

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

**MASTER SERVICES AGREEMENT
WITH
Texas AirSystems, LLC**

Important Notice: County Purchase Orders and Agreements 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 the Texas Constitution, 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 MASTER SERVICES AGREEMENT is made and entered into by and between Williamson County, Texas ("County"), a political subdivision of the State of Texas, acting herein by and through its governing body, and Texas AirSystems, LLC (hereinafter "Service Provider") both of which are referred to herein as the parties. The County agrees to engage Service Provider as an independent contractor, to provide certain services and purchase goods described herein pursuant to the following terms, conditions, and restrictions:

I.

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, she or it is not an employee of the County. The services include maintenance, parts and services as needed/requested on County owned HVAC equipment, including but not limited to AAon units. Related services will be outlined in a Statement of Work ("SOW") to be provided by Service Provider upon the direction of the County.

Service Provider represents that Service Provider (including Service Provider's agents, employees, volunteers, and subcontractors, as applicable) possess all certifications, licenses, inspections, and permits required by law to carry out the services and work described in each SOW provided. The Service Provider shall, upon written (including electronic) request, provide proof of valid licensure.

II.

Goods: Service Provider shall supply the County the goods described in ~~Exhibit "A"~~ and each SOW provided to the extent it meets or exceeds the County's solicitation, if applicable.

Should the County choose to purchase goods in addition to those described in any SOW, such additional goods shall be described in a separate written amendment to the SOW wherein the additional goods shall be described, and the parties shall set forth the amount of compensation to be paid by the County for the additional goods. Service Provider shall not provide any additional goods and the County shall not be obligated to pay for any additional goods unless a written amendment to the SOW has been signed by both parties.

III.

Effective Date and Term: This Contract shall be in full force and effect when signed by all parties and shall continue through March 31, 2028, from effective date. Unless terminated sooner pursuant to paragraph XX below, if applicable, at the end of the agreement term, Williamson County Commissioners Court reserves the right to renew the agreement for additional fiscal years, by mutual agreement of both parties, as it deems to be in the best interest of Williamson County.

IV.

On-Site Representative for Work Monitoring: The County may appoint an on-site project representative to observe the work being performed. The County may conduct inspections to determine the date or dates of substantial completion and the date of final completion. If the County so desires, it may seek written adequate assurance that the work is progressing on-time and pursuant to terms and conditions of this agreement and all related contract documents.

V.

Labor, Materials, Tools & Misc. Items: Service Provider shall provide or cause to be provided and shall pay for labor, materials, equipment, tools, construction equipment and machinery, utilities, transportation and other facilities and services necessary for proper execution and completion of the work, whether temporary or permanent and whether or not incorporated or to be incorporated in the work. Service Provider shall enforce strict discipline and good order among their respective employees and other persons carrying out the Agreement. Service Provider shall not permit employees of unfit persons or persons not skilled in tasks assigned to them.

VI.

Compliance With All Laws: Service Provider agrees, in connection with the services or any related items to the subject matter of this Agreement, to comply with any and all local, state, or federal requirements, including but not limited to compliance with regulations of the Texas Commission of Environmental Quality and the Occupational Safety and Health Administration. Additionally, Service Provider shall obtain from the appropriate City, Williamson County, or State of Texas the necessary permit(s) required by the ordinances of the City of Georgetown, Williamson County, or State of Texas, for performance of the work.

VII.

Duty To Report Problems: Service Provider agrees to advise the County and its

representative(s) within 24 hours of any errors, mistakes, potential problems or any other problematic issue(s) coming under observation during the progress of the work and will make good faith efforts to correct any errors that come to light in a timely and reasonable manner.

VII.

Cleaning Up: Service Provider shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under this Agreement. At completion of the work, Service Provider shall remove from and about the project: waste materials, rubbish, tools, construction equipment, machinery and surplus materials. If Service Provider fails to clean up as provided, the cost thereof shall be charged to Service Provider by deducting from final fee or as necessary.

IX.

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 in any manner hold itself out as an agent or official representative of The County. 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 construction services being provided. Service Provider agrees to indemnify, hold harmless, and defend The County against any claim, demand, loss, injury, damages, actions, or liability of any kind against The County resulting from any services Service Provider performs on behalf of the County.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SERVICE PROVIDER AND ITS AGENTS, PARTNERS, EMPLOYEES, AND CONSULTANTS (COLLECTIVELY "INDEMNITORS") SHALL AND DO AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY COUNTY, AND HOLD HARMLESS THE COUNTY, REPRESENTATIVES OF THE COUNTY AND THE COMMISSIONERS COURT OF WILLIAMSON COUNTY, ITS VARIOUS DEPARTMENTS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL CLAIMS IN RELATION TO SERVICE PROVIDER'S PERFORMANCE OF THE WORK DESCRIBED HEREIN. DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGEMENT, AND EXPENSES, INCLUDING ATTORNEY FEES, OF ANY NATURE, KIND OR DESCRIPTION (COLLECTIVELY "LIABILITIES") OF ANY PERSON OR ENTITY WHOMSOEVER, ARISING OUT OF, CAUSED BY, OR RESULTING FROM THE PERFORMANCE OF THE SERVICES OR ANY PART THEREOF WHICH ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF SERVICE PROVIDER, ANYONE DIRECTLY EMPLOYED BY IT OR ANYONE WHOSE ACTS IT MAY BE LIABLE, EVEN IF IT IS CAUSE IN PART BY THE NEGLIGENCE OR OMISSION OF ANY INDEMNITEE, SO LONG AS IT IS NOT CAUSED BY THE SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF ANY INDEMNITEE. IN THE EVENT MORE THAN ONE OF THE INDEMNITORS ARE CONNECTED WITH AN ACCIDENT OR OCCURRENCE COVERED BY THIS INDEMNIFICATION, THEN EACH OF SUCH

INDEMNITORS SHALL BE JOINTLY AND SEVERALLY RESPONSIBLE TO THE INDEMNITEES FOR INDEMNIFICATION AND THE ULTIMATE RESPONSIBILITY AMONG SUCH INDEMNITORS FOR THE LOSS AND EXPENSE OF ANY SUCH INDEMNIFICATION SHALL BE SETTLED BY SEPARATE PROCEEDINGS AND WITHOUT JEAPORDY TO ANY INDEMNITEE. THE PROVISIONS OF THIS ARTICLE SHALL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATIONS OR RIGHT WHICH COUNTY OR ANY OTHER INDEMNITEES HAS BY LAW. THE INDEMNITIES CONTAINED HEREIN SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT FOR ANY REASON WHATSOEVER.

X.

Service Provider's Employees: Service Provider covenants and agrees that all personnel engaged shall be employees of Service Provider, and Service Provider shall pay all salaries, and all Social Security taxes, Federal and State Unemployment Insurance, Workers' Compensation Insurance and any similar taxes or expenses related to such employees, including but not limited to, license fees, insurance premiums and outfitting expenses. Service Provider shall be responsible for complying with all Federal, State and Local laws, ordinances and regulations regarding its employees, including all Occupational Safety and Health Administration regulations. Service Provider shall be responsible for the supervision, control and direction of the day-to-day activities of the personnel provided hereunder and shall provide close supervision on a continual basis.

XI.

Consideration and Compensation: Service Provider will be compensated based on a fixed sum for specific projects as defined in the SOW's based on COOP contract number TIPS #25010501. The not-to-exceed amount under this Agreement is **Five Hundred Thousand Dollars (\$500,000.00)** per fiscal year.

Pursuant to State Law ("Texas Prompt Payment Act") the payment terms are governed as follows:

County's 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 County receives the goods under the Agreement; (2) the date the performance of the service under the Agreement 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 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 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 (1) 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.

In the event that an error appears on an invoice submitted by Service Provider, County shall notify Service Provider of the error not later than the twenty first (21st) day after the date County receives the invoice. If the error is resolved in favor of Service Provider, Service Provider shall be entitled to receive interest on the unpaid balance of the invoice submitted by Service Provider

beginning on the date that the payment for the invoice became overdue. If the error is resolved in favor of the County, Service Provider shall submit a corrected invoice that must be paid in accordance within the time set forth above. The unpaid balance accrues interest as provided by Chapter 2251 of the Texas Government Code if the corrected invoice is not paid by the appropriate date.

As a minimum, invoices shall include:

- a) Name, address, and telephone number of Service Provider and similar information in the event the payment is to be made to a different address
- b) County Agreement, Purchase Order, and/or delivery order number
- c) Identification of items or services as outlined in the Agreement
- d) Quantity or quantities, applicable unit prices, total prices and total amounts
- e) Any additional payment information which may be called for by the Agreement

Payment inquiries should be directed to the Williamson County Auditor's Office, Accounts Payable Department: accountspayable@wilco.org 512-943-1500

XII.

The County's Decision to Withhold Payment: The County may withhold a payment in whole or in part to the extent reasonably necessary to protect The County due to The County's determination that the work has not progressed to the point indicated in the Agreement documents or that the quality of work is not in accordance with the Agreement documents. The County may also withhold a payment or, because of subsequently discovered evidence, may nullify the whole or a part of any request for payment to such extent as may be necessary to protect The County from loss for which Service Provider is responsible, including loss resulting from acts and omissions, because of the following:

1. defective work not remedied;
2. reasonable evidence that the work cannot be completed for the unpaid balance of the Agreement sum;
3. damage to The County;
4. reasonable evidence that the work will not be completed within the Agreement time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
5. persistent failure to carry out the work in accordance with the Agreement documents.

XIII.

Insurance: Service Provider shall provide and maintain, until the services covered in this MSA 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 <i>(including premises, completed operations and contractual)</i>	\$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 MSA, Service Provider shall provide the County with insurance certificates evidencing compliance with the insurance requirements of this MSA.

No Waiver of Immunities. Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to The County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. The County does not waive, modify, or alter to any extent whatsoever the availability of the defense of governmental immunity or any other immunity under the laws of the State of Texas or of the United States.

XIV.

Warranty: Service Provider warrants to The County that materials, workmanship and equipment furnished under this agreement will be of good quality and new unless otherwise required or permitted by The County, that the work will be free from defects not inherent in the quality required or permitted by law or otherwise, and that the work will conform to the requirements of the Agreement documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.

XV.

Taxes: Service Provider shall pay all sales, consumer, use and similar taxes for the work provided by Service Provider which had been legally enacted on the date of the Agreement, whether or not yet effective or merely scheduled to go into effect.

XVI.

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

XVII.

No Assignment: Service Provider may not assign this Agreement.

XVIII.

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 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.

IXX.

Confidentiality: Service Provider expressly agrees that they will not use any incidental confidential information they may obtain while being on governmental property for their own benefit and agrees that is will not enter unauthorized areas or access confidential information and will not disclose any information to unauthorized third parties and will take care to guard the security of the information at all times.

XX.

Termination: This agreement may be terminated at any time at the option of The County, without further or prospective liability for performance upon giving upon thirty (30) calendar day's written notice to thereof. In the event Williamson County exercises its right to terminate without cause, it is understood and agreed that only amounts due to Service Provider for goods, commodities and/or services provided and expenses incurred to and including the date of termination, will be due and payable. No penalty will be assessed for Williamson County's termination for convenience.

XXI.

Right of Funds: Despite the agreed upon method of payment set forth above, Service Provider agrees to return to Williamson County pro-rata portion of unearned funds distributed to Service Provider if (a) Service Provider's project progress is insufficient; (b) this Agreement is terminated for any reason; or (c) Service Provider fails in any other respect under this Agreement.

XXII.

County's Right to Audit: Service Provider agrees that Williamson 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 expressly agrees that The County shall have access during normal working hours to all necessary Service Provider facilities and shall be provided adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this section. Williamson County shall give Service Provider reasonable advance notice of intended audits.

XXIII.

Notice: Any notice required to be given under the terms of this AGREEMENT shall be effective if and when given in writing and mailed by certified mail to the addresses listed below or subsequently provided in writing:

WILLIAMSON COUNTY:

Williamson County Judge
710 Main Street, Suite 101
Georgetown, TX 78626

SERVICE PROVIDER

Texas AirSystems, LLC
5900 E. Ben White Blvd., Bldg. C
Austin, TX 78741

XXIV.

Mediation: The parties agree to use non-binding mediation for dispute resolution prior to and formal legal action being taken on this Agreement.

XXV.

Appropriation of Funds by County: County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement. Service Provider understands and agrees that the County's payment of amounts under this Agreement is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Agreement.

Non-Appropriation and Fiscal Funding: The obligations of the Parties under this Agreement do not constitute a general obligation or indebtedness of either Party for which such Party is obligated to levy, pledge, or collect any form of taxation. It is understood and agreed that County shall have the

right to terminate this Agreement at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may effect such termination by giving written notice of termination at the end of its then-current fiscal year.

XXVI.

Authorized Expenses: In the event County authorizes, in advance and in writing, reimbursement of non-labor expenses related to the services subject of this Agreement, County will pay such actual non-labor expenses in strict accordance with the Williamson County Vendor Reimbursement Policy (as amended), which is incorporated into and made a part of this Agreement by reference. The Williamson County Vendor Reimbursement Policy can be found at: [Williamson County Vendor Reimbursement Policy.pdf \(wilco.org\)](#). Invoices requesting reimbursement for authorized non-labor expenses must be accompanied by copies of the provider's invoice and clearly set forth the actual cost of the expenses, without markup.

XXVII.

Entire Agreement & Incorporated Documents: This Agreement constitutes the entire Agreement between the parties and may not be modified or amended other than by a written instrument executed by both parties. Documents expressly incorporated into this Agreement include the following:

- A. COOP contract number TIPS #25010501, incorporated by reference;
- B. Insurance certificates evidencing coverages required herein above and
- C. Any Amendments agreed to by both parties.

XXVIII.

Signature for the County: The presiding officer of Williamson County's governing body who is authorized to execute this instrument by order duly recorded may execute this Agreement on behalf of the County.

IN WITNESS WHEREOF, that this Agreement shall be effective as of the date of the last party's execution below.

WILLIAMSON COUNTY:

Texas AirSystems, LLC:

Authorized Signature



Authorized Signature

County Judge/Presiding Officer

Blake Randig

Printed Name

Dated: _____, 20__

Dated: March _____ 28th, 20__