

**AS-NEEDED MAINTENANCE AND TRADE SERVICES AGREEMENT
FOR HVAC MAINTENANCE & EMERGENCY REPAIRS RFP #PWD 24-407**

THIS AGREEMENT is made and entered into this first day of July 2024 between **XXX** ("Contractor"), a California Corporation, whose address is **XXX** and the **CITY OF PLEASANTON**, a municipal corporation ("City").

RECITALS

- A. Contractor has submitted a proposal in response to the City of Pleasanton's Request for Proposals (RFP) #PWD 24-407 and is qualified and experienced in providing HVAC Maintenance & Emergency Repair work or services set forth in **Exhibit A** of this Agreement.
- B. City finds it necessary and advisable to obtain work or services from Contractor on both a scheduled basis as set forth in RFP #PWD 24-407, as well as on an as-needed basis for potential unscheduled work, including but not limited to urgent requests by the City or a declaration of an emergency by local or state officials, described therein.

NOW THEREFORE, in consideration of the mutual covenants and conditions in this Agreement, City and Contractor agree as follows:

- 1. **Term**. The term of this Agreement commences on the date written above and will expire on June 30, 2027 unless the parties agree to extend the Agreement for an additional two (2) one-year terms, not to exceed five (5) years total for this Agreement.
- 2. **Services to be performed**. Contractor shall perform, or cause to be performed, the work or services described in **Exhibit A**. This Agreement does not obligate the City to utilize Contractor exclusively for such work or services.
 - a. **Task Authorization** - Contractor will submit a written estimate detailing the cost to perform the requested work or services, the City will then issue a Task Authorization letter as a guide for reimbursement once the scheduled work is completed and to the satisfaction of the City. If authorized work exceeds the initial estimate or City requests additional services, Contractor is to notify the City of the additional cost and the City will provide an amended Task Authorization. No work shall be performed unless approved by the City's designated project manager.
- 3. **Compensation**. Total compensation pursuant to this Agreement shall not exceed **\$XXX**, per fiscal year and \$XXX for the Term. Rates shall be as set forth in **Exhibit A**. For the second or subsequent years of the Agreement, the cost of each one-year term may increase only by the change in the consumer price index for the San Francisco-Oakland-San Jose Metropolitan Area (all items index; all urban consumers) for the twelve-month period ending in May each year as published by the Bureau of Labor Statistics, U.S. Department of Labor.
 - a. Payment shall be made within thirty (30) days of receipt of Contractor's invoice and approval by City.

- b. If the prevailing wage for crafts or classifications subject to this Agreement change during the term of this Agreement, the City will accept corresponding increases in Contractor's hourly rates when sufficient documentation is received from the Contractor and verified with the Department of Industrial Relations.
4. **Indemnification.** Contractor shall hold harmless, defend, and indemnify the City, its officers, agents and employees ("Indemnities"), against any and all claims, costs, demands, causes of action, suits, losses, expenses, attorney's fees, or liability, arising from or in any manner related to Contractor's (includes Contractor's employees, agents, or subcontractors) negligent act or omission, whether alleged or actual, regarding the work or services performed or caused to be performed pursuant to this Agreement and any amendments thereto. Contractor shall not, however, be obligated to indemnify Indemnities from claims arising from the sole negligence or willful misconduct of Indemnities. This indemnification includes any claim that the materials or equipment provided under this Agreement, or any tool, article or process used, constitutes an infringement of any patent issued by the United States. This indemnification provision shall survive termination or cancellation of the Agreement.
 5. **Insurance.** During the term of this Agreement, Contractor shall maintain in full force and effect, at its own cost and expense, insurance coverage with insurers with an A.M. Best's rating of no less than A:VII. Contractor shall have the obligation to furnish City, as additional insured, the minimum coverages identified below, or such greater or broader coverage for City, if available in the Contractor's policies:
 - a. **General Liability and Bodily Injury Insurance.** Commercial general liability insurance with limits of at least \$2,000,000 combined limit for bodily injury and property damage that provides that the City, its officers, employees and agents are named additional insured's under the policy as evidenced by an additional insured endorsement satisfactory to the City Attorney. The policy shall further state in writing either on the Certificate of Insurance or attached rider that this insurance will operate as primary insurance for work performed by Contractor and its subcontractors, and that no other insurance effected by City or other named insured will be called on to cover a loss.
 - b. **Automobile Liability Insurance.** Automobile liability insurance with limits not less than \$2,000,000 per person/per occurrence.
 - c. **Workers' Compensation Insurance.** Workers' Compensation Insurance for all of Contractor's employees shall be in strict compliance with State laws, including a waiver of subrogation and Employer's Liability Insurance with limits of at least \$1,000,000.

For work or services deemed public works, by signing this Agreement, Contractor is certifying, pursuant to Section 1861 of the California Labor Code, that: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

- d. Certificate of Insurance. Contractor shall file a certificate of insurance with the City prior to the City's execution of this Agreement, and prior to engaging in any operation or activity set forth in this Agreement. The Certificate of Insurance shall provide in writing that the insurance afforded by this Certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without providing notice to the City in accordance with California Insurance Code section 677.2 which requires the notice of cancellation to: 1) include the effective date of the cancellation; 2) include the reasons for the cancellation; and 3) be given at least 30 days prior to the effective date of the cancellation, except that in the case of cancellation for nonpayment of premiums or for fraud, the notice shall be given no less than 10 days prior to the effective date of the cancellation. Notice shall be sent by certified mail, return receipt requested. In addition, the insured shall provide thirty (30) days prior written notice to the City of any cancellation, suspension, reduction of coverage or in limits, or voiding of the insurance coverage required by this agreement. The City reserves the right to require complete certified copies of policies.
 - e. Subcontractors. Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.
 - f. Waiver of Subrogation. The insurer agrees to waive all rights of subrogation against the City, its officers, employees and agents.
 - g. Defense Costs. Coverage shall be provided on a "pay on behalf of" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusions.
6. **Independent Contractor.** The Contractor is an independent contractor retained by the City. All personnel employed by the Contractor, including subcontractors, and personnel of subcontractors, are not and shall not be employees of the City.
7. **Contractor's Warranty.** Contractor shall bear the risk of loss or damage to any goods associated with the services until delivered to and accepted by City. Contractor further warrants that all work done and goods provided under this Agreement shall: a) meet all conditions of the Agreement; b) shall be free from all defects in design, material and workmanship; and 3) shall be fit for the purposes intended. If any defects occur within the 12 months following acceptance, Contractor shall be solely responsible for the correction of those defects.
8. **Labor Code/Prevailing Wages.** The work performed under this Agreement is a "public work" and prevailing wage laws shall apply. No less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work under this Agreement shall be paid to all workers, laborers and mechanics employed in the execution of the work by the Contractor or any subcontractor doing or contracting to do any part of the work. The appropriate determination of the Director of the California Department of Industrial Relations shall be

available for inspection. Contractor shall post, at each job site, a copy of the prevailing rate of per diem wages.

To the extent applicable, Contractor shall comply with all requirements of the California Labor Code, including but not limited to, Labor Code sections: 1773.2 (regarding posting wage determinations at each job site); section 1776 (regarding the certification, maintenance, and availability for inspection of payroll records); section 1777.5 (regarding employment of apprentices); section 1810 (regarding a legal day's work as 8 hours of labor); and section 1775 (regarding penalties for violations). The Contractor shall forfeit fifty dollars (\$50.00) for each calendar day or portion thereof for each worker paid less than the stipulated prevailing rates for any public work done under the Agreement by it or by any subcontractor under Contractor.

9. **Notices.** All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

To Contractor: _____

To City: City Manager
City of Pleasanton
P.O. Box 520
Pleasanton, CA 94566

10. **Conflict of Interest.** In accepting this Agreement, Contractor covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of this Agreement. Contractor further covenants that, in the performance of this Agreement, it will not employ any person having such an interest. Contractor certifies that no City officer, employee, or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor agrees to advise City if any conflicts arise.

11. **Miscellaneous Provisions.**

- a. City may terminate this Agreement at any time by mailing a notice to Contractor. Contractor shall be paid for that portion of work or services already completed by Contractor as approved by City.
- b. Contractor acknowledges that time is of the essence regarding the performance of this Agreement.
- c. Contractor shall not assign or transfer this Agreement.
- d. If either City or Contractor waives a breach of this Agreement, such waiver shall not constitute a waiver of other or succeeding breaches of this Agreement.
- e. This Agreement constitutes the entire understanding of the parties.
- f. This Agreement may only be modified by a writing signed by the authorized representative of both parties.

- g. Contractor covenants that it has obtained and will keep in effect during the term of the Agreement all certificates, licenses, including a City Business License, permits or the like required by any federal, state or local regulatory agency in order to perform the work under this Agreement.
- h. Contractor shall comply with all federal, state and local laws, regulations and rules, including but not limited to applicable safety and environmental laws. Contractor shall bear full and exclusive responsibility for any release of hazardous or non-hazardous substances and disposal of hazardous wastes.
- i. The Contractor will permit the City to audit, examine and make copies of all contracts, invoices, payrolls and other documents or data relating to this Agreement. Such records shall be maintained for three years from the date of final payment under this Agreement.
- j. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with U.S. federal E-Sign Act of 2000 (15 U.S. Code §7001 et seq.), California Uniform Electronic Transactions Act (Cal. Civil Code §1633.1 et seq.), or other applicable law) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.
- k. This Agreement shall be governed by the laws of the State of California, with venue for any action under this Agreement in Alameda County, California.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

CITY OF PLEASANTON

CONTRACTOR

Gerry Beaudin, City Manager

By: _____
Signature

Print name

ATTEST:

Title: _____

Jocelyn Kwong, City Clerk

[If Contractor is a corporation, signatures must comply with California Corporations Code §313]

APPROVED AS TO FORM:

Signature

Daniel Sodergren, City Attorney

Print name

Title: _____

EXHIBIT A FY 2024/25 – RATE SHEET

FACILITIES MAINTENANCE & RENOVATIONS “HVAC SERVICE & REPAIRS”

SCOPE OF SERVICES

The City is seeking a qualified HVAC contractor to provide repair and replacement services for HVAC systems in City-owned buildings and structures. The contractor will perform scheduled maintenance tasks and emergency repairs on HVAC systems as needed to ensure the continued operation and safety of City buildings. Services will be provided on both a scheduled basis and during emergencies, with availability for 24-hour response, including overtime when necessary.

Routine Maintenance: Conduct regular inspections, cleaning, and lubrication of HVAC equipment components such as filters, coils, and moving parts. Ensure proper calibration of thermostats, testing of controls, and verification of refrigerant levels.

Repairs/Troubleshooting and Replacement of HVAC Systems: The contractor will be responsible for repairing and/or replacing HVAC systems in City buildings. Diagnose and address malfunctions in HVAC systems, including heating, ventilation, and air conditioning issues. Repair or replace faulty components, detect and repair leaks, and restore proper airflow and ventilation. This includes troubleshooting HVAC issues, upgrading outdated systems, and ensuring compliance with safety standards and regulations.

Emergency Services: Provide round-the-clock emergency HVAC repair services to address sudden breakdowns or malfunctions, ensuring minimal disruption to building occupants. A Prompt Response is expected to staff requests and deploy technicians for troubleshooting and resolve HVAC system failures, including loss of heating or cooling, refrigerant leaks, or system malfunctions.

Preventive Measures: Implement preventive measures to minimize the risk of future breakdowns or malfunctions. Provide recommendations for system upgrades or improvements to enhance energy efficiency and reliability.

Personnel, Materials, and Equipment: Qualified HVAC personnel equipped with the necessary tools, materials, and equipment will be provided by the contractor to perform the required services. All materials used must meet industry standards and safety regulations.

Compliance and Safety: Strict adherence to HVAC codes, regulations, and safety protocols is paramount to ensure the safety and functionality of HVAC systems within City buildings and structures. All safety requirements must be adhered to by the Contractor and/or any subcontractors while on-site.

Special License: Contractors must possess a valid HVAC license issued by the appropriate regulatory body. HVAC (Heating, Ventilation, and Air Conditioning) contractors and is categorized under the C-20 classification.

Communication and Collaboration: Effective communication and collaboration between the contractor and the City's project manager are essential for successful project execution. Regular updates, coordination

meetings, and clear communication channels will facilitate project progress and address any issues or concerns promptly.

Uniforms: Contractor’s crews should be identified either by a Company uniform, or by a safety vest worn outside other clothing with the Company name clearly displayed. Footwear must consist of a shoe that fully covers the entire foot. Soles will be neoprene or similar. No open toed shoes or sandals will be allowed.

Proximity ID Cards & Keys: Most buildings are fitted with a Proximity (Prox) card system that will allow access without the use of keys. Internal doors will use a key for access to individual rooms.

- An alarm access code and photo ID Prox Card will be issued to each employee of the Contractor. These are issued to the individual and **MUST NOT BE SHARED**. Sharing of alarm codes or prox cards are grounds for immediate termination of the contract.
- The Contractor shall be responsible to complete a Prox Card Request form for each employee (form provided by the City) to ensure that each employee be photographed and a prox ID card issued before their work in the city can begin. The Contractor shall also notice the City when an employee is terminated and submit the prox ID card to be destroyed. The Contractor shall provide a quarterly staff roster to ensure only those currently employed by the Contractor have access to city facilities.
- Non-employees or family members will **NOT** be allowed in any city facility at any time. Only authorize Contractor employees may be present during hours of service.

RATE SHEET

The cost quoted below shall include all taxes and all other charges, including travel expenses, and is the cost the City will pay for the term of any contract that is a result of this bid.

Bidder hereby certifies to City that all representations, certifications, and statements made by Bidder, as set forth in this Bid Form and attachments are true and correct and are made under penalty of perjury pursuant to the laws of California.

Contractor's Labor Rates (Hourly)

Position Description	Regular Time	Overtime	Emergency Callout
Foreperson	\$	\$	\$
Journey	\$	\$	\$
Laborer	\$	\$	\$
Apprentice	\$	\$	\$
Other:	\$	\$	\$

*If Contractor has their own Rate Sheet they can submit as additional sheet

Materials/Rentals	Example	% Mark-Up
*Materials	Invoicing must be demonstrated as a percentage. Example: Material \$1,000 + 10% (\$100) = \$1,100	%

*Outside Equipment (Rentals)	Invoicing must be demonstrated as a percentage. Example: Outside Equipment \$2,000 + 10% (\$200) = \$2,200	%
*Truck Stock/Consumable Items	Invoicing must be demonstrated as a percentage. Example: Inventory/Items on Truck \$1,000 + 10% (\$100) = \$1100	%
*OTHER:		%

***Special Notes: All receipts/invoices/price verification must be provided with these mark ups.
Mark Ups will remain the same for the term of the Agreement.
Rentals of Equipment must be pre-approved by City Project Manager.**

Contractor Name:

Signature: _____