

5.7. ISSUANCE OF A REQUEST FOR PROPOSAL FOR CITYWIDE HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM PROGRAMMED MAINTENANCE AND SYSTEM REPAIR FROM JANUARY 1, 2025 TO DECEMBER 31, 2027



DATE: August 19, 2024

TO: Mayor and Members of City Council

VIA: Stefan Chatwin, City Manager
Marlene Subhashini, Assistant City Manager

FROM: Andrew Brozyna, Public Works Director
Kurt Zander, Building and Vehicle Maintenance Manager

DEPARTMENT: Public Works

SUBJECT: ISSUANCE OF A REQUEST FOR PROPOSAL FOR CITYWIDE
HEATING, VENTILATION AND AIR CONDITIONING (HVAC)
SYSTEM PROGRAMMED MAINTENANCE AND SYSTEM
REPAIR FROM JANUARY 1, 2025 TO DECEMBER 31, 2027

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution authorizing the issuance of a Request for Proposal (RFP) for Citywide HVAC System Programmed Maintenance and System Repair from January 1, 2025, through December 31, 2027, with the option to extend through December 31, 2029, and finding that this action is not a project under Section 15378 of the CEQA guidelines.

EXECUTIVE SUMMARY

The attached RFP was developed to address routine HVAC maintenance and to allow the City to engage the same vendor to repair unforeseen issues on existing HVAC equipment. The scope of work requested under this RFP includes routine service and standard repairs to existing equipment. It does not include “stand alone” replacement projects or improvement projects.

BACKGROUND

The Building Maintenance Division of the Public Works Department maintains all of the

City's buildings and facilities. The City contracts for routine HVAC service and repair for these buildings and facilities, which is specialized work that requires certifications not held by Building Maintenance Division staff.

ANALYSIS

The scope of work for HVAC programmed maintenance and system repair included in the attached RFP applies to the following City facilities:

- Corporation Yard
- City Hall
- Council Chambers
- Fire Administration (First Floor EOC)
- Police Station
- Library/Community Center
- Recreation Center/Senior Wing
- Teen Center

The current schedule for the Recreation Center Rebuild project anticipates construction from October 2024 until June 2026, after which the HVAC system should be under warranty for another year or more, so the RFP makes it clear that services and pricing provided through this RFP for the Recreation Center will be utilized only if the project schedule is adjusted such that the building is open during the term of the agreement. Extensions will be exercised with attention to the progress of the project and anticipated completion dates.

Staff recommends that the RFP seek pricing for repairs to the system on a time and materials basis to allow staff to use the regular service vendor to also perform repairs. Thus, the attached RFP was developed to address not only programmed maintenance, but also to allow the City to engage the vendor to repair unforeseen issues on existing HVAC equipment.

Repair costs associated with the HVAC system vary from year to year and are difficult to forecast. The agreement will allow the selected vendor to perform repairs to existing HVAC equipment at a set time and materials rate. Foster City Municipal Code section 3.04.170 (B) defines a "public project" to include, among other things, repair work involving any publicly owned, leased or operated facility. However, because public projects less than or equal to \$60,000 may be performed by negotiated contract or by purchase order, any repairs required will be for an amount not to exceed \$60,000 per single repair.

This agreement is not intended to encompass "stand alone" replacement or improvements projects, or major repairs which will continue to be performed pursuant to State law, the City's Purchasing Ordinance, and the City's Purchasing Policy.

Proposed Timeline:

August 20, 2024: Issue Request for Proposal
September 17, 2024: Proposals Due
November 4, 2024: City Council Awards Contract
January 1, 2025: Vendor begins to Provide Service

CEQA

This action is not a project under Section 15378 of the CEQA Guidelines, as the issuance of an RFP has no potential for a direct or indirect physical change in the environment. Therefore, no CEQA review is required.

FISCAL IMPACT

There is no significant cost to issue the RFP. The fiscal impact of the agreement will be discussed in the staff report that accompanies the agreement award.

CITY COUNCIL VISION, MISSION, AND VALUE/PRIORITY AREA

Facilities and Infrastructure

ATTACHMENTS:

Attachment 1 - Resolution
Attachment 2 - Cover Letter and RFP for HVAC System Programmed Maintenance and System Repair

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOSTER CITY AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR CITYWIDE HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM PROGRAMMED MAINTENANCE AND SYSTEM REPAIR FROM JANUARY 1, 2025 TO DECEMBER 31, 2027, WITH THE OPTION TO EXTEND THROUGH DECEMBER 31, 2029

CITY OF FOSTER CITY

WHEREAS, the Building Maintenance Division of the Public Works Department maintains all of the City's buildings and facilities and City contracts for routine HVAC service and repair for these buildings and facilities, which is specialized work that requires certifications not held by Building Maintenance Division staff; and

WHEREAS, the scope of work for HVAC programmed maintenance and system repair included in the attached Request for Proposal applies to facilities throughout the City; and

WHEREAS, repair costs associated with the HVAC system vary from year to year and are difficult to forecast and agreement will allow the selected vendor to perform repairs to existing HVAC equipment at a set time and materials rate; and

WHEREAS, the issuance of a Request for Proposals (RFP), will solicit contractors for Citywide HVAC maintenance and repair services from January 1, 2025, through December 31, 2027, with the option to extend through December 31, 2029, and find that this action is not a project under Section 15378 of the CEQA Guidelines, as the issuance of an RFP has no potential for a direct or indirect physical change in the environment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Foster City does hereby authorize the issuance of a Request for Proposals for Citywide HVAC System Programmed Maintenance and System Repair from January 1, 2025, through December 31, 2027, with the option to extend through December 31, 2029.

PASSED AND ADOPTED as a resolution of the City Council of the City of Foster City at the regular meeting held on the 19th day of August, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PATRICK SULLIVAN, MAYOR

ATTEST:

PRISCILLA SCHAUS, CITY CLERK



Building Maintenance Division
100 Lincoln Centre Drive
Foster City, CA 94404

August 20, 2024

SUBJECT: Request for Proposal – Annual HVAC Programmed Maintenance and System Repairs

Dear Contractor,

You are invited to submit a proposal to provide HVAC Programmed Maintenance and System Repairs for City of Foster City facilities as outlined and delineated on the attached Scope of Services. Proposals are due to City Hall, 610 Foster City Boulevard, Foster City, CA 94404, **before 4:00 PM on Tuesday, September 17, 2024.**

PROJECT REQUIREMENTS

The work includes furnishing all materials, labor, and equipment required to complete the work. Your proposal must include the required services detailed in the Scope of Work for each of the following facilities:

- City Hall (610 Foster City Boulevard)
- Council Chambers (620 Foster City Boulevard)
- Police Station (1030 East Hillsdale Boulevard)
- Library/Community Center (1000 E. Hillsdale Boulevard)
- Recreation Center/Senior Wing (650 Shell Boulevard)*
- The VIBE Teen Center (670 Shell Boulevard)
- Corporation Yard (100 Lincoln Centre Drive)

*The Recreation Center is anticipated to be under construction for the term of this agreement, so services and pricing provided for this facility will only be activated if the project schedule is significantly adjusted such that the building is open during the contract term.

ALL PROPOSERS MUST BE DELTA DIGITAL CONTROLS DISTRIBUTORS

CONTRACT

The initial contract period shall be from January 1, 2025, through December 31, 2027. The contract may be renewed in one-year (12 months) increments up to two (2) additional years, at the sole discretion of the City.

The successful proposer will be required to enter into and abide by the terms of the attached Vendor

Agreement for Annual Heating, Ventilation, and Air Conditioning (HVAC) System Programmed Maintenance and System Repair, including its insurance requirements. Proposals must be prepared to include all contract requirements.

PROPOSALS

Each proposer must submit five (5) fully completed copies of the **BID PROPOSAL FORM** in a sealed envelope. Proposers may, at their option, include five (5) copies of up to one (1) additional page with supplemental information.

Proposals will be evaluated based on the Proposal Routine Maintenance Cost, Hourly Labor Rates for System Repair, and other information outlined in the Request for Proposal. The City will evaluate each of the proposers' qualifications and references and may conduct interviews with the proposers to provide an opportunity for proposers to demonstrate their qualifications for the proposed services. Based on these processes, the City will select a contractor and negotiate a final fee for the services delineated in the Scope of Work. The contractor must be ready to execute the Agreement within ten (10) days of award.

REQUESTS FOR ADDITIONAL INFORMATION

The City reserves the right to seek clarification or additional information from any vendor throughout the solicitation process. The City may require a Vendor's representative to answer questions during the evaluation process with regard to the Vendor's proposal. Failure of a Vendor to demonstrate that the claims made in its proposal are accurate may be sufficient cause for deeming a proposal non-responsive.

OPTIONAL PRE-BID CONFERENCE MEETING

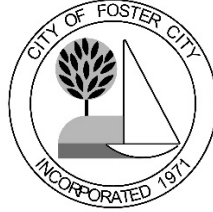
Proposers may request to schedule a walk-through of the City locations with Building Maintenance staff prior to submitting a proposal. Walk-throughs can be scheduled by contacting Lead Building Maintenance Worker JR Delfin at 650-787-8036 or gdelfin@fostercity.org or Buildings Administrative Assistant Jill Salvato at (650) 286-3554 or jsalvato@fostercity.org. Walk-throughs will be scheduled based upon the availability of Building Maintenance staff and must be requested at least one week in advance of the preferred walk-through date.

Sincerely,

Kurt Zander
Building Maintenance Manager

Enclosures:

- (1) Request for Proposals: Annual HVAC Programmed Maintenance and System Repairs for City Buildings
- (2) City of Foster City Proposer Response Form
- (3) Vendor Agreement for Annual Heating, Ventilation, and Air Conditioning (HVAC) System Programmed Maintenance and System Repair



Building Maintenance Division
100 Lincoln Centre Drive
Foster City, CA 94404

REQUEST FOR PROPOSAL
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS FOR CITY BUILDINGS

RFP ISSUED: August 20, 2024
PROPOSALS DUE: September 17, 2024, by 4 PM to City Hall,
610 Foster City Boulevard, Foster City, CA

The Proposal Form consists of 6 parts:

- CITY OF FOSTER CITY PROPOSAL FORM
- AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION AND WAIVER
- CERTIFICATE OF INSURABILITY
- CONTRACT REVIEW STATEMENT
- NON-COLLUSION DECLARATION

Questions regarding this RFP may be directed to Kurt Zander, Buildings and Vehicles Maintenance Manager, at 650-918-9480 or kzander@fostercity.org.

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

PROJECT:	CONTRACT PERIOD:
CITY OF FOSTER CITY – ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS	January 1, 2025 through December 31, 2027 with City option to extend through December 31, 2029

SECTION 1: Contact Information

1. COMPANY NAME		
2. CONTRACTOR LICENSE NUMBER	3. FEDERAL TAX ID NUMBER	4. YEARS IN BUSINESS
5. BILLING ADDRESS	6. CITY	7. STATE/ZIP
8. TELEPHONE	9. FAX	10. EMAIL
11. CONTACT PERSON		12. TITLE

SECTION 2: Addenda

I acknowledge receipt of the following addenda:

Addenda Number	Date

SECTION 3: Qualifications

- List all Vendor Licenses, Certifications, Experience, Qualifications, Reputation, Service Capabilities and Quality Related to HVAC Maintenance.
- Delta Digital Controls Requirement – Check the box that applies
 - ☐ Proposer is A Delta Digital Controls Distributor **OR**
 - ☐ Proposer has included Delta parts, pricing, and controls service staff info on the optional supplementation information sheet.
- Add any other qualifications, certifications and/or training below and/or on the optional supplemental information sheet.

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

SECTION 4: Conflict of Interest

- ☐ By checking this box, the proposer confirms that this engagement will not result in a conflict of interest for the organization or any of its team members.

SECTION 5: References

Include at least three (3) organizations which can be used as references for performance of similar services. Proposers shall endeavor to include references from public sector agencies.

Reference 1:

AGENCY/COMPANY NAME	
CONTACT PERSON	CONTACT PHONE
DESCRIPTION OF SERVICES	

Reference 2:

AGENCY/COMPANY NAME	
CONTACT PERSON	CONTACT PHONE
DESCRIPTION OF SERVICES	

Reference 3:

AGENCY/COMPANY NAME	
CONTACT PERSON	CONTACT PHONE
DESCRIPTION OF SERVICES	

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

SECTION 6: Proposal Cost

Part A: Proposed Annual Cost for Programmed Maintenance

Include all labor, materials, and equipment necessary to perform the Scope of Work listed in Exhibit A to the attached Vendor Agreement.

Facility	Proposed Annual Cost
Controls Annual Maintenance (All buildings) - 2x Annually	\$
City Hall (610 Foster City Boulevard) – 4x Annually	\$
Council Chambers (620 Foster City Boulevard) – 3x Annually	\$
Police Station (1030 East Hillsdale Boulevard) – 4x Annually	\$
Library/Community Center (1000 E. Hillsdale Boulevard) – 4x Annually	\$
Recreation Center/Senior Wing (650 Shell Boulevard) – 4x Annually *Service may not be required depending upon the demolition and construction schedule	\$
The VIBE Teen Center (670 Shell Boulevard) – 3x Annually	\$
Corporation Yard (100 Lincoln Centre Drive) – 4x Annually	\$
Total Cost per Year (All maintenance in all buildings)	\$

Part B: Proposed Hourly Rates for System Repairs

System Repairs will be ordered as needed on a “Time and Materials” basis, up to a maximum of \$150,000 per year, and not to exceed \$60,000, including time and materials, per single repair under this agreement. Enter personnel type and labor rates for any personnel who may be deployed for system repairs. Cost of materials shall be paid by City and the Proposer proposes a _____% mark-up to be applied to all materials costs and shall provide documentation of all such costs to be paid by the City.

	Enter Personnel Type	Enter Personnel Type	Enter Personnel Type	Enter Personnel Type	
Standard Rate	\$	\$	\$	\$	
Weekday Overtime Rate	\$	\$	\$	\$	
Weekend Overtime Rate	\$	\$	\$	\$	
Holiday Rate	\$	\$	\$	\$	
Other (Specify)	\$	\$	\$	\$	
Other (Specify)	\$	\$	\$	\$	

Part C: Annual Increases

Enter the proposed annual % increase to the total Annual Cost for Programmed Maintenance which shall be applied at the end of the first year of the contract term, and every year thereafter. The City will not accept any proposal that proposes more than a 3% annual increase.

Proposed annual increase to Annual Cost for Programmed Maintenance: _____%

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

SECTION 7: Submittal guidelines

Submit five (5) hard copies of this proposal form and optional additional one-page supplemental information sheet in a sealed envelope no later than by **4 PM on Tuesday, September 17, 2025**, to:

Kurt Zander
City of Foster City
610 Foster City Boulevard
Foster City, CA 94404

Late proposals will not be considered.

In accordance with the Request for Proposal, the undersigned declares that the services offered are in accordance with all requirements of the CITY detailed therein. Further, the undersigned declares that he/she is authorized to enter into agreement on behalf of the above named business and it is hereby understood that the above proposal reflects the cost of all services outlined in the Scope of Services.

SIGNATURE	PRINTED NAME	DATE
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**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

AUTHORIZATION FOR RELEASE OF PERFORMANCE INFORMATION AND WAIVER

I, _____, the undersigned, on behalf of _____ (this company), do hereby consent and authorize all those companies and government entities listed in my Proposer Response Form and any other government entity for whom this company has performed professional services, to disclose and release to the City of Foster City, or their representatives, information, records and opinions concerning this company's design performance. The purpose of this disclosure is to provide references to the City of Foster City. _____ hereby waives any claim it may have against the City of Foster City or any company or entity providing information to the City of Foster City by reason of any information being disclosed or opinions provided regarding the actions or performance of this company.

This authorization for disclosure of information is effective for one year.

This consent or copy of this authorization shall be as valid and effective as the original.

Dated: _____

By: _____

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

CERTIFICATE OF INSURABILITY

I hereby certify that as a Proposer to City of Foster City for a contractor services contract, I am fully aware of Insurance Requirements contained in the Contract and by the submission of this Proposal, I hereby assure the City of Foster City that I am able to produce the insurance coverage required should I be selected to be awarded the contract.

Should I be awarded the Contract by the City of Foster City, and then become unable to produce the insurance coverage specified within ten (10) working days, I am fully aware and understand that I may not be considered for further projects by the City of Foster City.

Signature of Applicant

Date

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

CONTRACT REVIEW STATEMENT

As a Proposer to City of Foster City for a Contractor Services Agreement Contract, I hereby certify that I have reviewed the Contractor Services Agreement (draft version) and have listed any objections to the Agreement terms below. The response shall clearly identify if the attached contract is acceptable in all respects including warranty, insurance, and document ownership and retention requirements. If the contract is not acceptable, the response shall identify the unacceptable clauses and shall provide suggested alternate language. General or vague statements or invitations to discuss further are not adequate answers.

I am aware that any objections to the Contractor Services Agreement (draft version) will be considered and included in the City's evaluation of my firm's qualifications. I am also aware, if I fail to list any objections to the City's Contractor Services Agreement (draft version), I will not be allowed to raise any objections later if selected as the most qualified Applicant.

Signature of Applicant

Date

Specific Objections:

**CITY OF FOSTER CITY PROPOSER RESPONSE FORM
ANNUAL HVAC PROGRAMMED MAINTENANCE AND SYSTEM REPAIRS**

NON-COLLUSION DECLARATION
(PUBLIC CONTRACT CODE SECTION 7106)

I, _____ declare under penalty of perjury that I am _____ (sole owner, partner, president, etc.) of _____ (company name), the party making the foregoing proposal; that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposed prices of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal prices, or of that of any other proposer, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I declare under penalty of perjury that the foregoing is true and correct and this was executed on the date show below at _____, (City, State)

Dated: _____

NAME OF PROPOSER: _____

Signature: _____

VENDOR AGREEMENT FOR
ANNUAL HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM
PROGRAMMED MAINTENANCE AND SYSTEM REPAIR

This Agreement is made and entered into as of the _____ day of _____, 2024 by and between the City of Foster City hereinafter called "CITY" and _____ hereinafter called "VENDOR".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. That CITY desires to engage VENDOR to provide a product and/or services to the CITY;
- B. That VENDOR is qualified to provide the product and/or services to the CITY and;
- C. That the CITY has elected to engage VENDOR upon the terms and conditions as hereinafter set forth.

- 1. A. Services. The services to be performed by VENDOR under this Agreement are set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of VENDOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

- B. Product. The product to be supplied by VENDOR under this Agreement is set forth in Exhibit A which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Timely delivery of the product specified in said Exhibit A is hereby made an obligation of VENDOR under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

- 2. Term; Termination.
 - (a) The term of this Agreement shall commence upon January 1, 2025 and shall expire upon December 31, 2027, unless extended at the CITY's

sole discretion for up to two (2) one-year (12 months) increments. CITY shall give VENDOR notice of its wish to renew at least 90 days prior to end of the existing term.

(b) Notwithstanding the provisions of (a) above, the City may terminate this Agreement without cause by giving written notice not less than thirty (30) days prior to the effective date of termination, which date shall be included in said notice. CITY shall compensate VENDOR for any product delivered and/or for services rendered, and reimburse VENDOR for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of CITY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to CITY hereunder.

3. Compensation; Expenses; Payment. CITY shall compensate VENDOR for all products supplied or services performed by VENDOR hereunder as shown in Exhibit B attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sums indicated in Exhibit B, unless additional amounts have been approved in advance of supplying the product, performing the services or incurring the costs and expenses by CITY's City Council evidenced by motion duly made and carried.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon VENDOR meeting contract milestones as defined in Exhibit B. Billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed.

4. Additional Services. In the event CITY desires the delivery of additional products or performance of additional services not otherwise included within Exhibit A, such products or services shall be authorized in advance by CITY's City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the product to be delivered or services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.

5. Records. VENDOR shall keep and maintain accurate records of products delivered or of all time expended in performing services and costs and expenses incurred relating thereto. Said records shall be available to CITY for review and copying during regular business hours at VENDOR's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by VENDOR pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY, become the property of CITY.
8. Relationship of Parties. It is understood that the relationship of VENDOR to the CITY is that of an independent contractor and all persons working for or under the direction of VENDOR are its agents or employees and not agents or employees of the CITY.
9. Schedule. VENDOR shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the delivery of products or performance of services occasioned by governmental reviews of VENDOR's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, VENDOR's officers or employees.

VENDOR acknowledges the importance to CITY of timely delivery of products or services and agrees to put forth its best professional efforts to perform in a manner consistent with that schedule.

10. Indemnity. To the fullest extent allowed by law, VENDOR hereby agrees to defend, indemnify, and save harmless CITY and Estero Municipal Improvement District, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, CITY or Estero Municipal Improvement District, its Council, boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of VENDOR, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

The duty of VENDOR to indemnify and save harmless, as set forth herein,

shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require VENDOR to indemnify CITY and Estero Municipal Improvement District, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

VENDOR's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

11. Insurance. VENDOR shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability insurance coverage relating to VENDOR's services to be performed hereunder covering CITY's risks in form subject to the approval of the City Attorney and/or CITY's Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease
Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to VENDOR's vehicle usage in performing services hereunder)

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the CITY as an Additional Insured. Furthermore, the requirements for

coverage and limits shall be the greater of either (1) the minimum coverage and limits specified in this Agreement or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured.

VENDOR agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by VENDOR shall agree to be bound to VENDOR and CITY in the same manner and to the same extent as VENDOR is bound to CITY under this Agreement and its accompanying documents. Subcontractors shall further agree to include these same provisions with any sub-subcontractors. A copy of the indemnity and insurance provisions of this Agreement will be furnished to the Subcontractor upon request. VENDOR shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the subcontract agreement and will provide proof of compliance to the CITY prior to commencement of any work by the subcontractor.

Concurrently with the execution of this Agreement, VENDOR shall, on the Insurance Coverage form provided in Exhibit D, or equivalent, furnish CITY with certificates and copies of all declaration and endorsement pages for the insurance policy or policies required hereunder. With respect to commercial general liability and automobile liability insurance coverage, VENDOR must obtain and provide the following original endorsements:

- (a) Precluding cancellation or reduction in per occurrence limits before the expiration of thirty (30) days (10 days for nonpayment) after CITY shall have received written notification of cancellation in coverage or reduction in per occurrence limits by first class mail;
- (b) Naming the CITY and Estero Municipal Improvement District, its Council, officers, boards, commissions, employees, and agents, as additional insureds; and
- (c) Providing the additional insured coverage under VENDOR's insurance policy shall be primary and non-contributory insurance with respect to CITY and Estero Municipal Improvement District, its Council, officers, boards, commissions, employees, and agents, and any insurance or self-insurance maintained by CITY for itself, its Council, officers, boards, commissions, employees, or agents shall be in excess of VENDOR's insurance and not contributory with it. VENDOR and its insurer may not seek contribution from CITY's insurance or self-insurance.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of CITY, to the extent required by this Agreement, before the CITY's insurance or self-insurance may be called upon to protect CITY as a named Insured.

All self-insured retentions (SIR) must be disclosed to CITY for approval and shall not reduce the limits of liability coverage. Policies containing and SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named VENDOR/Named Insured or CITY.

CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Any and all Subcontractors shall agree to be bound to VENDOR and CITY in the same manner and to the same extent as VENDOR is bound to CITY under this Agreement. Subcontractors shall further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, in any agreement with sub-subcontractors to the extent that they apply to the scope of the sub-subcontractor's work. A copy of the indemnity and insurance provisions of this Agreement shall be furnished to any subcontractor upon request.

VENDOR shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event VENDOR fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by VENDOR.

12. WORKERS' COMPENSATION. VENDOR certifies that he is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and VENDOR certifies that he will comply with such provisions before commencing the performance of the work of this agreement.
13. NON-DISCRIMINATION. The VENDOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The VENDOR will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national

origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The VENDOR shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The VENDOR agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

14. Notice. All notices required by this Agreement shall be given to the CITY and VENDOR in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of Foster City
610 Foster City Boulevard
Foster City, CA 94404-2299
Attention: Building and Vehicle Maintenance Manager Kurt Zander

VENDOR: Name
Address
City, State, Zip
Attention: _____
Email Address: _____

15. Non-Assignment. This Agreement is not assignable either in whole or in part.
16. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
17. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
18. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
19. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making

a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

20. Conflict of Interest. VENDOR may serve other clients, but none who are active within the City of Foster City or who conduct business that would place VENDOR in a "conflict of interest" as that term is defined in State law.
21. Reliance on Professional Skill of VENDOR. VENDOR represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such skills of the VENDOR to do and perform the work. In performing services hereunder VENDOR shall adhere to the standards generally prevailing for the performance services similar to those to be performed by VENDOR hereunder.
22. PREVAILING WAGES. The services to be performed, and specifically repair services, include public works within the meaning of Labor Code Sections 1720 through 1861, and VENDOR must comply with state laws pertaining to prevailing wage and labor requirements, as more fully described in Exhibit E attached hereto and incorporated in this Agreement by reference.
21. Entire Agreement. This Agreement, including Exhibits A, B C, D, and E, comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY

Dated: _____

Patrick Sullivan, Mayor

ATTEST:

Dated: _____

Priscilla Schaus, City Clerk

APPROVED AS TO FORM

Dated: _____

Benjamin Stock, City Attorney

VENDOR

Dated: _____

Name & Title of VENDOR Authorized to Sign

EXHIBIT A

SCOPE OF WORK and SCHEDULE FOR

ANNUAL HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM PROGRAMMED MAINTENANCE AND SYSTEM REPAIR

Locations to Be Serviced:

Location Name	Address	Annual Service Frequency	HVAC Units	Boiler Units	Exhaust Fan Units
Controls Annual Maintenance	All Buildings	1x	NA	NA	NA
Police Station	1030 E. Hillsdale Bl.	4x	17	0	4
Council Chambers	620 Foster City Bl.	3x	10	0	2
City Hall	610 Foster City Bl.	4x	6	2	6
Library/Community Center	1000 Shell Bl.	4x	2	1	3
Recreation/Senior Center* *Contingent on demolition*	650 Shell Bl.	4x	21	0	8
Corporation Yard	100 Lincoln Centre Dr.	4x	2	1	5
Teen Center	670 Shell Bl.	3x	4	0	4

* *Service may not be required depending upon the building demolition and construction schedule

PART A: PROGRAMMED MAINTENANCE TASKS

PACKAGE AIR CONDITIONING UNITS & HEAT PUMPS

1. Lubricate fan bearings per manufacturer's recommendation.
2. Check belts and sheaves, adjust as required.
3. Check coils for leaks.
4. Lubricate dampers and linkages.
5. Check drain pan and drains.
6. Inspect filters and change quarterly.
7. Check motor operating conditions.
8. Inspect electrical connections, contactors, relays, and operation/safety controls.
9. Check compressor oil level if accessible.
10. Check crankcase heater operation.
11. Start compressor. Check operation conditions.
12. Secure unit panels and inspect roof curb flashing.
13. Inspect temperature, safety and operational controls.
14. Check burner section for cleanliness and proper operation if applicable.
15. Check reversing valve operation if applicable.
16. Boiler Maintenance bi-annually

CONDENSING UNITS — AIR COOLED

1. Review manufacturer's recommendation for start-up.
2. Energize crank case heater per manufacturer's recommendation for warm-up.
3. Visually inspect for leaks.
4. Vent system of trapped air.
5. Inspect electrical connections, contactors, relays, and operating/safety controls.
6. Check compressor oil level.
7. Check and test all operation controls.
8. Check operation conditions.

FAN COIL UNITS

1. Inspect motor.
2. Lubricate fan bearings
3. Inspect coil(s) for leak dependent on accessibility.
4. Inspect drain pan and trap.
5. Inspect belt and adjust tension.
6. Test operation unit internal on-off switch.
7. Clean or change filters per schedule.
8. Check condensate pump.

BOILERS

1. Inspect fireside of boiler and record condition.
2. Brush soot and dirt from flues and combustion chamber.
3. Inspect firebrick and refractory.
4. Visually inspect boiler pressure vessel for possible leaks and record condition.
5. Inspect low-water cutoff, manifolds and tubes. Clean as necessary.
6. Check hand valves and automatic feed equipment.
7. Inspect burner, flame detector and combustion air equipment.
8. Check fuel piping for leaks and proper support.
9. Check burner sequence or operation and combustion air equipment.
10. Check fuel supply.
11. Check auxiliary equipment operation.
12. Inspect burner, boiler and controls prior to start-up.
13. Start burner, check operation controls.
14. Check compressor unit.
15. Inspect spark igniter and replaced as scheduled.
16. Inspect and clean manifolds and tubes as necessary.
17. Test safety controls.

EXHAUST FAN UNITS

1. Inspect fan belts for wear and tension.
2. Check shaft bearing lubrication.
3. Remove exterior dust build-up on motor housing to insure proper motor cooling.
4. Inspect electrical connections and operation/safety controls.
5. Check motor operation conditions.

BUILDING AUTOMATION SYSTEM

Up to FOUR scheduled EIGHT-hour visits per year to accomplish the following:

1. Software maintenance, file maintenance and backups (on-site) and system optimization.
2. Investigation of reported problems from trouble log.
3. Control sequence evaluation, modification and enhancement.
4. Historical log review.
5. Field sensor verification and calibration spot checks.
6. Hardware communication tests and functional verification.
7. Control program and loop evaluation, modification and enhancement.
8. Hours of service: VENDOR shall be available for extra calls on a daily basis, five days per week, Monday through Friday. Standard hours are 7:00 am to 4:00 pm Monday through Friday.
9. Response time to an after-hours request must be within four hours.

Programmed Maintenance Project Schedule: As shown in chart above.

PART B: SYSTEM REPAIR

As authorized by the City, perform repairs and preventative maintenance not covered in Part A of the Scope of work on existing whole system components, encompassing all system parts from package units to vents, as needed and authorized by City staff by written Task Order . Examples may include but are not limited to repair of leaks, replacement of failed parts, electrical issues, mechanical failures, valve replacement. Under no circumstances shall any single repair under this agreement exceed a total cost, including time and materials, of \$60,000.

System Repair Project Schedule: As needed

EXHIBIT B

VENDOR'S FEES and PAYMENT MILESTONES

Summary

Annual Programmed Maintenance Contract Services (Not to exceed amount):	\$
System Repair Contract Services:	As authorized by City based on time and materials at hourly rates below not to exceed the sum \$100,000 (one hundred thousand dollars) annually

Annual Increases

After the first calendar year of the Term of the Agreement, and after each subsequent year, including extensions pursuant to Section 2 of the Agreement, the not-to-exceed compensation paid to VENDOR for Programmed Maintenance shall increase ____%.

Itemized Fees

Project Payment Schedule

Milestone

- For Programmed Maintenance: Upon billing for service at rates based upon proposal; separate bills for each building and each service
- For System Repair: Upon billing for service at time and materials cost at rates shown below. Invoices shall specify the building location of the work and specify work undertaken, number of hours, hourly rate for all personnel, materials used and cost for materials. The cost of materials shall be paid by the City upon documentation of such costs, plus Vendor's markup of _____%.

Hourly Labor Rates for System Repair/Preventative Maintenance of Existing Equipment

	Days of Week/Time of Day	Rate Per Hour	Annual Increase to Rate
Standard Rate			%
Overtime Rate			%
Weekend Rate			%
Holiday Rate			%

EXHIBIT C
ADDITIONAL TERMS and CONDITIONS

1. **VENDOR MUST BE A DELTA DIGITAL CONTROLS DISTRIBUTOR** or provide Delta parts pricing and controls service staff info with proposal.
2. Service representative must check in with City Staff when on-site for scheduled service.

EXHIBIT D

This **INSURANCE COVERAGE FORM** modifies or documents insurance provided under the following:

Named Insured: _____ Effective Work Date(s): _____

Description of Work/Locations/Vehicles: _____

ADDITIONAL INSURED: **City of Foster City/Estero Municipal Improvement District (CITY)**

610 Foster City Boulevard, Foster City, CA 94404

Attention: _____, **Contract Administrator**

Endorsement and Certificates of Insurance Required		Insurer	Policy No.
The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)			
<input type="checkbox"/>	General Liability: (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/>	Auto Liability: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/>	Other:		
Certificates of Insurance Required (no endorsement needed) (Check all that apply)		Insurer	Policy No.
<input type="checkbox"/>	Workers Compensation: work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/>	Professional Liability:		

PRIMARY/NON-CONTRIBUTORY: This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

SEVERABILITY OF INTEREST: The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS: Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

CANCELLATION NOTICE: The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

WAIVER OF SUBROGATION: The insurer(s) named above agree to waive all rights of subrogation against the CITY, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

ORGANIZATION: _____ **TITLE:** _____

ADDRESS: _____

TELEPHONE: () _____ **DATE ISSUED:** _____

Exhibit E
LABOR CODE REQUIREMENTS FOR PUBLIC WORKS PROJECTS

1. **Public Works Project/ Prevailing Wage.** The work to be performed under this Agreement is for “Public Works” within the meaning of Labor Code Sections 1720 to 1861. CONTRACTOR must therefore comply with state prevailing wage and labor law (California Labor Code Sections 1720 to 1780, California Code of Regulations, Chapter 8, Subchapter 3, commencing with Section 16000) for work performed under this Agreement. CONTRACTOR’s obligations under prevailing wage and labor compliance laws include, among other things, to: pay at least the applicable prevailing wage and travel and subsistence payments for public works activities performed under this Agreement; comply with overtime and working hour requirements; comply with apprenticeship obligations; comply with payroll recordkeeping requirements; and comply with other obligations as required by law. Copies of the applicable prevailing wage rates are on file with the CITY’s Project Manager, and shall be made available to any interested party upon request. CONTRACTOR shall ensure that the above requirements are included in all its contracts and any lower tier subcontracts for activities for the Project.
2. **Registration with Department of Industrial Relations.** This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. CONTRACTOR must be registered with the Department of Industrial Relations under Labor Code section 1725.5 when bidding and throughout performance of this agreement.
3. **Wage Rates.**
 - 3(A). It shall be mandatory upon CONTRACTOR and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that CONTRACTOR shall, as a penalty to CITY, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Agreement by CONTRACTOR or by any subcontractor; and CONTRACTOR agrees to comply with all provisions of Section 1775 of the Labor Code.
 - 3(B). The CITY will not recognize any claim for additional compensation because of the payment by the CONTRACTOR of any wage rate in excess of the prevailing wage rate set forth in the Agreement. The possibility of wage increases is one of the elements to be considered by the CONTRACTOR in determining its bid, and will not under any circumstances be considered as the basis of a claim against the CITY on the Agreement.
4. **Payroll Records.** The CONTRACTOR and each subcontractor must comply with Labor Code Section 1776 and all requirements of contractors stated therein for the maintenance, inspection and certification of payroll records. The CONTRACTOR

and each subcontractor who fails to timely furnish payroll records or make the records available for inspection will forfeit to the CITY the penalty for non-compliance set forth in Labor Code Section 1776 for their respective failure.

5. **Discrimination**. The CONTRACTOR and each subcontractor must comply with the anti-discrimination requirements of Labor Code Section 1777.6.