

**CITY OF MIRAMAR
PROPOSED CITY COMMISSION AGENDA ITEM**

Meeting Date: November 13, 2019

Presenter's Name and Title: Anthony Collins, Director of Public Works on behalf of Public Works Department and Alicia Ayum, Director of Procurement on behalf of Procurement Department

Prepared By: Kristy Gilbert

Temp. Reso. Number: 7059

Item Description: Temp. Reso. #R7059, Ratifying the purchase of Emergency Repair Services for Town Center Twin-Cell Cooling Tower from Trane Florida in an amount of \$137,500, utilizing U.S Communities Contract No. 15-JLP-023. *(Director of Public Works Anthony Collins and Director of Procurement Alicia Ayum).*

Consent ☒ Resolution ☐ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk:

Public Notice – As required by the Sec. ____ of the City Code and/or Sec. ____, Florida Statutes, public notice for this item was provided as follows: on ____ in a ____ ad in the ____; by the posting the property on ____ and/or by sending mailed notice to property owners within ____ feet of the property on ____
(fill in all that apply)

Special Voting Requirement – As required by Sec. ____, of the City Code and/or Sec. ____, Florida Statutes, approval of this item requires a ____ (unanimous, 4/5ths etc.) vote by the City Commission.

Fiscal Impact: Yes ☒ No ☐

REMARKS: Funds totaling \$137,500 is available in Public Works Account No. 001-50-501-519-000-606400 entitled "Machinery and Equipment".


Content:

- Agenda Item Memo from the City Manager to City Commission
- Resolution TR 7059
 - Exhibit A: Emergency Procurement Determination and Approval Form approved August 15, 2019
- Attachment(s)
 - Attachment 1: US Communities Contract No. 15-JLP-023



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

FROM: Vernon E. Hargray, City Manager 

BY: Anthony Collins, P.E. Director of Public Works

DATE: November 7, 2019

RE: Temp. Reso. No. 7059, Ratifying the purchase of emergency repair services from Trane Florida

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. No. 7059, ratifying additional services to repair Town Center twin-cell cooling tower from Trane Florida in an amount of \$137,500, utilizing U.S. Communities Contract No. 15-JLP-023.

ISSUE: City Commission ratification is required for emergency purchases exceeding \$75,000.00 per vendor as described in section 2-412 (a)(1) and 2-425 of the City Code when unforeseen or unanticipated urgent threat to life, health, safety or the welfare of the community or public properties where immediate action is required and a quorum of the City Commission for an emergency special meeting cannot be obtained before the deadline for action.

BACKGROUND: The City of Miramar Public Works Department is responsible for the maintenance and repair of all City facilities and equipment, including Heating, Ventilation, and Air Conditioning (HVAC) units.

The Town Center Complex currently has a twin-cell cooling tower and three water chillers (one main chiller and two secondary chillers). The equipment was installed as part of the construction of the building in 2004 and is 15 years old. The existing interior galvanized steel supports of the cooling tower are severely corroded due to the aggressive nature of the treated coolant water and the dissimilar metals used in the construction of the cooling tower. The steel supports structurally hold up the interior of the cooling tower. The steel supports are corroded, and should it structurally fail, would resulting in the immediate failure of the entire Town Center HVAC system. Refurbishment of the two cells of the

cooling towers are critical to ensure the structural integrity of the HVAC systems are not compromised without interruptions.

An Emergency Procurement Determination and Approval form was completed to make an emergency purchase pursuant to City Code. Additionally, staff requested and obtained quotes from Trane Florida and Insulation Services Inc. for \$137,500 and Kool Flow Inc. for \$300,000. Purchase Order #200008 was issued to Trane Florida in the amount of \$137,500 to complete the repairs.

Trane is an awarded vendor under the U.S. Communities Contract. The pricing is consistent with the terms and conditions resulting from the contract between U.S. Communities and Trane. The Procurement Department has reviewed the contract and price quotes and confirmed utilizing the contract to procure services is in the best interest of the City.

The City Manager recommends ratification of the purchase of emergency repair services for the Town Center's twin-cell cooling towers with Trane Florida in the amount of \$137,500. Funding is available in Public Works Account No. 001-50-501-519-000-606400 entitled "Machinery and Equipment".

Temp. Reso. No. 7059
10/14/19
11/5/19

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, RATIFYING THE PURCHASE OF EMERGENCY REPAIR SERVICES FOR TOWN CENTER TWIN-CELL COOLING TOWER FROM TRANE FLORIDA IN AN AMOUNT OF \$137,500; UTILIZING U.S. COMMUNITIES CONTRACT NO. 15-JLP-023; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City's Public Works Department is responsible for the maintenance and repair of all City facilities and equipment, including Heating, Ventilation, and Air Conditioning (HVAC) units; and

WHEREAS, Section 2-412(a)(1) of the City Code provides that all commodities or services provided by a single vendor in excess of \$75,000 must be formally approved by the City Commission; and

WHEREAS, Section 2-413 of the City Code provides for purchases made utilizing already competed agreements of other governmental agencies, or cooperative purchases, such as the US Communities Contract No. 15-JLP-023 to be exempt from further competitive bidding requirements; and

WHEREAS, the City will utilize the US Communities Contract No. 15-JLP-023 and Trane Florida to provide for the emergency purchase to repair the Town Center twin-cell cooling tower; and

Reso. No. _____

Temp. Reso. No. 7059
10/14/19
11/5/19

WHEREAS, the Emergency Procurement Determination and Approval Form, attached as Exhibit “A”, was completed on August 15, 2019; and

WHEREAS, the City Manager recommends that the City Commission ratify the emergency purchase to repair Town Center twin-cell cooling tower from Trane Florida in an amount of \$137,500, utilizing U.S. Communities Contract No. 15-JLP-023; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to ratify the emergency purchase to repair the Town Center twin-cell cooling tower from Trane Florida, in the amount of \$137,500; utilizing U.S. Communities Contract No. 15-JLP-023.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:

Section 1: That the foregoing “**WHEREAS**” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2: That it ratifies expenditures with Trane Florida for repairs to the Town Center twin-cell cooling towers totaling expenditures in the amount of \$137,500, utilizing U.S. Communities Contract No. 15-JLP-023.

Section 3: That the appropriate City officials are authorized to do all things necessary and expedient in order to carry out the aims of this Resolution.

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Section 4: That this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of November, 2019.

Mayor, Wayne M. Messam

Vice Mayor, Alexandra P. Davis

ATTEST:

City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved
this RESOLUTION as to form:

City Attorney,
Austin Pamies Norris Weeks Powell, PLLC

Requested by Administration

Commissioner Winston F. Barnes
Commissioner Maxwell B. Chambers
Commissioner Yvette Colbourne
Vice Mayor Alexandra P. Davis
Mayor Wayne M. Messam

Voted

City of Miramar
"EMERGENCY" PROCUREMENT DETERMINATION AND APPROVAL

Requested Product/Service: Refurbish Town Center Cooling Tower	Department: Public Works
Purchase Requisition No.: <hr/>	Contact Person: Kirk Hobson-Garcia
Recommended Vendor(s) if any: Trane Florida	Estimated Cost: \$137,500.00
<hr/>	Date: August 13, 2019

** Completion of this form is required for every "emergency" purchase (procurement) in excess of \$1000 when an existing, pre-established Miramar contract was not used. See guidance below. The completed form must be submitted to the Director, Procurement Management Department, within three (3) business days of the "emergency" procurement.*

When there is an unforeseen or unanticipated urgent threat to life, health, safety or welfare of the community or public properties that require the immediate purchase of commodities or Services, the City Manager is empowered to waive competitive bidding or competitive proposals and authorize the Chief Procurement Officer to secure by open market procedure, to the extent possible, any commodities or Services, notwithstanding the estimated cost of the commodities or Services, subject to ratification by the City Commission as appropriate.

1. Describe the factual basis of the "emergency" (describe the event).

The Town Center twin cell-cooling tower is 15-years old, and the existing interior galvanized steel supports are severely corroded due to the aggressive nature of the treated coolant water and the dissimilar metals used in the construction of the cooling tower. The galvanized steel supports are used to hold-up the interior existing fill material, drift eliminators, and inlet louver frames that create the heat exchange environment inside the cooling tower. The galvanized steel supports are so corroded that they could structurally fail, shutting down the entire cooling tower as a heat rejection device. If this were to happen, then the entire Town Center HVAC will instantly stop working. Therefore, it is necessary to immediately refurbish the two (2) individual cells of the cooling tower, one cell at a time using

2. Why was it not possible to utilize an existing, pre-established Miramar contract?

Public Works is utilizing an existing pre-establish Miramar Munis Contract No. 1325 (U.S. Communities Contract #15-JLP-023 expiring on September 30, 2020) with Trane Florida for this purchase.

City of Miramar
"EMERGENCY" PROCUREMENT DETERMINATION AND APPROVAL

- 3. Was a purchase requisition for these "emergency" products or services submitted in advance to Procurement? If so, when? If not, why not?**

No purchase has been made. The emergency refurbishment of the Town Center cooling tower is required as an unanticipated urgent threat to the health of the Town Center buildings – City Hall, Cultural Arts, and the Development Building. If the cooling tower structurally fails and falls in on itself, the Town Center HVAC system will stop working causing the buildings to heat up and the indoor air quality to quickly deteriorate producing odors, mold and mildew.

- 4. Who contacted the vendor during this event and requested the "emergency" product(s) or services that were purchased?**

Assistant Director (Kirk Hobson-Garcia) contacted the vendor during this emergency and confirmed that Trane Florida in Miramar has the required U.S. Communities HVAC products, installation, services, and related products and services contract, skills, and technology to conduct this work.

- 5. Did a Department Director or ACM approve the "emergency" purchase at the time they were purchased? If so, who?**

No purchase has been made. This Emergency Procurement form is being prepared for approval by the Public Works Director (Anthony Collins) and Procurement Director (Alicia Ayum) to make the required purchase.

- 6. Describe how the vendor (contractor) was selected to meet this "emergency" situation.**

The vendor (Trane Florida) was selected because they have a Miramar Munis Contract No. 1325, the skills, and technology to immediately conduct the refurbishment of the Town Center cooling tower. Plus, Trane's price was competitive with other quotes.

City of Miramar
"EMERGENCY" PROCUREMENT DETERMINATION AND APPROVAL

7. Describe why this particular vendor (contractor) was chosen.

Trane Florida was selected because they have an approved Munis Contract No. 1325, the skills, and the technology to conduct this work.

8. From the "procurement" point of view, what would you do differently (or suggest at this time) were this event to happen again ("lessons learned")?

This emergency incident cannot be predicted therefore from a procurement point of view there is nothing that could have been done differently.

Person who prepared this Determination and document

Name: **Kirk Hobson-Garcia**

Position: **Public Works Assistant Director**

Department/Program: **Public Works/Building Maintenance**

Date: **August 13, 2019**

I hereby certify that the above Determination is accurate and complete to the best of my knowledge and belief.

 
Department Head Signature Date

Approved: I hereby approve the above Determination and emergency procurement.

 
Procurement Director Date

REQUISITION CHECKLIST (page 1)

VENDOR NAME: Trane Florida

REQUISITION NO.:

1906758

AMOUNT: \$137,500.00

DEPARTMENT NAME: Public Works

PREPARED BY: Kirk Hobson-Garcia

The following Back-up Materials are included in this packet

☐ Quotation Summary

☒ Quotations

☐ City is accessing another government's competitively procured contract (Piggybacking)

Government Agency: U.S. Communities/Hartford County Public Schools

Contract Number: RFP 15-JLP-023

Contract Expiration Date: Expires 09/30/2020

☒ City Term Contract

MUNIS Contract #: 1325

☐ Sole Source, Standardization or Waiver of Completion for Professional Services
(Completed & Signed)

***Please note that this form must be completed and approved by the issuing Department
Director and Procurement Director prior to entering a requisition into MUNIS***

☐ Other Materials:

The contact person for more information on this requisition is:

Name: Kirk Hobson-Garcia

Extension: 5101

☒ Documentation is accurate and complete

Signed:

Date: 9/24/2019

REQUISITION CHECKLIST (Page 2)

DATE: 09/24/19 PREPARED BY: Kirk Hobson-Garcia

DEPARTMENT: Public Works

TO: Trane Florida
730 E. Prospect Road
Miramar, FL 33025

Attention:

Request the below-listed item(s) to be ordered or processed for payment

- ☒ Issue New
☐ Issue Replacement
☐ Exigent Circumstances (Obtained in absence of PO- MUST PROVIDE MEMORANDUM EXPLAINING)
☐ Reimbursement: (MUST PROVIDE MEMORANDUM EXPLAINING)

DELIVER TO:			VENDOR #1		VENDOR #2		VENDOR #3	
Elliott Covo Fleet Facility 13900 Pembroke Road Miramar, FL 33027			Trane Florida					
Mat	Unit	Description	Unit Price	Ext.	Unit Price	Ext.	Unit Price	Ext.
1	Lump Sum	Proposal dated August 12, 2019 for refurbishing the Town Center Cooling Tower	\$137,500.00	\$137,500.00		\$0.00		\$0.00
TOTAL				\$137,500.00		\$0.00		\$0.00

PURPOSE/JUSTIFICATION:

Refurbish the Town Center Cooling Tower

BUDGET CODE:	ACCOUNT NO.	AMOUNT	APPROVED BY:
Building Maintenance - Furniture & Fixtures	001-50-501-519-000-606405	\$137,500.00	<div>Level 1: _____</div> <div>Level 2: _____</div> <div>Signed: Kirk Hobson-Garcia</div>

**Trane Florida**

2884 Corporate Way

Miramar, FL 33025

Phone: (954)499-6900, Fax: (954)499-2218

August 12, 2019**Prepared For:**

Mr. Aubrey Boyd AA, BA, MA, CHC
Facilities Manager
City of Miramar, FL
13900 Pembroke Road, Building-L
Miramar, Florida 33027

Project Location:

Miramar Municipal Complex
2300 Civic Center Place
Miramar FL 33025

Job Name:

Refurbish (2) Existing Cooling Tower Cells

Date:

August 12, 2019

USC Contract #: **15-JLP-023**USC Project #: **40-128345-19-002****Attention Aubrey:**

Trane is pleased to offer this proposal for the refurbishment of (2) existing Evapco Cooling Tower Cells, that serve the above referenced property. The refurbishment being proposed for the existing Evapco cooling tower cells will include, furnishing and installing new high efficiency block type PVC fill material, drift eliminators, air inlet louvers, fan assemblies, fan shafts, sheaves, bearings, and various other components.

Our proposal also includes: Required labor, sub-contractors, supervision, project management, start-up by Trane factory technician. In an effort to avoid any interruption to the cooling system services during normal business hours, we have priced this project to be performed during a scheduled and coordinated weekend time frame (*Two separate weekends*). Our pricing and proposal is further defined by the following Scope of Work.

Refurbishment Scope:

1. Each cooling tower cell will be shut down and serviced individually. (*One cell per weekend*)
2. Shut down, isolate flow and disconnect electrical power to the cooling tower cell designated for service.
3. Electrically lock-out and tag-out the associated cooling tower cell, for the entire refurbishment process.
4. Isolate and drain existing cooling tower cell, as required to perform the refurbishment work.
5. Removal and proper disposal off site, of all existing PVC fill material.
6. Removal and proper disposal off site, of all existing PVC drift eliminators.
7. Removal and proper disposal off site, of all existing PVC air inlet louver material.
8. After existing PVC fill, drift eliminators and louver media have been removed, the interior casing walls and basin of the cooling tower will be lightly power washed, to clean and remove existing scale deposits.
9. Furnish and install new stainless steel fill supports, to replace the existing steel supports.
10. Furnish and install complete new aluminum fan assembly, to replace existing assembly.
11. Furnish and install new aluminum fan & motor sheaves, including bushings and belt, to replace existing.
12. Furnish and install new polished, solid steel fan shaft, including new bearings and stainless steel hardware.
13. Furnish and install new aluminum sheeting on interior side of the existing lower casing panels, and seal.
14. Furnish and install new high efficiency PVC fill material for existing cooling tower cell.
15. Furnish and install new PVC drift eliminator material for existing cooling tower cell
16. Furnish and install new PVC air inlet louver media, installed in the existing stainless steel frames.
17. Furnish and install stainless steel upper brackets to replace existing steel brackets, at inlet louver frames.
18. Paint exterior cooling tower panels with cold galvanize paint.

19. Start-up and operation check of unit, upon completion of the refurbishment process.
20. Mechanical balance of cooling tower fan assembly upon completion, as needed.
21. Return individual cooling tower cell back to normal service.
22. Repeat same scope and process for the remaining cooling tower cell.

General Conditions:

- Overtime labor is included, to perform refurbishment of each existing cooling tower cell during a coordinated and scheduled weekend.
- Provide all rigging and hoisting services for material and equipment removal or installation, as required.
- Provide all material handling and/or required storage, freight, and transport to job site.
- Removal and proper disposal off site, for existing fill material and any associated debris, is included.


Exclusions and Clarifications


- Any additional labor or material costs incurred, due to existing isolation valves not holding, closing, or functioning properly, as required to perform the project.
- Provisions for temporary cooling of any kind.
- Permits, inspections or fees. *(Not required for this work)*
- Independent test and balance. *(Not required, Trane to perform star-up & performance check)*
- Any refurbishment work or component replacements, not included in the above scope of work.
- Any changes or additions to the above refurbishment scope of work.

Project Pricing:

Total price to refurbish (2) existing Evapco cooling tower cells, as described above.....\$ 137,500.00

Thank you for giving Trane this opportunity. If you have questions or concerns, you may contact me at any time.
Sincerely,


David Wills
Turnkey Account Manager
LEED AP
Trane | Ingersoll Rand


Adam McIntosh
Account Manager
Trane | Ingersoll Rand

This proposal is valid for 30 days from the date of proposal.

This agreement is subject to the attached Trane Terms and Conditions.

This proposal is subject to Customer's acceptance of US Communities Contract 15-JLP-023 terms and conditions.

Contract terms allow direct vendor PO, and must include contract number. Example: Per US Communities Contract 15-JLP-023.

Customer

Trane

Authorized Representative

Authorized Representative

Title

Title

Acceptance Date

Acceptance Date

TERMS AND CONDITIONS – COMMERCIAL INSTALLATION

"Company" shall mean Trane Canada ULC for Work performed in Canada, and Trane U.S. Inc. for Work performed in the United States.

1. **Acceptance; Agreement.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the "Agreement") resulting from Company's proposal (the "Proposal") for the commercial goods and/or services described (the "Work"). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent ("Customer") delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counter-offer to provide Work in accordance with the Proposal and the Company terms and conditions. If Customer does not reject or object in writing to Company within 10 days, Company's counter-offer will be deemed accepted. Customer's acceptance of the Work by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Work rendered by Company to the date of cancellation.

2. **Pricing and Taxes.** Unless otherwise noted, the price in the Proposal includes standard ground transportation and, if required by law, all sales, consumer, use and similar taxes legally enacted as of the date hereof for equipment and material installed by Company. Tax exemption is contingent upon Customer furnishing appropriate certificates evidencing Customer's tax exempt status. Company shall charge Customer additional costs for bonds agreed to be provided. Equipment sold on an uninstalled basis and any taxable labor/labour do not include sales tax and taxes will be added. Following acceptance without addition of any other terms and condition of sale or any other modification by Customer, the prices stated are firm provided that notification of release for immediate production and shipment is received at the factory not later than 3 months from order receipt. If such release is received later than 3 months from order receipt date, prices will be increased a straight 1% (not compounded) for each one-month period (or part thereof) beyond the 3 month firm price period up to the date of receipt of such release. If such release is not received within 6 months after date of order receipt, the prices are subject to renegotiation, or at Company's option, the order will be cancelled. Any delay in shipment caused by Customer's actions will subject prices to increase equal to the percentage increase in list prices during that period of delay and Company may charge Customer with incurred storage fees.

3. **Exclusions from Work.** Company's obligation is limited to the Work as defined and does not include any modifications to the Work site under the Americans With Disabilities Act or any other law or building code(s). In no event shall Company be required to perform work Company reasonably believes is outside of the defined Work without a written change order signed by Customer and Company.

4. **Performance.** Company shall perform the Work in accordance with industry standards generally applicable in the area under similar circumstances as of the time Company performs the Work. Company may refuse to perform any Work where working conditions could endanger property or put at risk the safety of persons. Unless otherwise agreed to by Customer and Company, at Customer's expense and before the Work begins, Customer will provide any necessary access platforms, catwalks to safely perform the Work in compliance with OSHA or state industrial safety regulations.

5. **Payment.** Customer shall pay Company's invoices within net 30 days of invoice date. Company may invoice Customer for all equipment or material furnished, whether delivered to the installation site or to an off-site storage facility and for all Work performed on-site or off-site. No retention shall be withheld from any payments except as expressly agreed in writing by Company, in which case retention shall be reduced per the contract documents and released no later than the date of substantial completion. Under no circumstances shall any retention be withheld for the equipment portion of the order. If payment is not received as required, Company may suspend performance and the time for completion shall be extended for a reasonable period of time not less than the period of suspension. Customer shall be liable to Company for all reasonable shutdown, standby and start-up costs as a result of the suspension. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due and otherwise enforcing these terms and conditions. If requested, Company will provide appropriate lien waivers upon receipt of payment. Customer agrees that, unless Customer makes payment in advance, Company will have a purchase money security interest in all equipment from Company to secure payment in full of all amounts due Company and its order for the equipment, together with these terms and conditions, form a security agreement. Customer shall keep the equipment free of all taxes and encumbrances, shall not remove the equipment from its original installation point and shall not assign or transfer any interest in the equipment until all payments due Company have been made.

6. **Time for Completion.** Except to the extent otherwise expressly agreed in writing signed by an authorized representative of Company, all dates provided by Company or its representatives for commencement, progress or completion are estimates only. While Company shall use commercially reasonable efforts to meet such estimated dates, Company shall not be responsible for any damages for its failure to do so.

7. **Access.** Company and its subcontractors shall be provided access to the Work site during regular business hours, or such other hours as may be requested by Company and acceptable to the Work site owner or tenant for the performance of the Work, including sufficient areas for staging, mobilization, and storage. Company's access to correct any emergency condition shall not be restricted. Customer grants to Company the right to remotely connect (via phone modem, internet or other agreed upon means) to Customer's building automation system (BAS) and/or HVAC equipment to view, extract, or otherwise collect and retain data from the BAS, HVAC equipment, or other building systems, and to diagnose and remotely make repairs at Customer's request.

8. **Completion.** Notwithstanding any other term or condition herein, when Company informs Customer that the Work has been completed, Customer shall inspect the Work in the presence of Company's representative, and Customer shall either (a) accept the Work in its entirety in writing, or (b) accept the Work in part and specifically identify, in writing, any exception items. Customer agrees to re-inspect any and all excepted items as soon as Company informs Customer that all such excepted items have been completed. The initial acceptance inspection shall take place within ten (10) days from the date when Company informs Customer that the Work has been completed. Any subsequent re-inspection of excepted items shall take place within five (5) days from the date when Company informs Customer that the excepted items have been completed. Customer's failure to cooperate and complete any of said inspections within the required time limits shall constitute complete acceptance of the Work as of ten (10) days from date when Company informs Customer that the Work, or the excepted items, if applicable, has been completed.

9. **Permits and Governmental Fees.** Company shall secure (with Customer's assistance) and pay for building and other permits and governmental fees, licenses, and inspections necessary for proper performance and completion of the Work which are legally required when bids from Company's subcontractors are received, negotiations thereon concluded, or the effective date of a relevant Change Order, whichever is later. Customer is responsible for necessary approvals, easements, assessments and charges for construction, use or occupancy of permanent structures or for permanent changes to existing facilities. If the cost of such permits, fees, licenses and inspections are not included in the Proposal, Company will invoice Customer for such costs.

10. **Utilities During Construction.** Customer shall provide without charge to Company all water, heat, and utilities required for performance of the Work.

11. **Concealed or Unknown Conditions.** In the performance of the Work, if Company encounters conditions at the Work site that are (i) subsurface or otherwise concealed physical conditions that differ materially from those indicated on drawings expressly incorporated herein or (ii) unknown physical conditions of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Work, Company shall notify Customer of such conditions promptly, prior to significantly disturbing same. If such conditions differ materially and cause an increase in Company's cost of, or time required for, performance of any part of the Work, Company shall be entitled to, and Customer shall consent by Change Order to, an equitable adjustment in the Contract Price, contract time, or both.

12. **Pre-Existing Conditions.** Company is not liable for any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the Work site before the Commencement Date of this Agreement ("Pre-Existing Conditions"), including, without limitation, damages, losses, or expenses involving Pre-Existing Conditions of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould and/or fungi. Company also is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company.

13. **Asbestos and Hazardous Materials.** Company's Work and other services in connection with this Agreement expressly excludes any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos, polychlorinated biphenyl ("PCB"), or other hazardous materials (hereinafter, collectively, "Hazardous Materials"). Customer warrants and represents that, except as set forth in a writing signed by Company, there are no Hazardous Materials on the Work site that will in any way affect Company's Work and Customer has disclosed to Company the existence and location of any Hazardous Materials in all areas within which Company will be performing the Work. Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be exclusively responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for and, to the fullest extent permitted by law, shall indemnify and hold harmless Company (including its employees, agents and subcontractors) from and against any loss, claim, liability, fees, penalties, injury (including death) or liability of any nature, and the payment thereof arising out of or relating to any Hazardous Materials on or about the Work site, not brought onto the Work site by Company. Company shall be required to resume performance of the Work in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless. In no event shall Company be obligated to transport or handle Hazardous Materials, provide any notices to any governmental agency, or examine the Work site for the presence of Hazardous Materials.

14. **Force Majeure.** Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon 10 days notice to Customer, in which event Customer shall pay Company for all parts of the Work furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood, earthquake; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor/labour disputes; labor/labour or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid); and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company; and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

15. **Customer's Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests

of Customer; (3) Any representation or warranty furnished by Customer in this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to Company for all Work furnished to date and all damages sustained by Company (including lost profit and overhead)

16. Indemnity. To the fullest extent permitted by law, Company and Customer shall indemnify, defend and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or tangible personal property, to the extent caused by the negligence or misconduct of their respective employees or other authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses or liabilities to the extent attributable to the acts or omissions of the other party. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify will continue in full force and effect, notwithstanding the expiration or early termination hereof, with respect to any claims based on facts or conditions that occurred prior to expiration or termination.

17. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT CONSEQUENTIAL, OR PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION BUSINESS INTERRUPTION, LOST DATA, LOST REVENUE, LOST PROFITS, LOST DOLLAR SAVINGS, OR LOST ENERGY USE SAVINGS, EVEN IF A PARTY HAS BEEN ADVISED OF SUCH POSSIBLE DAMAGES OR IF SAME WERE REASONABLY FORESEEABLE AND REGARDLESS OF WHETHER THE CAUSE OF ACTION IS FRAMED IN CONTRACT, NEGLIGENCE, ANY OTHER TORT, WARRANTY, STRICT LIABILITY, OR PRODUCT LIABILITY). In no event will Company's liability in connection with the provision of products or services or otherwise under this Agreement exceed the entire amount paid to Company by Customer under this Agreement.

18. Patent Indemnity. Company shall protect and indemnify Customer from and against all claims, damages, judgments and loss arising from infringement or alleged infringement of any United States patent by any of the goods manufactured by Company and delivered hereunder, provided that in the event of suit or threat of suit for patent infringement, Company shall promptly be notified and given full opportunity to negotiate a settlement. Company does not warrant against infringement by reason of Customer's design of the articles or the use thereof in combination with other materials or in the operation of any process. In the event of litigation, Customer agrees to reasonably cooperate with Company. In connection with any proceeding under the provisions of this Section, all parties concerned shall be entitled to be represented by counsel at their own expense.

19. Limited Warranty. Company warrants for a period of 12 months from the date of substantial completion ("Warranty Period") commercial equipment manufactured and installed by Company against failure due to defects in material and manufacture and that the labor/labour furnished is warranted to have been properly performed (the "Limited Warranty"). Product manufactured by Company that includes required startup and is sold in North America will not be warranted by Company unless Company performs the product start-up. Substantial completion shall be the earlier of the date that the Work is sufficiently complete so that the Work can be utilized for its intended use or the date that Customer receives beneficial use of the Work. If such defect is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said equipment was installed pursuant hereto, labor/labour associated with the replacement of parts or equipment not conforming to this Limited Warranty. Defects must be reported to Company within the Warranty Period. Exclusions from this Limited Warranty include damage or failure arising from: wear and tear; corrosion, erosion, deterioration, Customer's failure to follow the Company-provided maintenance plan; refrigerant not supplied by Trane; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. No warranty liability whatsoever shall attach to Company until the Work has been paid for in full and then said liability shall be limited to the lesser of Company's cost to correct the defective Work and/or the purchase price of the equipment shown to be defective. Equipment, material and/or parts that are not manufactured by Company are not warranted by Company and have such warranties as may be extended by the respective manufacturer. Trane equipment sold on an uninstalled basis is warranted in accordance with Company's standard warranty for supplied equipment. **THE WARRANTY AND LIABILITY SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY MAKES NO REPRESENTATION OR WARRANTY EXPRESS OR IMPLIED REGARDING PREVENTION BY THE WORK, OR ANY COMPONENT THEREOF, OF MOLD/MOULD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR ANY OTHER CONTAMINATES. COMPANY SPECIFICALLY DISCLAIMS ANY LIABILITY IF THE WORK OR ANY COMPONENT THEREOF IS USED TO PREVENT OR INHIBIT THE GROWTH OF SUCH MATERIALS.**

20. Insurance. Company agrees to maintain the following insurance while the Work is being performed with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company waive its right of subrogation.

21. Commencement of Statutory Limitation Period. Except as to warranty claims, as may be applicable, any applicable statutes of limitation for acts or failures to act shall commence to run, and any alleged cause of action stemming therefrom shall be deemed to have accrued, in any and all events not later than the last date that Company or its subcontractors physically performed work on the project site.

22. General. Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Work is performed, without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Work is performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the Work site is owned and/or operated by any agency of the Federal Government, determination of any substantive issue of law shall be according to the Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the subject matter hereof. This Agreement may not be amended, modified or terminated except by a writing signed by the parties hereto. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, or its right, title or interest herein, without the written consent of the Company. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of Customer's permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original.

23. Equal Employment Opportunity/Affirmative Action Clause. Company is a federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in 41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250 Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with the Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

24. U.S. Government Work.

The following provision applies only to direct sales by Company to the US Government. The Parties acknowledge that all items or services ordered and delivered under this Agreement are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business.

The following provision applies only to indirect sales by Company to the US Government. As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Work is in connection with a U.S. Government contract, Customer certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the work that is the subject of the Proposal or this Agreement, other than the Proposal or this Agreement.

25. Limited Waiver of Sovereign Immunity. If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action; and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.



Barbara P. Canavan, Superintendent of Schools
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Purchasing Department
Bobbie Wilkerson, Supervisor of Purchasing
410-638-4083, Bobbie.Tolston-Wilkerson@hcps.org

RFP #15-JLP-023 RENEWAL #1
October 1, 2018 – September 30, 2020

This contract renewal is made and entered into this 2 ^{APRIL (BW)} day of March, 2018, by Harford County Public Schools, 102 South Hickory Avenue, Bel Air, Maryland (hereafter referred to as Owner) and Trane, a corporation located at 800 Beaty Street, in the city of Davidson, and State of North Carolina, (hereafter referred to as Contractor).

WHEREAS, Owner and Contractor have entered into an Agreement dated September 29, 2015 (hereafter referred to as the Contract), for the Contractor to provide comprehensive HVAC Products, Installation, Services and Related Products and Services in accordance with RFP #15-JLP-023.

WHEREAS, the original Contract term will expire on September 30, 2018;

THEREFORE, for and in consideration of the mutual promises to each other, as in hereinafter set forth, the parties hereto do mutually agree to renew the Contract as per the conditions set forth in the original Contract, as follows:

1. Owner chooses to offer the first option to renew this contract for two (2) year for the time period from October 1, 2018 through September 30, 2020.
2. Pricing structures and related pricing terms will remain the same as the original terms and conditions.
3. All other terms, conditions and provisions of the Contract remain in effect.
4. There is one additional possible renewal remaining for this Contract.

WHEREAS, the parties hereto desire to set the terms of the renewal to writing;

IN WITNESS WHEREOF, Owner and the Contractor have executed the renewal agreement the day and year written above.

HARFORD COUNTY PUBLIC SCHOOLS

By: Bobbie Wilkerson

Signature

Name: Bobbie Wilkerson, CPPO, CPPB

Title: Supervisor of Purchasing

Date: 4/2/2018

TRANE

By: Alan L. Fulsizer

Signature

Name: ALAN L. FULSIZER

Title: VICE PRESIDENT, SALES TRANE

Date: 4/3/18