

**AMENDMENT NUMBER TWO
TO PROFESSIONAL SERVICES AGREEMENT
WITH
F. M. THOMAS AIR CONDITIONING, INC.**

This Amendment Number Two ("Amendment") is made and entered into this 31st day of July, 2018 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and F. M. THOMAS AIR CONDITIONING, INC., a California corporation ("Consultant").

WHEREAS, City and Consultant entered into an agreement on August 1, 2012 for Consultant to provide heating-ventilation-air conditioning ("HVAC") maintenance and repair services (the "Agreement"); and

WHEREAS, Section 4.1 of the Agreement provides for a term of five (5) years, with the option to extend the term of the Agreement for three (3) additional one (1) year periods; and

WHEREAS, on July 31, 2017, City and Consultant extended the term of the Agreement through July 31, 2018; and

WHEREAS, City and Consultant now desire to extend the term for one (1) year, through July 31, 2019, and to set forth Consultant's compensation for the extended period.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The term of the Agreement shall be extended through July 31, 2019.
2. For the period commencing August 1, 2018 and ending July 31, 2019, Consultant's compensation shall not exceed Seventy-Three Thousand Nine Hundred Seventy-Three Dollars (\$73,973.00).
3. All terms not defined herein shall have the same meaning and use as set forth in the Agreement.
4. All other terms, conditions, and provisions of the Agreement, as amended, not in conflict with this Amendment shall remain in full force and effect.

[Signatures appear on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by and through their respective authorized officers, as of the date first written above.

CITY OF COSTA MESA

Thomas R. Hattis
City Manager

Date: 8/9/18

CONSULTANT

Tom Feyla
Signature

Date: 7/31/18

Tom Feyla President
Name and Title

ATTEST:

Brenda Green 8-13-18
City Clerk



APPROVED AS TO FORM:

[Signature]
City Attorney

Date: 08/09/18

APPROVED AS TO INSURANCE:

[Signature]
Risk Management

Date: 8/10/18

APPROVED AS TO CONTENT:

Doug Lovell
Project Manager

Date: 8/7/18

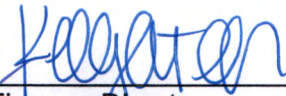
DEPARTMENTAL APPROVAL:



Public Services Director

Date: 8-7-18

APPROVED AS TO PURCHASING:



Finance Director

Date: 8/7/18

F.M. THOMAS AIR CONDITIONING, INC.

YOUR COMMERCIAL SERVICE & CONTROLS SPECIALISTS . . . Since 1974

Contractor License #313574

DIR #1000003383

Tel. 800.660.0891

Fax: 714.738.0886

www.fmthomas.com

PROPOSAL

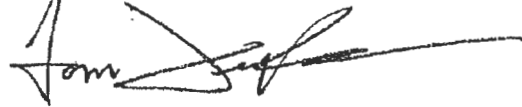
Quote #TF7184, Corrected 7/3/18

DATE: June 13, 2018

TO: City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92628

ATTN: Doug Lovell
Director of Facilities

FROM: Tom Feyka



RE: Request for Purchase Order 7-1-18 thru 6-30-19
DIR # 1000003383

Scope

Professional Services Agreement for City HVAC maintenance and repair services for sixteen (16) City facilities more specifically described as non-supplemental and supplemental coverage including a mechanical guarantee as set forth in the City's Request for Proposal (the "RFP") and Contractor's Proposal (the "Response") subject to the terms and conditions contained in the RFP and the Response.

Optional additional year #7

Pricing per Schedule \$73,974.00, monthly amount \$6,164.00

Thank you for considering F.M. Thomas Air Conditioning for your H.V.A.C. and Controls needs!!!!

ACCEPTANCE: Please authorize and return one copy.

ACCEPTED THIS DAY OF , year

PURCHASE ORDER _____ FIRM _____

BY _____ TITLE _____

NOTE: THE GENERAL CONDITIONS ARE A PART OF THIS AGREEMENT

F.M. Thomas Air Conditioning, Inc. herein FMT

- A. ALL SERVICES OUTLINED IN THIS PROPOSAL WILL BE PERFORMED DURING REGULAR WORKING HOURS, 8:00 A.M. TO 4:30 P.M., MONDAY THRU FRIDAY. IF THE CUSTOMER REQUIRES OVERTIME, FMT WILL BE REIMBURSED FOR THE PREMIUM PORTION OF WAGES PAID (INCLUDING PAYROLL TAXES AND INSURANCE), PLUS A REASONABLE ALLOWANCE FOR LOSS OF PRODUCTIVITY CAUSED BY THE OVERTIME.
- B. ADDITIONAL WORK: F MT AGREES TO SUPPLY THE MATERIAL, LABOR, TRUCK CHARGES, AS SPECIFICALLY LISTED HEREIN. IF ADDITIONAL WORK IS REQUIRED BY THE CUSTOMER OR ADDITIONAL WORK IS REQUIRED TO MEET EQUIPMENT MANUFACTURER'S SPECIFICATION(S) OR CUSTOMER REQUIRED DESIGN AND/OR PREFERENCE CRITERIA, PREVENT DAMAGE TO THE STRUCTURE, PERSON(S) OR CONTENTS, INCLUDING THE WORK PROVIDED BY THIS PROPOSAL AND CONTRACT, SATISFY GOVERNMENTAL HEALTH, SAFETY AND BUILDING CODES, RULES AND LAWS OF A.Q.M.D. AND/OR EPA, OR OTHER GOVERNMENTAL AUTHORITY(S) SUCH WORK WILL BE AT ADDITIONAL COST.
- C. WARRANTY: 1) F.M. THOMAS AIR CONDITIONING, INC., AGREES TO WARRANT THE LABOR FOR A PERIOD OF (1) YEAR AND MATERIALS FOR A PERIOD OF ONE YEAR FROM DATE OF LAST WORKORDER, AND THAT ALL PARTS REPLACED, MATERIALS FURNISHED, AND WORK ACCOMPLISHED, IS FREE FROM DEFECT IN MATERIAL AND WORKMANSHIP. 2) REFRIGERANT REPLACEMENT WARRANTY INCLUDING LABOR INVOLVING NEW EQUIPMENT SOLD, INSTALLED AND MAINTAINED BY FMT IS ONE YEAR. 3) REFRIGERANT REPLACEMENT WARRANTY INCLUDING LABOR INVOLVING SERVICE /REPAIR /MODIFICATIONS /RETROFIT AND MAINTENANCE WORK IS LIMITED TO 30 DAYS FROM LAST WORKORDER DATE.
- D. ACCEPTANCE: THIS PROPOSAL IS SUBJECT TO ACCEPTANCE WITHIN 30 DAYS FROM QUOTATION OF ABOVE LISTED WORK.
- E. TERMS: TIME IS OF THE ESSENCE, PAYMENT IN FULL, and 10 DAYS FROM INVOICE DATE OF ABOVE LISTED WORK.
- F. PAYMENTS: FOR WORK COMMENCED AND COMPLETED IN ANY ONE CALENDAR MONTH, CUSTOMER WILL PAY THE CONTRACT PRICE IN FULL IN CASH UPON COMPLETION OF THE WORK. OTHERWISE, CUSTOMER WILL PAY THE PRICE IN CASH IN PROGRESS PAYMENTS FOR WORK COMPLETED THRU THE END OF EACH MONTH.
- G. ATTORNEY'S FEES: IF EITHER PARTY HERETO COMMENCES AN ACTION AGAINST THE OTHER ARISING OUT OF, OR IN CONNECTION WITH THIS PROPOSAL AND CONTRACT, THE PREVAILING PARTY SHALL BE ENTITLED TO RECOVER FROM THE LOSING PARTY, REASONABLE ATTORNEY'S FEES AND COSTS OF SUIT. THE VENUE FOR LEGAL ACTION(S) SHALL BE THE NORTH ORANGE COUNTY MUNICIPAL/SUPERIOR COURT, OR THE FEDERAL DISTRICT COURT OF LOS ANGELES.
- H. INSURANCE: FMT WILL SUPPLY WORKER'S COMPENSATION INSURANCE IN THE FORMS AND AMOUNT REQUIRED BY LAW. IN ADDITION, FMT SHALL SUPPLY THE LIABILITY INSURANCE DESCRIBED IN A CERTIFICATE OF INSURANCE WHICH IS ATTACHED TO THIS PROPOSAL, OR WHICH IN THE ABSENCE OF SUCH ATTACHMENT WILL BE SUPPLIED THE CUSTOMER ON REQUEST.
- I. RIGHT TO STOP WORK: FMT SHALL HAVE THE RIGHT TO STOP WORK IF PAYMENTS ARE NOT MADE WHEN DUE UNDER THIS CONTRACT AND MAY KEEP THE JOB IDLE UNTIL ALL PAYMENTS HAVE BEEN RECEIVED.
- J. INTEGRATION: THIS AGREEMENT SUPERSEDES AL PRIOR CONTEMPORANEOUS AGREEMENTS, NEGOTIATIONS, REPRESENTATIONS, UNDERSTANDINGS AND DISCUSSIONS BETWEEN THE PARTIES AND/OR THEIR REPSECTIVE COUNSEL WITH RESPECT TO THE SUBJECT MATTER COVERED HEREBY.