



# Hall County Government

FINANCIAL SERVICES

## CONTRACT EXECUTION SIGNATURE REQUEST

POST OFFICE DRAWER 1435  
GAINESVILLE, GA 30503

t: 770.535.8270 | f: 770.531.6711

INTERIM DIRECTOR  
**Taylor Samples, CPA**

Date: 05/01/2024

To: Richard Higgins, Chairman, BOC

From: Andrew Youngblood, Purchasing Supervisor

Your signature is requested to execute the attached bid/contract award documents for:

Bid/Contract No: 44-034

Bid/Contract Name: Demand Services On-Call HVAC Unit Installation, Repair & Maintenance - Rebid

Department(s) Requesting Contract: Building Maintenance

Award Recipient Name: Conditioned Air Systems, Inc.

Contract Description:

Annual Contract       New       Renewal

Prior Year's Spend: \$1,556,201.56

Price Increase Requested      Increase Percentage:

Project/Service Contract      Estimated Amount:

Product Contract      Estimated Amount:

Comments: Year one (1) of a possible five (5) year contract.

Prior Year Spend of approximately \$1,556,201.56 represents all HVAC capital and operational expenditures combined in FY24.

Conditioned Air Systems is a new vendor for Demand Services On-Call.



# Hall County Government

FINANCIAL SERVICES

EXHIBIT B – CONTRACT FOR SERVICES  
STATE OF GEORGIA  
COUNTY OF HALL

CONTRACT #44-034

For the provision of

## Demand Services On-Call HVAC Unit Installation, Repair, & Maintenance – Rebid

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DIRECTOR  
Wesley Geddings

### ARTICLE #101 – INTRODUCTION

This Contract for Demand Services On-Call HVAC Unit Installation, Repair, & Maintenance (hereinafter “Services”) as entered into on \_\_\_\_\_, and with an Effective Date of July 1, 2024, is by and between; Hall County, Georgia (hereinafter “County”) located at 2875 Browns Bridge Rd, Gainesville, Georgia 30504, and Conditioned Air Systems Inc. \_\_\_\_\_, (company’s full legal name) located at 2410 Hilton Way SW, Gainesville GA, 30501 (Hereinafter “Contractor”). Contractor is an entity that is legally registered and qualified, and holding any such licenses and certifications as may be required to render services to do business in the State of Georgia. County and Contractor are known individually as a “Party” and collectively as “Parties”.

**Whereas**, the Parties do mutually desire to enter into this Contract to document the provision of services or other good and valuable consideration by the Contractor to the County in exchange for payment as compensation, and

**Whereas**, this Contract is the result of the competitively bid RFQ/P # 44-034, and contains the Contractor’s bid response, acceptance of the Scope of Work, its exhibits, attachments, and references are all incorporated herein by reference, and

**NOW, THEREFORE** and in consideration of the terms, conditions, mutual promises, covenants and agreements made as expressed and contained herein, or attached and incorporated and made a part hereof, and other good and valuable consideration, expressed by a valid offer and acceptance, the receipt and sufficiency of which the parties hereby acknowledge, the Parties hereto agree as follows:

**ARTICLE #102 – CONTRACT**

- A. Contractor agrees to provide the services to the County as detailed herein as the **Scope of Work**, and for locations and services as described in the RFQ/P #44-034 and the Bid Response.
- B. Contractor is to invoice the County after substantial completion of services in arrears.
- C. **Price Escalation Clause** – Contractor may request up to, but no more than, a three percent (3%) price escalation adjustment to this contract at each time of contract renewal.

**ARTICLE #103 – NOTICES**

To the extent that either party to this Contract are required to provide notice(s) to the other party in compliance herewith, then the party shall direct notice(s) to the following persons:

**COUNTY PROJECT MANAGER**

Kevin Ivey  
Superintendent  
Building Maintenance  
kivey@hallcounty.org  
Ph: (770) 531-5354

**COUNTY ISSUING OFFICER**

Andrew Youngblood  
Purchasing Supervisor  
Hall County Finance Dept.  
2875 Browns Bridge Rd  
Gainesville, GA 30504  
andrew.youngblood@hallcounty.org  
Ph: (770) 531-4940

**CONTRACTOR'S CONTACT INFORMATION**

Name: Michael Conley  
Title: Commercial Field Supervisor  
Company Name: Conditioned Air Systems Inc.  
Physical Address: 2410 Hilton Way SW  
City, State, ZIP: Gainesville, GA 30501  
Email: Mconley@conditionedairsystems.com  
Phone: 678-928-1373

**REMIT-TO ADDRESS (if different):** \_\_\_\_\_

**ARTICLE #104 – NON-EXCLUSIVE RIGHTS**

This Contract is not exclusive. The County reserves the right to select other Contractors to provide the services similar to those described in this Contract, during the term of the Contract should the need arise, or the Contractor fail to perform.

**ARTICLE #105 – CONTRACT TERM**

Until substantial and final completion of services according to each respective Task Order to be issued for future projects.

#### **ARTICLE #106 – CONTRACT AMENDMENTS AND MODIFICATION**

This Contract can only be modified, amended, or added to in writing and fully executed by both parties hereto. This Contract document constitutes the sole and entire Contract and understanding between the parties as to the subject matter hereof, and no verbal promises have been made by either party in relation hereto.

#### **ARTICLE # 107 – REMEDIES AND CONTRACT PERFORMANCE**

In the event that either party to this Contract breaches this Contract, including by failure to meet the timetables set forth herein, the non-breaching party shall provide written notice to the breaching party which describes the breach of this Contract. The party whose breach is alleged shall have thirty (30) days from the date of receipt of the written notice to cure the breach or to otherwise negotiate a resolution of the breach.

If the breach has not been cured and the parties hereto have not resolved the issue described in the notice letter by thirty (30) days after receipt of the notice letter, the party authoring the letter shall be entitled to seek any and all remedies allowed by Georgia law, including damages, equitable relief, declaratory relief, specific performance, and/or seeking relief as to any bonds issued hereon. Additional provisions are:

**A. Delay or Impossibility of Performance.** Any failure or delay must be beyond the control of and without the fault or negligence of the Contractor. If the services to be provided to the County are interrupted by a Force Majeure Event, as defined below, the County will be entitled to an equitable adjustment to the fees and other payments due to the Contractor under this Contract. If delay results from a subcontractor's negligent conduct or failure to perform, the Contractor shall not be excused from compliance with the terms and obligations of the Contract. Epidemics and pandemics are not considered Force Majeure events by the County.

Neither party shall be held liable or responsible to the other party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by or results from causes beyond the reasonable control of the affected party, including but not limited to fire, floods, embargoes, war, acts of war, insurrections, riots, strikes, lockouts or other labor disturbances, or acts of God; provided, however, that the party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either party shall provide the other party with prompt written notice of any delay or failure to perform that occurs by reason of Force Majeure.

**Definition:** The term "force majeure" as defined in Black's Law Dictionary, is "an event or effect that can be neither anticipated nor controlled. It is a contractual provision allocating the risk of loss if performance becomes impossible or impracticable, especially as a result of an event that the parties could not have anticipated or controlled."

**B. Obligations beyond Contract Term.** The Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to the Contract.

**C. Transition Cooperation with the County and Cooperation with other Contractors.** Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and reasonable cooperation and assistance to the County to ensure an orderly and efficient transition to the County or an alternative Contractor. Further, in the event

that the County has entered into or enters into contracts with other Contractors related to the services, Contractor agrees to cooperate fully with such other Contractors. Contractor shall not engage in any act that will interfere with the performance of work by any other Contractor(s).

#### **ARTICLE # 108 – TERMINATION**

The County may terminate this Contract by providing sixty (60) days written notice to the other party at any time. Should either party terminate this Contract prior to the date of automatic termination pursuant to *ARTICLE # 105 – CONTRACT TERM* above, Contractor shall provide the County with all deliverables up to the date of termination thirty (30) days after the Notice to Terminate is issued. The County shall pay the Contractor for all work properly performed in compliance with the terms of the Contract up to the date of termination.

**A. Termination for Convenience.** Following sixty (60) days written notice, either party may terminate the Contract in whole or in part for any reason without the payment of any penalty or incurring any further obligation to the Contractor.

**B. Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for the County to declare the Contractor in default of its obligations under the Contract:

1. The Contractor fails to deliver or has delivered nonconforming Services or fails to perform, to the County's satisfaction, any material requirement of the Contract or is in violation of a material provision of the Contract, including, but without limitation, the express warranties made by the Contractor.
2. The County determines that contractor's satisfactory performance of the Contract substantially endangered or that default is likely to occur.
3. The Contractor fails to make substantial and timely progress toward performance of the Contract.
4. The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or the County reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law.
5. The Contractor has failed to comply with applicable federal, state and local laws, rules, County ordinances, regulations and orders when performing within the scope of the Contract.
6. The Contractor has engaged in conduct that has or may expose the County or the State to liability, as determined in the County's sole discretion; or, a material breach of the terms of the Contract by County upon County's failure to cure such material breach after written notice thereof has been delivered in accordance with *ARTICLE # 108.C* below constitutes cause for the Contractor to declare that the County is in default of its obligations under the Contract.

**C. Notice of Default.** If either party causes one or more of the default events set out in this *ARTICLE*, then either party shall issue a written Notice-of-Default to the party that causes one or more of the default events, requesting that the breach or non-compliance be remedied within the period of time specified in the party's Notice-of-Default to the Contractor. If the breach or noncompliance is not remedied within the period specified in the written notice, the non-breaching party may:

1. Immediately terminate the Contract for default without additional written notice.

2. In the event of a breach by the Contractor, the County may procure substitute services from another source and charge the difference between the Contract and the substitute Contract to the defaulting Contractor; and/or,
  3. Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.
- D. **Termination Due to Non-Availability of Funds.** This Contract will terminate immediately and absolutely if the County determines that adequate funds are de-appropriated such that the County cannot fulfill its obligations under the Contract, such determination being at the County's sole discretion and conclusive. County agrees to provide prompt written notice to Contractor in the event of any de-appropriation.
- E. **Termination due to Failure of Contractor to Act.** The County may terminate the Contract for any one or more of the following reasons effective immediately without advance notice:
1. In the event that the Contractor must be certified or licensed as a condition precedent to providing the services, the revocation or loss of such license or certification may result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect.
  2. The County determines that the actions, or failure to act, of the Contractor, its agents, employees, or subcontractors have caused, or reasonably could cause, life, health or safety to be jeopardized.
  3. The Contractor furnished any statement, representation, or certification in connection with the Contract or the bidding process, which is materially false, deceptive, criminal activity, incorrect or incomplete.
  4. Failure of the Contractor to obtain, provide, maintain, and deliver the Performance and Payment Bonds (if required) as and when required under this Contract, or failure to comply with any requirement pertaining to the appropriate amounts thereof as set forth in *ARTICLE #123 – PERFORMANCE AND PAYMENT BOND REQUIREMENT*.
- F. **Payment Limitation in Event of Termination.** In the event of termination of the Contract for any reason by either party, the County shall pay only those amounts, if any, due and owing to the Contractor for services actually received and accepted by the County up to and including the date of termination of the Contract and for which the County is obligated to pay pursuant to the Contract.
- G. **The Contractor's Termination Duties.** Upon receipt of notice of termination, the Contractor shall:
1. Cease work under the Contract and take all necessary or appropriate steps to limit disbursements and minimize costs and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, conclusions resulting therefrom, and any other matters the County may require.
  2. Immediately cease using and return to the County, any personal property or materials, whether tangible or intangible, provided by the County to the Contractor.
  3. Comply with the County's instructions for the timely transfer of any active files and work product produced by the Contractor under the Contract.
  4. Cooperate in good faith with the County, its employees, agents, and Contractors during the transition period between the notification of termination and the substitution of any replacement Contractor; and
  5. Contractor is to immediately return any payments made by the County for goods and services that were not delivered by the Contractor.

H. **Liquidated Damages.** In the event that the Contractor unreasonably delays completion of the project, or abandons the project before completion, the Contractor shall pay the County liquidated damages for an amount equal to the percentage of work not completed – to be determined by each future Task Order.

**ARTICLE # 109 – NO DEFENSE OR INDEMNIFICATION BY COUNTY**

The parties agree that the County shall not be responsible for defending or indemnifying any Contractor from any claim brought by any third party against the Contractor.

**ARTICLE # 110 – ASSIGNMENT AND DELEGATION BY CONTRACTOR**

The Contractor shall not assign or delegate this Contract, or any performance required by it, in whole or in part, without the prior express written consent of the County.

**ARTICLE # 111 – USE OF THIRD PARTIES (SUBCONTRACTORS)**

This Contract is for the benefit of the parties hereto only and is not intended to benefit any third-party or give rise to any duty or causes of action for any third party. All restrictions, obligations, and responsibilities of the Contractor under the Contract shall also apply to third parties such as subcontractors, if allowed in writing by the County. Any Contract with a subcontractor must also preserve the rights of the County.

**ARTICLE # 112 – SUPERSEDES FORMER CONTRACTS**

Unless otherwise specified in the Contract, this Contract supersedes all prior Contracts or Agreements between the County and the Contractor for the services provided in connection with the Contract.

**ARTICLE # 113 – SEVERABILITY**

If any paragraph, sub-paragraph, sentence, clause, phrase, or portion of this Contract is declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this Contract as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the remaining portions of this Contract not so held to be invalid or the application of this Contract to other circumstances not so held to be invalid.

**ARTICLE # 114 – RECORDS**

**A. Public Records Request.** The Georgia Open Records Act, as provided in O.C.G.A. § 50-18-70 et seq, requires procurement records and all other records received by or prepared or maintained on behalf of the County, shall be made open to public inspection, unless otherwise provided by law.

**B. Record Retention and Access.** The Contractor shall maintain books, records, and documents in accordance with generally accepted accounting principles and procedures and which sufficiently and properly document and calculate all charges billed to the County throughout the term of the Contract for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. Records to be maintained include both financial records and service records.

**ARTICLE # 115 – ADDITIONAL TERMS**

The County shall not be bound by any terms and conditions included in any Contractor's literature, packaging, invoice, catalog, brochure, technical data sheet, on-line representation, warranties,

service level agreement, or other document which attempts to impose any condition in variance with or in addition to the terms and conditions contained herein.

The County shall not be bound to any Terms and Conditions of the Contractor that are only accessible by hyperlink. All Terms and Conditions must be in print and approved by the County.

#### **ARTICLE # 116 – WAIVER**

The failure of any party hereto to seek a remedy for any alleged breach of this Contract shall not constitute a waiver of any claim, cause of action, or remedy allowed by Georgia law for breach thereof.

#### **ARTICLE # 117 – CONTRACTOR AND COUNTY RIGHTS AND OBLIGATIONS**

- A. The County has the right at any time to require the Contractor to put an immediate stop to any procedure, or the use of any equipment (chemical, material, etc., if applicable) considered by the County to be hazardous (or toxic) to persons, buildings, or surfaces. The Contractor will utilize acceptable substitutes as quickly as possible. In the event of such replacement, Contractor shall (i) notify County of any resulting replacement, (ii) introduce the individual serving as the replacement to County, and (iii) provide County with a résumé and any other information regarding the individual that may be reasonably requested by County.
- B. The County has the right to require the Contractor to reassign or remove any employee or subcontractor's employee from the premises temporarily or permanently when, in the County's sole opinion, the employee is not suitable. The County's decision on this matter shall be final, and Contractor will remove this employee immediately and replace with a person of at least equivalent training, experience, and requisite qualifications as quickly as possible, subject to the County's prior approval.
- C. Contractor agrees to obtain prior written approval from the County for the use of subcontractors to provide the services described in *Scope of Work* prior to subcontractor's performance of work.

#### **ARTICLE # 118 – INSURANCE REQUIREMENTS**

##### **Workers Compensation Insurance: Required for all contracts.**

- a. \$500,000 Bodily Injury by Accident, Each Accident
- b. \$500,000 Bodily Injury by Disease, Each Disease
- c. \$500,000 Bodily Injury by Disease, Each Employee

**Additional Provisions: Waiver of Subrogation.** The insurer agrees to waive all rights of subrogation against Hall County Board of Commissioners (BOC), its elected or appointed officers, officials, agents, authorized volunteers, and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for Hall County BOC; but, this provision applies regardless of whether or not Hall County BOC has received a waiver of subrogation from the insurer.

##### **General Liability Insurance: Required for all contracts.**

- a. \$2,000,000 General Aggregate
- b. \$2,000,000 Products & Completed Operations Aggregate
- c. \$1,000,000 Each Occurrence
- d. \$1,000,000 Personal & Advertising Injury
- e. \$500,000 Damages to Premises / Fire / Legal



- f. \$5,000 Medical Payments

**Commercial Auto Liability Insurance: Required for all contracts**, except for Goods and/or Services that are remote in nature and/or are delivered by a professional delivery service.

- a. \$1,000,000 Combined Single Limit OR
- b. \$500,000 per Person
- c. \$500,000 per Occurrence
- d. \$100,000 Property Damage
- e. \$1,000 for Medical Payments (no fault coverage)

**Additional Provisions:**

- a. Uninsured motorists' coverage should be equal to the per occurrence limit, except for contracts with other governmental entities
- b. Coverage shall be included for any owned, leased, hired, or non-owned autos
- c. For any contracts involving the transportation of hazardous materials, limited pollution endorsement ISO form CA9948 or its equivalent shall be on the policy

**Umbrella Liability Insurance: Required for all contracts.**

- a. \$1,000,000 per Occurrence

**Additional Provisions:**

- a. Underlying coverage shall be General Liability, Automobile Liability, and Employers Liability (Workers Compensation)
- b. Minimum limit of \$5,000,000 per occurrence for all contracts over \$1,000,000 or involving any special risks or high hazard activities
- c. Minimum limit of \$5,000,000 for automobile coverage for any transportation contracts involving seniors, special education, transit services, students, or youths.
- d. Concurrent policy dates with primary liability policies except for workers compensation

**Professional Liability Insurance (Errors & Omissions): Required for all professional service contracts.** This shall include any consultants, medical, legal, technical, insurance agents, or other professions that require proper licenses.

- a. \$1,000,000 Each Claim/Wrongful Act
- b. \$2,000,000 General Aggregate

**ARTICLE # 119 – NO WAIVER**

- A. Authority to Enter into Contract.** The Contractor represents and warrants that it has full authority to enter into and perform its obligations under the Contract and that the Contract constitutes a legal, valid, and binding obligation upon the Contractor in accordance with its terms. The representatives of the parties hereto also represent and warrant that they are authorized to sign this Contract on behalf of each party hereto.
- B. Solicitation.** The Contractor warrants that no person or selling agency (except bona fide employees or selling agents maintained for the purpose of securing business) has been employed or retained to solicit and secure the Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency.
- C. Vehicles and Equipment.** With the exception of any specified County-owned equipment and vehicles listed herein, Contractor warrants that no Contractor employees, subcontractors or others will not use County-owned vehicles or equipment in the performance of this Contract

without express written consent. Contractor shall be responsible for providing all transportation necessary to deliver Services under the Contract.

**ARTICLE # 120 – INTELLECTUAL PROPERTY RIGHTS and OWNERSHIP**

Contractor agrees it will not use the name or any intellectual property, including but not limited to, County trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the County.

**ARTICLE # 121 – COMPENSATION**

- A. The County will pay the Contractor for the services provided pursuant to this Contract. Payments will be made monthly in arrears to the Contractor after acceptance of the Contractor's delivered services by the County, and after receipt of undisputed invoice to the County.
- B. Prices quoted for Task Orders shall be firm and fixed throughout the term of this Contract, unless otherwise amended or modified by mutual agreement.
- C. Cost may be prorated for services added or removed under this Contract to align cost with the remaining term of Contract.
- D. It is understood that this bid or proposal is made without collusion or fraud. Contractor understands and acknowledges that collusive bidding is a violation of state and federal law and may result in the cancellation of the Contract.

**ARTICLE # 122 – COUNTY PAYMENT TO CONTRACTOR:**

- A. The County will issue a Notice to Proceed (NTP) to the Contractor, and Purchase Order(s) (herein after "PO"). The terms of this Contract shall be incorporated by reference into any and all PO(s) issued prior to the expiration or termination of this Contract. The County will issue the PO by electronic mail (e-mail) to the Contractor's representative in *ARTICLE #103 – NOTICES*. A PO is considered "issued" when the e-mail containing the PO is sent by the County to the Contractor.

The Contractor shall not deliver any services, equipment, devices, or components thereof until authorized in writing by the County through issuance of a PO, which shall provide a commencement Notice to Proceed date. Any work, including but not limited to travel, preliminary meetings, planning, etc., performed outside of the terms and conditions of and before the issuance of the PO will not be considered for payment. Contractors are not to begin work or ship any product on any verbal communication from within the County. The County will not be liable for payment for any work or product with the issuance of a verbal communication.

The Scope of Services shall remain in effect from the Notice to Proceed to completion of the project. The Parties agree that the County will not pay or otherwise compensate the Contractor for any Services, materials, equipment, devices, or components thereof outside of the Scope of Work and/or beyond the term of this Contract, unless specifically authorized in writing as evidenced by an amendment pursuant to *ARTICLE # 106 – CONTRACT AMENDMENTS AND MODIFICATION*, a time extension letter, or as otherwise authorized by the County.

- B. Invoice/Payment
  - 1. Contractor shall invoice the County via email each month solely to [accountspayable@hallcounty.org](mailto:accountspayable@hallcounty.org) and only after the County inspects and accepts the

Services provided. Receipt of the Services does not constitute acceptance. Invoice amounts shall not exceed the Contractor's pricing set forth in *ARTICLE # 102 – CONTRACT*.

2. Each invoice shall include the Contractor's current "Remit to" address; a description of the services provided; the invoice amount; the Contract number; and the associated PO number issued. Each properly prepared invoice must be sent in accordance with the instructions listed on the PO. Standard payment terms are net 30 days (N30) in arrears from the date the invoice is accepted, following delivery of the services.
3. The County does not pay for services not yet received, but only in arrears.
4. The Contractor shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under the Contract.

C. **Unsatisfactory Performance/Delay of Payment.**

1. If the County determines that the quality of the services provided are deficient, unacceptable, or unsatisfactory, the County's Project Manager identified in *ARTICLE # 103 – NOTICES* shall issue a written notice to Contractor. Contractor agrees that upon receipt of the written notice, it shall make every effort to correct the deficiencies within the timeframe prescribed therein. If the Contractor fails to timely correct the deficiencies, the County reserves the right to delay or deny payment pursuant to this Article or terminate the Contract pursuant to *ARTICLE # 108 – TERMINATION PROVISIONS*.
2. **Delay of Payment Due to Contractor's Failure.** If the County determines that the Contractor has failed to perform or deliver any services as required by the Contract, the Contractor shall not be entitled to any compensation under the Contract until such services are delivered and accepted. In this event, the County may withhold that portion of the Contractor's compensation, which represents payment for services that were not delivered. To the extent that the Contractor's failure to perform or deliver in a timely manner causes the County to incur costs, the County may deduct the amount of such incurred costs as liquidated damages from any amounts payable to Contractor. The County's authority to deduct such incurred costs shall not in any way affect the County's authority to terminate the Contract.

D. **Set-Off Against Sums Owed by the Contractor.** In the event that the Contractor owes the County any sum under the terms of the Contract, pursuant to any judgment, or pursuant to any law, the County may set off the sum owed by the Contractor against any sum owed to the Contractor, in the County's sole discretion.

E. **Final Payment.** Contractor shall issue an invoice for final payment to the County no later than thirty (30) days following the expiration or termination date of the Contract.

F. The Contractor must not "Factor or Assign Payments" to another or a financial institution. The County will only pay the party with whom it is contracted. The County will not in any circumstances pay a third-party.

**ARTICLE #123 – PERFORMANCE AND PAYMENT BONDS**

Upon the issuance of a Task Order, the Contractor must furnish to the County both a Performance and Payment Bond with its bid, both equal to one hundred percent (100%) of the Contract's total initial award dollar amount. The County will only issue a Notice to Proceed after the bonds are received. Only surety companies licensed to do business in the State of Georgia are acceptable. The Contractor is required to provide new bonds at the issuance of each Renewal Option Term(s) or Extension(s) that follow.

The Contractor must provide all required bonding instruments to the County prior to commencement of any work. The County will consider any work done prior to the receipt of bonding instruments as null and void and thus not eligible for compensation.

**ARTICLE #124 – RETAINAGE**

The County will retain funds to be withheld from compensation in compliance with Georgia law. Hall County may hold up to five percent (5%) retainage throughout the entire project and will release said retainage at the point of completion and final acceptance by the County.

**ARTICLE #125 – VENUE AND GOVERNING LAW**

The parties agree that this Contract shall be interpreted, construed, and enforced in accordance with the laws of the State of Georgia. To the extent that either party may bring a legal suit to enforce the terms of this Contract, including suit in equity, the parties agree and consent to file any such suit in the Superior Court of Hall County, Georgia.

**ARTICLE # 126 – NOTICE OF INTENT TO LITIGATE**

Contractor hereby agrees not to file any civil action of disputes or claims relating to the Contract, except after first giving thirty days (30) written notice to the County of the claim and the intent to initiate a civil action.

**ARTICLE # 127 – GEORGIA SECURITY AND IMMIGRATION COMPLIANCE ACT**

- A. By signing this Contract, the Contractor certifies that prior to and throughout the performance of all applicable work under this Contract it will remain in full compliance with all federal and state immigration laws, including but not limited to 8 U.S.C. § 1324a and the Georgia Security and Immigration Compliance Act (O.C.G.A. §13-10-90 et seq.), as amended by the Illegal Immigration Reform and Enforcement Act of 2011, regarding the verification of employment eligibility of employees under the Immigration Reform and Control Act of 1986. Contractor will ensure that only persons who are citizens or nationals of the United States or non-citizens authorized under federal immigration laws are employed to perform services under this Contract or any subcontract or sub-subcontract hereunder.
- B. Contractor further certifies its compliance with the aforementioned federal and state immigration laws set forth by signing a sworn affidavit, the Georgia Security and Immigration Compliance Act Affidavit, notarized by an Official Notary Public, and obtaining the same affidavits from any subcontractor providing services pursuant to this Contract.

**ARTICLE # 128 – ORDER OF PRECEDENCE**

In the event of any inconsistency, ambiguity, or conflict among the specific provisions of the Contract and the Contractor's Response, the order of precedence shall be as follows:

1. Any amendments to the Contract, including all Exhibits thereto.
2. The Contract itself, including all Exhibits thereto.
3. Attachments appended to the Contract.

**ARTICLE # 129 – CONTRACT EXHIBITS AND ATTACHMENTS**

The Parties mutually acknowledge that any following Exhibits and Attachments listed below made a part of this Contract, as though expressly written in the RFQ/P documents and the Bid Response, are herein incorporated into this contract by reference.

- EXHIBIT A – Contract for Services
- EXHIBIT B – Bid Response Sheet
- EXHIBIT C – Cost Proposal Worksheet

- EXHIBIT D – W-9 Form
- EXHIBIT E – E-Verify Affidavit
- EXHIBIT F – Ethics Affidavit
- EXHIBIT G – Scored Questions

#### **ARTICLE # 130 – ENTIRE CONTRACT**

This Contract, as executed and approved, shall constitute the entire agreement between the Parties and supersedes all other prior and contemporaneous statements, agreements, and understandings between the Parties. No written or oral statements, agreements, or understandings that are not set out, referenced, or specifically incorporated in this Contract shall in any way be binding or of effect between the Parties.

#### **ARTICLE # 131 – VALIDITY**

If any paragraph, sub-paragraph, sentence, clause, phrase or any portion of this agreement shall be declared invalid or unconstitutional by any Court of competent jurisdiction or if the provisions of any part of this agreement as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be constructed to affect the portions of this agreement not so held to be invalid or the application of this agreement to other circumstances not so held to be invalid. The parties hereby declare that the intent of the parties to this agreement is to provide for separate and divisible parts.

#### **ARTICLE #132 – SALES TAX EXEMPTION STATUS**

The County is exempt from Federal Excise Taxes and from Georgia State and Local Sales and Use Taxes on the services. The Contractor may request a copy of the County's Georgia Sales and Use Tax Exemption Certificate.

#### **ARTICLE #133 – HOLD HARMLESS AGREEMENT**

The successful respondent hereby agrees to indemnify, hold free and harmless, Hall County Government, County Commissioners, its agents, servants, employees, officers, directors, and elected officials, or any other person(s) against any loss or expense. This includes attorney fees, because of any liability imposed by law upon the County, except in cases of the County's sole negligence, sustained by any person(s) on account of bodily injury or property damage arising out of or in the consequence of this agreement.

#### **ARTICLE # 134 – CONTRACT TERMS AND CONDITIONS**

1. All purchases must comply with the Official Code of Hall County Sections 3.10.010 – 3.10.190.
2. If any conflict or ambiguity arises between the Terms and Conditions herein, and the Official Code of Hall County, the latter will govern.
3. The Terms and Conditions set forth herein shall supersede and govern over all Contractor's Terms and Conditions or Service Level Agreements.
4. The County retains the right to "red line" sections of the supplier's terms and conditions if such are in conflict with the best interest of the County.
5. Acceptance of a Purchase Order (PO) and delivery of goods or services serves as the supplier's full and complete acceptance of the County's terms and conditions.
6. The terms "supplier", "vendor", "bidder", "offeror", "contractor", "designer", "distributor", "dealer", or "manufacturer" or otherwise purveyor or source of supply or performance of service shall mean one and the same, herein denoted as "Supplier" for goods and "Contractor" for services.

7. Furthermore, the terms "goods", "materials", "commodities", "components", "drawings", "drafts", "renderings", "plans" (physical or digital), "software", "SaaS", "engineering", "architectural", "capital asset equipment", "vehicles", "heavy earth-moving" or other equipment (purchased or leased), or other such deliverables are herein denoted as "Goods" and shall mean one and the same.
8. "Services" shall mean all services, either financial, advisory, consultative, labor, staff augmentation, construction, rehabilitation, restoration, repair, support or maintenance, communication, telephony, internet, TV or streaming, pest control, grounds maintenance, custodial and janitorial, street, or paved surfaces cleaning, drain cleaning or otherwise where services are offered for consideration.
9. The Supplier shall transfer and deliver all goods or services described on the attached PO for the consideration set forth herein.
10. The supplier shall only deliver goods and services as described on the PO and within the Scope of Work and the supplier's bid response.
11. The County holds no obligation to pay for goods delivered or services rendered unless specified on a written PO or a Change Order of such.
12. The supplier shall not construe any verbal consent to purchase goods or services as valid.
13. The County does not accept substitutions of services or goods that do not comply with the scope of work or specifications set forth in the PO, Contract, or Agreement unless mutually agreed in writing by both parties.
14. The County does not accept automatic contract renewals with the exception of monthly subscription services.
15. The County only pays for services rendered in arrears. The County does not pay for services not yet rendered.
16. The County does not pay deposits towards goods ordered, except for custom made items such as window treatments, floor coverings, etc., fabrication, decoration, or products otherwise custom designed specifically for the County.
17. The County will accept backorders only if goods are out of stock and with prior written notice. Suppliers shall ship all quantities that it has in stock and hold orders for backorders.
18. The County participates in Cooperative Purchasing Agreements, State of Georgia Statewide Contracts, and other state, local, Intergovernmental Agreements, Memorandums of Understanding, and other such Agreements.
19. In all cases, the jurisdiction shall be the State of Georgia, County of Hall, for arbitration or other legalities.
20. Deliveries go to the ship-to addresses listed on the PO and within the time specified. The Supplier must follow instructions if multiple ship-to address exist on the PO.
21. Risk of loss of the goods shall pass to the County upon inspection and acceptance only.
22. Receipt of goods or services does not constitute acceptance. The County shall have the right to inspect all goods or services at the time and place of delivery.
23. The supplier warrants that the goods are merchantable, and the supplier has a legal right to deliver the goods and services as described herein. Title to the goods shall remain with the supplier until acceptance by the County.
24. Vendor agrees not to assign in full or part of the contract to another party without the County's express written consent. Any attempted assignment or delegation shall void and make ineffectual for all purposes unless made in conformity with this paragraph.
25. This issuance of the PO shall not violate the Code of Ethics and Conflicts of Interest for Public Officers and Employees for Government Service set forth in the 2020 Section 45-1020 *et seq.* of the Official Code of Georgia Annotated and the Official Code of Hall County Section 3.10.070 governing Ethics.
26. All goods and services supplied pursuant to a PO shall, unless otherwise noted, must conform exactly to all the descriptions, specifications, exhibits, and attachments contained

in the bid solicitation upon which a PO is based, and all the terms, conditions, and specifications of the bid solicitation are incorporated herein by reference and made a part hereof.

27. Any and all media production, recordings, videos, photography, artwork, plates, engravings, and other printed or digital media materials paid in full by the County is considered County property and shall be delivered to the County upon request.
28. Invoices submitted to the County shall reflect the language of the PO with the PO number printed on each invoice submitted.
29. In the event that a PO has an attached contract or agreement, the terms and conditions of the latter shall govern in the event of any conflict with these terms and conditions.
30. The supplier may be suspended, terminated, or debarred if it is determined that the supplier has made false certification(s) or has violated such certification(s) by failure to carry out the requirements herein.
31. The Supplier certifies that it and its subcontractors are not debarred, suspended, or declared ineligible by any agency of the County, or State of Georgia, or as defined in the Federal Acquisition Regulation (FAR) 48 C.F.R. Ch. 1 Subpart 9.4.
32. The supplier certifies that the supplier is not currently engaged in an active or pending lawsuit or other grievance, injunction, or levy against the County.
33. Goods are Free on Board (F.O.B.) destination and freight, shipping, and delivery shall be pre-paid and added to the invoice as a separate line item.
34. The County does not pay late fees nor interest charges.
35. The supplier shall charge the County the exact amount of freight, delivery, handling, and insurance charges.
36. The County is not bound to any minimum or maximum quantity or dollar amount set by the supplier.
37. In the event there is a discrepancy between the unit price and extended price, the unit price shall govern.

[Signature Page Follows]

IN WITNESS WHEREOF, said Parties have hereunto affixed their signature and seal on the day, month, and year first above written:

Print Company's Full Legal Name:

Conditioned Air Systems Inc.

HALL COUNTY, GEORGIA

By: Andy Kalinauskas

Print Name: Andy Kalinauskas

Title: President

Date: 04/18/24

By: \_\_\_\_\_  
Richard Higgins, Chairman  
Hall County Board of Commissioners

Attestment:

\_\_\_\_\_  
Board of Commissioners Clerk

Sworn to and subscribed before me this  
18 Day of April, 2024

Approved as to Form  
Nathaniel R. Anderson

Nathaniel R. Anderson,  
Senior Assistant County Attorney

Notary Public: [Signature]

Notary commission expires: 05/21/24

[Locus Sigilli – Seal or Stamp]

