



Building Automation System Retrofit Technical Support Agreement

A Climatec Solution

Prepared for:

City of San Marcos

05/22/2024

Presented by:

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Service Supervisor

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AGREEMENT APPROVALS

Procurement Method BuyBoard (733-24)
Date of Proposal: 05/22/2024
TSA Start Date: 7/1/2024
TSA End Date: 6/30/2027
Service Dispatch Number: 210-633-0400
Service Dispatch Email: SanAntonioService@climatec.com

This proposed agreement is firm for sixty (60) days, shall commence upon approval and continue for a term of **three (3) years** for **quarterly** services (as listed on attached Schedules B and C) for the Building Automation System (BAS) located at the following facility(s):

Facility Name: 630 E Hopkins St
Facility Address: 630 E Hopkins St, San Marcos, TX 78666

BY AND BETWEEN:
Climatec, LLC - San Antonio, TX
1077 Central Parkway South, Suite 900
San Antonio, TX 78232

CUSTOMER:
City of San Marcos
630 E Hopkins St
TX 78666

Approvals:

Climatec, LLC

City of San Marcos

Name

Name

Signature Date

Signature Date

Title

Title

PROPOSAL OVERVIEW

OVERVIEW:

SCHEDULE A – CHARGES, RATES, & PRICING TERMS

SCHEDULE B – TYPE OF SERVICE PLAN

Attachment 1 – Building Automation System Service

☐ Attachment 1A – Fault Detection & Diagnostics Service

☐ Attachment 1B – Alarm Monitoring Service

SCHEDULE C – SCHEDULED MAINTENANCE SCHEDULE

☒ Service Task 1 – BAS Main Operator Workstation

☒ Service Task 2 – BAS Network Analysis

☒ Service Task 3 – BAS Global Controllers

☒ Service Task 4 – BAS Unitary Controllers

SCHEDULE D – LIST OF SERVICED EQUIPMENT

SCHEDULE E – SPECIAL CONDITIONS

SCHEDULE F – TERMS AND CONDITIONS

SCHEDULE G – RETROFIT SCOPE OF WORK

SCHEDULE A – CHARGES, RATES, & PRICING TERMS

ANNUAL CHARGES: (* Excluding Tax)

This agreement shall be billed **quarterly** (as listed below) and is due and payable upon the Customer's receipt of invoice. The annual charge for each year is:

Retrofit down payment: \$0.00 * **

First year: \$42,202.00 *

Second year: \$42,202.00 *

Third year: \$42,202.00 *

** Payment must be received prior to implementation.

BILLING PERIOD CHARGES: (* Excluding Tax)

First year: 4 payments of \$10,550.50 *

Second year: 4 payments of \$10,550.50 *

Third year: 4 payments of \$10,550.50 *

RATES:

The Customer's preferred labor rates shall be used for services, provided by Climatec, LLC, that are requested by the Customer for services not included in this agreement. The preferred labor rate shall be **20.00%** off of the Climatec, LLC standard billing rate.

PRICING:

Additional Alerton parts and materials, requested by the Customer, shall be available to the Customer at a discount of list price less 50%, less 10%.

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SCHEDULE B – TYPE OF SERVICE PLAN

ATTACHMENT 1 – BUILDING AUTOMATION SYSTEM SERVICE

- ☐ **System and Service Review.** Climatec, LLC will hold an annual formal review with your staff to discuss the services performed during the past year, to recommend improvements and options to enhance system performance, resolve operational problems, and to meet your changing needs and objectives.
- ☒ **Scheduled Maintenance.** Maintenance shall be performed, per the attached Schedule C, to enhance the system effectiveness. Scheduled maintenance visits will occur **four (4) times** per year.
- ☒ **Software Maintenance.** Climatec, LLC shall furnish and install manufacturer's software revisions and patches to maintain or improve present performance within the functional capabilities of your system. New software products shall be available for sale.
- ☒ **Database Protection.** Climatec, LLC shall protect your database by periodically saving this information and maintaining a copy on our premises. Database backups will be performed **four (4) times** per year.
- ☒ **Telephone Support.** Technical experts shall assist you, via the telephone, to identify and resolve operational issues.
- ☒ **On-Line Support.** Climatec, LLC shall provide you with on-line assistance to troubleshoot your system and resolve operational issues. *The Customer is responsible for LAN installation and costs.*
- ☒ **Documentation.** Climatec, LLC shall provide System and Service Log for you to document concerns, system issues, and other related items requiring our attention. Each scheduled service visit shall begin with a review of this log. All scheduled and unscheduled service visits will be documented by an electronic work order form. All work orders shall be signed by an authorized Customer representative to verify all work completed and will be emailed to the Customer.
- ☒ **Operator Training.** Climatec, LLC shall provide **eight (8) hours** of on-site annual operator(s) training.
- ☐ **Component Repair and Replacement.** Climatec, LLC shall repair or replace failed components with new or reconditioned components of compatible design to minimize obsolescence and maintain system integrity at no additional charge. Exchanged parts shall become the property of Climatec, LLC (see Schedule E for special conditions).

SCHEDULE B – TYPE OF SERVICE PLAN

- ☒ **Business Day Service.** Service repair calls covered by this agreement shall be made five (5) days a week, during normal business hours, at no additional charge (see Schedule E for special conditions).
- ☐ **Premium Time Emergency Service.** Emergency repair calls covered by this agreement shall be made seven (7) days a week, twenty-four (24) hours a day at no additional charge (see Schedule E for special conditions).
- ☐ **Discretionary Hours Service.** Climatec, LLC shall provide an on-site Service Specialist for **zero (0) hours**.
- ☐ **Facility Performance Evaluation Report.** At commencement of this agreement, Climatec, LLC shall analyze the major Building Automation System components, compile the analytic data, and submit a one-time Facility Performance Evaluation Report to the Customer. The report will be assigned a Facility Performance Evaluation Score along with any concerns and an assessment of potential savings opportunities.
- ☐ **Carbon Monoxide/Gas System Maintenance** Climatec, LLC shall test each gas sensor, per the attached Schedule C, for proper functionality **one (1) time** per year. System gas detection will be simulated in efforts to test the sequence of operation. Sensor, strobe, horn, and mechanical failures shall be documented and submitted to the Customer (see Schedule E for special conditions).

SCHEDULE C – SCHEDULED MAINTENANCE

SERVICE TASK 1: BAS – MAIN OPERATOR WORKSTATION:

On Each Scheduled Service:

Visits to Jobsite

- Report in with appropriate customer personnel.
- Review BAS system for critical and off-line status indications. Review BAS system for override and disabled status indications.
- Review event and alarm log with customer and discuss BAS operational concerns.
- Analyze the number of operator or system change occurrences for impact on performance. Perform or schedule reactive or proactive maintenance procedures as appropriate to resolve situations noted.
- Install appropriate BAS software refinements and updates.

On a Scheduled Basis:

Main Operator Workstation

- Check monitor for clarity, focus, and color.
- Cycle power and listen for unusual motor/bearing noise.
- Verify proper system restart; check system date, time, and hardware status. Clean exterior surfaces, including monitor.
- General security/software maintenance of the main operator workstation.
- Save/copy network workstation data base, including custom graphics and resident MasterController archive databases, as indicated in this agreement.

NOTE: Revisions to software program(s) not provided by Climatec, LLC are not included in this service task, however it can be added at the Customer's request. Likewise, "Major Revisions" to the BAS software which adds new features and capabilities are not included here. Excludes any customer IT maintained server.

SCHEDULE C – SCHEDULED MAINTENANCE

SERVICE TASK 2: BAS – NETWORK ANALYSIS:

On a Scheduled Basis:

- Log onto the main operator workstation, server, or global controller(s) to prove proper communication means.
- Review global controller error log.
- For the main operator workstation, server, and global controller(s):
 - Analyze communication.
 - Perform online/offline test routine to determine power and communication restart.
 - Unresponsive BACnet devices.
 - Provide a report summarizing network analysis results.

SCHEDULE C – SCHEDULED MAINTENANCE

SERVICE TASK 3: BAS – GLOBAL CONTROLLERS:

On a Scheduled Basis:

- Check indications to verify proper DC power levels, appropriate transmit and receive activity on the communication trunks, and check for possible error code indications.
- Confirm proper time sync of all Global Controller(s) with workstation.
- Inspect wiring for signs of corrosion, fraying and rapid discoloration, defective shielding, or shield grounding.
- Review LED sequencing for proper operation.
- Review Global Controller(s) device properties.
- Remove excessive dust from internal surfaces.
- Verify points and control processes are within bounds and where the need for possible corrective maintenance as indicated under Schedule B.
- Update firmware files, as required under Schedule B.
- Review software documentation.

SCHEDULE C – SCHEDULED MAINTENANCE

SERVICE TASK 4: BAS – UNITARY CONTROLLERS:

On a Scheduled Basis – AHU Application Controller:

- Verify that HVAC Unit is being controlled at the appropriate value(s).
- Change one set point value per control loop. Verify smooth transition and stable control at the new setpoint, as required.
- Return set point to original value.
- Repeat for each additional control loop, as required.
- Verify the proper operation of critical control processes and points associated with the unit. Make adjustments, as required.
- Review software documentation.

On a Scheduled Basis – Unitary Equipment Controller:

- Verify that controller is in control at the desired value(s).
- Change one set point value per control loop. Verify smooth transition and stable control at the new setpoint, as required.
- Return set point to original value.
- Repeat for each additional control loop, as required.
- Verify the proper operation of critical control processes and points associated with the unit. Make adjustments, as required.
- Review software documentation.

SCHEDULE D – LIST OF SERVICED EQUIPMENT

This will cover the following sites:

Activity Center
501 East Hopkins

San Marcos Police Station
2300 IH35

Municipal Building
630 E. Hopkins

Public Library, and expansion
625 E. Hopkins St. Grant Harris

Building 401
E. Hopkins

City of San Marcos
630 E. Hopkins St.

Public works
630 E. Hopkins St.

Fire Station #2
1314 Academy St.

Public Services Building
2217E McCarty

SCHEDULE E – SPECIAL CONDITIONS

This agreement excludes any internal controls associated with the individual equipment, such as factory installed and/or manufacturer supplied internal control modules, not associated with the Building Automation System(s).

Either party may terminate this agreement at any time by giving a thirty (30) day written notice to the other.

SCHEDULE F – TERMS & CONDITIONS

The sale of Equipment & Services by Climatec to the Customer are subject to the following terms and conditions regardless of other terms and conditions in any purchase order, document, or other communication of Customer. This agreement may only be modified in writing signed by authorized representative of both Climatec and Customer.

1. **SCOPE OF WORK.** This proposal is valid for 60 days from date of proposal. Beyond that time Climatec reserves the right to revise any or all portions of it. This proposal is based upon the use of straight time labor only unless stated otherwise in this proposal. Unless specifically noted in the statement of the scope of the work or services undertaken by Climatec under this agreement, Climatec's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal or disposal of environment Hazards or dangerous substances, to include but not to be limited to asbestos, PCBs, or mold discovered in or on the premises. Proceeding with the scope of work defined in this agreement indicates acceptance of the terms & conditions of the agreement.
2. **INVOICING & PAYMENTS.** Climatec may invoice Purchaser for all materials delivered to the job site or to an off-site storage facility and for the work performed on-site and off-site. Purchaser agrees to pay Climatec amounts invoiced upon receipt of invoice. Waivers of lien will be furnished upon request, as the work progresses; to the extent payments are received. If Climatec's invoice is not paid within 30 days of its issuance, it is delinquent and Climatec shall add 1% per month interest onto delinquent amounts.

3. **WARRANTY.** Climatec is not the manufacturer of the Equipment, Products or Software. To the extent legally and contractually permitted. Warranty period shall be 12 months from the date of delivery of the Equipment, Products or Software. For Equipment or Products installed by Climatec, if Purchaser provides written notice to Climatec of any such defects within thirty (30) days after the appearance or discovery of such defect, Climatec shall, at its option, repair or replace the defective equipment and return said equipment to Purchaser.

CLIMATEC MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, SUCH AS WARRANTY OF MERCHANTABILITY, FITNESS FOR PURPOSE OR NON-INFRINGEMENT. CLIMATEC FURTHER DISCLAIMS THAT THESE WARRANTIES DO NOT EXTEND TO ANY EQUIPMENT DUE TO NORMAL WEAR AND TEAR OR TO EQUIPMENT WHICH HAS BEEN REPAIRED BY OTHERS, ABUSED, NEGLECTED, ALTERED, IMPROPERLY USED, DAMAGED (WHETHER CAUSED BY ACCIDENT OR OTHERWISE), MODIFIED, USED FOR PURPOSES OTHER THAN MANUFACTURER'S INTENTION, OR WHICH HAS NOT BEEN PROPERLY AND REASONABLY MAINTAINED. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO CUSTOMER. IN THAT EVENT, SUCH WARRANTIES ARE LIMITED IN DURATION TO THE WARRANTY PERIOD.

4. **INDEMNIFICATION.** Customer shall indemnify, defend and hold Climatec harmless from any claims based on (i) Climatec compliance with Customer's designs, specifications, instructions; (ii) modification of any Product by anyone other than Climatec; (iii) negligent act or omission by Customer; (iv) breach of this agreement. UNDER NO CIRCUMSTANCES SHALL CLIMATEC, ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY OF THE FOLLOWING, EVEN IF INFORMED OF THEIR POSSIBILITY; DAMAGES CLAIMS BY ANY THIRD PARTY, WHETHER OR NOT THE CLAIMS ARE BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE; LOSS OF, DAMAGE TO, DATA; SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, INDIRECT DAMAGES, OR ANY ECONOMIC CONSEQUENTIAL DAMAGES; OR LOST PROFITS, BUSINESS REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.
5. **LIMITATION OF LIABILITY.** Climatec's entire liability to Customer in the aggregate is limited to Customer's direct damages up to an amount not to exceed \$100,000.
6. **TAXES.** The price of this proposal does not include duties, sale, use, excise or other similar taxes unless required by federal, state or local law or unless stated otherwise in this proposal. Purchaser shall pay, in addition to the stated price, all taxes not legally required to be paid by Climatec or, alternatively, shall provide Climatec with acceptable tax exemption certificates.
7. **FORCE MAJEURE/DELAYS.** Climatec shall not be liable for any delay or failure to fulfill its obligations under this agreement due to causes beyond its reasonable control resulting from or attributed to acts of circumstances beyond Climatec's control, including but not limited to epidemics, pandemics, acts of God, man-made or natural disasters, medical crisis, criminal acts, transportation delays, Government required shut-downs, labor disputes, conditions of the premise, acts or omissions of the Purchaser, Owner or other Contractors or delays caused by an inability to obtain labor (direct or subcontracted) or materials, products, equipment or software. If any product required to complete work becomes temporarily or permanently unavailable, Climatec shall (a) be excused from furnishing said materials or equipment, or (b) be reimbursed for the difference between the cost of the materials or equipment unavailable and the cost of an agreeable substitute therefore.

8. **GENERAL:**

1. Climatec and Customer shall comply with all applicable federal, state, and local laws and regulations. Permits required for the execution of the work shall be obtained and paid for by the Customer unless stated otherwise in this proposal.
2. All disputes involving more than \$15,000 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorney's fees incurred as a result. Nothing here shall limit any rights under construction lien laws.
3. Insurance coverage in excess of Climatec's standard limits will be furnished when requested and required and at Climatec's discretion the costs of this additional insurance may be passed on to the Purchaser. No credit will be given or premium paid by Climatec for insurance afforded by others.
4. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act (OSHA) relating in any way to the project or project site.
5. The unenforceability of or invalidity of any of these terms or conditions will not affect the remainder of the terms & conditions.
6. This Agreement shall be governed in accordance with the laws of the State of Arizona.
7. Climatec and Customer agree that electronic signatures may be used and will be legally valid, effective and enforceable.