

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

**SERVICES CONTRACT
PLANNED MAINTENANCE
FOR COUNTY FACILITIES/GENERATORS
(Clifford Power Systems, Inc.)
(TIP Cooperative #1042816)**

THIS SERVICES CONTRACT (hereinafter "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 **Clifford Power Systems, Inc.,** (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.

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, but are not limited to the following items in order to complete the project:

- A. As described in the attached Statement of Work/Planned Maintenance Agreement, dated October 12, 2017 and marked Exhibit "A," which is incorporated herein as if copied in full.

Should The County choose to add services in addition to those described in Exhibit "A," such additional services shall be described in a separate written amendment to this Contract wherein the additional services shall be described and the parties shall set forth the amount of compensation to be paid by The County for the additional services. Service Provider shall not begin any additional services and The County shall not be obligated to pay for any additional services unless a written amendment to this Contract has been signed by both parties.

II.

Effective Date and Term: This contract shall be in full force and effect when signed by all parties and shall continue for the current fiscal year until September 30, 2018 or when terminated pursuant to paragraph X below.

III.

Consideration and Compensation: Service Provider will be compensated based on a fixed sum for the specific project herein. **The not-to-exceed amounts under this agreement are \$44,031.47 for related goods and services. Only services that are needed will be ordered pursuant to the attached Exhibit "A."** The not-to-exceed amount may only be revised by an addendum or change order and must be 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.

IV.

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 |

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

V.

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/Planned Maintenance Agreement, dated October 12, 2017 and marked Exhibit "A," which is incorporated herein as if copied in full; and

B. 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.

VI.

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 Contract and shall in no manner incur any expense or liability on behalf of The County other than what may be expressly allowed under this Contract. 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.

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.

INDE MNIFICATION - 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.

No Waiver of Sovereign Immunity or Powers: Nothing in this Contract 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.

IX.

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.

X.

Termination: This Contract 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.

XI.

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.

XII.

Severability: In case any one or more of the provisions contained in this Contract 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 Contract and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

XIII.

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 Contract, 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 Contract 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.

XIV.

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.

XV.

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

XVI.

No Assignment: Service Provider may not assign this Contract.

XVII.

County Judge or Presiding Officer Authorized to Sign Contract: 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 that this Contract shall be effective as of the date of the last party's execution below.

WILLIAMSON COUNTY:


Authorized Signature

11-08-2017
Printed Name

Date:

SERVICE PROVIDER:


Authorized Signature

CANDACE JAYNES
Printed Name

Date: 10-27-17

Exhibit "A"
Statement of Work/Quotation



***TIPS APPROVED CONTRACT ***

PLANNED MAINTENANCE (PM) AGREEMENT

Clifford Power Systems, Inc. ("CPS") agrees to provide Williamson County ("Customer"), and Customer agrees to accept and pay for parts and services necessary to perform periodic Planned Maintenance ("PM") of ("Equipment").

Customer Address: 3101 SE Inner Loop City: Georgetown ST: TX ZIP: 78626

EQUIPMENT

| Generator | Model | Serial | KW | Location | Quarterly PM Services | Load Bank |
|--------------|-----------------------|---------------|------|---------------------|-----------------------|------------|
| Baldor | | P0508290007 | 180 | Round Rock | \$2,020.76 | \$817.02 |
| Onan | GGFB-3388565 | B000062477 | 35 | Central Maintenance | \$1,335.51 | \$579.45 |
| Generac | 2254270400 | 2066635 | 200 | Juvenile | \$2,020.76 | \$817.02 |
| Cummins | DQFAD-1206664 | F120358177 | 1000 | ESOC | \$4,195.21 | \$1,758.44 |
| Generac | SD0400KG22125D18HPYY3 | 9159996 | 400 | South Jail | \$2,328.48 | \$1,044.48 |
| Onan | DFLE-5583568 | K020442322 | 1500 | North Jail | \$4,746.31 | \$2,567.34 |
| Gillette | SPD-330-3-2E | AH2-201 | 30 | Historic Jail | \$1,524.17 | \$615.72 |
| Sentry Pro | 200MI30P-120 | 108148 01 | 109 | Georgetown Health | \$1,747.60 | \$701.86 |
| Baldor | IDLIC-150-JD | M07D206910-02 | 150 | Taylor | \$1,747.60 | \$701.86 |
| Shindaiwa | DGK45C | 71041 | 36 | Cedar Park | \$1,335.51 | \$579.45 |
| Cummins/Onan | C35 D6 | TBD | 35 | Texas Ave Building | \$1,335.51 | \$579.45 |
| Kohler | 15REOZK | TBD | 15 | N Campus Building G | \$1,031.00 | \$437.00 |
| Kohler | 80REOZJF | TBD | 80 | N Campus Building H | \$1,335.51 | \$579.45 |

This agreement will be in accordance to the following terms and conditions, for a period of one (1) year, ending September 30, 2018.

In consideration of the agreements herein contained:

- Customer agrees to: Remit the annual amount of \$26,703.93 for the PM services performed by CPS, plus the cost of any additional options chosen below that are performed by CPS. Customer will receive a copy of CPS maintenance inspection report with all applicable areas filled out by the service technician. *Customer also agrees to pay all applicable taxes and environmental fees.*
- CPS agrees to: Perform PM inspections of Equipment 4 times per year at approximate 3 month intervals. Work to be performed during regular business hours 8:00AM to 5:00PM Monday through Friday. All applicable items of Equipment shall be inspected and reported to the Customer. CPS shall also report any noted problems with Equipment and recommended courses of corrective action to the Customer. CPS will perform normal maintenance on Equipment including oil and filter changes. The following are maintenance service intervals for filter and fluid changes, and other services not performed at every inspection. *All applicable items will be performed or checked at the first inspection after this agreement is accepted.*

INCLUDED PM ITEMS

| | |
|--|---|
| A. Oil change once per year. | B. Oil filter change at time of oil change. |
| C. Fuel filter change (if applicable) once per year. | D. Oil analysis will be done (by outside laboratory) at time of oil change. |
| E. Coolant maintenance as necessary. Includes testing for freeze point & inhibitor levels. Conditioners added as needed. If coolant replacement necessary, a disposal fee of \$1.00 per gallon will be assessed. | |

OPTIONAL PM SERVICE & APPLICABLE CHARGES

| | | | |
|---|--|--|--|
| F. Perform 2 Hour Load Bank Test at the time of PM visit on (13) units. \$ <u>11,776.54</u> cost Performed Annually | Accept <input type="checkbox"/> Decline <input type="checkbox"/> Initial Appropriate Line | G. Perform annual fuel contamination & quality testing on (13) units. \$ <u>5,551.00</u> cost Performed Annually | Accept <input type="checkbox"/> Decline <input type="checkbox"/> Initial Appropriate Line |
|---|--|--|--|

- Customer authorizes: CPS to perform repairs deemed necessary for proper operation of the standby power system at time of inspection. The cost of repairs shall not exceed \$ _____ (\$500 recommended) without customer authorization, and shall be documented on the inspection report. Repairs estimated to exceed this amount would be referred to the Customer for action and additional authorization. Cost for additional repairs will be charged at CPS prevailing labor rates plus parts costs and prevailing mileage rates (if additional trips are required).
- Customer authorizes: CPS to perform a Diesel Fuel Top Off Service for an amount not exceed \$ _____ (\$600 recommended) without customer authorization. This service shall be documented on the inspection report. Cost for fuel service will be charged at CPS prevailing labor and fuel rates. Service Trucks are capable of providing up to 100 gallons, if approved pricing covers costs.
- CPS warrants its work: For a period of thirty (30) days from the date of service. This warranty is limited to failure as a result of workmanship and does not include failures resulting from improper or unauthorized installation, misuse, negligence, accident, over-loading, over-speeding, repairs made by someone other than CPS, fire, flood, vandalism, theft or any other acts beyond the control of CPS.
- Failures of new parts installed by CPS: Failure of any new part/s installed by CPS during the course of maintenance service shall be covered by the manufacturer's warranty of said part(s).
- Renewal: This agreement will automatically renew at the completion of the agreement period unless cancelled per paragraph 8.
- This agreement may be cancelled by either party: With a ninety (90) day written notification.
- Limitation of Liability: Clifford Power Systems, Inc.'s liability under this agreement, if any, shall be limited to the contract amount of this agreement. In no event shall CPS be liable for any consequential, incidental or exemplary damages, including, but not limited to, loss of profits or down time.