

AGREEMENT FOR HVAC PLANNED MAINTENANCE
#2024-036
TDINDLSTRIES, INC. UTILIZING BUYBOARD CONTRACT #720-23

THIS AGREEMENT ~~mu~~ HVAC PLANNED MAINTENANCE (the “Agreement”) is made and entered into this _____ day of _____, 2024 (the “Effective Date”) by and between the CITY OF FLLSHEAR, TEXAS (the “City”), a Texas municipality, and TDINDLSTRIES, INC. (the “Service Provider”). Collectively, the City and the Service Provider may be referred to as the “Parties.”

WHEREAS, the City wishes to obtain **services** as described in the attached and incorporated Exhibit A (the “Project”), and the City wishes to retain the services of the Service Provider in connection with that Project; and

WHEREAS, the Service Provider is a company authorized to do **business** in Texas and is qualified to perform the services the City wishes the Service Provider to perform; and

WHEREAS, the Service Provider desires to render such services for the City upon the terms, covenants, and conditions provided herein.

Now, THEREFORE, for and in consideration of the services, payments, and other valuable consideration contained herein, the Parties agree to the following terms, covenants, and conditions:

SECTION 1. Performance by Service Provider. At the City’s sole discretion, the City shall be entitled to engage the Service Provider to perform Services, in accordance with the terms and conditions of this Agreement, as those Services relate to the Project. The Service Provider agrees to perform such Services in accordance with the terms, covenants, and conditions of this Agreement.

The Service Provider is being retained to provide Services as described in this Agreement to the City based on the Service Provider’s demonstrated competence and requisite qualifications to perform the scope of work described herein. The City agrees to and hereby does retain the Service Provider as an independent contractor, and the Service Provider agrees to provide Services to the City, in accordance with the terms, conditions, and covenants provided in this Agreement.

SECTION 2. Contract Documents. As used in this document, unless the context requires otherwise, the terms “Agreement” and “Contract” shall be interchangeable (whether or not capitalized) and shall be considered to be the entire and integrated written contract between the Parties. The Contract shall mean this document (the “primary document”) and any ancillary contract documents including all attachments, enclosures, schedules, appendices, and exhibits.

The Contract Documents include this document and the following ancillary documents:

Exhibit A. TDIndustries’ Quote and Scope of Work issued pursuant to Buy Board 720-23

The ancillary documents are hereby attached and incorporated hereto by reference and made a part

of this Agreement, subject to the terms and conditions contained in this primary document.

The Service Provider understands, acknowledges, and agrees that the City, as a Texas municipality organized under the laws of the State of Texas, is bound by the laws of the State of Texas.

The Service Provider further acknowledges that, in the event of a conflict between any term or provision in this primary document and any term or provision in the ancillary documents, the term or provision in this primary document shall control unless the conflicting term or provision in this primary document is referenced, and expressly stated not to apply, in the ancillary document(s).

Any mutually agreed upon changes to the terms, conditions, covenants, and provisions to this Agreement shall be set forth in an amendment to this Agreement. The Service Provider will not implement any changes or any new services until an amended agreement has been duly executed by the City.

SECTION 3. Scope of Services. The Service Provider shall provide the following Services to the City:

A written scope of work is included in **Exhibit A**. The Service Provider shall furnish all materials and perform all work described in **Exhibit A**.

The scope of work in **Exhibit A** references optional and additional Services outside the scope of Planned Maintenance Services. Any additional or optional Services performed by TDIndustries would be performed only upon written authorization of said effort by the City. The proposed scope of services and fees for each assignment that includes additional or optional Services would be determined by TDIndustries and City Staff before each work assignment is authorized.

All Services rendered under this Agreement will be performed by the Service Provider with the professional skill and care ordinarily provided by competent professionals practicing under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent professional practicing under the same or similar circumstances.

SECTION 4. Payment for Services. The City agrees to pay the Service Provider for Services provided in accordance with the following terms, covenants, and conditions:

- a. **Contract Sum.** The City shall compensate the Service Provider for the performance of the Services per the proposal in **Exhibit A**. The total fees paid under this Agreement shall not exceed **\$105,000.00 per the life of the agreement**.
- b. **Invoices.** The Service Provider shall invoice the City monthly for Services rendered based on the percentage of Services completed as of the date of the invoice. The City will pay for those Services, in full, within thirty (30) days of receipt of a properly completed invoice by electronic payment or check. Invoices should be submitted to:

City of Fulshear
Attn: Accounting
P.O. Box 279
Fulshear, Texas 77441
Telephone: (281) 346-1796
Email: accounting@fulsheartexas.gov

If the City reasonably disputes any invoice, the City shall timely pay the undisputed portion and promptly notify the Service Provider in writing of the nature of the dispute as to the remainder, and the parties will use their best efforts to resolve the dispute expeditiously.

- c. **Budget.** The Parties understand and acknowledge that the funding of this Agreement is contained in the City's annual budget and is subject to the approval of the City's governing body in each fiscal year. The Parties further agree that should the City's governing body fail to approve a budget that includes sufficient funds for the continuation of this Agreement, or should the City's governing body fail to certify funds for any reason, then and upon occurrence of such event, this Agreement shall automatically terminate as to the City, and the City shall then have no further obligation to the Service Provider. When the funds budgeted or certified during any fiscal year by the City to discharge its obligations under this Agreement are expended, the Service Provider's sole and exclusive remedy shall be to terminate this Agreement.
- d. **Eligible Costs.** Costs incurred prior to the Effective Date of this Agreement are not eligible for reimbursement. There shall be no obligation whatsoever for performance of this Agreement from the monies of the City other than from the monies designated for this Agreement. The City will only pay for services rendered and shall not pre-pay for work that has not been performed.

SECTION 5. Time of Completion; Term; Termination.

- a. **Time of Completion.** The Service Provider shall begin work and the work shall be completed as stipulated in the attached **Exhibit A**.
- b. **Term.** This Agreement will commence on the effective date and shall remain in effect for one year and will auto-renew for one additional one-year term, unless terminated earlier as provided herein.
- c. **Termination.** The City may terminate this Agreement at any time, with or without cause, upon thirty (30) days' prior written notice. Upon its receipt of a notice of termination of this Agreement, the Service Provider shall follow any instructions of the City respecting work stoppage. The Service Provider shall cooperate with City and City designees to provide for an orderly conclusion of the Services. The Service Provider shall use its best efforts to minimize the amount of any non-cancelable obligations and shall assign any contracts related thereto to the City, or the City's designee, at the City's request. If the City elects to continue any activities underlying a terminated Agreement after termination, the

Service Provider shall cooperate with the City to provide for an orderly transfer of the Service Provider's responsibilities with respect to such Agreement to the City or the City's designee. Upon the effective date of any such termination, the Service Provider shall submit a final invoice for payment, and the City shall pay such amounts as are due to the Service Provider through the effective date of termination. The City shall only be liable for payment of services rendered before the effective date of termination. If this Agreement is terminated, certain reporting requirements identified in this Agreement shall survive termination of this Agreement.

SECTION 6. Representation of Service Provider; Obligations of Service Provider.

a. *Representation and Warranties of Service Provider.* Service Provider represents and warrants that:

1. As of the Effective Date of this Agreement, the Service Provider is not a party to any oral or written contract or understanding with any third-party that is inconsistent with this Agreement or would affect the Service Provider's performance under this Agreement or that will in any way limit or conflict with the Service Provider's ability to fulfill the terms of this Agreement. The Service Provider further represents that it will not enter into any such agreement during the Term of this Agreement;
2. The Service Provider will provide to the City, with each deliverable to be provided under this Agreement, a written summary sheet listing any third-party software or other intellectual property contained within the deliverable. The Service Provider shall not be required to provide the City with such third-party software or intellectual property in connection with its use of the deliverable and the terms, conditions, and status of the license of such software and intellectual property. The Service Provider represents that all work product created under this Agreement shall be original work of the Service Provider or in the public domain and shall not infringe any copyright, trademark, trade secret, patent, or other intellectual property right of any third party;
3. The Service Provider and its employees and subcontractors have all of the necessary qualifications, licenses, permits, and registrations to perform the Services in accordance with the terms and conditions of this Agreement, and at all times during the Term, all such qualifications, licenses, permits, and registrations shall be current and in good standing; and
4. The Service Provider shall, and shall cause its representatives to, comply with all municipal, state, and federal laws, rules, and regulations applicable to the performance of the Service Provider's obligations under this Agreement.

b. *Level of Care and Skill.* Services provided by the Service Provider under this Agreement shall be conducted in a manner consistent with the professional skill and care ordinarily provided by competent professionals practicing under the same or similar circumstances

and professional license(s), if any, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent professional practicing under the same or similar circumstances. No other representation expressed or implied, and no warranty or guarantee is included or intended in this Agreement, or in any report, opinion, or document, prepared by the Service Provider.

- c. **Work on City Premises.** Service Provider will require that its employees and agents will, whenever on City premises, comply with all reasonable instructions and directions issued by the City.
- d. **Consultation, Reports.** The Service Provider agrees to make available the Service Provider's representative, who shall be mutually agreed upon by the Service Provider and the City, for periodic meetings to review the progress of all work under this Agreement. The Service Provider also shall prepare and submit to the City, when requested, a written report setting forth the status of such work in a format to be mutually agreed upon by the Service Provider and the City, as well as copies of all documents relating to the Services performed by the Service Provider.
- e. **No Israel Boycott.** The Service Provider hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement. For purposes of this verification, "boycott Israel" means refusing to deal with, termination of business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
- f. **Foreign Terrorist Organizations.** The Service Provider represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
- g. **Immigration.** Service Provider represents and warrants that it shall comply with the requirements of the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.) and all subsequent immigration laws and amendments.
- h. **Undocumented Workers.** Service Provider certifies that it does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Service Provider is convicted of a violation under 8 U.S.C. § 1324a(f), Service Provider shall repay the amount of the public subsidy provided under this Agreement, plus interest, at the rate of the prime rate plus six percent (6%) per annum, not later than the 120th day after the date the City notifies Service Provider of the violation.
- i. **Nondiscrimination Against Firearm and Ammunition Industries.** Service Provider verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the Term of this Agreement against a firearm entity or firearm trade association, as those terms

are defined by Chapter 2274, Government Code, as enacted by S.B. 19, 87th Legislature, Regular Session.

- j. ***Anti-Boycott of Energy Companies.*** Service Provider verifies that it does not boycott energy companies and will not boycott energy companies, as those terms are defined by Chapter 2274, Government Code, as enacted by S.B. 13, 87th Legislature, Regular Session, during the Term of this Agreement.
- k. ***Prohibited Access to Critical Infrastructure.*** Service Provider verifies that it does not contract with certain foreign-owned companies in connection with critical infrastructure and will not contract with certain foreign-owned companies in connection with critical infrastructure, as those terms are defined by Chapter 113, Subtitle C, Title 5 of the Business & Commerce Code, as enacted by S.B. 2116, 87th Legislature, Regular Session, during the Term of this Agreement.

SECTION 7. Obligations of City.

The City agrees to make available to the Service Provider, upon reasonable notice, such information, data, and documentation regarding its facilities and infrastructure as may reasonably be required by the Service Provider to complete the Services.

SECTION 8. Termination of Agreement.

- a. ***Termination.*** The City, upon giving thirty (30) days' written notice to the Service Provider, may terminate this Agreement for any reason, without cause, or simply for convenience. The Service Provider, upon giving thirty (30) days' written notice to the City, may terminate this Agreement for cause.

Termination of this Agreement shall release each party from all obligations of this Agreement, except as specified in Section 6(b) of this Agreement.

- b. ***Obligations of Service Provider Upon Termination.*** Upon termination of this Agreement, the Service Provider shall promptly return to the City all information, files, documentation, media, related material, and any other material that is owned by the City, as well as any work product in progress.
- c. ***Obligations of City Upon Termination.*** Upon termination of this Agreement, the City's sole obligation shall be the payment of any valid, outstanding invoices and any work that has not yet been invoiced but was performed prior to the effective date of termination. The Service Provider agrees to render a final invoice to the City for Services performed by the Service Provider prior to termination of this Agreement within thirty (30) days after completion of the Services performed.

SECTION 9. Indemnification and Insurance.

- a. **Indemnification of City.** To the extent allowed by law, Service Provider INDEMNIFIES and HOLDS HARMLESS the City, its officers, agents, and employees against all costs and expenses, including, without limitation, attorneys' fees and costs of investigation and defense, as well as legal liability, whether from suit, judgment, settlement or otherwise arising out of any or all claims for injury to persons or property, including but not limited to injuries resulting in death, arising from, or caused by, or incident to any wrongful or negligent act of the Service Provider, the Service Provider's agents, invitees, servants, and employees upon the property of the City, or arising or resulting from any intentional tort or intellectual property infringement for which the Service Provider is responsible, or for any failure to pay a subcontractor or supplier relating to the performance of Services under this Agreement. Any language to the contrary notwithstanding, the covenants and agreements contained in this paragraph survive the termination or expiration of this Agreement for whatever cause.
- b. **Commercial General Liability Insurance.** Service Provider must maintain comprehensive commercial general liability insurance, covering the City and the Service Provider for liability for property damage, bodily injury, personal injury, and death. The insurance provided under this section must be in the amount of not less than \$1,000,000 per occurrence for property damage and not less than \$1,000,000 per occurrence for bodily injury, personal injury, or death. This insurance must protect against liability to any employees or servants of the Service Provider and to any other person or persons whose property damage, personal injury, bodily injury, or death arises out of or in connection with the performance of Services under this Agreement and must include (i) coverage for premises and operations, (ii) coverage for products liability, and (iii) contractual liability coverage insuring the obligations of the Service Provider under the terms of this Agreement. Such policy must name the City (and any successor or assign designated by the City) as an additional insured.
- c. **Umbrella Liability.** Service Provider must maintain umbrella liability insurance, covering the City and the Service Provider for liability for property damage, bodily injury, personal injury and death. The insurance provided under this section must be in the amount of not less than \$1,000,000 per occurrence for property damage, including loss of use thereof, and not less than \$1,000,000 per occurrence for bodily injury, personal injury, or death. This insurance must protect against liability to any employees or servants of the Service Provider and to any other person or persons whose property damage, personal injury, bodily injury, or death arises out of or in connection with the performance of Services under this Agreement and must include (i) coverage for premises and operations, (ii) coverage for products liability, and (iii) contractual liability coverage insuring the obligations of the Service Provider under the terms of this Agreement. Such policy must name the City (and any successor or assign designated by the City) as an additional insured.
- d. **Professional Liability.** Service Provider must maintain professional liability insurance. The insurance provided under this section must be in the amount of not less than \$1,000,000 per claim and must have an annual aggregate of not less than \$1,000,000.

- e. ***Workers Compensation and Employer's Liability.*** Service Provider must maintain workers compensation insurance to protect against claims under Texas Workers Compensation laws as well as all Federal acts applicable to Service Provider's operations on City property. The limit of liability for such coverage must at least meet applicable statutory requirements. Additionally, each policy must contain an endorsement waiving all rights against the City and the City's respective agents and employees. Service Provider must maintain employer's liability insurance in the minimum amount of \$1,000,000 per occurrence for personal injury, bodily injury, or death to any employee of the Service Provider who may bring a claim outside the scope of the Texas Worker's Compensation laws or Federal acts applicable to the Service Provider's operation on City property. Each policy must contain an endorsement waiving all rights of subrogation against the City and the City's respective agents and employees.
- f. ***Waiver of Subrogation.*** The Parties agree to waive any and all rights of recovery, claims, actions, or causes of action against the other, its agents, officers, and employees for any injury, death, loss, or damage that may occur to persons or to City property, or any personal property of such party on City property, by reason of fire, windstorm, earthquake, flood, or any other risks, or any other cause which is insured under the insurance policy or policies that either party is required to provide or maintain under this Agreement, to the extent and only to the extent of any proceeds actually received by the City or the Service Provider, respectively, with respect thereto, regardless of the cause or origin, including negligence of either party hereto, its agents, officers, or employees, and each party covenants that no insurer will hold any right of subrogation against the other. If such waiver is not obtained, the party failing to do so indemnifies the other party for any claim by an insurance carrier arising out of subrogation.
- g. ***Insurance Requirements.*** The phrases "Required Policy" and "Required Policies" mean each policy of insurance required to be maintained by the Service Provider under the terms of this Agreement. Each Required Policy must be written by a company satisfactory to the City but, in all events, a company with an A.M. Best Company financial rating of not less than A:XII (or a similar rating by a comparable service selected by the City should A.M. Best Company cease providing such ratings) and be licensed to do business in Texas or, if the aforesaid is not available, by a company qualified to do business as a non-admitted insurer in Texas under current Texas surplus lines requirements. All Required Policies may contain a deductible of not more than \$25,000. Such policies must be endorsed so as to require thirty (30) days' prior written notice to the City in the event of cancellation. Required Policies must contain cross-liability clauses, when applicable and available. The Service Provider must deliver to the City a certificate of insurance for any Required Policy no later than the Effective Date of this Agreement. The required evidence of coverage must always be deposited with the City. If the Service Provider fails to do so, such failure may be treated by the City as a default by the Service Provider, and the City, in addition to any other remedy under this Agreement, may purchase and maintain such Required Policy, and the Service Provider must immediately reimburse the City for any premiums paid or costs incurred by the City in providing such insurance. Failure of the Service Provider to reimburse the City is a default by the Service Provider under this Agreement.

- h. *Indemnity for Noncompliance with Insurance Requirements.*** Service Provider INDEMNIFIES and HOLDS HARMLESS the City from any loss the Service Provider may suffer due to the Service Provider's failure to comply with all the above insurance requirements, including the requirement for obtaining waivers of subrogation, and due to any insurance coverage being invalidated because of the Service Provider's failure to comply with the terms, conditions, and warranties of any Required Policy.
- i. *No Indemnification by the City.*** The Service Provider and the City expressly acknowledge that the City's authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the City is invalid. Nothing in this Agreement requires that the City incur debt, assess or collect funds, or create a sinking fund.

SECTION 10. Injunctive Relief. It is hereby understood and agreed that damages shall be an inadequate remedy in the event of a breach by the Service Provider of this Agreement and that any such breach by the Service Provider will cause the City great and irreparable injury and damage. Accordingly, Service Provider agrees that the City shall be entitled, without waiving any additional rights or remedies otherwise available to the City at law, in equity, or by statute, to injunctive and other equitable relief without proof of actual damages in the event of a breach or intended or threatened breach by the Service Provider.

SECTION 11. Assignment and Subcontracting.

- a. *Consent Required.*** Service Provider must not assign or subcontract the whole or any part of this Agreement without the City's prior written consent.
- b. *Subcontracting.*** Any subcontract made by the Service Provider with the consent of the City must incorporate, by reference, all the terms of this Agreement. Service Provider will enter into written contracts with each of its subcontractors requiring such subcontractors to obtain and maintain appropriate and reasonable insurance coverage and requiring such subcontractors to comply with the term of this Agreement, which shall be binding upon such subcontractors, as is reasonable, required, and appropriate.

SECTION 12. Other Provisions.

- a. *Force Majeure.*** In the event either party is rendered unable, wholly or in part, by force majeure to carry-out any of its obligations under this Agreement, except the obligation to pay amounts owed or required to be paid pursuant to the terms of this Agreement, then the obligations of such party, to the extent affected by such force majeure and to the extent that due diligence is being used to resume performance at the earliest practicable time, shall be suspended during the continuance of any inability so caused to the extent provided, but for no longer period. As soon as reasonably possible after the occurrence of the force majeure relied upon, the party whose contractual obligations are affected shall give notice and full particulars of such force majeure to the other party. Such cause, as far as possible, shall be remedied with all reasonable diligence. The term "force majeure," as used herein, shall

include without limitation of the generality thereof, acts of God, strikes, lockouts, or similar civil disturbances, acts of the public enemy, orders of any kind of the government of the United States of America or of the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, drought, arrests, restraint of government, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, and other inabilities of any party, whether similar or those enumerated or otherwise, which are not within the reasonable anticipation or control of the party claiming such inability, which such Party should not have avoided by the exercise of due diligence and care. If delays resulting from such causes increase the cost or time required by the Service Provider to perform the Services under this Agreement, the Service Provider shall be entitled to a reasonable adjustment in schedule and, if applicable and upon written agreement of the Parties, compensation.

- b. *Status as Independent Contractor.*** The City and the Service Provider are contractors independent of one another and neither party's employees will be considered the employees of the other party for any purpose. This Agreement does not create a joint venture or partnership, and neither party has the authority to bind the other to any third party.
- c. *Applicable Law and Forum.*** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without regard to the conflicts of laws principles thereof. Any action or suit related to this Agreement must be brought in the state or Federal courts sitting in Fort Bend County, Texas.
- d. *Public Information Act.*** Information, documentation, and other material in connection with this Agreement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act"). Effective January 1, 2020, the requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Service Provider agrees that this Agreement can be terminated if the Service Provider knowingly or intentionally fails to comply with a requirement of that subchapter. To the extent, if any, that any provision of this Agreement is in conflict with Texas Government Code, Chapter 552, as amended (the "Texas Public Information Act"), such provision shall be void and have no force or effect.

In accordance with Section 2252.907 of the Texas Government Code, the Service Provider is required to make any information created or exchanged with the City pursuant to this Agreement, regardless of contrary provisions contained herein, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the City.

- e. *Notices.*** All notices, demands, or requests from one party to another must be in writing and must be (i) personally delivered, (ii) sent by mail, certified or registered, postage prepaid, (iii) sent by facsimile transmission, or (iv) sent by overnight delivery, in any case to the address stated in this Section, or to such other address as the party may request in writing, and are deemed to have been given at the time of receipt or delivery.

IF TO CITY:

City of Fulshear
Attn: Purchasing Coordinator
P.O. Box 279
Fulshear, Texas 77441
Email: cleal@fulsheartexas.gov

IF TO SERVICE PROVIDER:

TDINDUSTRIES, INC.
Attn: Garrett Broussard
9525 Derrington Road
Houston, Texas 77064
Email: garrett.broussard@tdindustries.com

- f. ***Ownership of Documents.*** The final sealed documents prepared by the Service Provider shall be provided to the City, for the City's use, in the form of a license permitting the City's use and shall not be otherwise limited, so long as the City's use is in accordance with applicable legal requirements.
- g. ***Successors and Assigns.*** The City and the Service Provider each bind itself and its partners, successors, executors, administrators, and assigns to the other party of the Agreement and to partners, successors, executors, administrators, and assigns of such other party in respect to all terms, covenants, and conditions of this Agreement. Neither the City nor the Service Provider shall assign, sublet, or transfer its interest in this Agreement without written consent of the other party. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than the City and the Service Provider.
- h. ***Waiver.*** No waiver by the City of any breach by the Service Provider of any of the provisions of this Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other provisions hereof. No such waiver shall be effective unless in writing and then only to the extent set forth in writing.
- i. ***Entire Agreement.*** This instrument, including attached exhibits, contains the entire Agreement between the City and the Service Provider, apart from any letter proposals or proposals describing the scope of services, method of compensation, and any special contractual provision that, mutually agreed upon by the Parties, shall become part of this Agreement.
- j. ***Modifications.*** No modification of this Agreement shall be effective unless in writing and signed by both parties.
- k. ***Severability.*** If any provision of this Agreement is invalid or unenforceable under any statute or rule of law, the provision is to that extent to be deemed omitted, and the remaining provisions shall not be affected in any way.

1. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which, taken together, will be deemed one and the same document. A photocopy or facsimile reproduction of an original signature of a party on this Agreement binds that party to the terms, covenants, and conditions of this Agreement.

IN WITNESS WHEREOF, and in acknowledgment that the Parties hereto have read and understood each and every provision hereof, after consultation with the legal counsel of their choosing, if desired, the Parties have executed this Agreement on the date first set forth above.

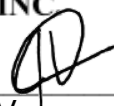
CITY:

CITY OF FULSHEAR, TEXAS

By: _____
City Manager

SERVICE PROVIDER:

TD INDUSTRIES, INC

By:  _____
Name: James Venegas
Title: Senior Vice President



TDIndustries, Inc. 9525 Derrington Road - Houston,
TX, 77064 - Phone 713-939-1988, Fax 713-939-
0161, Emergency Service 1-800-864-7717,
Licenses - A/C: TACL-A26339C, Plumbing: M-
16723, Electrical: EC-17889



Opportunity # : _____ Project #: _____

Customer's Billing Name and Address:

City of Fulshear _____

PO Box 279 _____

Fulshear, TX. 77441 _____

Service to be provided at:

Municipal Complex – 6611 W Cross Creek Bend Ln. _____

Police Department – 6639 W Cross Creek Bend Ln. _____

Police Department (Controls) – 6639 W Cross Creek Bend Ln. _____

Community Center – 6920 Katy Fulshear Rd. _____

Water Treatment Plant – 28730 FM 1093. _____

Contract Overview

Effective Date: TBD _____

Account Manager: Garrett Broussard _____

Proposal Date: 03/05/2024 _____

Total Yearly Amount (Year 1 & 2): \$25,193.00 _____

Total Yearly Amount (Year 3) \$25,623.00 _____

Type of Contract

1. HVAC Agreement _____ 2. _____

Municipal Complex

Year One Payment Total: \$14,375.00 _____ Year Two Payment Total: \$14,375.00 _____ Year Three Payment Total: \$14,665.00 _____

Payment Amount: \$7,187.50 _____ Payment Amount: \$7,187.50 _____ Payment Amount: \$7,332.50 _____

Net 30 upon _____ Net 30 upon _____ Net 30 upon _____
Payment Frequency: completion _____ Payment Frequency: completion _____ Payment Frequency: completion _____

Police Department

Year One Payment Total: \$3,865.00 _____ Year Two Payment Total: \$3,865.00 _____ Year Three Payment Total: \$3,945.00 _____

Payment Amount: \$1,932.50 _____ Payment Amount: \$1,932.50 _____ Payment Amount: \$1,972.50 _____

Net 30 upon _____ Net 30 upon _____ Net 30 upon _____
Payment Frequency: completion _____ Payment Frequency: completion _____ Payment Frequency: completion _____



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TX, 77064 - Phone 713-939-1986, Fax 713-939-
0161, Emergency Service 1-800-864-7717,
Licenses - A/C: TACL-A26339C, Plumbing: M-
16723, Electrical: EC-17889



Police Department (Controls)

Year One Payment Total: <u>\$3,948.00</u>	Year Two Payment Total: <u>\$3,948.00</u>	Year Three Payment Total: <u>\$3,948.00</u>
Payment Amount: <u>\$1,974.00</u>	Payment Amount: <u>\$1,974.00</u>	Payment Amount: <u>\$1,974.00</u>
Net 30 upon Payment Frequency: <u>completion</u>	Net 30 upon Payment Frequency: <u>completion</u>	Net 30 upon Payment Frequency: <u>completion</u>

Community Center

Year One Payment Total: <u>\$2,230.00</u>	Year Two Payment Total: <u>\$2,230.00</u>	Year Three Payment Total: <u>\$2,275.00</u>
Payment Amount: <u>\$1,115.00</u>	Payment Amount: <u>\$1,115.00</u>	Payment Amount: <u>\$1,137.50</u>
Net 30 upon Payment Frequency: <u>completion</u>	Net 30 upon Payment Frequency: <u>completion</u>	Net 30 upon Payment Frequency: <u>completion</u>

Water Treatment Plant

Year One Payment Total: <u>\$775.00</u>	Year Two Payment Total: <u>\$775.00</u>	Year Three Payment Total: <u>\$790.00</u>
Payment Amount: <u>\$387.50</u>	Payment Amount: <u>\$387.50</u>	Payment Amount: <u>\$395.00</u>
Net 30 upon Payment Frequency: <u>completion</u>	Net 30 upon Payment Frequency: <u>completion</u>	Net 30 upon Payment Frequency: <u>completion</u>



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TX, 77064 - Phone 713-939-1986, Fax 713-939-
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16723, Electrical: EC-17889



TDIndustries BuyBoard Prices and Rates – Contract Number: 720-23

Classification	Price
13: Standard Hourly Rate for Installation/Repair Service of HVAC Equipment and Products , not to exceed standard hourly labor rate for Installation/Repair Service of HVAC Equipment and Products.	\$ 125.00
14: Non Standard Hourly Labor Rate for Installation/Repair Service of HVAC Equipment and Products , not to exceed non-standard hourly labor rate for Installation of HVAC Equipment and Products.	\$ 187.00
15: Hourly Rate for Installation of HVAC Filter Change Out Service (including labor, filters and removal/disposal of product), not to exceed hourly labor rate for Installation of HVAC Filter Products.	\$ 105.00
16: Coefficient for Standard Hours of Installation/Repair Service of HVAC Equipment and Products - RSMeans Cost Data from the Total INCL O&P column (most current edition).	0.96
17: Coefficient for Non-Standard Hours for Installation/Repair Service of HVAC Equipment and Products - RSMeans Cost Data from the Total INCL O&P column (most current edition).	1.35
Truck Charge	\$ 90.00

Acknowledgments

TDIndustries, Inc.

City of Fulshear

By _____

By _____

Printed Name and Title _____

Printed Name and Title _____

Date _____

Date _____



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Municipal Complex

	Equipment Type	Tag	Make	Model #	Serial #
1	Rooftop Unit	RTU-1	RUUD	RLPN-A060DM	N/A
2	Rooftop Unit	RTU-2	RUUD	RLPN-A060DM	N/A
3	Rooftop Unit	RTU-3	RUUD	RLPN-A060DM	N/A
4	Rooftop Unit	RTU-4	RUUD	RLKN-B073DL	N/A
5	Rooftop Unit	RTU-5	RUUD	RLPN-A036DL	N/A
6	Rooftop Unit	RTU-6	RUUD	RACA14024BJT000AA	N/A
7	Rooftop Unit	RTU-7	RUUD	RACADZR090ADA000AAA	N/A
8	Rooftop Unit	RTU-8	RUUD	RLKN-B073DL	N/A
9	Rooftop Unit	RTU-9	RUUD	RACA14024BJT000AA	N/A
10	Rooftop Unit	RTU-10	RUUD	RLPN-A036DL	N/A
11	Rooftop Unit	RTU-11	RUUD	RLPN-A036DL	N/A
12	Rooftop Unit	RTU-12	RUUD	RLPN-A036DL	N/A
13	Fan Coil Unit	FCU-1	N/A	N/A	N/A
14	Fan Coil Unit	FCU-2	N/A	N/A	N/A
15	Fan Coil Unit	FCU-3	N/A	N/A	N/A
16	Fan Coil Unit	FCU-4	N/A	N/A	N/A
17	Fan Coil Unit	FCU-5	N/A	N/A	N/A
18	Fan Coil Unit	FCU-6	N/A	N/A	N/A
19	Fan Coil Unit	FCU-7	N/A	N/A	N/A
20	Fan Coil Unit	FCU-8	N/A	N/A	N/A
21	Fan Coil Unit	FCU-9	N/A	N/A	N/A
22	Fan Coil Unit	FCU-10	N/A	N/A	N/A
23	Fan Coil Unit	FCU-11	N/A	N/A	N/A



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24	Fan Coil Unit	FCU-12	N/A	N/A	N/A
25	Fan Coil Unit	FCU-13	N/A	N/A	N/A
26	Exhaust Fan	EF-1	N/A	N/A	N/A
27	Exhaust Fan	EF-2	N/A	N/A	N/A
28	Exhaust Fan	EF-3	N/A	N/A	N/A

Police Department

	Equipment Type	Tag	Make	Model #	Serial #
1	Rooftop Unit	RTU-1	N/A	N/A	N/A
2	Rooftop Unit	RTU-2	N/A	N/A	N/A
3	Fan Coil Unit	FCU-1	N/A	N/A	N/A
4	Exhaust Fan	EF-1	N/A	N/A	N/A
5	Exhaust Fan	EF-2	N/A	N/A	N/A
6	Exhaust Fan	EF-3	N/A	N/A	N/A
7	Exhaust Fan	EF-4	N/A	N/A	N/A

Community Center

	Equipment Type	Tag	Make	Model #	Serial #
1	Packaged Unit	PU-1	Trane	TWE120E300AC	N/A
2	Packaged Unit	PU-2	Trane	TWE150E300AA	N/A
3	Split System (Multi-head)	DX-1	N/A	N/A	N/A

Water Treatment Plant

	Equipment Type	Tag	Make	Model #	Serial #
1	Packaged Unit (Wall Unit)	WU-1	Bard	W36A2-A10	N/A



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Scope of Work

Packaged Unitary (Rooftop Unit / Wall Unit) 1 Annual | 1 Operating

Annual Inspection

Refrigerant Systems

- Check and record superheat and subcooling
- Check and record refrigerant pressures

Lubrication System

- Check oil level in compressor(s) (if applicable)
- Check oil pressure per specifications (if applicable)
- Visually inspect oil lines for leaks
- Check crankcase heater (if applicable)

Electrical Systems

- Check condition of contacts for wear, pitting, etc.
- Check and calibrate operating controls
- Check and calibrate safety controls
- Check condenser fan motor(s) for proper operation
- Check/tighten all electrical panel terminals
- Check/tighten all motor terminals
- Check external interlocks and flow switches (if applicable)
- Inspect electrical connections for indications of heat
- Check starter operation, voltage and current

System Checks

- Visually inspect condenser/evaporator coils for cleanliness and fin deterioration
- Check operation of condenser fan(s) and inspect blades
- Lubricate condenser/evaporator fan bearings (if applicable)
- Check condition and tension of fan belts (if applicable)
- Check condition of vibration eliminators
- Check damper operation, lubricate and adjust as required
- Inspect filters
- Check the sheaves and pulleys for wear and alignment
- Check blower wheel
- Clean drain trap and drain pan

Operating Inspection

- Inspect and adjust operating and safety controls. Record settings
- Check operation of lubrication system including oil pressure and oil level
- Check operation of crankcase heater(s)
- Check operation of all motors and starters
- Visual inspection of condenser coil(s)
- Inspect filters

Major Heating Inspection

- Check and adjust burners
- Check and clean heat exchanger
- Check for gas leaks at unit
- Check vent pipe connection
- Check heat elements and sequencers
- Check heat limit controls
- Run cycle to burn off dust from elements or exchanger

Optional Services

- ☒ Clean condenser coils annually
- ☒ Provide material and labor to replace filters 2 times per year
- ☒ Provide material and labor to replace standard belts annually



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Split Systems and Heat Pumps (Fan Coil Units / Condensers) 1 Annual | 1 Operating

Annual Inspection

Refrigerant System

- Check and record superheat and subcooling
- Check and record refrigerant pressures

Lubrication System

- Check oil level in compressor(s) (if applicable)
- Check oil pressure per specifications (if applicable)
- Visually inspect oil lines for leaks
- Check crankcase heater (if applicable)

Electrical Systems

- Check condition of contacts for wear, pitting, etc.
- Check and calibrate operating controls
- Check and calibrate safety controls
- Check condenser fan motor(s) for proper operation
- Check/tighten all electrical panel terminals
- Check/tighten all motor terminals
- Check external interlocks and flow switches (if applicable)
- Inspect electrical connections for indications of heat
- Check starter operation, voltage and current

System Checks

- Visually inspect condenser/evaporator coils for cleanliness and fin deterioration
- Check operation of condenser fan(s) and inspect blades
- Lubricate condenser/evaporator fan bearings (if applicable)
- Check condition and tension of fan belts (if applicable)
- Check condition of vibration eliminators
- Check damper operation, lubricate and adjust as required
- Inspect filters
- Check the sheaves and pulleys for wear and alignment
- Check blower wheel
- Clean drain trap and drain pan

Operating Inspection

- Inspect and adjust operating and safety controls. Record settings
- Check operation of lubrication system including oil pressure and oil level
- Check operation of crankcase heater(s)
- Check operation of all motors and starters
- Visual inspection of condenser coil(s)
- Inspect filters

Major Heating Inspection

- Check and adjust burners
- Check and clean heat exchanger
- Check for gas leaks at unit
- Check vent pipe connection
- Check heat elements and sequencers
- Check heat limit controls
- Run cycle to burn off dust from elements or exchanger

Optional Services

- ☒ Clean condenser coils annually
- ☒ Provide material and labor to replace filters 2 times per year
- ☒ Provide material and labor to replace standard belts annually



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Exhaust Fans 1 Annual | 1 Operating

Annual Inspection

- Lubricate motor bearings (if applicable)
- Lubricate blade shaft bearings (if applicable)
- Check bearing and motor mounting
- Rotate the fan and check for obstructions in the fan housing
- Check unit for unusual noise or vibration
- Check motor operating voltage and amperage
- Inspect the control and power wiring for secure connections and insulation

Optional Services

- ☒ Replace drive belts 1 times per year



TDIndustries Visual Intelligence

Cloud-Based Visual Maintenance Reports Through Videos and Photos



State-of-the-Art Feedback

TD's Visual Intelligence Platform leverages current technology to give facility managers and technicians an easy-to-digest overview of facility maintenance repairs and recommendations.



Easy Access

All photo and video content are tagged within the database and made available through web-links delivered to you, so no tedious data exchange or security complications.



Formats Match Your Preference

Receive video and photo reports via text message, email, or a service ticket in the app.



Video and Audio Breakdown

TD technicians walk through a summary of outcomes from facility service requests and share any further recommendations of repairs, providing insights into repairs and equipment status.



Everything You Need in a Single Location

Video and photos, combined with supporting PDF manuals and equipment specifications, are stored in a single database and accessible through shared web-links.

See it in action here: [TD Visual Intelligence](#)