

Mechanical HVAC Contract

AGREEMENT FOR PROVISION OF MECHANICAL, HEATING, COOLING, AND AIR CONTROL SERVICES FOR CITY OF MISSOULA, DURING FISCAL YEARS 2020 THROUGH JUNE 30, FISCAL YEAR 2024

THIS AGREEMENT, made and entered into this July, 2019, Fiscal year 2020 in the City of Missoula, County of Missoula, State of Montana, by and between the City of Missoula, a municipal corporation organized under the laws of the State of Montana (hereinafter referred to as "City") and Johnson Controls Inc. (hereinafter referred to as "HVAC Contractor").

WITNESSETH

For and in consideration of the mutual promises and agreements set forth herein, the City and the HVAC Contractor mutually stipulate and agree to the following provisions:

PROFESSIONAL SERVICES CONTRACT WITH CITY

The City hereby agrees to purchase mechanical, heating, cooling, and air control services for The City of Missoula, from HVAC Contractor pursuant to the terms and provisions of this Agreement, and HVAC Contractor agrees to provide mechanical, heating, cooling, and air control services for The City of Missoula pursuant to the terms, conditions, and requirements identified pursuant to the provisions of this Agreement.

PROPERTIES COVERED UNDER THIS HVAC CONTRACT.

- 1) City Hall (435 Ryman St)
- 2) City Council Chambers (140 West Pine)
- 3) Vehicle Maintenance/Streets Maintenance (1305 Scott St)
- 4) Police Evidence building (109 Catlin)
- 5) Splash Montana (3001 Bancroft St)
- 6) Currents (600 Cregg Lane)
- 7) Missoula Art Museum (335 N Pattee St)
- 8) Parks Department (400 Hickory)

SCOPE OF PROFESSIONAL SERVICES

HVAC Contractor hereby agrees to:

Meet or exceed the following service requirements for the maintenance and repair of City of Missoula Facilities (listed above), heating, cooling, and air control systems, including all conditioned space of all listed buildings, stairwells, elevators, all components listed in (Schedule A) of this document, and any future building additions or expansions:

HVAC Contractor hereby agrees to provide the City of Missoula with the following general quality requirements:

1. **KNOWLEDGE OF CONTRACT SPECIFICATIONS:** shall assure all supervisory employees assigned to the contract have sufficient experience and knowledge to fulfill their responsibilities and are knowledgeable of the contract specifications.
2. **PERSONNEL:** shall assure that all employees assigned to perform work on this contract have sufficient skills and/or receive sufficient training in use of equipment, supplies and contract specifications to perform the tasks assigned.
3. **SECURITY:** shall assure that all employees assigned to the contract are not security risks. Employees performing HVAC services in some Police Department areas shall meet or exceed the Police Department security requirements.
4. **EQUIPMENT:** shall assure that the equipment assigned to the performance of this contract shall be sufficient in type and quantity of equipment and the quality and maintenance of the equipment shall be such to ensure efficient performance.
5. **MATERIALS/SUPPLIES:** shall assure that only supplies and chemicals as approved by the Facilities Manager are used on the contract. The supervisor shall assure that all employees are knowledgeable of the chemicals and supplies and will continually monitor their usage and mixing. HVAC Contractor shall ensure that all of his or her employees have current MSDS training.
6. **ASSIGNMENT OF TASKS:** The supervisor assigned to the contract shall assure that all tasks necessary for satisfactory performance on the contract are assigned to appropriate production employees, and that each employee understands the expectation of the contract. It is the responsibility of the HVAC Contractor to ensure that each of his or her employees has the correct current certifications to meet or exceed the local, state, and federal legal and regulatory agency regulations.
7. **IN PROCESS INSPECTION:** During the course of performing the work on the building, the responsible employee shall monitor the performance of all assigned work to ensure that proper methods, equipment, and supplies are being used to achieve the desired results and safety considerations are in place.
8. **END OF JOB WALK THROUGH:** Prior to departing from the building and upon completion of the work, the site supervisor shall walk through the maintained areas to ensure that the assigned work has been completed according to the requirements of the contract.

9. **FORMAL INSPECTION:** A weekly formal walk through inspection shall be performed by the HVAC Contractor or his designee.

10. **CONTACT LIST:** A quarterly (4) four times per year, list of the HVAC Contractor's principals, employees, agents, and subcontractors which the HVAC Contractor anticipates assigning the primary, secondary and support roles for the HVAC Contract. This list shall include a summary of the qualifications, licenses and experience of each individual and the type of work to be performed by each individual. The "CITY" will retain under its agreement with the successful HVAC Contractor the right of approval of all persons performing under the agreement. The contact list should include after hour and emergency "on call" phone numbers.

HVAC Contractor hereby agrees to provide the City of Missoula with the following Performance Requirements:

1. Using manufacturers recommended time intervals and maintenance criterion, create a list monthly, quarterly, annual, and two year Preventative Maintenance schedule and Preventative Maintenance Checklists, hereafter referred to as PM Schedules and PM Checklists respectively.
2. Each PM Checklists and PM Schedule will be presented to the Facilities Manager and or his or her representative prior for review and approval. The PM Check lists and PM Schedules shall include the following:
 - a. A maintenance interval time schedule for each heating and cooling component and system described in attachment B of this document.
 - b. Vibration analysis for the Chillers will be provided at least annually. A vibration analysis report comparing the actual equipment tested against data from similar equipment and a maintenance strategy based on the results found.
 - c. Eddy Current Testing for the Chiller barrels will be provided in at two year intervals at the beginning of contract year 2 and the beginning of contract year 4 and a report will be provide to the City. This report will include maintenance strategies for dealing with the results found in the testing process.
 - d. Oil Analysis for the Chiller barrels will be provided to the City annually. This report will include maintenance strategies for dealing with the results found in the oil analysis.
 - e. Digital Pump Alignment will be provided for the hot water and chilled water pumps annually and report will be provided to the City. This report will include alignment variances found and repairs made to correct tolerances.
 - f. Fan Balancing will be provided annually for AHU-1, AHU-2, AHU-3 (Air Handling Units 1, 2, and 3) and MUA-1 and a report be provided to the City. This repot will include balance variance found and repairs made to correct the tolerances.
 - g. Pneumatic and Digital Controls will be included in Attachment B will be included in the PM checklists and PM Schedules. A service interval and PM Checklist will be provided for each control system.
3. A file will be maintained by the HVAC Contractor (electronic or paper) which the PM intervals and checklist documentation. This file must be available to the Facilities Manager and or his or her designated representative at least monthly.

4. It is the responsibility of the HVAC Contractor to provide full coverage maintenance and repairs to all of the items listed in Attachment B of this contract. Full coverage maintenance and repairs includes timely and proactive response to all maintenance and repairs of the components and controls listed in Attachment B including the coordination and interaction of these components and controls to provide the City with an efficient HVAC system.
5. The HVAC Contractor is responsible for all repairs and maintenance to all listed properties mechanical, HVAC system and system controls. The Contractors responsibility includes all emergency and after hour maintenance and repairs needed to promote a safe comfortable work place for the people using City Hall.
6. The HVAC Contractor will provide an emergency contact number that will always have someone available 24 hours a day, 7 days a week, and 365 days per year.
7. The HVAC Contractor must acknowledged emergency response within fifteen (15) minutes of receiving the call. Emergency repairs must begin within Thirty (30) minutes of receiving notification.
8. It is the HVAC Contractors responsibility to ensure that during maintenance and routine repairs the work sites remain safe. The HVAC Contractor is responsible for all damages and or cleaning costs that are a result of repair and maintenance work.
9. All of the heating, cooling, mechanical and system controls listed on Attachment "C" of the this document and any items replacing or in addition to these components that contribute to or are part of the listed properties heating, cooling, air exchange, and or the system controls are considered to be within the scope of this contract. The HVAC Contractor is responsible for the maintenance and repairs to these components.
10. Once per year, on or before the 15th, of January the HVAC Contractor will provide the City of Missoula with a list of capital repair and replacement items that will need to be repaired or replaced the following year. "Capital repair and replacement items" are items with a value greater than \$1,000 with a life expectancy greater than 5 years that are considered to exceed the scope of routine maintenance.

Special Controls Requirements

1. Must provide extensive knowledge of PNEUMATIC control systems
2. Ability to work with MATASYS systems

FORMAL WEEKLY INSPECTION SYSTEM

1. It is the responsibility of the HVAC Contractor or his designee to ensure that a weekly inspection of all mechanical, heating, cooling and system controls is performed with the Facilities Manager and or his or her designated representative.
2. Records of these inspections will be maintained by the HVAC Contractor and copies will be provided to Facilities Manager and or his or her designated representative.

3. The basis of the inspection shall be compliance with the specifications as stated above within the legal contract for HVAC services.
4. The findings of each inspection shall be recorded in writing. Signed copies of the form will be given to the employee(s), and be available to the Facilities Manager or his designee through the HVAC Contractor or his designee.
5. In the event deficiencies are identified on the weekly inspection, HVAC Contractor shall correct such deficiencies immediately or at a time agreed to by the Facilities Manager or his designee. Upon completion of correcting any deficiencies, the HVAC Contractor shall note the correction and date sign and return a copy of the form to the Facilities Manager and or his or her designee.
6. Contract Inspection Reports will be reviewed by the Prospective Contractor or his designee quarterly to determine if there are any patterns or trends that require additional attention. These trends and a plan to address deficiencies will be documented.
7. Copies of all inspections shall be maintained by the Prospective Contractor or his designee.
8. Prospective Contractor or his designee shall bi-annually provide the City of Missoula with a current list containing names, positions and phone numbers of all relevant contact persons.

III. PAYMENT FOR SERVICES

No invoice shall include federal excise tax, as the City is exempt there from and will furnish certificates of exemptions as needed.

The HVAC Contractor agrees to invoice (bill) the City of Missoula Twelve times per year or Monthly as follows:

Contract year one, July 1st, 2019 through July 1st, 2020, \$ 9,331.75 (dollar amount) per month each month for an annual total not to exceed, \$ 111,981.00 (dollar amount) for this year of professional Service.

Contract year two, July 1st, 2020 through July 1st, 2021, \$ 9,611.70 (dollar amount) per month each month for an annual total not to exceed, \$ 115,340.40 (dollar amount) for this year of professional Service.

Contract year three, July 1st, 2021 through July 1st, 2022, \$ 9,900.05 (dollar amount) per month each month for an annual total not to exceed, \$ 118,800.60 (dollar amount) for this year of professional Service.

Contract year four, July 1st, 2022 through July 1st, 2023, \$ 10,197.06 (dollar amount) per month each month for an annual total not to exceed, \$ 122,364.72 (dollar amount) for this year of professional Service.

Contract year five, July 1st, 2023 through July 1st, 2024, \$ 10,502.97 (dollar amount) per month each month for an annual total not to exceed, \$ 126,035.64 (dollar amount) for this year of professional Service.

The City shall make a good faith effort to pay properly presented, correct, and accurate HVAC Contractor invoices with 20 days of receipt of invoice, but City shall have a full thirty day period as allowed by Montana State law within which to make payment.

IV. MODIFICATION AND WAIVER

This Agreement may not be modified, altered, or changed except pursuant to a written agreement signed by the parties hereto. A waiver of any term or condition of this Agreement or of any breach of this Agreement shall not be deemed a waiver of any other term or condition of this Agreement or any part hereof or of any later breach of the Agreement. Any waiver must be in writing each time a waiver occurs.

V. LICENSE TO DO BUSINESS

Contractors, subcontractors, sub-grantees, and other firms doing business with the City of Missoula or any agency connected with the City of Missoula must obtain or have a valid City of Missoula business license and must comply with applicable business regulation ordinances. No payments shall be made by the City pursuant to this agreement until a valid City business license has been obtained. HVAC Contractor shall continue to retain a valid City business license during the term of this Agreement or the City has the right to withhold payments until such time as a valid City business license is acquired by HVAC Contractor.

VI. AFFIRMATIVE ACTION POLICY

Contractors, subcontractors, sub-grantees, and other firms doing business with the City of Missoula or any agency connected with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action plan and Title 49, MCA, or forfeit the right to continue such business dealings. See Exhibit A, Attachment A.

VII. NON-DISCRIMINATION

As a condition to approving any contract, the City of Missoula requires that the following non-discrimination and affirmative action language be included as a requirement in all contract documents:

NON-DISCRIMINATION. All hiring shall be on the basis of merit and qualification and there shall be no discrimination in employment on the basis of race, ancestry, color, physical or mental disability, religion, national origin, sex, age, marital or familial status, creed, ex-offender status, physical condition, political belief, public assistance status, sexual orientation or gender identity/expression, except where these criteria are reasonable bona fide occupational qualifications.

AFFIRMATIVE ACTION POLICY. Contractors, subcontractors, sub grantees, and other firms doing business with the City of Missoula must be in compliance with the City of Missoula's Affirmative Action Plan, and

Title 49 Montana Codes Annotated, entitled “Human Rights” or forfeit the right to continue such business dealings.

The City’s Affirmative Action Policy Statement is:

The Mayor of the City of Missoula or the Mayor’s designee may adopt an affirmative action plan to provide all persons equal opportunity for employment without regard to race, ancestry, color, handicap, religion, creed, national origin, sex, age, sexual orientation, gender identity or expression or marital status. In keeping with this commitment, we are assigning to all department heads and their staff the responsibility to actively facilitate equal employment opportunity for all present employees, applicants, and trainees. This responsibility shall include assurance that employment decisions are based on furthering the principle of equal employment opportunity by imposing only valid requirements for employment and assuring that all human resource actions are administered on the basis of job necessity.

Specific responsibility for developing, implementing, monitoring and reporting are assigned to the City Personnel staff under the supervision and direction of the Chief Administrative Officer and the Mayor. It is the policy of the City of Missoula to eliminate any practice or procedure that discriminates illegally or has an adverse impact on an “affected” class. Equal opportunity shall be provided for all City employees during their terms of employment. All applicants for City employment shall be employed on the basis of their qualifications and abilities.

The City of Missoula, where practical, shall utilize minority owned enterprises and shall ensure that subcontractors and vendors comply with this policy. Failure of subcontractors and vendors to comply with this policy statement shall jeopardize initial, continued, or renewed funds.

Our commitment is intended to promote equal opportunity in all employment practices and provide a positive program of affirmative action for the City of Missoula, its employees, program participants, trainees and applicants.

VIII. WORKERS COMPENSATION

HVAC Contractor is an independent contractor under Montana State law and hereby certifies that HVAC Contractor is covered by a Workers’ Compensation insurance program with the State of Montana, a private insurance carrier, or an approved self-insurance plan in accordance with Montana State law and that the City has no liability for HVAC Contractor’s workers’ compensation insurance or claims.

VIII. LIABILITY INSURANCE

HVAC Contractor hereby certifies that it has and shall maintain during the time period of this Agreement, liability insurance in the minimum amount of \$750,000.00 per claimant and \$1,500,000.00 per occurrence that includes liability for accidents occurring during delivery or at the delivery site that are attributable to the HVAC Contractor or its agents’ conduct.

X. PREVIOUS AGREEMENTS

This Agreement constitutes the entire understanding of the parties and is intended as a final expression of their agreement and a complete statement of the terms thereof. There are no promises, terms, conditions, or obligations, other than contained herein. This Agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties.

XI. ARBITRATION

This Agreement is subject to the provisions of the Montana Uniform Arbitration Act, Section 27-5-111, and MCA Et. Seq.

XII. TERMINATION PRIOR TO COMPLETION OF CONTRACT

The HVAC Contractor and the City shall both have the ability to terminate this agreement for cause or for non-compliance with any of the terms, conditions, and requirements contained herein. Such termination shall come only after first giving a verbal demand for compliance followed by a written demand. Termination shall be allowed on the tenth City business day following receipt by either party of the other part's written demand.

XIII. TERM OF AGREEMENT

This Agreement shall be in force and effect from July 1, 2019 through June 30, 2024 unless terminated in writing by mutual agreement of the City and HVAC Contractor.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year in this certificate first hereinabove written.

Johnson Controls Inc.
Name,
Title,

CITY OF MISSOULA:

Mayor John Engen

ATTEST:

Martha L. Rehbein
City Clerk

APPROVED AS TO FORM:

Jim Nugent
City Attorney

STATE OF MONTANA
County of Missoula

On this _____ day of _____, 201____, before me, the undersigned, a Notary of the Public for the State of Montana, personally appeared "name, name", "Title" of the "HVAC Contractors" Company, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set by hand and affixed my Notarial Seal, the day and year first above written.

Notary Public for the State of Montana
Residing at Missoula, Montana
My Commission Expires _____

