

CITY OF ELK GROVE



**BID DOCUMENTS FOR HEATING, VENTILATION AND AIR
CONDITIONING (HVAC) MAINTENANCE SERVICES**

**City Clerk's Office
City of Elk Grove
8401 Laguna Palms Way
Elk Grove, CA 95758**

Bids Due by 2:00 PM Thursday September 14, 2017

General Information:

Introduction:

The City of Elk Grove ("City") is accepting bids ("Bids") from qualified contractors for Heating, Ventilation and Air Conditioning (HVAC) Maintenance Services in strict accordance with the specifications, terms, and conditions of this Invitation to Bid. Prospective bidders are advised to read this information over carefully prior to submitting a Bid.

One signed original, one (1) signed copy, and one USB Flash Drive copy of the Bids must be submitted to the Office of the City Clerk by 2:00 PM Thursday September 14, 2017. Bids shall be submitted in a sealed envelope clearly marked City of Elk Grove Heating, Ventilation and Air Conditioning (HVAC) Maintenance Services and addressed to:

**OFFICE OF THE CITY CLERK
CITY OF ELK GROVE
8401 Laguna Palms Way
Elk Grove, CA 95758**

Questions regarding this Bid are to be directed by e-mail to: Douglas Scott, Facilities and Fleet Manager; dscott@elkgrovecity.org. Such contact shall be for clarification purposes only. The City must receive all questions no later than **5:00 PM Monday September 11, 2017**. Material changes, if any, to the scope of services or Bid procedures shall only be transmitted by written addendum and posted to the City web site. Addendums and answers to submitted questions will be available via the City of Elk Grove web site by clicking "View" under View Details/Documents for the Bid announcement.

Bids shall not be accepted by fax or electronically.

Late Bids:

Bids arriving after the specified date and time shall not be considered, nor will late Bids be opened. Each Service Provider assumes responsibility for timely submission of its Bid.

Withdrawal or Modifications of Bids:

Any Bid may be withdrawn or modified by a written request signed by the Service Provider and received by the City Clerk prior to the final time and date for the receipt of bids. Once the deadline is past, Service Providers are obligated to fulfill the terms of their Bid.

Bids Acceptance and Rejection:

The City reserves the right to accept any Bid, reject any and all Bids, and to call for new bids or dispense with the Bid process in accordance with the Elk Grove Municipal Code

Phone: 916.683.7111
Fax: 916.691.3168

Web: www.elkgrovecity.org

8401 Laguna Palms Way
Elk Grove, California 95758



August 31, 2017

Douglas Scott, Facilities and Fleet Manager
City of Elk Grove, Finance Department
8401 Laguna Palms Way
Elk Grove, CA 95758

SUBJECT: QUOTE/INFORMAL BID FOR GOODS AND SERVICES RELATED TO HEATING, VENTILATION AND AIR CONDITIONING (HVAC) MAINTENANCE SERVICES FOR CITY OWNED BUILDINGS

Dear Douglas Scott:

I, _____, a representative of _____ (Company) (Also referred to as Bidder) hereby propose to furnish and deliver all necessary ongoing monthly maintenance, and separate but not included in monthly maintenance repair, partial or full replacement, labor, tools, materials, tax, services and other means to perform the work required to keep the existing or upgraded Heating, Ventilation and Air Conditioning Systems (HVAC) of City owned facilities in good working order in accordance with the Contract documents released for this Project, together with all Addenda (if any issued) issued by the City of Elk Grove. The amount set forth in the attached Bid Sheet (Pricing Page) covers all Work to be completed under the Contract, including, without limitation, all labor, materials, transportation and services necessary to complete the Work, including State of California and local sales or use taxes, license or permit fees, if any.

Bidder declares that it has carefully examined the location(s) of the proposed work, and has examined all Contract documents and addenda if issued by the City, and that it will contract with the City to complete the services in satisfactory condition, has completed the Bidder's checklist and all other bid documents, as applicable, set forth in the Contract documents.

If awarded the Contract, Bidder expressly agrees to executed the Contract and to begin work not later than the date listed on the notice to proceed. Bidder further agrees to complete all Work required under the Contract, upon the issuance of the Notice to Proceed, and accept in full payment the price indicated on the Pricing Page.

All Bidders shall complete all of the following:

Contractor's Name (Printed): _____

Bidders Signature: _____

Bidder's Name (Printed): _____

Bidders Title: _____

Address: _____

Phone Number: _____

Email: _____

Date: _____

Contractor's License Number: _____

Contractor's License Classification: _____

Contractor's License Exp. Date: _____

(NOTE TO BIDDERS: No bid shall be valid unless signed by the person making the bid. If the party is an individual, the same shall be signed by the individual; if the party is a partnership, the name of the partnership shall be given and signed by one of the partners; if the same is a corporation, the bid should be signed by the corporation by its properly authorized officer or officers.)

Attachments:

Bidder's Checklist

Bid Sheet

Contract

BIDDER'S CHECKLIST

All items on the Bidder's Checklist must be initialed and dated for the Bid to be considered complete. The City reserves the right to award a Contract in a manner and on the basis which will best serve the City, taking into consideration the information in the statement of Bidder's Experience/Qualifications and past work history with the City.

The Bidders' attention is especially called to the following forms which must be executed in full as required.

A-1. (a) Bid Sheet

The unit prices bid must be shown in the space provided. The total bid pricing must be shown in the spaces provided.

Initial: _____ Date: _____

(b) Bid Form

To be filled in and signed by the Bidder.

Initial: _____ Date: _____

A-2. Registration with the Department of Industrial Relations

The Bidder acknowledges they are currently registered with the Department of Industrial Relations. If the Bidder is unregistered it shall be registered prior to Contract award.

Initial: _____ Date: _____

A-3. Possession of Required Professional Licenses

The Bidder has submitted required professional licenses with bid as required in Contract Agreement, Section 37.

Initial: _____ Date: _____

A-4. Registration with the Department of Industrial Relations

The Bidder shall furnish with their bid proof of registration with the California Secretary of State for the bid documents to be considered complete.

Initial: _____ Date: _____

A-5. Bond Requirements

The Bidder understands that a performance bond issued by an approved surety equaling one hundred percent (100.0%) of the Contract amount shall be required.

Initial: _____ Date: _____

A-6. Addenda

The Bidder acknowledges that he must sign and attach any applicable addenda to the bid proposal.

Initial: _____ Date: _____

(SEE NEXT PAGE FOR BID SHEET)

**CITY OF ELK GROVE
BID SHEET FOR GOODS AND SERVICES RELATED TO HEATING, VENTILATION
AND AIR CONDITIONING (HVAC) MAINTENANCE SERVICES
A PUBLIC WORKS PROJECT**

Bidders must provide a price sheet containing the information below for the furnishing the City of Elk Grove with the manufacture and installation as required in accordance with the provisions and specifications of this Bid.

The Bid items listed are for evaluation purposes only. The quantities and items specified are estimates only of the City's requirements. Awarded Bidder agrees to furnish more or less than the estimates at the unit prices quoted in accordance with availability of funds and actual needs as they occur throughout period.

Provide time and materials for all items covered in the “Scope of Work and Bid Requirements” and “Minimum Service Matrix Attachment A” and “Maintenance Matrix Attachment B” for current City Facilities

Monthly Repair and Maintenance \$ _____

Time & Materials Rates for Maintenance and Service Straight Time, Labor rate, not covered under fixed price activities which include partial and full replacement of the HVAC system including but not limited to replacement of compressors, capacitors, and other non-routine items not included in the monthly repair and maintenance pricing above.

Per Hour \$ _____

Overtime labor rate not covered under fixed price activities

Per Hour \$ _____

Emergency and off-hour calls

Per Hour \$ _____

Vehicle Use Fee not covered under fixed price activities

Per Call Out \$ _____

Mileage Charges, for repair activities not covered under the fixed activities

Per Mile \$ _____

Parts, Percent Markup for repair activities not covered under the fixed activities

% _____

Prompt Payment Discount:

Will you offer a prompt payment discount? Yes [] or No [] (Net 45 days)

If Yes, the Payment Discount is _____% for payment within calendar days, which will be computed from the date delivery is made and is accepted by the City, or the date a proper invoice is received, whichever is later.

**CONTRACT BETWEEN
THE CITY OF ELK GROVE
AND**

**FOR GOODS AND SERVICES RELATED TO HEATING, VENTILATION AND AIR
CONDITIONING (HVAC) MAINTENANCE SERVICES
A PUBLIC WORKS PROJECT**

This Contract for Goods and Services (“Contract”) is made and entered into this ____ day of _____ 20__ (“Effective Date”) by and between the City of Elk Grove, a municipal corporation (“City”), and _____, a _____ (“Contractor”).

RECITALS

A. Contractor proposes to provide to City materials (“Goods”) and installation (“Services”) for Heating, Ventilation and Air Conditioning (HVAC) Maintenance, Repair and Replacement Services, a more detailed description of the Services and Goods is described on Exhibit A (Scope of Work), which is attached hereto and incorporated herein by reference; and,

B. City agrees to accept the Goods and Services from Contractor, subject to the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and promises of City and Contractor contained herein and the receipt of good and valuable consideration, the receipt of which is hereby acknowledged, City and Contractor hereby agree as follows:

AGREEMENT

1. Recitals and Exhibits. The above Recitals and Exhibits identified herein are true and correct and incorporated into this Contract by reference.

2. Purchase and Sale. Contractor agrees to provide, and City agrees to accept, the Goods and Services (also referred to as “Work”) pursuant to the terms and conditions set forth in this Contract.

3. Price. The Contractor shall be paid within 45 calendar days for the actual fees, costs and expenses for the time and materials required and expended, and approved by the City’s Facility and Fleet Manager, or his/her authorized representative, at the rates set forth on Exhibit B; in no event shall total compensation exceed \$175,000, including all applicable sales tax which shall be itemized on the invoice sent to City. Said amount shall be paid upon submittal of an invoice(s) for repairs and a monthly invoice showing completion of maintenance performed for the month, including the services rendered, the costs incurred for materials that are installed, the person(s) who performed services, the amount of time spent by such person(s), the applicable hourly rate, truck and/or fuel charges. If Contractor’s performance is not in conformity with the

Scope of Work or Schedule of Performance, payments may be delayed or denied, unless otherwise agreed to by the City's Facility and Fleet Manager or his/her authorized representative in writing.

4. Prevailing Wage. Contractor acknowledges that it has examined the prevailing rate of per diem wages as established by the U.S. Department of Housing and Urban Development and the California Director of Industrial Relations. The Contractor agrees to pay workers not less than the applicable prevailing rate of per diem wages.

(a) Contractor shall keep an accurate payroll record which shows the name, address, social security number, correct work classification (in accordance with the wage decision), both straight and overtime worked each day and week, and hourly rate of pay, gross wages earned, deductions made and net wages paid to each journeyman, apprentice (attention shall be directed to California Labor Code Section 1777.5 for compliance), worker or other employee paid by the Contractor/subcontractor in connection with the Work.

(b) These payroll records shall be certified and shall be made available at Contractor's principal office. These records shall be maintained during the course of the Work. The Contractor and all subcontractors shall make the certified payroll records available for inspection by City representatives upon request and shall permit such representatives to interview employees during the work hours on the job site.

(c) The City shall notify the Contractor in writing of any discrepancies or violations that are discovered during such inspections. Written notification pursuant to this Section shall include the actions that will be necessary to resolve the discrepancies and/or violations. The Contractor shall be held entirely responsible for the prompt resolution of all non-compliances with the prevailing wage laws, including those pertaining to all subcontractors and any lower-tier subcontractors.

(d) In order to bid on or to be listed on the bid proposal for this Public Works Project all Contractors and subcontractors shall be registered with the Department of Industrial Relations and be qualified to perform Public Work pursuant to Section 1725.5 of the California Labor Code. Unregistered Contractors may still submit bids provided the bid is authorized by 7029.1 of the Business and Professions Code or by either section 10164 and 20103.5 of the Public Contract Code and Contractors register with the Department of Industrial Relations to perform Public Work pursuant to California Labor Code Section 1725.5 at the time the Contract is awarded. Subcontractors shall be registered prior to bid opening or within 24 hours of bid opening and paid the required penalty registration fees. DIR registration is not required on Projects that do not exceed \$25,000

(e) The Project will not be accepted as complete by the City nor final payment made until all items of non-compliance are corrected or until appropriate

provision is made by depository agreement to assure the ultimate resolution and payment of any back wages that may be found due.

5. Term. This Contract shall be effective as of the date executed by the Parties and approved as to form by the City Attorney and shall terminate upon exhaustion of the total compensation amount authorized in Section 3 (Price) of this Contract, subject to earlier termination pursuant to Section 7 of this Contract. The City's Facility and Fleet Manager, in his/her sole discretion, may extend the Contract in the manner set forth in Section 19 of this Contract, subject to applicable law and City policy.

6. Schedule of Performance. Contractor shall complete all work to be performed under this Contract in accordance with the Schedule of Performance, attached hereto and incorporated herein by reference as Exhibit C.

7. Termination. This Contract may be terminated by City, at no additional cost to City, with or without cause, provided that City's Facility and Fleet Manager gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, Contractor shall only be compensated for authorized work performed through the date of termination, or notice of temporary suspension, whichever date occurs first, and shall not be entitled to damages or other compensation resulting from the termination of this Contract.

The City's Facility and Fleet Manager may temporarily suspend this Contract, at no additional cost to City, provided that Contractor is given written notice (delivered by certified mail, return receipt requested) of temporary suspension; a temporary suspension shall be effective immediately upon City's email or facsimile dispatch of the notice to Contractor. If City's Facility and Fleet Manager gives such notice of temporary suspension, Contractor shall immediately suspend its activities under this Contract. A temporary suspension may be issued concurrent with the notice of termination provided for herein.

Notwithstanding any provisions of this Contract, Contractor shall not be relieved of liability to City for damages sustained by City by virtue of any breach of this Contract by Contractor, and City may withhold any payments due to Contractor, subject to applicable law, until such time as the exact amount of damages, if any, due City from Contractor is determined.

In the event of termination, Contractor shall be compensated as provided for in this Contract.

8. Delivery of Goods. Contractor shall deliver the Goods to the Project site, as applicable, with shipping charges included in the price within the schedule set forth on Exhibit C, Schedule of Performance, and in a fully functioning manner consistent with the manufacturer specifications, all to the complete satisfaction of the City's Facility and Fleet Manager or his/her authorized representative. The Goods shall be delivered by Contractor to City free of any liens or encumbrances.

9. Inspection and Acceptance. The Goods and Services shall be received by City subject to City's reasonable inspection, testing, approval, and acceptance of the Goods and

Services. If the Goods are rejected by the City's Facility and Fleet Manager, or his/her authorized representative as nonconforming, City may return the Goods to Contractor at Contractor's risk and expense, and the Goods shall not be replaced or repaired by Contractor without written authorization from City's Facility and Fleet Manager or his/her authorized representative. If the Services are rejected by the City as nonconforming, Contractor may cure the nonconformance at Contractor's risk and expense within 15 calendar days' notice by City of the nonconformance.

Upon written notice to City that the Goods have been installed or Services completed, City shall have thirty (30) calendar days to inspect and accept the Goods and Services; if the City's Facility and Fleet Manager or his/her authorized representative does not provide written acceptance or a list of deficiencies within the thirty (30) calendar days, the Goods and Services shall be deemed accepted. Notwithstanding the foregoing, for those projects that require acceptance by the City Council, as determined by the City, the Goods and Services shall be deemed complete and accepted upon Resolution of the City Council.

10. Title/Risk of Loss. Title, ownership, and risk of loss or damage of the Goods shall remain with Contractor until the Goods are delivered to, installed, inspected and accepted by City, except when such loss or damage is due to the fault or negligence of City. Once accepted by the City's Facility and Fleet Manager or his/her authorized representative, subject to Section 9 above, title, ownership, and risk of loss shall transfer to City.

11. Workers' Compensation. For all installation, maintenance or other work related to the Work performed by Contractor in conjunction with this Contract, Contractor shall maintain Workers' Compensation insurance as required by California law.

12. Indemnity and Litigation Cost

(a) Promptly upon execution of the Contract, the Contractor specifically obligates itself and hereby agrees to protect, hold free and harmless, defend and indemnify the City, the City Engineer, and their consultants, and each of their officers, employees, contractors, and agents, from any and all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including attorney's fees, which arise out of or are in any way connected with the Contractor's, and/or Contractor's subcontractors' or suppliers', performance of work under this Contract or failure to comply with any of the obligations contained in the Contract. This indemnity shall imply no reciprocal right of the Contractor in any action on the Contract pursuant to California Civil Code section 1717 or section 1717.5. To the fullest extent legally permissible, this indemnity, defense and hold harmless agreement by the Contractor shall apply to any and all acts or omissions, whether active or passive, on the part of the Contractor and/or Contractor's agents, employees, representatives, contractors or subcontractor's agents, employees and representatives, resulting in a claim or liability, irrespective of whether or not any acts or omissions of the parties to be indemnified hereunder may also have been a contributing factor to the liability, except such loss or damage which was caused by the active negligence, the sole negligence, or the willful misconduct of the City, as determined by a Court of competent jurisdiction. Unless and until such judicial determination is made, or as otherwise agreed by the parties, Contractor shall remain obligated to defend, indemnify, and hold harmless the City, its officers, officials,

employees, volunteers, contractors and agents pursuant to this Contract. The provisions of this Section shall survive termination, expiration, or suspension of Contract.

(b) The indemnification obligation under this Section shall not be limited by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workers' Compensation statutes, disability benefit statutes or other employee benefit statutes.

13. Warranties. Except as otherwise stated herein, Contractor warrants that the Goods and Services, including any component or replacement parts, furnished, manufactured or provided by Contractor shall be free from defects in material and workmanship for life, provided that the City owns the Goods. All Goods and Services with such defects shall be replaced by Contractor at no charge to the City, and all associated labor and installation expenses for defective Goods will be provided to the City for three years from the effective date of this Contract. Any additional warranties provided by law, including, but not limited to, the warranty of merchantability and warranty of fitness for a particular purpose shall remain in full force and effect and inure to the benefit of City. City reserves all rights and remedies provided by law for breach of any applicable warranty related to the Goods.

Contractor shall provide a Faithful Performance Bond, in the form attached hereto as Exhibit F, and issued by an approved surety equal to one hundred percent (100%) of the Contract amount for all Contracts twenty-five thousand dollars (\$25,000.00) or greater.

14. Insurance. Prior to commencement of any work under this Contract, Contractor shall provide and maintain in effect during the term of this Contract evidence of insurance coverage as set forth in Exhibit D, which is attached hereto and incorporated herein by reference. These insurance requirements are summarized as follows:

TYPE	SINGLE LIMIT / OCCURRENCE	AGGREGATE	ENDORSEMENTS***
General Liability (1C)	\$1,000,000	\$100,000	Additional Insured Waiver of Subrogation Primary Non Contrib
Auto Liability (2A)	\$300,000 Non-Commercial Acceptable		
Work Comp (3A) Employer's Liability	Statutory \$1,000,000 each		Waiver of Subrogation

*****Must be actual endorsements. Typed statements on Certificates of Liability are unacceptable.**

This is a summary only. Please refer to the insurance section and/or exhibit of this contract for specific requirements.

Furthermore, Contractor shall certify its compliance with Labor Code Section 3700 in the form attached hereto and incorporated by reference, as Exhibit E.

15. Evidence of Insurance Coverage. Contractor or its insurance broker shall deliver the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to City. City may designate an insurance certificate processor (“Processor”) to accept and process Contractor’s proof of insurance. Contractor/Contractor shall deliver copies of the actual insurance policies, renewals, or replacements directly to City or City’s upon their request.

16. Remedies. In the event of a material breach of this Contract by Contractor, City may avail itself of any other right and remedies available at law or in equity. Nothing herein shall limit City’s rights to seek any available remedy including, but not limited to, damages and/or equitable relief, in a court of competent jurisdiction.

17. Compliance with Laws. Contractor shall comply with all applicable governmental laws, the City Municipal Code, rules, regulations, City of Elk Grove Standard Construction Specifications, State Standard Specifications programs, plans, and orders in the performance of this Contract. Attention is directed specifically to Section 1735 of the Labor Code, which reads as follows: “A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of this chapter.”

The Contractor is an independent Contractor and shall, at the Contractor’s sole cost and expense, comply with all laws, rules, and regulations of all governing bodies having jurisdiction over the Goods and Services, obtain all necessary permits and licenses thereof, pay all manufacturers’ taxes, sales taxes, use taxes, processing taxes, and all federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries or any remuneration paid to Contractor’s employees, whether levied under existing or subsequently enacted laws, rules or regulations. The Contractor shall also pay all property tax assessments on materials or equipment used until accepted by the City. If any discrepancy or inconsistency is discovered in the plans or specifications, or in this Contract in relation to any such law, rule, regulation, order or decree, the Contractor shall immediately report the same to the City Engineer in writing. Contractor shall also protect, defend and indemnify the City, the City Engineer, and all of the City’s officers, agents, employees and contractors against any claim or liability arising from this Contract including but not limited to the violations of any such law, rule, Code, regulation, order or decree or any claim for damages received by the City from a third party, whether such act or omission was done by the Contractor, its employees or its subcontractors. Particular attention is called to the following:

Without limitation, materials furnished and performance by Contractor hereunder shall comply with Safety Orders of the Division of Industrial Safety, State of California, Federal Safety regulations of the Bureau of Labor, Department of Labor; and any other applicable Federal regulations.

The Contractor, upon request shall furnish evidence satisfactory to the City and City Engineer that any or all of the foregoing obligations have been or are being fulfilled. The Contractor warrants to the City that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the work, and that it has, and will have, throughout the progress of the Work, the necessary experience, skill and financial resources to enable Contractor to perform this Contract.

Contractor is required to ensure that material safety data sheets (MSDS's) for any material requiring a material safety data sheet pursuant to any federal or state law are available in a readily accessible place on the Project premises. Contractor is also required to ensure (i) the proper labeling of any substance brought onto the Project premises by Contractor or any subcontractors, and (ii) that the person(s) working with the material, or within the general area of the material, are appropriately informed about the hazards of the substance and follow proper handling and protection procedures.

Contractor is required to comply with the provisions of California Health and Safety Code section 25249.5, et seq. (Prop. 65), which requires the posting and giving of notice to persons who may be exposed to any chemical known to the State of California to cause cancer.

18. Notice of Material Change in Business. In the event of a material change in Contractor's business, written notice shall be given to City of the proposed change. City's Facility and Fleet Manager or his/her authorized representative may, in its sole discretion, reject the proposed change. Any amendments to the Contract shall be made in compliance with section 19 of this Contract. A material change in business must comply with all applicable laws, ordinances, codes, rules, regulations, programs, plans, and orders in the performance of this Contract.

19. Amendments, Changes or Modifications. Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the Parties hereto and shall be signed by the persons authorized to bind the Parties.

20. Attorneys' Fees. If any party to this Contract shall take any action to enforce this Contract or for any relief against any other party, declaratory or otherwise, arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in such action, suit and/or enforcement of any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid by the losing party whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For purposes of this section, attorneys' fees shall also include, but not be limited to, fees incurred in the following: (a) appeals or post-judgment motions and collection actions; (b) contempt proceedings; (c) garnishment, levy, and debtor and third party examinations; (d) discovery; and (e) bankruptcy litigation. The provisions of this section shall survive any termination of the Contract as provided for herein.

21. Notices. All notices, requests, demands, and other communications required to or permitted to be given under this Contract shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other party; (b) when received if sent by email or facsimile at the address and number set forth below; (c) three (3) business days after the same

have been deposited in a United States Post Office with certified mail, return receipt requested, postage prepaid and addressed to the parties as set forth below; or (d) the next business day after same have been deposited with a national overnight delivery service reasonably approved by the parties (Federal Express, Golden State Couriers, and DHL WorldWide Express being deemed approved by the parties), postage prepaid, addressed to the parties as set forth below with next-business-day delivery guaranteed:

TO CONTRACTOR: _____

Telephone: _____
Facsimile: _____
Email: _____

TO CITY: CITY OF ELK GROVE
Attn: Douglas Scott, Facility and Fleet Manager
8401 Laguna Palms Way
Elk Grove, CA 95678
Telephone: 916-627-3443
Facsimile: 916-627-4150
Email: dscott@elkgrovecity.org

A party may change or supplement the addresses given above, or designate additional addresses, for purposes of this section by giving the other parties written notice of the new address in the manner set forth above.

22. Notice to Proceed. Prior to commencing work under this Contract, Contractor shall receive a written "Notice to Proceed" from City. A Notice to Proceed shall not be issued until all necessary insurance has been received. City shall not be obligated to pay Contractor for any goods or services provided prior to issuance of the Notice to Proceed.

23. Entire Agreement. This Contract contains the entire agreement between City and Contractor in connection with the transaction contemplated hereby and the subject matter hereof and this Contract supersedes and replaces any and all prior and contemporaneous agreements, understandings, and communications between the parties, whether oral or written, with regard to the subject matter hereof or any course of dealing, course of performance, or usage of the trade. Parol evidence shall be inadmissible to show agreement by and between City or Contractor to any term or condition contrary to or in addition to the terms and conditions contained in this Contract. Both parties acknowledge that each has not relied on any promise, representation or warranty, express or implied, not contained in this Contract.

24. Changes in the Work. The City may, at any time, by written order, make changes in the Goods and Services as deemed necessary by the City Engineer or designee. Such changes include, but are not limited to, changes:

a. In the Specifications or Plans;

In the sequence, method or manner of performance of the work;
In the owner-furnished facilities, equipment, materials, services or site; or
Directing acceleration of the Work.

If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of the Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly.

b. Change Orders

A change pursuant to this Section shall be in the form of a Contract Change Order which will set forth the work to be done or the method by which the change and cost adjustment, if any, will be determined, and the time of completion of the work.

Upon receipt of a Contract Change Order, the Contractor shall proceed with the ordered work. If ordered in writing by the City Engineer, or designee, the Contractor shall proceed with the work so ordered prior to actual receipt of a Contract Change Order. A Contract Change Order executed by the Contractor and approved by the City is an executed Contract Change Order as that term is used throughout this Section.

c. Change Order Protests

A Contract Change Order may be issued to the Contractor at any time. Should the Contractor disagree with any terms or conditions set forth in an unexecuted Contract Change Order, it shall submit a written protest to the City Engineer within fifteen (15) days after the receipt of such Contract Change Order. The protest shall state the points of disagreement and, if possible, the quantities and cost involved. The Engineer shall review all protests and shall provide a written response stating what is disputed or undisputed about the protest. If a written protest is not submitted, payment shall be made as set forth in the Contract Change Order, whether or not executed. Such payment shall constitute full compensation for all work included therein or required thereby. Such unprotested Contract Change Orders shall be considered as executed Contract Change Orders.

Where the protest concerning a Contract Change Order relates to compensation, the compensation payable for all work specified or required by said Contract Change Order to which such protest relates will be determined in the same manner as provided in this Section. The Contractor shall keep full and complete records of the cost of such work and shall permit the City Engineer to have such access thereto as may be necessary to assist in the determination of the compensation payable for such work. Where the protest concerning a Contract Change Order relates to the adjustment of time and the completion of the work, the time to be allowed therefore will be determined as provided in this Section.

The consent of the Contractor's sureties shall not be required as to any change or extra work, and the liability of the Contractor's Bonds shall be increased or decreased accordingly without notice to the sureties.

25. Assignment. Contractor shall not delegate or subcontract any duties or assign any rights or claims under this Contract without the City's Facility and Fleet Manager's prior written consent.

26. Severability. If any term or provision of this Contract shall, to any extent, be held invalid or unenforceable, the remainder of this Contract shall not be affected.

27. Waivers. A waiver or breach of a covenant or provision in this Contract shall not be deemed a waiver of any other covenant or provision in this Contract and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act.

28. Construction. The section headings and captions of this Contract are, and the arrangement of this instrument is, for the sole convenience of the parties to this Contract. The section headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Contract. The singular form shall include plural, and vice versa. Unless otherwise indicated, all references to sections are to this Contract. All exhibits referred to in this Contract are attached hereto and incorporated herein by this reference.

29. Drafting. City and Contractor acknowledge and agree that this Contract has been negotiated at arm's length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Contract is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Contract, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Contract.

30. Counterparts. This Contract may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

31. Time of the Essence. Contractor and City hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof, particularly, and without limitation of factors contributing to the need for timely compliance of this Contract.

32. Successors. This Contract shall inure to the benefit of and shall be binding upon the parties to this Contract and their respective heirs, successors in interest, and assigns. This Contract may only be assigned upon written approval and agreement of the parties, which approval will not be unreasonably withheld. Any purported assignment of this Contract without the prior written approval of all parties shall be null and void.

33. Governing Law. The parties acknowledge that this Contract has been negotiated and entered into in the State of California, County of Sacramento. The parties agree that this Contract shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California. Venue for any action or proceeding relating to or arising out of this Contract shall be in the County of Sacramento.

34. No Third Party Beneficiary Rights. This Contract is entered into for the sole benefit of City and Contractor. No other parties are intended to be direct or incidental beneficiaries of this Contract and no third party shall have any right in, under or to this Contract.

35. No Joint Venture, Partnership or Other Relationship Created. The relationship between City and Contractor is that solely of a Contractor and City and no joint venture, partnership or other relationship is created or implied by this Contract.

36. Conflict of Interest. Contractor certifies that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Contract. Contractor agrees to advise City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Contract. Contractor further agrees to complete any statements of economic interest if required by either City ordinance or State law.

37. Licenses, Permits, and Other Approvals. Contractor represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature legally required for Contractor to practice its profession and perform the work described herein. Contractor represents and warrants to City that Contractor shall, at its sole cost and expense, obtain and/or keep in effect at all times during the term of this Contract any licenses, permits, and approvals which are legally required for Contractor to practice its profession at the time the services are performed.

Any professional certifications or licenses that may be required shall be the sole cost and responsibility of the Contractor. The Contractor shall hold such licenses as may be required by the laws of the State of California Contractors State License Board for the performance of the work specified in this Scope of Services. Contractor must possess at time of bid submission and for the duration of the contract the following contractor licenses:

Current General Contractors License: C-4 Boiler, Hot Water Heating; C-10 Electrical; C-20 Warm-Air Heating, Ventilating and Air-Conditioning; C-38 Refrigeration; and C-43 Sheet Metal Contractor's License issued by the State of California. Contractor must also possess Environmental Protection Agency (EPA) Certified Universal Refrigerant Handling.

Contractor shall also be registered and in good, active, standing with the Secretary of State and possess a current City of Elk Grove Business License at all time during the term of this Contract.

Consultant shall provide City with all Material Safety Data Sheets (MSDS) for all products to be used on City facilities at the beginning of the Contract and each calendar year.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in Elk Grove, California, by affixing their signatures below, and this Contract shall be deemed effective as of the date on which each of the parties execute this Contract as indicated by the dates below. In the event that the parties do not execute this Contract on the same date, the effective date of this Contract shall be the latest date on which one of the parties executes this Contract.

CONTRACTOR

Dated: _____, 20__

By: _____
Contractor's Name, Title

CITY OF ELK GROVE

Dated: _____, 20__

By: _____
Laura S. Gill, City Manager

APPROVED AS TO FORM:

Jonathan P. Hobbs, City Attorney Date

ATTEST:

Jason Lindgren, City Clerk Date

EXHIBIT A

SCOPE OF WORK

Overview:

The Work to be completed by Contractor shall include the following eight (8) buildings:

1. 8401 Laguna Palms Way (City Hall);
2. 8400 Laguna Palms Way (Police Department and Council Chambers);
3. 8380 Laguna Palms Way (Administration);
4. 8978 Elk Grove Blvd. (Teen Center);
5. 8900 Elk Grove Blvd. (Library);
6. 10250 Iron Rock Way (Corporation Yard);
7. 10190 Iron Rock Way (Police Fleet Facility); and
8. 9255 Disposal Lane (Special Waste Collection Center)
(See Attachment B: HVAC Minimum Service Matrix).

Units:

There are fifty-six (56) HVAC units, and various other exhaust fans, vents, compressors, pumps, and heaters located throughout the eight locations listed above. Contractor shall perform service and maintenance for all units and components, which shall include, but not be limited to, the services listed on the Minimum Equipment Type Service Matrix attached hereto, and incorporated herein by reference, as Attachment A and B.

Specialized Units:

As part of the monthly maintenance cost Contractor shall include all of the following in their fee:

For the facility located at 8400 Laguna Palms Way (Police Department Dispatch Center), Contractor shall install Tackifire/Tridin MERV 8 fabricated pre-filters and change them with regular filters quarterly.

For the facility located at 8400 Laguna Palms Way (Council Chambers), Contractor shall clean the Energy Recovery Wheel annual utilizing a non-acid cleaner.

For the facility located at 8401 Laguna Palms (City Hall), Contractor shall remotely monitor the unit and components remotely. Contractor shall have "Carrier Comfort Network" software prior to executing this Contract for monitoring and programming of the facility HVAC system. There shall be no additional changes by Contractor to City to access the system, to make program changes, such as set point adjustments, adjust holiday scheduling, or to troubleshoot the building's system.

For the facility located at 8900 Elk Grove Boulevard (Library), the HVAC system is controlled by a Daikin VRV five (5) condenser system with 24 register air filters.

Square Footage:

Total square footage of the buildings listed above is approximately one-hundred-twenty thousand (122,000) square feet, not including sixty-thousand (60,000) square feet that is warehouse space and not temperature-controlled. The 122,000 square feet is divided by restrooms, office space, conference rooms, lobbies, hallways, locker rooms, exercise rooms, cubicles, and other spaces typical of the type of building use. Contractor acknowledges and agrees that it had the opportunity to inspect all facilities prior to entering into this Contract.

Materials:

All tools, equipment, chemicals, and vehicles are to be supplied necessary to successfully perform the Work required under this Contract shall be supplied by Contractor. All maintenance, and repairs to Contractor's equipment are the responsibility of Contractor and shall not be charged to the City. Contractor's obligation to supply, and its sole cost, all items necessary for the Work further includes, without limitation, all materials such as filters, lubricants, sealant, and other materials needed for regular maintenance.

Personnel: All Contractor's laborers providing Work under this Contract shall at all times be employees of Contractor and not the City. Contractor shall designate qualified representatives with experience in the services being provided. Contractor's workforce shall be easily identified at all times while at City facilities either through uniform or identification.

Additionally, Contractor's maintenance laborers shall be Environmental Protection Agency (EPA) Certified in Universal Refrigerant Handling; copies of certifications of Contractor's employees shall be submitted by Contractor to City as part of Work Plan.

Interference:

Contractor shall conduct the work in a manner that will cause minimal inconvenience to other persons in the area.

Fixture Damage:

Facilities, fixtures, equipment, or structures that are damaged due to the Contractor's operations must be replaced or repaired by Contractor at no expense to the City.

Extra Work:

Any repair or replacement work to be done that is not included in this scope of work shall be invoiced on a "time and materials" basis at the rates set forth on Exhibit B, provided that Contractor receives prior written approval by the City's Fleet and Facilities Manager. This Contract is non-exclusive and the City reserves the right to have extra work done by other contractors.

Emergency / Off-Hour Calls:

For emergency and off-hour calls, Contractor shall provide a representative that is available at all hours. The contact information for the 24-hour representative is as follows:

Name: _____
Address: _____

Telephone: _____
Email: _____

All call outs shall be within 4 hours of City's request, regardless of whether the call for service is off-hour, unless the determines an emergency requires a more expedient response.

For emergency and off-hour calls, Contractor shall invoice the City at the rates stated on Exhibit B.

Key Controls / Security:

The City shall furnish access to all areas of facilities where Contractor is to perform Work as required by this Contract in accordance with the Security Access Requirements of the City, as attached hereto and incorporated herein by reference as Exhibit G. Contractor shall comply with all provisions of the Security Access Requirements (Exhibit G). Keys and / or access key cards must be kept by Contractor in a secured manner and immediately reported to the City if lost or stolen.

Uniforms and Dress:

Contractor's personnel shall wear a name tag or have some form of identification and company name/logo shown. Payment for uniforms and personal protective equipment shall be at Contractor's sole cost; no additional compensation shall be allowed for uniforms and personnel equipment.

Vehicles, Equipment and Maintenance Requirements:

Vehicles and equipment used by Contractor within the City shall at all times be maintained in good and safe mechanical condition, clean and free of leaks, and must otherwise conform to all federal, state, and local laws and safety regulations, including, but not limited to, the use of alarms when backing. Contractor must be properly register and insure all machines in accordance with state law and this Contract. Contractor shall take necessary precautions for the safe operation of its equipment and the protection individuals from injury and damage from such equipment.

Training:

Contractor shall provide personnel fully qualified and trained to perform their required tasks. Contractor shall ensure that all licenses, certifications, and other required registrations are held by personnel supervising and performing tasks as required by state, local and federal regulations. The costs of these licenses, certifications, and associated training shall be paid by Contractor. Contractor is responsible for performing all drug testing of its' personnel, as required by law. At the request of the City, Contractor shall provide the results of drug testing to the City.

ATTACHMENT A

MINIMUM SERVICE MATRIX

<u>MFG</u>	<u>TONS</u>	
8380 Laguna Palms Drive (Admin Offices)		
Carrier	AC1	8
Carrier	AC2	8
Carrier	AC3	8
Carrier	AC4	8
Carrier	AC5	8
Carrier	AC6	8
Carrier	AC7	8
Carrier	AC8	8
Carrier	AC9	8
Carrier	Ductless Split 1	2
Mitsubishi	Ductless Split 2	3/4
8400 Laguna Palms Drive (Admin Offices)		
Carrier	AC1	8.5
Carrier	AC2	7.5
Carrier	AC3	3
Carrier	AC4	5
Carrier	AC5	12.5
Carrier	AC6	3
Carrier	AC7	6
Carrier	AC8	10
Carrier	AC9	4
Carrier	AC10	8.5
Carrier	AC11	8.5
Carrier	AC12	4
Carrier	AC13	6
Mitsubishi	Ductless Split 1	3/4
Carrier	Ductless Split 2	2
Fujitsu	Ductless Split 3	1
8400 Laguna Palms Drive (Dispatch Center)		
Trane	HP1	10
Trane	HP2	10
Trane	HP3	7.5
8900 Elk Grove Blvd (Library)		
Daikin	VRV 5 Condenser	N/A

<u>MFG</u>	<u>TONS</u>	
8401 Laguna Palms Way (City Hall)		
Carrier	AC1	15
Carrier	AC2	60
Carrier	AC3	60
Trane	Ductless Split 1	2.5
Trane	Ductless Split 2	1
Ray Pack	Boiler	
10250 Iron Rock Way (Corp Yard)		
York	AC1	7.5
York	AC2	4
York	AC3	8.5
York	AC4	5
York	AC5	3
York	AC6	7.5
Carrier	HP Split #1	4
Carrier	HP Split #2	3
Sanyo	Ductless Split	2.5
Amana	Window A/C	1/4
IR	Compressor	10 hp
IR	Compressor	10 hp
	Domestic Pump	3 hp
10190 Iron Rock Way (Fleet Facility)		
Carrier	AC1	10
Carrier	AC2	7.5
Carrier	AC3	6
Mitsubishi	Ductless Split 1	3/4
Mitsubishi	Ductless Split 2	3/4
8978 Elk Grove Blvd (Teen Center)		
Carrier	Split System AC1	3
Carrier	Split System AC2	3
Mitsubishi	Ductless Split 1	3
9255 Disposal Lane (SWCC Center)		
Carrier	Split System 1	5
Carrier	Heat Pump	5

ATTACHMENT B

MAINTENANCE MATRIX

HEATING, VENTILATION, AND AIR CONDITIONING MINIMUM REQUIREMENTS FOR: 8380 Laguna Palms Way, 8400 Laguna Palms Way, 8401 Laguna Palms Way, 8900 Elk Grove Blvd, 8978 Elk Grove Blvd, 10250 Iron Rock Way, 10190 Iron Rock Way, 9255 Disposal Lane			
MINIMUM REQUIREMENTS	Q	A	AR
	QUARTERLY	BIANNUALLY	AS REQUESTED
Heating, Ventilation, and Air Conditioning Units, (including fans and thermostats, etc.)			
CHANGE AIR FILTERS	X		
CLEAN WASHABLE FILTERS	X		
CLEAN ECONOMIZER FILTERS	X		
CHECK COIL CONDITION	X		
CLEAN COILS		X	
CLEAN CONDENSATION DRAINS	X		
CHECK SAFETIES, AND VALVES	X		
LUBRICATE AS NEEDED	X		
CHECK HEATER COILS	X		
INSPECT OIL LEVELS	X		
VISUAL INSPECTION (LEAKS, SAFETY HAZARDS)	X		
VISUAL INSPECTION (FAN ROTATION, ALIGNMENT, BLADES, BEARINGS, LEAKS, SAFETY HAZARDS)	X		
CHECK FAN ROTATION, ALIGNMENT, BLADES	X		
CHECK BELTS	X		

ATTACHMENT B

MAINTENANCE MATRIX (CONTINUED)

HEATING, VENTILATION, AND AIR CONDITIONING MINIMUM REQUIREMENTS FOR: 8380 Laguna Palms Way, 8400 Laguna Palms Way, 8401 Laguna Palms Way, 8900 Elk Grove Blvd, 8978 Elk Grove Blvd, 10250 Iron Rock Way, 10190 Iron Rock Way, 9255 Disposal Lane			
MINIMUM REQUIREMENTS	Q	A	AR
Heating, Ventilation, and Air Conditioning Units, (including fans and thermostats, etc.)	QUARTERLY	ANNUALLY	AS REQUESTED
REPLACE ALL BELTS		X	
CHECK ALL ELECTRICAL CONNECTIONS	X		
CONTROLS MONITORING AND SET POINT ADJUSTMENTS			X
BOILER DIGITAL COMBUSTION ANALYSIS		X	
CHECK AND SET THERMOSTATS	X		

EXHIBIT B

PRICE

[To be inserted after selection of Contractor]

EXHIBIT C

SCHEDULE OF PERFORMANCE

SCHEDULE DAY OF SERVICE:

All scheduled service and maintenance work shall be performed by Contractor Monday thru Friday during normal City facility hours, excluding holidays recognized by the City as per the Service and Maintenance Schedule Attachment B. At the beginning of the Contract term and each calendar year thereafter, City shall provide Contractor a yearly calendar outlining the scheduled service month and day.

EXHIBIT H
INSURANCE REQUIREMENTS

Prior to commencement of any Work under this Contract, Contractor shall provide to the City proof of, and maintain in full force and effect at all times during the term of the Contract, at its sole cost and expense, policies of insurance as set forth herein:

1. General Liability:
 - a. Comprehensive general liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
 - b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
 - c. Claims-made coverage is not acceptable.
 - d. The limits of liability shall not be less than:

Each occurrence:	One Million Dollars (\$1,000,000)
Products & Completed Operations:	One Million Dollars (\$1,000,000)
Personal & Advertising Injury:	One Million Dollars (\$1,000,000)
 - e. If a products and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the each occurrence limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to this contract.
 - f. Coverage shall contain a provision or endorsement that waives any rights of subrogation against the City, its officers, officials, employees, agents, and volunteers.

2. Automobile Liability:
 - a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of hired and non-owned automobiles.
 - b. Non-commercial policies are acceptable.

3. Worker's Compensation
 - a. Worker's Compensation Insurance, with coverage as required by the State of California (unless the Contractor is a qualified self-insurer with the State of California), and Employers Liability coverage. Contractor shall execute a certificate in compliance with Labor Code Section 1861, on the form provided in Exhibit E.
 - b. Employer's Liability Coverage shall not be less than the statutory requirements.
 - c. If an injury occurs to any employee of the Contractor for which the employee or his dependents, in the event of his death, may be entitled to compensation from

the City under the provisions of the Acts, for which compensation is claimed from the City, there will be retained out of the sums due the Contractor under this Contract, an amount sufficient to cover such compensation as fixed by the Acts, until such compensation is paid or it is determined that no compensation is due. If the City is required to pay such compensation, the amount so paid will be deducted and retained from such sums due, or to become due to the Contractor.

- d. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by the Contractor.
4. **Other Insurance Provisions:** The general liability coverage shall contain the following provisions and endorsements:
 - a. The City, its officials, employees, agents and volunteers shall be covered and specifically named as additional insured as respects liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor, premises owned, occupied, or used by the Contractor, or automobiles owned, leased, hired, or borrowed by the Contractor on a separate endorsement acceptable to the Risk Manager.
 - b. The policy shall contain no special limitations on the scope of coverage afforded to the City, its officials, employees, agents or volunteers.
 - c. Provision or endorsement stating that for any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers to the extent the City is an additional insured. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it, to the payment or satisfaction of any defense expenses, loss or judgment.
 - d. Any failure to comply with reporting or other provisions of the policies on the part of the Contractor, including breaches of warranties, shall not affect Contractor's requirement to provide coverage to the City, its officers, officials, employees, agents or volunteers.
 5. Acceptability of Insurers: Insurance is to be placed with insurers with **a Bests' rating of no less than A:VII.**
 6. Any deductibles, aggregate limits, pending claims or lawsuits that may diminish the aggregate limits, or self-insured retention(s), must be declared to, and approved by, the City.
 7. The Contractor shall furnish the City with certificates of insurance and original endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this Contract. At anytime at the written request of the City, Contractor agrees to furnish a duplicate

original or certified copy of each required policy including the declaration pages, conditions, provisions, endorsements, and exclusions.

8. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
9. The Contractor shall serve the City notice, in writing by certified mail, within 2 days of any notices received from any insurance carriers providing insurance coverage under this Agreement that concern the suspension, voidance, cancellation, termination, reduction in coverage or limits, non-renewal, or material changes of coverage proposed or otherwise.
10. If the Contractor fails to procure or maintain insurance as required by this section, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Contractor under the contract.
11. Failure of the City to obtain such insurance shall in no way relieve the Contractor from any of its responsibilities under the contract.
12. The making of progress payments to the Contractor shall not be construed as relieving the Contractor or its Sub-contractors or agents of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.
13. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
14. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Contractor are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Contractor under the Contract.

EXHIBIT E

Certificate of Compliance With Labor Code § 3700, Release and Indemnification

The undersigned, on behalf of and as the duly certified representative of Contractor, certifies as follows:

1. Contractor is 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 Contractor has complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor Code §§1860, 1861.)
2. Should Contractor fail to secure Workers' Compensation coverage as required by the State of California, Contractor shall release, hold harmless, defend and indemnify the City of Elk Grove from and against any damage, liability, claim, cause of action and any other loss, including without limitation, court costs, reasonable attorney's fees and costs resulting from any failure to take and/or maintain Workers' Compensation insurance as required by law. The provisions of this Exhibit shall survive termination, suspension and/or completion of this Contract. It is further understood and agreed that this release and assumption of risk is to be binding on Contractor's successors, heirs and assigns.

Contractor

By: _____

Date: _____

Name: _____

Title: _____

EXHIBIT F

FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, THE CITY OF ELK GROVE, hereinafter designated as the “City”, entered into a Contract dated _____, 20__, with _____ hereinafter designated as the “Contractor” for the work described as follows:

Heating, Ventilation and Air Conditioning (HVAC) Maintenance Services

WHEREAS, the Contractor is required under terms of said Contract to furnish a bond for the faithful performance of said Contract;

WHEREAS, the Contract is by reference made a part hereof;

NOW, THEREFORE, we, _____ the undersigned Contractor, as Principal, and _____ (corporate surety), a corporation organized and existing under the laws of the State of _____, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of _____ dollars (\$_____), lawful money of the United States, said sum being not less than one hundred (100) percent of the total Contract amount, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT, if the above bounded Contractor, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the Contract and any alterations thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and virtue.

As a condition precedent to the satisfactory completion of the Contract, the above obligation in said amount shall hold good for a period of one (1) year after the completion and acceptance of the said work, during which time if the above bounded Contractor, his or its heirs, executors, administrators, successors or assigns shall fail to make full, complete, and satisfactory repair and replacements or totally protect the City from loss or damage made evident during said period of one year from the date of acceptance of said work, and resulting from or caused by defective materials or faulty workmanship in the prosecution of the work done, the above obligation in the said sum shall remain in full force and effect. However, anything in this paragraph to the contrary notwithstanding, the obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains.

And the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder or the specifications accompanying the same shall, in any way, affect its obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or the specifications. Said Surety hereby waives the provisions of Sections 2819 and 2845 of the Civil Code of the State of California.

In the event suit is brought upon this bond by the City and judgment is recovered, the Surety shall pay all costs incurred by the City in such suit, including reasonable attorney's fees to be fixed by the Court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, 20__.

Name of Surety

Contractor

By: _____
Title: _____

Mailing Address of Surety

and

Telephone No. of Surety

By: _____
Title: _____

By: _____
Attorney in Fact

NOTE: If Contractor is Partnership, all parties must execute Bond.

IMPORTANT: Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in California.

NOTICE: The signature of the Surety on this bond must be acknowledged before a notary public, and this bond must be accompanied by evidence of the signatory's appointment as attorney in fact and authority to bind the Surety.

MANDATORY: The Surety shall be authorized and licensed by the California Insurance Commissioner as an "admitted surety insurer." (See Cal. Code Civ. Proc. § § 995.310, 995.311, 995.320)

APPROVAL: Bonds must be approved by the City. In order to verify the status of the Surety as an admitted surety, the Surety shall provide the City with at least one of the following: (1) a print-out of information from the web-site of the Department of Insurance confirming the Surety is an admitted surety insurer and attaching it to the bond; or (2) a certificate from the Sacramento County

Clerk that the certificate of authority of the Surety has not been surrendered, revoked, cancelled, annulled or suspended and confirming that the Surety is an admitted surety and attaching the certificate to the bond. (See Cal. Code Civ. Proc. Code § 995.311).

EXHIBIT G
SECURITY ACCESS REQUIREMENTS

Contractor and its employees requiring access to any City of Elk Grove buildings or facilities (“City Property”) shall complete a security and criminal history check. Any individual with a felony arrest shall not be granted unescorted access to City Property; other arrest history shall be evaluated.

Contractor and all its employees, subcontractors, and any other individual gaining access to City facilities to perform Work under this Contract shall undergo a “Live Scan” check with the results directed back to the City of Elk Grove. “Live Scan” is a system that completes a criminal history inquiry by checking local, state and national databases. The City will be provided with a list of any arrests and convictions and be notified of any subsequent arrests. Once Live Scan results are received and reviewed by the City, individuals may set an appointment with the Elk Grove Police Department to receive an identification and access card; a photo ID shall be required. Contractor shall be contacted when the access cards are available.

Security privileges associated with the access to City property and facilities is dependent upon which area(s) of the building Contractor/ Contractor’s employees require access to relative to the type of work or service being performed. An access card will be issued and this card will allow unescorted access and will not require Contractor/ Contractor’s employees to first check in with the Police Service Center front counter staff. In addition to the completing the criminal background check, Contractor/ Contractor’s employees shall be required to agree to the following:

- a) Contractor agrees to assign a primary employee to complete job tasks at City facilities whenever possible.
- b) Contractor and its employees must wear the assigned visitor lanyard attached to access card whenever on the premises.
- c) Contractor agrees that access cards shall not be used as a form of identification or for any purpose other than access into City facilities.
- d) Contractor agrees to monitor Access Key Card(s) issued to it and only allow those employees that have been cleared by the City following a background check.
- e) Contractor agrees to notify the EGPD within 24 hours of when an employee has severed employment. Contractor shall retrieve the key card from that employee’s possession and return it to the EGPD within 48 hours.
- f) Contractor agrees that employees shall be instructed to access only the areas necessary for the service provided, and to leave City Property immediately upon completion of duties.
- g) Contractor agrees access cards are the property of the City of Elk Grove and must be immediately surrendered upon request by a City.
- h) Contractor agrees to reassign any employee that becomes involved in any criminal activity and retrieve the access card should the City be notified of criminal activity.

- i) Access to City facilities will occur Monday through Friday, 8am-5pm, unless the Contract provides otherwise, or the City's Fleet and Facilities Manager authorizes, in writing, alternative access times.