

**GENERAL SERVICES CONTRACT
CONTRACT NO. 19561**

THE PARTIES TO THIS CONTRACT are the City of Daytona Beach, a Florida municipal corporation (the "CITY"), and **Thermaserve, Inc., a Florida Profit Corporation.** ("CONTRACTOR").

In consideration of the mutual covenants herein contained, the Parties agree as follows:

Section 1. Scope of Services. CONTRACTOR will provide HVAC maintenance and controls services to the CITY as further described in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. Reserved.

Section 3. Compensation and Payments; Limitations.

(a) Unless the Exhibits specifically provides for reimbursement of expenses, the compensation described herein will be CONTRACTOR's sole compensation for the services to be provided.

(b) The CITY will pay CONTRACTOR based on the **Price Proposal** attached hereto as Exhibit B.

(c) Except for any expenses specifically provided for in the Exhibits, CONTRACTOR will be solely responsible for all of costs CONTRACTOR incurs in meeting its obligations herein.

Section 4. Billing; Manner of Payment. In addition to requirements for payment established by applicable federal, state, or local law including the City Code, payment terms are as follows:

(a) No payment will be due for services performed until CONTRACTOR submits a proper invoice. CONTRACTOR will submit invoices only for services provided and accepted in accordance with the Florida Prompt Payment Act (FS. 218.70)

(b) In order to be considered proper, the invoice must include all information and documentation that the CITY may need to verify the accuracy of the invoice and the amount of payment due based on the specific requirements of this Contract. Where payment is for the cost incurred for certain reimbursables (such as for subcontractors or air travel), the invoice must include proof that CONTRACTOR has paid such costs.

(c) The CITY will within 30 days after receipt of an invoice notify the CONTRACTOR that the invoice is improper, or pay CONTRACTOR the amount due.

Section 5. Standard of Performance. CONTRACTOR's services will at a minimum meet the level care and skill ordinarily used by members of CONTRACTOR's profession performing the type of services provided herein within the State of Florida.

Section 6. Relationship between Parties. This Contract does not create an employee-employer relationship between the CITY and CONTRACTOR. CONTRACTOR is an independent contractor of the CITY and will be in control of the means and the method in which the requested work is performed. As an independent contractor, CONTRACTOR will be solely responsible for payment of all federal, state and local income tax, and self-employment taxes, arising from this Contract; and CONTRACTOR agrees to indemnify and hold harmless the CITY from any obligations relating to such taxes. The CITY will not make deductions from payments due, for such taxes, or for social security, unemployment insurance, worker's compensation, or other employment or payroll taxes. CONTRACTOR will also be responsible for the performance of CONTRACTOR's subcontractors.

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Section 7. Documents. All reports, estimates, logs, original drawings, and other materials furnished, prepared or executed by CONTRACTOR during the term of and in accordance with the provisions of this Contract will be the property of the CITY and delivered to the CITY upon demand or, if no demand has previously been made, upon completion of the particular task for which such materials were prepared, executed, or otherwise required, or upon termination or expiration of this Contract.

Section 8. Public Records.

(a) To the extent applicable, CONTRACTOR will comply with the requirements of Florida Statutes Section 119.0701, which include the following:

(1) Keeping and maintaining public records that the CITY requires for performance of the service provided herein.

(2) Upon the request of the City Clerk of the CITY, (i) providing the City Clerk with a copy of requested public records or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch 119, Florida Statutes, or as otherwise provided by law.

(3) Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of this Contract, and following such completion if CONTRACTOR fails to transfer such records to the CITY.

(4) Upon completion of this Contract, keep and maintain public records required by the CITY to perform the service. CONTRACTOR will meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY upon request from the City Clerk, in a format that is compatible with the CITY's information technology systems.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTRACTOR MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:

(Phone)	386 671-8023
(Email)	clerk@codb.us
(Address)	301 S. Ridgewood Avenue Daytona Beach, FL 32114

(b) Nothing herein will be deemed to waive CONTRACTOR's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

Section 9. Effective Date and Term.

The Effective Date of this Contract is 9/14/2019 or the date on which the last Party signs it, whichever is later. The Term of this Contract is **1 year**, commencing on the Effective Date. The CITY will have the option to renew this Contract for up to **4** Terms of **1 year** each, by providing CONTRACTOR written notice. Such notice must be provided at least 60 days before the end of the current Term, unless waived by CONTRACTOR.

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Section 10. Termination of Contract.

(a) The CITY may by written notice to CONTRACTOR terminate this Contract, in whole or in part, at any time, either for the CITY's convenience or because of the failure of the CONTRACTOR to fulfill its contractual obligations.

(1) Before terminating for convenience, CITY must provide CONTRACTOR at least 30 day's advance notice of termination. This Contract will terminate automatically and without need for further notice upon the expiration of the notice period.

(2) Except as provided in Section 10(a)(3), before terminating due to CONTRACTOR's material breach of its contractual obligations, CITY must provide CONTRACTOR prior written notice, specifying the breach and demanding CONTRACTOR remedy the breach within 10 days of the notice, or within such longer period as may be reasonably required if the nature of the breach is that it cannot be remedied within 10 days of notice. This Contract will terminate automatically and without need for further notice if CONTRACTOR fails to remedy the material breach within the period described in the CITY's notice of breach.

(3) The CITY may terminate this Contract upon CONTRACTOR's breach without providing CONTRACTOR an opportunity to remedy the breach as referenced immediately above, if CONTRACTOR or any of CONTRACTOR'S personnel, in connection with the services or rights provided herein, commit a criminal act or engage in activity that poses a material risk of injury to persons or damage to property. Such termination will be effective immediately upon providing CONTRACTOR written notice.

(b) If the termination is for convenience, CONTRACTOR will be paid compensation for authorized services performed to the date of termination. If termination is due to CONTRACTOR's material breach, the CITY reserves all rights and remedies it may have under law due to such breach. Among other things, the CITY may take over the work and prosecute the same to completion by other agreements or otherwise; and in such case, the CONTRACTOR will be liable to the CITY for all reasonable additional costs occasioned to the CITY thereby.

(c) If after notice of termination for the CONTRACTOR's failure to fulfill contractual obligations it is judicially determined by a court of law that the CONTRACTOR had not so failed, the termination will be conclusively deemed to have been effected for the CITY's convenience. In such event, adjustment in payment to CONTRACTOR will be made as provided in Section 10(b) for a termination for convenience.

(d) The rights and remedies of CITY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

Section 11. Suspension of Services. The CITY may suspend CONTRACTOR's services if the notice of material breach provided pursuant to Section 10(a)(2) so directs. The CITY may also suspend CONTRACTOR's services in lieu of termination, under the conditions set forth in Section 10(a)(3), by providing CONTRACTOR written notice of suspension. CONTRACTOR will suspend activities immediately upon receipt thereof; and in such instance CONTRACTOR's rights to provide services referenced herein will also automatically be suspended for the period of such suspension.

Section 12. Indemnification. CONTRACTOR will indemnify and hold harmless the CITY, including the CITY's officers, employees, and agents, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of CONTRACTOR, or CONTRACTOR's officers, employees, or agents, including subcontractors and other persons employed or used by CONTRACTOR in the performance of this Contract. This indemnification agreement is separate and apart from, and in no way limited by, any insurance provided pursuant to this Contract or otherwise.

Section 13. Insurance. CONTRACTOR will provide and maintain at CONTRACTOR's own expense, insurance of the kinds of coverage and in the amounts set forth in this Section. All such insurance will be

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primary and non-contributory with the CITY's own insurance. The City shall be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Contractor or sub-contractor providing such insurance. In the event any request for the performance of services presents exposures to the CITY not covered by the requirements set forth below, the CITY reserves the right to add insurance requirements that will cover such an exposure.

(a) **Coverage and Amounts.**

(1) **Workers Compensation Insurance** as required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of CONTRACTOR, employed at the site of the service or in any way connected with the work, which is the subject of this service. The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary company involved in the service must be named in the Workers' Compensation coverage.

(2) **Liability Insurance**, including (i) **Commercial General Liability coverage** for operations, independent contractors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring CONTRACTOR and any other interests, including but not limited to any associated or subsidiary companies involved in the work; and (ii) **Automobile Liability Insurance**, which will insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the CONTRACTOR in the performance of this Contract.

The limit of liability for each policy will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then the aggregate will be in an amount of no less than \$2,000,000. The Risk Manager may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY WILL NAME THE CITY AS AN ADDITIONAL INSURED. CONTRACTOR'S Commercial General Liability insurance policy shall provide coverage to CONTRACTOR, and CITY when required to be named as an additional insured either by endorsement or pursuant to a blanket additional insured endorsement, for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) without the attachment of any endorsements excluding or limiting coverage for Products/Completed Operations, Independent Contractors, Property of CITY in Contractor's Care, Custody or Control or Property of CITY on which contracted operations are being performed, Explosion, Collapse or Underground hazards (XCU Coverage, Contractual Liability or Separation of Insureds). When CITY is added as additional insured by endorsement, ISO Endorsements CG 20 10 and CG 20 37 or their equivalent shall be used to provide such Additional Insured status.

Unless specifically waived hereafter in writing by the Risk Manager, CONTRACTOR agrees that the Insurer will waive its rights of subrogation, if any, against the CITY on each of the types of required insurance coverage listed above.

(b) **Proof of Insurance.** CONTRACTOR will furnish proof of insurance acceptable to the CITY prior to or at the time of execution of this Contract. CONTRACTOR will not commence work until all proof of such insurance has been filed with and approved by the CITY. CONTRACTOR will furnish evidence of all required insurance in the form of certificates of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, and the expiration dates.

If requested by the CITY, CONTRACTOR will furnish copies of the insurance contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the CITY.

(c) **Cancellation; Replacement Required.** CONTRACTOR will file replacement certificates 30 days prior to expiration or termination of the required insurance occurring prior to the acceptance of the

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work by the CITY. If a required policy is canceled without CONTRACTOR's prior knowledge CONTRACTOR will immediately notify the CITY immediately upon becoming aware that a required insurance coverage has been canceled for any reason, and promptly replace the canceled policy. The CITY expressly reserves the right to replace the canceled policy at CONTRACTOR's expense if CONTRACTOR fails to do so.

(d) **Termination of Insurance.** CONTRACTOR may not cancel the insurance required by this Contract until the work is completed, accepted by the CITY and CONTRACTOR has received written notification from the Risk Manager that CONTRACTOR may cancel the insurance required by this Contract and the date upon which the insurance may be canceled. The Risk Management Division of the CITY will provide such written notification at the request of CONTRACTOR if the request is made no earlier than two weeks before the work is to be completed.

(e) **Liabilities Unaffected.** CONTRACTOR's liabilities under this Contract will survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverages. Similarly, CONTRACTOR's liabilities under this Contract will not be limited to the extent of the existence of any exclusions or limitations in insurance coverages, or by CONTRACTOR's failure to obtain insurance coverage.

CONTRACTOR will not be relieved from responsibility to provide required insurance by any failure of the CITY to demand such coverage, or by CITY's approval of a policy submitted by CONTRACTOR that does not meet the requirements of this Contract.

(f) **Risk Manager.** All references to the Risk Manager will be deemed to include the Risk Manager's designee.

Section 14. Bonds. No bonding is required for this solicitation.

Section 15. Notice. Unless otherwise expressly agreed herein, all notices, requests, and demands to or upon the Parties will be delivered by hand, delivered by a courier service, provided to a nationally recognized delivery service for overnight delivery, or by U.S. mail, postage prepaid by registered or certified mail, return receipt requested, to the addresses set forth herein:

To the CITY:
Attn: Frank Van Pelt
Title: Technical Services Director
City of Daytona Beach
950 Bellevue Avenue, #500
Daytona Beach, FL 32114

To CONTRACTOR:
Attn: Mitch Cox
Title: Branch Manager
Company: ThermaServe, Inc.
Address: 5889 S. Williamson Blvd., # 207
City/ST/Zip: Port Orange, FL 32128

provided, however, that either Party may change the person or address designated for receipt of the Party's notices, by providing written notice to the other Party.

Section 16. Personnel. CONTRACTOR represents that CONTRACTOR has or will secure at CONTRACTOR's own expense, all personnel required in performing the services under this Contract. Such personnel will not be employees of or have any contractual relationship with the CITY.

All personnel engaged in the work will be fully qualified and will be authorized under state and local law to perform such services.

Section 17. CITY's Responsibilities. The CITY agrees to make available for review and use by the CONTRACTOR, reports, studies, and data relating to the services required. The CITY will establish a project manager to meet periodically with the CONTRACTOR to facilitate coordination and ensure expeditious review of work product.

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Section 18. Limitation on Waivers. Neither the CITY's review, approval, or acceptance of, or payment for, any of the services provided by CONTRACTOR, will be construed to operate as a waiver of the CITY's rights under this Contract. CONTRACTOR will be and always remain liable to the CITY in accordance with applicable law for any and all damages to the CITY caused by the CONTRACTOR's negligent or wrongful provision of any of the services furnished under this Contract.

Failure of the CITY to exercise any right or option arising out of a breach of this Contract will not be deemed a waiver of any right or option with respect to any subsequent or different breach, or the continuance of any existing breach. Furthermore, the failure of the CITY at any time to insist upon strict performance of any condition, promise, agreement or understanding set forth herein will not be construed as a waiver or relinquishment of the CITY's right to insist upon strict performance of the same condition, promise, agreement or understanding at a future time.

Section 19. Dispute Resolution. If a dispute exists concerning this Contract, the Parties agree to use the following procedure prior to pursuing any judicial remedies.

(a) **Negotiations.** A Party will request in writing that a meeting be held between representatives of each Party within 14 calendar days of the request or such later date that the Parties may agree to. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization. The purpose of this meeting is to negotiate in the matters constituting the dispute in good faith. The Parties may mutually agree in writing to waive this step and proceed directly to mediation as described below.

(b) **Non-Binding Mediation.** Mediation is a forum in which an impartial person, the mediator, facilitates communication between parties to promote reconciliation, settlement, or understanding among them. Within 30 days after the procedure described in Subsection (a) proves unsuccessful or the Parties mutually waive the subsection (a) procedure, the Parties will submit to a non-binding mediation. The mediation, at a minimum, will provide for (i) conducting an on-site investigation, if appropriate, by the mediator for fact gathering purposes, (ii) a meeting of all Parties for the exchange of points of view and (iii) separate meetings between the mediator and each Party to the dispute for the formulation of resolution alternatives. The Parties will select a mediator trained in mediation skills and certified to mediate by the Florida Bar, to assist with resolution of the dispute. The Parties will act in good faith in the selection of the mediator and give consideration to qualified individuals nominated to act as mediator. Nothing in this Contract prevents the Parties from relying on the skills of a person who also is trained in the subject matter of the dispute or a contract interpretation expert. Each Party will attend and will include, at a minimum, a senior level decision maker (an owner, officer, or employee of each organization) empowered to negotiate on behalf of their organization.

If the Parties fail to reach a resolution of the dispute through mediation, then the Parties are released to pursue any judicial remedies available to them.

Section 20. General Terms and Conditions.

(a) **Amendments.** Except as otherwise provided herein, no change or modification of this Contract will be valid unless the same is in writing and signed by both Parties.

(b) **Assignments and Subcontracting.** No assignment or subcontracting will be permitted without the CITY's written approval.

(c) **Compliance with Laws and Regulations.** In providing all services pursuant to this Contract, CONTRACTOR will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations will constitute a material breach of this Contract and will entitle the CITY to terminate this Contract immediately upon delivery of written notice of termination to the CONTRACTOR.

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(d) **Truth in Negotiations Certificate.** CONTRACTOR hereby certifies that the wages and other factual unit costs supporting the compensation herein are accurate, complete, and current at the time of this Contract.

(e) **No Third Party Beneficiaries.** There are no third party beneficiaries of CONTRACTOR's services under this Contract.

(f) **Contingency Fee.** CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONTRACTOR, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

(g) **Nondiscrimination.** CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. CONTRACTOR will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their sex, race, creed, color, or national origin. Further, CONTRACTOR agrees to comply with all local, state, and federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age. In particular, CONTRACTOR agrees to comply with the provisions of Title 7 of the Civil Rights Act of 1964, as amended, and applicable executive orders including, but not limited to, Executive Order No. 11246.

(h) **Principles in Construing Contract.** This Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate. If any word, phrase, clause, sentence or provision of the Contract, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, invalid or unenforceable, that finding will only effect such word, phrase, clause, sentence or provision, and such finding will not affect the remaining portions of this Contract; this being the intent of the Parties in entering into the Contract; and all provisions of the Contract are declared to be severable for this purpose.

(i) **Venue.** The exclusive venue for any litigation arising out of this Contract will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court.

(j) **Litigation Costs.** Except where specifically provided herein, in case of litigation between the Parties concerning this Contract, each party will bear all of its litigation costs, including attorney's fees

(k) **Force Majeure.** A force majeure event is an act of God or of the public enemy, riots, civil commotion, war, acts of government or government immobility (whether federal, state, or local) fire, flood, epidemic, quarantine restriction, strike, freight embargo, or unusually severe weather; provided, however, that no event or occurrence will be deemed to be a force majeure event unless the failure to perform is beyond the control and without any fault or negligence of the Party charged with performing or that Party's officers, employees, or agents. Whenever this Contract imposes a deadline for performing upon a Party, the deadline will be extended by one day for each day that a Force Majeure event prevents the Party from performing; provided, however, that the Party charged with performing and claiming delay due to a Force Majeure event will promptly notify the other Party of the Event and will use its best efforts to minimize any resulting delay.

(l) **Jury Trial Waived.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS CONTRACT, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT

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LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

(m) **Authority to Bind CONTRACTOR.** The undersigned representative of CONTRACTOR represents and warrants the he or she is fully authorized to bind CONTRACTOR to the terms and conditions of this Contract.

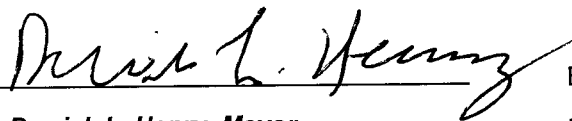
(n) **Incorporation of RFP and Proposal.** The CITY's Request for Proposals 19561, and the CONTRACTOR's responsive proposal are incorporated herein by reference as **Composite Exhibit C**. **Composite Exhibit C** is not attached but will remain on file with the CITY's Purchasing Agent and will be available upon request made to the City Clerk. In case of conflicts between the RFP and Proposal, the RFP will govern. In case of conflicts between **Composite Exhibit C** and other provisions of this Contract, including **Exhibits A and B**, this Contract will govern.

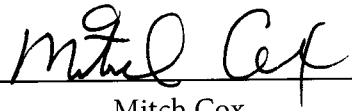
(o) **Integration.** This Contract represents the entire agreement of the parties with respect to the subject matter hereof. No representations, warranties, inducements or oral agreements have been made by either Party except as expressly set forth herein, or in other contemporaneous written agreements.

IN WITNESS WHEREOF, the Parties through their undersigned representatives have caused this Contract to be executed in duplicate original.

THE CITY

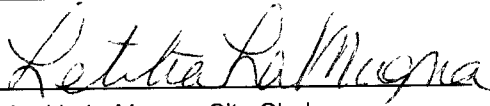
CONTRACTOR

By: 
Derrick L. Henry, Mayor

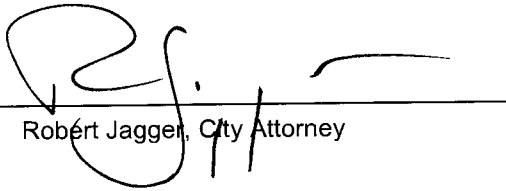
By: 
Printed Name: Mitch Cox

Date: 1-8-20

Title: TSI-Branch Manager
Date: 11-4-2019

Attest: 
Letitia LaMagna, City Clerk

Approved as to legal form:

By: 
Robert Jagger, City Attorney

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EXHIBIT A: Scope of Services

The Contractor will provide all labor and materials for HVAC and Controls service for all equipment in City owned buildings. The Contractor, upon request, will conduct inspections of an HVAC system and supply a written report with repairs that will need to be taken into consideration by City Personnel. If the City so elects, the Contractor will be instructed to complete repairs by issuance of a work order by the City.

The Contractor will employ or subcontract personnel qualified to work on Automated Logic Controls which is the City's primary choice for controls.

CITY'S RESPONSIBILITIES:

1. Instructing the Contractor of the scope of work and of the materials and parts which may be needed, when applicable.
2. Approving a record of time and materials used for the job and state on the work ticket that they have inspected and accepted the work performed on the date.
3. In the event that overtime rates are required to complete the work, prior approval will be obtained from the City's representative.
4. Invoices will show Contractor's actual cost of materials and parts (including any and all discounts offered by their supplier) plus the agreed upon percentage markup. Material and parts prices are subject to verification. The City reserves the right to furnish the necessary materials and parts, and may do so when deemed to be in its best interest of the City.

CONTRACTOR'S RESPONSIBILITIES:

1. **Contractor General Supervision:** Daily, the Contractor (or his designee) will visit the work site to ensure that the services are being accomplished correctly and safely, and that the progress being made is sufficient to meet the project schedule. Based on the daily site visit, the Contractor will work jointly and cooperatively to resolve project quality and scheduling problems with the City's designated personnel. The cost of Contractor's general supervision will be an element of the Contractor's overhead burden in the applicable hourly labor rates.
2. **Personnel:** All Contractor personnel providing services to the City under the terms of this contract will be full-time, permanent employees of the contracted company only, unless express written permission to use temporary employees or to subcontract a portion of the work is provided to and authorized by the City's. The Contractor will only use tradesmen 18 years or older.
3. **Personnel Conduct:** All individuals performing services under this Contract will adhere to City of Daytona Beach rules and regulations regarding appropriate attire, prohibition of smoking, usage of proper language, prohibition of use and possession of controlled substances and alcoholic beverages, prohibition of the possession of firearms, either on their person or in their personal vehicles and any other restrictions or prohibitions as may apply. Radios and other portable music playing equipment will not be allowed on any City sites. Personnel will not engage in workplace harassment. Additionally, all individuals will adhere to and comply with the requirements as generally set forth in the terms and conditions of this Bid.

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4. **Project Manager:** All proposals and/or work orders will flow through the Facilities Maintenance work order system. The Contractor's only point of Contact for this RFP will be Joe Paul, Technical Services Project Manager (671-8743) or Eric Miller, Renovations & Repair Superintendent (671-8721). While other employees may ask for proposals only those listed above are authorized to approve work.

5. **Site Visits:** Prior to performance of any work, the Contractor will visit the site, become familiar with the conditions under which the work is to be performed, and correlate personal observation with the job requirements as communicated by the Technical Services Project Manager. Failure to do this will not excuse the Contractor from performing the work in strict accordance with the terms of the Contract documents. Further, if the Contractor, in the course of site inspection or during performance of the work, finds any discrepancy between actual site conditions and the scope of work, it will be his duty to immediately inform the City's designated personnel. Any work done after such discovery, without authorization, will be done at the Contractor's risk.

6. **Project Estimates:** Contractor will provide written "not-to-exceed" or "firm fixed-price" estimates on all work, except for emergency calls. The term "not-to-exceed" is the total amount the work can cost whereas the project may cost less, the term "firm fixed-price" indicates the exact cost of the project. This estimate will include the estimated number of hours, hourly rate (including Contractor's overhead, profit, permit fees and any incidentals. The Contractor will provide his own hand tools, including powered hand tools.), number and types of employees required, estimated material cost and number of calendar days required for project completion based on the scope of the work to be performed and as directed by the Technical Services Project Manager or Renovations & Repair Superintendent (or his designee). The City reserves the right to accept or reject the requirements of the written work proposal before the commencement of activities by the Contractor.

Contractor will verbally respond to requests for estimates for non-emergency work within two (2) business days of the request, and provide written estimates within three (3) business days thereafter. It will be the Contractor's responsibility to ensure they have all the information necessary to prepare fair and accurate estimates.

7. **Attire and ID:** All Contractor personnel are required wear clothing identifying Contractor by either name or logo, and to have in possession and present upon request, by City designated personnel, a form of picture identification (i.e.- drivers license, ID card). Failure of Contractor's personnel to adhere to City rules and regulations described herein will result in removal of the individual(s) from the job site.

8. **Permits:** Contractor is responsible for obtaining all applicable permits and scheduling applicable inspections with the City's Permit & Licensing Department.

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GENERAL TERMS:

Equipment: Contractor will own and keep in good repair, all equipment necessary to perform the described services in particular and the equipment necessary to complete related tasks. This list will be included in your proposal TAB 1.

Unit Pricing and Quantities: If this solicitation requests submission of unit prices: (i) the successful Proposer will hold all unit prices firm for the duration of the Contract, including any extension thereof, unless specifically authorized by the Contract Documents; and (ii) quantities stated as an estimate only and no guarantee is given or implied as to quantities that will actually be required during the contract period.

Response Time: Contractor will start all non-emergency projects within seven (7) calendar days of authorization from the City. The Contractor will complete each non-emergency job within the time specified in their project estimate. Contractor will respond to calls for emergency service and be onsite working within two (2) hours after notification from the City. For the purpose of this proposal, an "emergency" is defined as any condition which is a threat to the health, welfare or safety of citizens and/or property or a condition that will adversely affect an essential public service, as determined solely by the City. **Contractor will provide a twenty-four hour call answering service.**

Work Standards: All work will be performed according to the industry standards and to the complete satisfaction of the City. All work will fully conform with the City of Daytona Beach Code of Ordinances. Contractor will be licensed by the State of Florida. All Contractors and subcontractors will comply with all Occupational Safety and Health Administration (OSHA) standards, State and County Safety and Occupational Health Standards and any other applicable rules and regulations. The Contractor (and subcontractors) will be held totally responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site.

Material and Parts: The Contractor will arrive to a service call with all standard parts, fittings, filters and accessories required to service air conditioning systems. All materials and parts to be utilized will conform to standards of the trade, manufacturers' recommendations, and be acceptable by the City. All equipment, material and parts that the City desires to salvage will be removed and stored in an area selected by the City.

Charges: Billable hours paid under this Contract will be only for productive hours at the job site. Time spent for transportation of workers, material acquisition, handling and delivery, or for movement of Contractor owned or rental equipment is not chargeable directly but is to be considered Contractor's overhead and will be included in the hourly rates quoted for labor or services.

Contractor will take a picture of the work to be done with date and time stamp when they arrive to a service call. Upon completion they will take a second picture with date and time stamp. This verifies how long the Contractor was on-site. Both pictures must accompany invoice. Time charged on the invoice must reflect that of the pictures attached.

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If pictures are not presented with invoice the invoice will not be processed and the 30 days will not begin until verified pictures are presented.

Regular service calls will be made between the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, excluding City recognized holidays. Work requested outside of these times will be considered "after hours" service and may be charged at the rates specified in the proposal. Holidays will be considered "after hours".

Invoices for materials and/or equipment supplied and installed by the Contractor will show Contractor's actual cost, including any and all discounts offered by their supplier, plus the agreed upon percentage markup. Material and equipment prices are subject to verification. The City reserves the right to furnish the necessary materials or equipment, and may do so when deemed to be in the best interest of the City.

Workmanship and Inspection: All work under the resulting Contract will be performed in a skillful and workmanlike manner. The City may, in writing, require the Contractor to remove any Contractor employee from the work that the City desires. Further, the City may, from time to time, make inspections of the work performed under this Contract.

Unsatisfactory Work: In the event the work performance of the Contractor is unsatisfactory, the Contractor will be notified by the City and will correct the work at no additional cost to the City. All emergency work will be corrected immediately. Non-emergency work will be corrected within twenty-four (24) hours of notification.

Clean-Up: The Contractor will be responsible for removing all debris from the site and cleaning affected areas. Contractor will keep the premises free of debris and unusable materials resulting from their work and as work progresses; or upon request by the City's representative, will remove such debris and materials from the property. The Contractor will leave all affected areas as they were prior to beginning work. The fee for any clean-up will be factored into the hourly labor rate.

Protection of Property: The Contractor will make necessary repairs in such a manner that does not damage property. In the event damage occurs to property by reason of any repairs or installations performed under this Contract, the Contractor will replace or repair the same at no cost to the City. If damage caused by the Contractor has to be repaired or replaced to its previous condition or better by the City, the cost of such work will be deducted from the monies due the Contractor.

Protection of Materials: It will be the sole responsibility of the Contractor performing services for this Contract to safeguard their own materials, tools, and equipment. The City will not assume any responsibility for vandalism and/or theft of materials, tools and/or equipment. The Contractor will obtain the permission of the City's representative regarding any needed storage of materials, parts and equipment. Such storage will be done in such a manner as not to interfere with the City's daily operations. Contractor will be held responsible for any and all accidents caused by negligence from this source. The City does not accept responsibility for losses of material or equipment regardless of approval to store in any of the using institution's facilities

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or grounds.

Employees of the Contractor: No one, except authorized employees of the Contractor, are allowed on job premises. Contractor's employees are NOT to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized employee of the Contractor. At the City's option, security screenings of all Contractor employees performing work may be required.

Evaluation: Near the end of each 1 year term City staff will meet with each Contractor and evaluate their performance over the current term. Any issues or concerns of either party will be addressed at this Evaluation meeting. City staff will then make a determination whether to exercise their option for another 1 year term.

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EXHIBIT B:

PRICE PROPOSAL

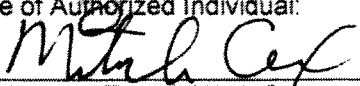
Include this page with your Proposal (Tab 4)

All rates include labor, equipment, overhead, insurance, fringe benefits, profit, and all other incidentals not mentioned herein. Rates stand alone. Not to be combined in one job.

<i>Description</i>	<i>Hourly Rate</i>	<i>Est. Annual Hrs.</i>	<i>Annual Cost HR x EAH</i>
One HVAC Technician Regular hours (7a - 7p)	\$74.50	200	\$14,900.00
One HVAC Technician plus Helper Regular hours (7a - 7p)	\$142.79	75	\$10,709.25
One HVAC Technician After hours (7p - 7a)	\$100.90	20	\$2,018.00
One HVAC Technician plus Helper After hours (7a - 7p)	\$185.39	15	\$2,780.85
One Controls Technician Regular hours (7a - 7p)	\$82.00	150	\$12,300.00
One Controls Technician plus Helper Regular hours (7a - 7p)	\$146.27	50	\$7,313.50
One Controls Technician After hours (7p - 7a)	\$111.07	20	\$2,221.40
One Controls Technician plus Helper After hours (7p - 7a)	\$193.87	15	\$2,908.05
Markup/discount on Repair Parts and Components at 20% (5000 x 1.2)	19%	\$5,000	\$5,950.00
Markup/discount on new Hardware and Systems at 20% (5000 x 1.2)	19%	\$5,000	\$5,950.00
GRAND TOTAL			\$67,051.05

- Hours invoiced are only for time at a given City location and not for travel to/from.
- No additional fees will be accepted.

SUBMITTED BY:

Signature of Authorized Individual: 	Date: 8-12-2019
Name Printed or Typed: Mitch Cox	Phone: (386) 248-5460
Vendor Name: ThermaServe, Inc	Email Mcox@thermaserve.com
Address: 5889 S. Williamson Blvd. # 207	City, State, Zip Code: Port Orange, FL, 32128

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Composite Exhibit C is not attached. It will be kept on file with the Purchasing Agent, and will be made available upon request made to the City Clerk

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