

**LINKING AGREEMENT
BETWEEN
THE CITY OF GLENDALE, ARIZONA
AND TDINDUSTRIES, INC.**

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this _____ day of _____, 20____, between the City of Glendale, an Arizona municipal corporation (the "City"), and TDIndustries, Inc., a Texas corporation authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

- A. On October 1, 2020 under the Omnia Partners Cooperative Purchasing Agreement Region 4 Education Service Center, a member of the National Intergovernmental Purchasing Alliance, entered into a contract with Contractor to purchase the goods and services described in the HVAC Equipment, Installation, Service & Related Products, Contract No. R200403 ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement, purchases can be made by governmental entities from the date of award, which was October 1, 2020, until the date the contract expires on September 30, 2023 unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended beyond September 30, 2025. The initial period of this Agreement, therefore, is the period from the Effective Date of this Agreement until

September 30, 2023. The City may renew the term of this Agreement for 2 one-year periods until the Cooperative Purchasing Agreement expires on September 30, 2025. Glendale renewals are not automatic and shall only occur if the City gives the Contractor notice of its intent to renew. The City may give the Contractor notice of its intent to renew this Agreement 30 days prior to the anniversary of the Effective Date to effectuate such renewal.

2. Scope of Work; Terms, Conditions, and Specifications.
 - A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit B.
 - B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.
3. Compensation.
 - A. City shall pay Contractor compensation at the same rate and on the same schedule as provided in the Cooperative Purchasing Agreement, which is attached hereto as Exhibit C.
 - B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed five hundred thousand dollars (\$500,000) annually or two million five hundred thousand dollars (\$2,500,000) for the entire term of the Agreement (initial term plus any renewals).
4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.
5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.
6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.
7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.
8. No Boycott of Israel. The Parties agree that they are not currently engaged in and agree that for the duration of the Agreement they will not engage in, a boycott of Israel, as that term is defined in A.R.S. §35-393. Unless and until the District Court's injunction in *Jordabl v Brnovich*, 336 F.Sup.3d 1016 (D.Ariz. 2018) is stayed or lifted, the Anti-Israel Boycott Provision (A.R.S. §35.393.01 (A)) (if applicable to this agreement) is unenforceable and the City will take no action to enforce it.

9. Attestation of PCI Compliance. When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale
c/o Charles Thomas
6210 W. Myrle Ave., Suite 111
Glendale, AZ 85301

And

TDIndustries, Inc.
c/o Clint Allen
1888 East Broadway Road
Tempe, AZ 85282

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

“City”

City of Glendale, an Arizona
municipal corporation


By: _____

Kevin R. Phelps
City Manager

“Contractor”

TDIndustries, Inc.,
a Texas corporation

By: _____


Name: Clint Allen
Title: Vice President

ATTEST:

Julie K. Bower (SEAL)
City Clerk

APPROVED AS TO FORM:

Michael D. Bailey
City Attorney

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**EXHIBIT A
NATIONAL INTERGOVERNMENTAL PURCHASING ALLIANCE
CONTRACT NO. R200403
HVAC EQUIPMENT, INSTALLATION, SERVICE AND RELATED PRODUCTS**

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**EXHIBIT B
Scope of Work**

PROJECT

As described in the National Intergovernmental Purchasing Alliance Contract, No. R200403, the Contractor will provide the City of Glendale, comprehensive commercial HVAC equipment, installation and service for the following:

- Air handling units
- Air terminal devices & heating products
- Boilers & water heaters
- Cooling towers
- HVAC refrigeration
- HVAC, electrical & plumbing
- Rooftop units
- CRAC Units
- Water treatment
- Fans, motor and pumps
- Associated equipment parts and supplies

The Contractor will also provide, mechanical construction, mechanical/electrical/plumbing service, energy solutions, automation and controls, indoor air quality service and restaurant equipment services. The services will be provided on an as needed basis.

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EXHIBIT C

METHOD AND AMOUNT OF COMPENSATION

The method and amount of compensation is in accordance with Section 3 of this agreement.

NOT TO EXCEED AMOUNT

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$500,000 annually or \$2,500,000 for the entire term of the Agreement.

DETAILED PROJECT COMPENSATION

City shall pay contractor compensation in accordance with the rates as set forth in the National Intergovernmental Purchasing Alliance Contract No. R200403 for HVAC equipment, installation, service and related products.