruction.com

Phone: 512-535-2555

(Attach evidence of authority to sign if Bidder
is a corporation, partnership, or a joint
venture.)

(Seal – if bid by a corporation)

The following documents are attached to and made a condition of this Bid:

1. City of Pflugerville State of Texas Tax Code, Chapter 151 Compliance Certificate
2. Compliance to Texas State Law Regarding Nonresident Bidders
3. Conflict of Interest Questionnaire
4. City of Pflugerville Non-Collusion Certificate
5. City of Pflugerville Bid Bond
6. City of Pflugerville Short Form Construction Contract

Weiss Lane Lift Station Riser Column Repair

Bid Item	Description	Quantity	Units	UNIT PRICE	SUM
1	Mobilization, overhead, insurance, and all work not included in other bid items, Complete in Place:	1	LS	\$ 12,350.00	\$ 12,350.00
2	Furnish all labor, equipment, and materials for bypass pumping system with appertunances, Complete in Place:	2	Per Week	\$ 40,000.00	\$ 80,000.00
3	Provide all labor, materials, and equipment for cleaning of lift station before entry, Complete in Place:	1	LS	\$ 47,850.00	\$ 47,850.00
4	Provide all labor and for 24-hour manwatch for bypass pumping, Complete in Place:	14	Per Day	\$ 750.00	\$ 10,500.00
5	Provide all labor, materials, and equipment to replace 12" Diameter Ductile Iron Riser Pipe and appertunances for all three pumps, as shown in Attachment E, Complete in Place:	1	LS	\$ 81,000.00	\$ 81,000.00
6	Provide all labor, materials, and equipment to Remove and Replace Guiderail system for Pumps # 1 and # 3, as shown in Attachment F, Complete in Place	2	LS	\$ 8,000.00	\$ 16,000.00

TOTAL AMOUNT BID - BASE BID - Weiss Lane Lift Station Riser Column
Repairs

\$247,700.00

(Total Amount Bid, Numerical Value)

Two hundred forty-seven thousand seven hundred
and zero

Dollars

Cents

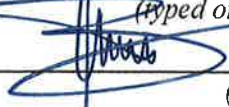
(Total Amount Bid in Words)

**CITY OF PFLUGERVILLE STATE OF TEXAS TAX CODE,
CHAPTER 151 COMPLIANCE CERTIFICATE**

Contractor shall comply with all applicable sales, excise, and use tax requirements of the Texas Tax Code. The Contractor hereby certifies that the Contract Sum is divided as follows:

Tax exempt products, materials, and services (See Notes 1 and 2)	\$ <u>246,700.00</u>
Taxable products, materials, and services (See Note 3)	\$ <u>1,000.00</u>
Total (See Note 4)	\$ <u>247,700.00</u>

Contractor: Prota, Inc
(typed or printed name of organization)

Signature: 
(individual's signature)

Name: Michelle Borg
(typed or printed)

Title: CEO
(typed or printed)

Business Address:

P.O. Box 342195, Austin, TX 78734

Phone: 512-535-2555 Email: info@protaconstruction.com

Note:

1. Exempt products and materials are those items purchased for the Project which are physically incorporated into the Project constructed for the City or are necessary and essential for providing the Work and are completely consumed for the Project. For purposes of this definition, products and materials are completely consumed if after being used once for its intended purpose it is used up or destroyed. Products and materials rented or leased for use in providing the Work cannot be completely consumed for the purposes of this definition.
2. Exempt services are those services performed at the Project Site where the Contract expressly requires the specific service to be provided or purchased by the person performing the service and is integral to completing the Work.
3. Products, materials, and services are not tax exempt if they are used by the Contractor but are not physically incorporated into the City's Project or are not consumed by construction or installation as defined above. Machinery or equipment and its accessories and repair and replacement parts used in providing the Work are not exempt.
4. The total sum of the amount for tax exempt and taxable products, materials, and services must equal the Contract Sum.

END OF SECTION

CITY OF PFLUGERVILLE COMPLIANCE TO TEXAS STATE

LAW REGARDING NONRESIDENT BIDDERS

Texas Government Code Chapter 2252 applies to the award of government contract to nonresident bidders. This chapter provides that:

“a government entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lower bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident’s principal place of business is located.”

“Nonresident bidder” refers to a person who is not a resident of Texas.

“Resident bidder” refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

Check the statement that is correct for Bidder:

- ☒ Bidder (includes parent company or majority owner) qualifies as a resident bidder whose principal place of business is in the state of Texas.
- ☐ Bidder qualifies as a nonresident bidder whose principal place of business or residency is in the state of: _____

Any determination of state bidder preference law is based on the Texas Comptroller’s annual summary of other state bidder preference laws.

Bidder: Prota, Inc.
(typed or printed name of organization)

Signature: 
(individual's signature)

Name: Michelle Borg
(typed or printed)

Title: CEO
(typed or printed)

Business Address:

P.O. Box 342195, Austin, TX 78734

Phone: 512-535-2555 Email: info@protaconstruction.com
(Attach evidence of authority to sign if Offeror is a corporation, partnership, or a joint venture.)

END OF SECTION

CONFLICT OF INTEREST QUESTIONNAIRE**FORM CIQ****For vendor doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

OFFICE USE ONLY

This questionnaire is being filed in accordance with Chapter 176 of the Local Government Code by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

Date Received

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity.**Proto, Inc.**

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.**NONE- We do not have a relationship with any Plugerville government officer**

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1)

7  Signature of vendor doing business with the governmental entity

7-29-21 Date

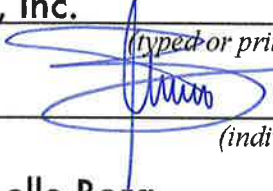
CITY OF PFLUGERVILLE NON-COLLUSION CERTIFICATION

STATE OF Texas
COUNTY
OF Travis

Contractor: **Prota, Inc.**
P.O. Box 342195
Austin, TX 78734

Contract: **Weiss Lane Lift Station Riser Column Repairs**

Contractor certifies that it has not been a party to any collusion among Contractors in the restraint of freedom of competition by agreement to submit a Bid or Proposal at a fixed price or to refrain from submitting a Bid or Proposal; or with any official or employee of the City as to quantity, quality, or price in the prospective contract, or any other terms of said prospective contract; or in any discussion between Contractors and any official of the City concerning exchange of money or other thing of value for special consideration in the letting of a contract.

Contractor: **Prota, Inc.**
(typed or printed name of organization)
Signature: 
(individual's signature)
Name: **Michelle Borg**
(typed or printed)
Title: **CEO**
(typed or printed)

Business Address:

P.O. Box 342195, Austin, TX 78734

Phone: **512-535-2555** Email: **info@protaconstruction.com**
(Attach evidence of authority to sign if Contractor is a corporation, partnership, or a joint venture.)

END OF SECTION

BID BOND

STATE OF TEXAS
COUNTY OF TRAVIS
CITY OF PFLUGERVILLE

§
§
§

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____

Prota, Inc. _____ as Principal, and _____

Fidelity and Deposit Company of Maryland _____ as Surety, are hereby held
and firmly bound unto the City of Pflugerville, Texas as OWNER in the penal sum of

five percent of the greatest amount bid _____ Dollars (\$ _____ 5%)
(5% of Bid Amount) for the payment of which, well and truly to be made, we hereby jointly and
severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed and Agreed to this 29th day of July, 2021.

The Condition of the above obligation is such that whereas the Principal has submitted to
OWNER a certain BID, to enter into a contract in writing for the

Weiss Lane Station Riser Column Repair _____ (the "Project"), which is
attached hereto and incorporated herein for all purposes.

NOW, THEREFORE,

(a) If said BID shall be rejected, or in the alternative,
(b) If said BID shall be accepted and the Principal shall execute and deliver a contract
in the Form of Contract attached hereto and incorporated herein for all purposes (properly
completed in accordance with said BID) and shall furnish a BOND ensuring faithful
performance of said Contract, and BOND ensuring the payment of all persons performing
labor or furnishing materials in connection therewith, and shall in all other respects
perform the agreement created by the acceptance of said BID,
then this obligation shall be void; otherwise the same shall remain in force and effect; it being
expressly understood and agreed that the liability of the Surety for any and all claims hereunder
shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said
Surety and its BOND shall be in no way impaired or affected by any extension of the time within

which the OWNER may accept such BID and said Surety does hereby waive notice of any such extension.

The obligations of the parties under this BOND shall be performable in Travis County, Texas and shall be construed under the laws of the State of Texas. If legal action, such as civil litigation, is necessary in connection with this BOND, exclusive venue shall be in Travis County, Texas.

Surety companies executing this BOND must appear on the United States Treasury Department's most current list (Circular 570, as amended) and be otherwise authorized to transact business in the State of Texas.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Fidelity and Deposit Company of Maryland
SURETY (seal)

By: _____

(Signature)

Barbara A. Shamard

(Print Name)

Attorney-In-Fact

(Print Title)

[ATTACH POWER OF ATTORNEY]

ATTEST: Power of Attorney Attached

Prota, Inc.
PRINCIPAL/CONTRACTOR
By: _____
(Signature)

Michelle Borg

(Print Name)

CEO

(Print Title)

[Additional signatures, if any,
attached]

ATTEST: _____

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**


KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by **Robert D. Murray, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Peter PINCOFFS, Barbara A. SHAMARD, Chris BRANDT, Rob BRIDGES, John S. BURNS, JR., George S. SYKES, Jr., and Todd DAVIS, all of Round Rock, Texas**, EACH, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland, in their own proper persons.


The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 14th day of August, A.D. 2020.



**ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**


By: *Robert D. Murray*
Vice President


By: *Dawn E. Brown*
Secretary

**State of Maryland
County of Baltimore**

On this 14th day of August, A.D. 2020, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposed and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.





Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2023

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereto subscribed my name and affixed the corporate seals of the said Companies,
this 29th day of July, 2021.



Brian M. Hodges

By: Brian M. Hodges
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
www.reportsfclains@zurichna.com
800-626-4577



Texas Important Notice

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Zurich North America's toll-free telephone number for information or to make a complaint at:

1-800-382-2150

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights, or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim, you should contact the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener información o para presentar una queja:

Usted puede llamar al número de teléfono gratuito de Zurich North America's para obtener información o para presentar una queja al:

1-800-382-2150

Usted puede comunicarse con el Departamento de Seguros de Texas para obtener información sobre compañías, coberturas, derechos, o quejas al:

1-800-252-3439

Usted puede escribir al Departamento de Seguros de Texas a:

P.O. Box 149104

Austin, TX 78714-9104

Fax: (512) 490-1007

Sitio web: www.tdi.texas.gov

E-mail: ConsumerProtection@tdi.texas.gov

DISPUTAS POR PRIMAS DE SEGUROS O

RECLAMACIONES:

Si tiene una disputa relacionada con su prima de seguro o con una reclamación, usted debe comunicarse con la compañía primero. Si la disputa no es resuelta, usted puede comunicarse con el Departamento de Seguros de Texas.

ADJUNTE ESTE AVISO A SU PÓLIZA: Este aviso es solamente para propósitos informativos y no se convierte en parte o en condición del documento adjunto.

Minutes of Corporate Meeting
of Board of Directors
of

Prota, Inc.

A meeting of the Board of Directors of the above-captioned Corporation was held on July 27, 2021 at the Corporate Office.

There were present the following:

Michelle Borg

Cornelius Tamboer

being all members of the Board of Directors.

The meeting was called to order by Cornelius Tamboer.

It was moved, seconded and unanimously resolved that Michelle Borg, as Chief Executive Officer be authorized to sign on behalf of the Corporation on all documentation required for the CITY OF PFLUGERVILLE - "Weiss Lane Lift Station Riser Column Repairs" Bid. There being no other business to come before the meeting it was adjourned upon a motion duly made, seconded and unanimously carried.



Cornelius Tamboer

Secretary

Attest:


Board of Directors



I hereby certify that this document is one of the two originals (The other being kept in the Corporate Record Book). The sole purpose of the document is the authorization of Michelle Borg to sign on behalf of the corporation the mentioned documentation.



Cornelius Tamboer

Secretary

July 27, 2021

**CITY OF PFLUGERVILLE
SHORT FORM CONTRACT**
(Construction and Non-Professional Services)

This contract, dated the ____ of _____, 20____, is between the City of Pflugerville ("City") and
Prota, Inc. ("Contractor") (the "Contract").

I. TERMS

In consideration of \$ 247,700.00 (Two hundred forty-seven thousand seven hundred Dollars), the Contractor shall provide the services described in Attachment A, which is incorporated by reference, according to all its provisions.

II. DURATION

Contractor shall complete all required work within 45 calendar days after the effective date of this Contract.

III. PAYMENT

Payment shall be made under the terms and conditions of Attachment B, which is incorporated by reference, according to all its provisions. Payments under the Contract, including the time of payment and the payment of interest on overdue amounts, shall be subject to Chapter 2251, Texas Government Code. The 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.

Should this agreement extend beyond the current budgeted fiscal year, the Contractor and City hereby agree that the City's obligation to make payment on this Contract shall terminate should City Council fail to provide such funding after September 30th of the required year.

IV. ASSIGNMENT

Contractor may not assign any interest under this Contract without the City's prior written consent. Such consent to be at the City's sole discretion.

V. STATUS OF CONTRACTOR

The Contractor is an Independent Contractor. Contractor and Contractor's employees are not the agents, servants or employees of the City.

VI. AMENDMENT OR MODIFICATION

This Contract, including any attachments, constitutes the parties' entire agreement. This Contract may not be modified or replaced except by another signed written Contract.

VII. INDEMNITY

The Contractor must indemnify, hold harmless and defend the City, its officers, agents and employees, from and against liability for any and all claims, liens, suits, demands, and/or actions for damages, injuries to persons (including death), property damage (including loss of use), and expenses, including court costs and attorneys' fees and other reasonable costs arising out of or resulting from the Contractor's work and/or activities conducted in connection with or incidental to this Contract and from any liability arising out of or resulting from the intentional acts or negligence, including all such causes of action based upon common, constitutional, or statutory law, or based in whole or in part upon the negligent or intentional acts or omissions of Contractor, including but not limited to its officers, agents, employees, subcontractors, licensees, invitees, and other persons.

Contractor must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, agents, employees, subcontractors, licensees, invitees and other persons, as well as their property, while in the vicinity where the work is being done. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Contractor, including but not limited to its officers, agent, employees, subcontractors, licensees, invitees, and other persons.

Further, the City assumes no responsibility or liability for harm, injury, or any damaging events which are directly or indirectly attributable to premises defects which may now exist or which may hereafter arise upon the premises, responsibility for any and all such defects being expressly assumed by the Contractor.

BOTH CITY AND CONTRACTOR EXPRESSLY INTEND THAT THE INDEMNITY PROVIDED FOR IN THIS CONTRACT IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE, CAUSE OF ACTION, SUIT, AND LIABILITY WHERE THE INJURY, DEATH, OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE CITY, UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR ENTITY.

VIII. INSURANCE AND BONDS

A. GENERAL REQUIREMENTS

The Contractor must maintain the type and amounts of insurance required in this Contract throughout the term of the Contract. Contractor must provide a Certificate of Insurance evidencing the required coverage types and amounts before the Contract is signed. All policies are subject to examination and approval by the City for their adequacy. The City may terminate this Contract if the Contractor fails to comply with all insurance requirements.

Insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to the City, under any third-party liability policy.

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured for operations under this Contract.
2. Provide for 30 days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

The following insurance is required under this contract:

	<u>Type</u>	<u>Amount</u>
1.	Workers' Compensation Employer's Liability OR Occupational Injury/Accidental Injury Protection	Statutory Limits \$1,000,000 each accident
2.	Commercial (Public) Liability including but not limited to: . Premises/Operations . Independent Contractors . Products/Completed Operations . Contractual Liability . Personal Injury (Insuring above indemnity)	\$1,000,000 per occurrence \$2,000,000 general aggregate OR \$2,000,000 combined single coverage limit
3.	Business Automobile Liability to include coverage for: . Owned/Leased Autos . Non-Owned Autos . Hired Cars	\$1,000,000 combined single limit

D. STATUTORY BOND REQUIREMENTS

When applicable, the Contractor shall procure such bonds as shall be required under Texas Government Code Chapter 2253. All bonds are subject to examination and approval by the City for their adequacy. The City may terminate this contract if the Contractor fails to comply with any bond requirements.

IX. TERMINATION

Termination for Convenience

This Contract may be terminated by either party with thirty (30) days written notice. If the City terminates this Contract under this paragraph, the City will pay the Contractor for all services rendered in accordance with this Contract to the date of termination.

Termination for Default.

Subject to any other provisions for termination herein, either party to this Contract may terminate this contract as provided in this paragraph if the other party fails to comply with its terms. The party alleging the default will give the other party notice of the default in writing citing the terms of the Contract that have been breached and what action the defaulting party must take to cure the default. If the party in default fails to cure the default as specified in the notice the party giving notice of default may terminate this Contract by written notice to the other party, specifying the date of termination. Acting on behalf of the City, the City Manager may terminate this Contract for the breach as provided in this paragraph. Termination of this Contract as allowed by law, including any damages or costs suffered by either party.

X. GOVERNING LAW/VENUE

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

XI. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Contractor must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Contractor -- not City -- must verify eligibility for employment as required by IRCA.

XII. INDEBTEDNESS TO CITY

Contractor agrees that no payments owed by him, of any nature whatsoever, to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Contractor is responsible for ensuring that no indebtedness exists.

The City may offset payments due under this Contract against any debt, claim, demand or account owed to the City by Contractor.

XIII. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act") and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Contractor. The Contractor must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Contractor is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the services to be provided under this Contract, tangible personal property purchased for use in the performance of this Contract and not completely consumed, or other taxable services used to perform this Contract, or other taxes required by law in connection with this Contract.

XIV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Contractor, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Pflugerville, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Contractor must obtain all necessary permits, bonds and licenses that are required in completing the work contracted for in this agreement.

XV. DISCLOSURES, CONFLICTS AND DISPUTE RESOLUTION

Contractor represents that it is in compliance with the applicable filing and disclosure requirements of Chapter 176 of the Texas Local Government Code, Conflicts of Interest Questionnaire, Chapter 2252, Texas Government Code, and Form 1295, Certificate of Interested Parties, online filing with the Texas Ethics Commission.

This Contract will be governed by the provisions of Subchapter I, Chapter 271, Tex. Local Gov't Code, regarding the obligations of the parties for any disputes arising hereunder.

XVI. MANDATORY CONDITIONS FOR GOVERNMENT CONTRACTS

When applicable, the Contractor 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 2271) By entering this contract, Contractor verifies that it does not Boycott Israel, and agrees that during the term of this contract will not Boycott Israel as that term is defined in the Texas Government Code Section 808.001, as amended. Further, Contractor 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.

IN WITNESS HEREOF, the parties hereto have executed this contract:

CITY OF PFLUGERVILLE

CONTRACTOR

By: _____

By: Prota, Inc.

APPROVED AS TO FORM:

Michelle Borg (printed name)

Title: CEO

By: _____
City Attorney

Federal Tax I.D. # **27-0780578**

Corporate Secy's Attestation if applicable:

Corporate Seal if applicable:

