THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

SERVICES CONTRACT
(Williamson County 301 SE Inner Loop HVAC)
(TIPS #180205)

Important Notice: County Purchase Orders and Contracts constitute expenditures of public funds, and all vendors are hereby placed on notice that any quotes, invoices or any other forms that seek to unilaterally impose contractual or quasicontractual terms are subject to the extent authorized by Texas law, including but not limited to Tex. Const. art. XI, § 7, the Texas Government Code, the Texas Local Government Code, the Texas Transportation Code, the Texas Health & Safety Code, and Opinions of the Texas Attorney General relevant to local governmental entities.

THIS CONTRACT is made and entered into by and between **Williamson County, Texas** (hereinafter "The County"), a political subdivision of the State of Texas, acting herein by and through its governing body, and **Mtech Comfort Systems USA** (hereinafter "Service Provider"). The County agrees to engage Service Provider as an independent contractor, to assist in providing certain operational services pursuant to the following terms, conditions, and restrictions:

I.

No Agency Relationship & Indemnification: It is understood and agreed that Service Provider shall not in any sense be considered a partner or joint venturer with The County, nor shall Service Provider hold himself out as an agent or official representative of The County unless expressly authorized to do so by a majority of the Williamson County Commissioners Court. Service Provider shall be considered an independent contractor for the purpose of this agreement and shall in no manner incur any expense or liability on behalf of The County other than what may be expressly allowed under this agreement. The County will not be liable for any loss, cost, expense or damage, whether indirect, incidental, punitive, exemplary, consequential of any kind whatsoever for any acts by Service Provider or failure to act relating to the services being provided. Service Provider agrees to indemnify, hold harmless, and defend The County against any claim, demand, loss, injury, damages, action, or liability of any kind against The County resulting from any services Service Provider perform on behalf of The County.

II.

Entire Contract & Incorporated Documents: This Contract constitutes the entire Contract between the parties and may not be modified or amended other than by a written instrument executed by both parties. Documents expressly incorporated (as if copied in full) into this Contract include the following:

A. As described in the attached Statement of Work/Quotation(s), dated July 24, 2018, which is incorporated herein as if copied in full;

B. TIPS #180205 and related addenda and exhibits; and

C. Any required insurance certificates evidencing required coverages.

The County reserves the right and discretion (pursuant to public policy and Texas Constitutional principles) to determine applicable provisions where there is any conflict between this Contract and any of the above-referenced contract documents/exhibits or incorporated documents.

III.

No Assignment: Service Provider may not assign this contract.

IV.

Compliance with All Laws: Service Provider agrees and will comply with any and all local, state or federal requirements with respect to the services rendered.

V.

Consideration and Compensation: Service Provider will be compensated based on the attached Fee Proposal, dated July 24, 2018, which is designated as Exhibit "A" and incorporated herein as if copied in full. **The not-to-exceed amount under this agreement is $474,400.00, unless amended by a change order and approved by the Williamson County Commissioners Court.** Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The

County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

VI.

Insurance: Service Provider shall provide and maintain, until the services covered in this Contract is completed and accepted by The County, the minimum insurance coverage in the minimum amounts as described below. Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to The County and name The County as an additional insured.

	Type of Coverage	**Limits of Liability**
a.	Worker's Compensation	Statutory
b.	Employer's Liability	
	Bodily Injury by Accident	$500,000 Ea. Accident
	Bodily Injury by Disease	$500,000 Ea. Employee
	Bodily Injury by Disease	$500,000 Policy Limit

c. Comprehensive general liability including completed operations and contractual liability insurance for bodily injury, death, or property damages in the following amounts:

COVERAGE	PER PERSON	PER OCCURRENCE
Comprehensive General Liability (*including premises, completed operations and contractual*)	$1,000,000	$1,000,000
Aggregate policy limits:		$2,000,000

d. Comprehensive automobile and auto liability insurance (covering owned, hired, leased and non-owned vehicles):

COVERAGE	PER PERSON	PER OCCURRENCE

Bodily injury (including death)	$1,000,000	$1,000,000
Property damage	$1,000,000	$1,000,000
	Aggregate policy limits	No aggregate limit

Service Provider, as an independent contractor, meets the qualifications of an "Independent Contractor" under Texas Worker's Compensation Act, Texas Labor Code, Section 406.141, and must provide its employees, agents and sub-subcontractors worker's compensation coverage. Contactor shall not be entitled to worker's compensation coverage or any other type of insurance coverage held by The County.

Upon execution of this Contract, Service Provider shall provide The County with insurance certificates evidencing compliance with the insurance requirements of this Contract.

VII.

INDEMNIFICATION - EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICE PROVIDER SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF THE COUNTY'S CHOOSING), AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") AND SHALL ASSUME ENTIRE RESPONSIBILITY AND LIABILITY (OTHER THAN AS A RESULT OF INDEMNITEES' GROSS NEGLIGENCE) FOR ANY CLAIM OR ACTION BASED ON OR ARISING OUT OF THE PERSONAL INJURY, OR DEATH, OF ANY EMPLOYEE OF THE SERVICE PROVIDER, OR OF ANY SUBCONTRACTOR, OR OF ANY OTHER ENTITY FOR WHOSE ACTS THEY MAY BE LIABLE, WHICH OCCURRED OR WAS ALLEGED TO HAVE OCCURRED ON THE WORK SITE OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK. SERVICE PROVIDER HEREBY INDEMNIFIES THE INDEMNITEES EVEN TO THE EXTENT THAT SUCH PERSONAL INJURY WAS CAUSED OR ALLEGED TO HAVE BEEN CAUSED BY THE SOLE, COMPARATIVE OR CONCURRENT NEGLIGENCE OF THE STRICT LIABILITY OF ANY INDEMNIFIED PARTY. THIS INDEMNIFICATION SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEES BENEFIT ACTS.

INDEMNIFICATION - OTHER THAN EMPLOYEE PERSONAL INJURY CLAIMS: TO THE FULLEST EXTENT PERMITTED BY LAW, SERVICE PROVIDER SHALL INDEMNIFY, DEFEND (WITH COUNSEL OF THE COUNTY'S CHOOSING), AND HOLD HARMLESS THE COUNTY, AND THE COUNTY'S EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, OFFICERS, AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR ALLEGED TO BE RESULTING FROM THE PERFORMANCE OF THIS AGREEMENT OR THE WORK DESCRIBED HEREIN, TO THE EXTENT CAUSED BY THE NEGLIGENCE, ACTS, ERRORS,

OR OMISSIONS OF SERVICE PROVIDER OR ITS SUBCONTRACTORS, ANYONE EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN WHOLE OR IN PART BY A PARTY INDEMNIFIED HEREUNDER.

VIII.

Services: Service Provider shall provide services *as an independent contractor* pursuant to terms and policies of the Williamson County Commissioners Court. Service Provider expressly acknowledges that he or she is not an employee of The County. The services include, but are not limited to the following items in order to complete the project:

As described in the Fee Proposal with Scope of Work for Installation, dated July 24, 2018, which is incorporated herein as if copied in full.

IX.

Good Faith Clause: Service Provider agrees to act in good faith in the performance of this agreement.

X.

Confidentiality: Service Provider expressly agrees that he or she will not use any incidental confidential information that may be obtained while working in a governmental setting for his or her own benefit, and agrees that he or she will not enter any unauthorized areas or access confidential information and he or she will not disclose any information to unauthorized third parties, and will take care to guard the security of the information at all times.

XI.

Termination: This agreement may be terminated at any time at the option of either party, without *future or prospective* liability for performance upon giving thirty (30) days written notice thereof. In the event of termination, The County will only be liable for its pro rata share of services rendered and goods actually received.

XII.

Venue and Applicable Law: Venue of this contract shall be Williamson County, Texas, and the laws of the State of Texas shall govern all terms and conditions.

XIII.

Effective Date and Term: This contract shall be in full force and effect when signed by all parties and shall continue for a reasonable time period for the specific project and shall terminate upon project completion or when terminated pursuant to paragraph XI above.

XIV.

Severability: In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision in this agreement and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

XV.

Right to Audit: Service Provider agrees that The County or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of Service Provider which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. Service Provider agrees that The County shall have access during normal working hours to all necessary Service Provider facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The County shall give Service Provider reasonable advance notice of intended audits.

XVI.

No Waiver of Sovereign Immunity or Powers: Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of The County, the Williamson County Commissioners Court, or the Williamson County Judge.

XVII.

<u>County Judge or Presiding Officer Authorized to Sign Contract</u>: The presiding officer of The County's governing body who is authorized to execute this instrument by order duly recorded may execute this contract on behalf of The County.

WITNESS the signatures of all parties in duplicate originals this the _____ day of _____, 2018.

WILLIAMSON COUNTY:

_____
Authorized Signature

SERVICE PROVIDER:

Authorized Signature

Exhibit "A"
Price Quote Dated July 24, 2018
(Incorporated herein as if copied in full)

1720 Royston Lane
Round Rock, TX 78664
Phone: (512) 929-7090
Fax: (512) 929-7197
TACLA20760C / M 16472 / TECL 29725
ITBs to: mtech-itb@csusa.us

QUOTE TO: **WilCo Facilities**
FOR THE PROJECT: **301 SE Inner Loop**
ATTENTION: **Toby Bonnet**
EMAIL: tbonnet@wilco.org

DATE: **July 24, 2018**

WILCO 301 SE INNER LOOP – HVAC QUOTE

TIPS-180205

We offer the following proposal for your consideration for the HVAC scope of work on the above referenced project. Subject to the following scope narrative, exclusions & clarifications,

HVAC PRICING: **$ 474,400.00**

- Deduct for standard efficiency units: <$ 18,000.00>
- Add for (1) split system & piping: $ 25,300.00

INCLUDED IN HVAC PRICE:

1. Disconnect and remove (19) rooftop units including gas and condensate on upper roof
2. Disconnect and remove (3) rooftop units including gas and condensate on upper roof
3. Disconnect and remove (1) make up air unit including gas and condensate on upper roof
4. Provide and install (19) Lennox high-efficiency roof top units on upper roof
5. Provide and install (3) Lennox high-efficiency roof top units on lower roof
6. Provide and install (1) AAON unit on upper roof
7. Modify gas piping and condensate piping as required
8. Utilize existing curbs or provide curb adapters as required
9. Remove equipment and debris from premises
10. Recover refrigerant and dispose as required
11. Filters
12. Start-up of equipment
13. One-year standard warranty
14. Mechanical permit

NOT INCLUDED IN PRICE:

1. Coordinated drawings
2. Split system – see add
3. Equipment service or maintenance, except for warranty purposes
4. Smoke detectors
5. Life safety dampers
6. Electrical
7. Controls
8. Fire protection
9. Roof work
10. Delays beyond Mtech's control
11. Repairs to existing material or equipment not specifically noted above

12. Temporary controls for HVAC systems
13. Engineering work of any kind
14. 3rd Party testing of any kind not specifically noted above
15. Remodel / Sales tax of any kind

Bart Hoover
Chief Estimator
512-908-1069
bart.hoover@csusa.us

PROPOSAL IS SUBJECT TO AND CONDITIONED UPON EACH OF THE FOLLOWING:

1. *APPROVAL OF CONTRACTOR'S CREDIT BY MECHANICAL TECHNICAL SERVICES, L.P. AND/OR RECEIPT OF A CERTIFICATE SHOWING A PAYMENT BOND IS IN PLACE FOR THE BENEFIT OF ALL SUBCONTRACTORS.*
2. *THE EXECUTION BY BOTH PARTIES OF A DEFINITIVE WRITTEN CONTRACT.*

NOTE: We may withdraw quote if not accepted within 30 days.

Regulated by the Texas Department of Licensing and Regulation, PO Box 12157, Austin, TX. 78711 1-800-803-9202, 512-463-6599