

Master Services Agreement for Professional Services

Date June 1, 2021
PSC Job No TBD
Project Manager Sanford LaHue

Office Location:

Address 255 N. Center Street
Arlington, Texas 76011
Phone 817-649-3216 Fax 817-649-7645

City of Mineral Wells, Texas, hereinafter CLIENT, does hereby authorize **Parkhill, Smith & Cooper, Inc. dba Parkhill** hereinafter CONSULTANT, a corporation organized and existing under the laws of the State of Texas, to perform the services set forth below, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH BELOW AND ON THE NEXT PAGE, **Standard Conditions**.

A. Client Information

Name CITY OF MINERAL WELLS
Address 211 S.W. 1st Avenue (P.O. Box 460)
City MINERAL WELLS State TEXAS Zip 76067
Representative Randy Criswell, City Manager Phone 940-328-7700

B. Project Description

Project Name TBD By Task Authorization Client PO No. N/A
Location _____
Estimated Completion Date _____
Description of CONSULTANT'S Service or Scope of Work: _____

1-Year Master Engineering Consulting and Design Services for the The City of Mineral Wells, Texas from June 1, 2021 to June 1, 2022 as directed by the authorized representatives of the City. Work will be directed by execution of individual Task Authorizations.

C. Compensation

Basis of CONSULTANT'S fee:

As designated in Task Authorization

Time and Materials (See attached Hourly Rate Schedule)

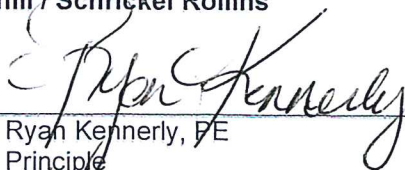
The Hourly Rate Schedule will be adjusted each January 1st to reflect cost of living adjustments.

D. CLIENT has read and understood the terms and conditions set forth in the **Standard Conditions** and agrees that such items are hereby incorporated into and made a part of this agreement.

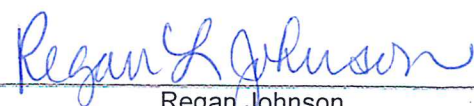
E. Having read, understood and agreed to the foregoing, CLIENT and CONSULTANT, by and through their authorized representatives, have subscribed their names hereon effective the 15 day of June, 2021.

Parkhill / Schrickel Rollins**City of Mineral Wells**

Name


Ryan Kennerly, PE
Principal

Name


Regan Johnson
Mayor

Date

6/23/2021

Date

06/15/2021

Agreement to be executed in duplicate

CLIENT:

DATE: June 1, 2021

STANDARD CONDITIONS: CLIENT and CONSULTANT (Parkhill) agree that the following Provisions shall be part of their Agreement.

ARTICLE 1. SERVICES

1.1 INVOICING

Payments are due and payable pursuant to Texas Prompt Payment Act, Texas Government Code 2251.

1.2 SERVICES DURING CONSTRUCTION

The CONSULTANT shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor. The CLIENT agrees that the general contractor shall be solely responsible for jobsite and worker safety and warrants that this intent shall be carried out in the CLIENT's contract with the General Contractor.

The CONSULTANT shall not be responsible for any acts or omissions of the Contractor, any subcontractor, any entity performing any portions of the Work or any agents or employees of any of them. The CONSULTANT does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

1.3 ESTIMATES OR OPINIONS OF PROBABLE CONSTRUCTION COST

In providing estimates or opinions of probable construction cost, the CLIENT understands that the CONSULTANT has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the CONSULTANT's estimates or opinions of probable construction costs are made on the basis of the CONSULTANT's professional judgment and experience. The CONSULTANT makes no warranty, express or implied, that the bids or the negotiated construction cost will not vary from the CONSULTANT's estimates or opinions of probable construction cost.

1.4 HAZARDOUS MATERIALS

As used in this Agreement, the term hazardous materials shall mean any substances, including without limitation asbestos, toxic or hazardous waste, PCBs, combustible gases and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the project site.

Both parties acknowledge that the CONSULTANT's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the CONSULTANT or any other person or entity involved in the project encounters any hazardous or toxic materials, or should it become known to the CONSULTANT that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of the CONSULTANT's services, the CONSULTANT may, at its sole option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the CLIENT retains appropriate qualified consultants and/or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the jobsite is in full compliance with all applicable laws and regulations.

1.5 ACCESSIBILITY

The CLIENT acknowledges that the requirements of the Americans with Disabilities Act (ADA), Texas Accessibility Standards (TAS) for projects in the State of Texas, and other federal, state and local accessibility laws, rules, codes, ordinances, and regulations will be subject to various and possibly contradictory interpretations. The CLIENT further acknowledges that the ADA is a Civil Rights law and not a building code, and does not have prescriptive language. The CONSULTANT, therefore, will use its reasonable professional efforts and judgment to interpret applicable accessibility requirements in effect as of the date of the execution of this Agreement, and as they apply to the Project. The CONSULTANT, however, cannot and does not warrant or guarantee that the CLIENT's Project will comply with all interpretations of the accessibility requirements and/or the requirements of other federal, state and local laws, rules, codes, ordinances and regulations as they apply to the Project.

1.6 SERVICES BY CLIENT

CLIENT will provide access to work site, obtain applicable permits, provide all legal services in connection with the project, and provide environmental impact reports and energy assessments unless specifically included in the Scope of Work. CLIENT shall pay the costs of checking and inspection fees, zoning application fees, soils engineering fees, testing fees, surveying fees, and all other fees, permits, bond premiums, and all other charges not specifically covered by the terms of this Agreement.

1.7 OWNERSHIP OF DOCUMENTS

All reports, drawings, specifications, computer files, field data, notes, data on any form of electronic media, and other documents prepared by the CONSULTANT as Instruments of Service shall remain the property of the CONSULTANT. The CONSULTANT shall retain a common law, statutory and other reserved rights, including copyrights.

The CONSULTANT grants to the CLIENT a nonexclusive license to reproduce the CONSULTANT's Instruments of Service solely for the purpose of constructing, using and maintaining the Project. The CLIENT shall not use the Instruments of Service for other projects without prior written agreement of the CONSULTANT.

The CLIENT shall not make any modification to the Instruments of Service without the prior written authorization of the CONSULTANT. The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CONSULTANT against any damages, liabilities or costs, including reasonable attorney's fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the Instruments of Service by the CLIENT or any person or entity that acquires or obtains the Instruments of Service from or through the CLIENT without the written authorization of the CONSULTANT.

1.8 DELIVERY OF ELECTRONIC FILES

In accepting and utilizing any form of electronic media generated and furnished by the CONSULTANT, the CLIENT agrees that all such electronic files are Instruments of Service of the CONSULTANT. The CLIENT is aware that differences may exist between the electronic files delivered and the printed hard-copy Contract Documents. In the event of a conflict between the original signed Contract Documents prepared by the CONSULTANT and electronic files, the original signed and sealed hard-copy Contract Documents shall govern.

Electronic files created by the CONSULTANT through the application of software licensed for the sole and exclusive use by the CONSULTANT will be furnished to the CLIENT in read-only format. The CLIENT is responsible to obtain and maintain software licenses as appropriate for the use of electronic files provided by the CONSULTANT.

Under no circumstances shall delivery of electronic files for use by the CLIENT be deemed a sale by the CONSULTANT, and the CONSULTANT makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall the CONSULTANT be liable for indirect or consequential damages as a result of the CLIENT's use or reuse of the electronic files.

ARTICLE 2. GENERAL PROVISIONS

2.1 APPLICABLE LAW

This agreement shall be interpreted and enforced according to the laws of the State of Texas, unless agreed otherwise.

2.2 PRECEDENCE OF CONDITIONS

Should any conflict exist between the terms herein and the terms of any purchase order or confirmation issued by CLIENT, the terms of these Standard Conditions shall prevail.

2.3 ASSIGNMENT

Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by the CONSULTANT as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

2.4 AMENDMENTS

This agreement may be amended only by a written instrument, signed by both CLIENT and CONSULTANT, which expressly refers to this agreement.

2.5 DELAYS

The CLIENT agrees that the CONSULTANT is not responsible for damages arising directly or indirectly from any delays for causes beyond the CONSULTANT'S control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters or acts of God; fires, riots, war or other emergencies; failure of any government agency to act in timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by the CONSULTANT to perform its services in an orderly and efficient manner, the CONSULTANT shall be entitled to a reasonable adjustment in schedule and compensation.

2.6 INSURANCE

The CONSULTANT agrees to provide Professional Liability Insurance and General Liability Insurance during the scope of the services provided for this project and for a period of 3 years after the completion of services.

2.7 MERGER: WAIVER: SURVIVAL

Except as set forth in AMENDMENT above, this agreement constitutes the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations and/or agreements, written or oral. One or more waiver of any term, condition or other provision of this agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provisions. If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

2.8 TERMINATION

This agreement may be terminated by either party upon seven (7) days written notice should the other party fail substantially to perform in accordance with this agreement through no fault of the party initiating the termination. This agreement may be terminated by CLIENT upon at least fourteen (14) days written notice to CONSULTANT in the event that the Project is abandoned.

If this agreement is terminated by CLIENT through no fault of the CONSULTANT, CONSULTANT shall be paid for services performed and costs incurred by it prior to its receipt of notice of termination from CLIENT, including reimbursement for Direct Expenses due, plus an additional amount, not to exceed ten percent (10%) of charges incurred to the termination notice date to cover services to orderly conclude the services and prepare project files and documentation, plus any additional Direct Expenses incurred by CONSULTANT including but not limited to cancellation fees or charges. CONSULTANT will use reasonable efforts to minimize such additional charges.

2.9 CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the CLIENT nor the CONSULTANT, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the CLIENT and the CONSULTANT shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

2.10 THIRD-PARTY BENEFICIARIES

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other party or entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services hereunder. The CLIENT and CONSULTANT agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

2.11 MAINTENANCE/WEAR AND TEAR

Both the CLIENT and CONSULTANT acknowledge that the CLIENT, and only the CLIENT, is responsible for maintenance, wear and tear on the project upon substantial completion. The CLIENT is responsible for providing routine inspections and maintenance of the project to maintain a safe and weather tight facility. Should the CLIENT fail to provide routine inspections and maintenance, and damage occur to the project, the CONSULTANT is not responsible for any such resultant damage.

ARTICLE 3. ALLOCATION OF RISK, WARRANTY

3.1 WARRANTY; STANDARD OF CARE

In providing services under this Agreement, the CONSULTANT shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. The CONSULTANT makes no warranty, express or implied, as to its professional services rendered under this Agreement.

3.2 DISPUTE RESOLUTION

CONSULTANT and CLIENT agree to negotiate all disputes between them in good faith for a minimum of 30 days from the date of notice. Should such negotiations fail, the CONSULTANT and CLIENT agree that any dispute between their arising out of, or relating to this Agreement shall be submitted to nonbinding mediation prior to exercising any other rights under law, unless the parties mutually agree otherwise.

3.3 BETTERMENT

If, due to an error or an omission by the CONSULTANT, any required item or component of the project is omitted from the Construction Documents, the CONSULTANT shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise add value or betterment to the project.

*** END ***

PARKHILL

By


Ryan Kennerly, PE
Principal

Date:

7/23/2021

CITY OF MINERAL WELLS

Accepted By


Regan Johnson
Mayor

Date:

06/15/2021

Parkhill
Hourly Rate Schedule
 January 1, 2021 through December 31, 2021

Client: CITY OF MINERAL WELLS

Project: 2021 MASTER AGREEMENT

Agreement Date: _____

Location: _____

CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE	CLASSIFICATION	HOURLY RATE
SUPPORT STAFF I	\$61.00	PROFESSIONAL LEVEL III		PROFESSIONAL LEVEL VI	
SUPPORT STAFF II	\$72.00	Architect	\$153.00	Architect	\$254.00
SUPPORT STAFF III	\$100.00	Civil Engineer	\$181.00	Civil Engineer	\$273.00
SUPPORT STAFF IV	\$107.00	Electrical Engineer	\$175.00	Electrical Engineer	\$284.00
SUPPORT STAFF V	\$118.00	Interior Designer	\$138.00	Interior Designer	\$219.00
SUPPORT STAFF VI	\$128.00	Landscape Architect	\$149.00	Landscape Architect	\$236.00
		Mechanical Engineer	\$175.00	Mechanical Engineer	\$284.00
		Structural Engineer	\$173.00	Structural Engineer	\$261.00
		Surveyor III	\$122.00	Professional Surveyor VI	\$199.00
		Other Professional	\$135.00	Other Professional	\$215.00
PROFESSIONAL LEVEL I		PROFESSIONAL LEVEL IV		PROFESSIONAL LEVEL VII	
Architect	\$125.00	Architect	\$188.00	Architect	\$326.00
Civil Engineer	\$130.00	Civil Engineer	\$210.00	Civil Engineer	\$326.00
Electrical Engineer	\$133.00	Electrical Engineer	\$206.00	Electrical Engineer	\$326.00
Interior Designer	\$119.00	Interior Designer	\$150.00	Interior Designer	\$246.00
Landscape Architect	\$119.00	Landscape Architect	\$161.00	Landscape Architect	\$326.00
Mechanical Engineer	\$130.00	Mechanical Engineer	\$206.00	Mechanical Engineer	\$326.00
Structural Engineer	\$124.00	Structural Engineer	\$201.00	Structural Engineer	\$326.00
Surveyor I	\$94.00	Surveyor IV	\$141.00	Professional Surveyor VII	\$221.00
Other Professional	\$117.00	Other Professional	\$160.00	Other Professional	\$326.00
PROFESSIONAL LEVEL II		PROFESSIONAL LEVEL V			
Architect	\$135.00	Architect	\$228.00		
Civil Engineer	\$145.00	Civil Engineer	\$254.00		
Electrical Engineer	\$150.00	Electrical Engineer	\$251.00		
Interior Designer	\$125.00	Interior Designer	\$181.00		
Landscape Architect	\$125.00	Landscape Architect	\$195.00		
Mechanical Engineer	\$150.00	Mechanical Engineer	\$251.00		
Structural Engineer	\$141.00	Structural Engineer	\$242.00		
Surveyor II	\$105.00	Professional Surveyor V	\$166.00		
Other Professional	\$123.00	Other Professional	\$177.00		

Expenses: Reimbursement for expenses as listed, but not limited to, incurred in connection with services, will be at cost plus 15 percent for items such as:

1. Maps, photographs, postage, phone, reproductions, printing, equipment rental, and special supplies related to the services.
2. Consultants, soils engineers, surveyors, contractors, and other outside services.
3. Rented vehicles, local public transportation and taxis, road toll fees, travel, and subsistence.
4. Special or job-specific fees, insurance, permits, and licenses applicable to work services.
5. Mileage at IRS-approved rate.

Rate for professional staff for legal proceedings or as expert witnesses will be a rate one-and-a-half times these Hourly Rates. Excise and gross receipt taxes, if any, will be added as an expense.

Foregoing Schedule of Charges is incorporated into the Agreement for Services provided, effective January 1, 2021 through December 31, 2021. After December 31, 2021, invoices will reflect the Schedule of Charges currently in effect.