



# FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

**500KG Elmo GST #1**

Fair Oaks Ranch, TX

October 31, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the 500KG GST Elmo #1 Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

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- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

### 3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

### 4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** \_\_\_quarterly, \_\_\_semi-annually, or X

## EXHIBIT B

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

### **7. ASSIGNMENT:**

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

### **8. INDEMNIFICATION:**

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

### **9. REMEDIES**

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

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### 10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

### 11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

### 12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

### 13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

**Compliance with all Codes, Permitting and Licensing Requirements.** The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

**Liability and Indemnity of City.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

**Indemnity and Independent Contractor Status of Contractor.** Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

## EXHIBIT B

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

**Liens.** Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

**Tax Exemption.** The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

**Contractual Limitations Period.** Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

**Sovereign Immunity.** Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

**Governing Law and Venue.** Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

**Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

**EXHIBIT B**

the proper completion of the TEC Form 1295.

**Texas Government Code Mandatory Provisions.** The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Owner: \_\_\_\_\_

**MAGUIRE IRON, INC.**

By: \_\_\_\_\_  
(Name) (Title)

By: \_\_\_\_\_  
(Name) (Title)

By: Roxana Bagwell 09/27/2024  
(Authorized Agent) (Date)

Date Accepted: \_\_\_\_\_

*Upon acceptance, please provide two (2) signatures and date the agreement.*

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### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

#### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

#### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

#### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

#### Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 30 inch fail safe steel vent.

#### Anti Climb

- Contractor will install an anti-climb device on the exterior ladder approximately 15 ft above grade



## EXHIBIT B

### Misc Steel Repair - Relocate Pipe-Valve Assembly on Sidewall

#### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

#### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.

#### Notes:

- Contractor will remove the existing level indicator system. Areas requiring steel plating will be full-seam welded. Remaining tabs, etc. will be ground flush.
- Contractor will relocate/lower the coupler/pipe/valve assembly on the tank sidewall. Location will be confirmed by owner prior to re-installation.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of 500KG GST Elmo #2		
Year	Service	Annual Spend
2025	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$46,046.00
2026	Visual Inspection	\$46,046.00
2027	Visual Inspection	\$46,046.00
2028	Visual Inspection	\$46,046.00
2029	Clean Out / ROV	\$46,046.00
2030	Visual Inspection	\$46,046.00
2031	Visual Inspection	\$46,046.00
2032	Visual Inspection	\$46,046.00
2032	Clean Out / ROV	\$46,046.00
2033	Visual Inspection	\$46,046.00



# FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

**500KG Elmo GST #2**

Fair Oaks Ranch, TX

September 27, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the 500KG GST Elmo #2 Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

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- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

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### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

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**Liability and Indemnity of City.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

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willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

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**Governing Law and Venue.** Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

**Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to





## EXHIBIT B

### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

#### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

#### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

#### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

#### Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 30 inch fail safe steel vent.

#### Roof Access

- Contractor will remove existing roof manway and install new 30 inch square manway.

## EXHIBIT B

### Misc Steel Repair

- Remove Level Indicator System
- Relocate Pipe-Valve Assembly on Sidewall
- Patch Hole

### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.

### Notes:

- Contractor will remove the existing level indicator system. Areas requiring steel plating will be full-seam welded. Remaining tabs, etc. will be ground flush.
- Contractor will relocate/lower the coupler/pipe/valve assembly on the tank sidewall. Location will be confirmed by owner prior to re-installation.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of 500KG GST Elmo #2		
Year	Service	Annual Spend
Year: 1	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$49,246.00
Year: 2	Visual Inspection	\$49,246.00
Year: 3	Visual Inspection	\$49,246.00
Year: 4	Visual Inspection	\$49,246.00
Year: 5	Clean Out / ROV	\$49,246.00
Year: 6	Visual Inspection	\$49,246.00
Year: 7	Visual Inspection	\$49,246.00
Year: 8	Visual Inspection	\$49,246.00
Year: 9	Clean Out / ROV	\$49,246.00
Year: 10	Visual Inspection	\$49,246.00



# FULL-SERVICE MAINTENANCE PLAN

Fair Oaks Ranch, TX - City of

**Plant #2, 150KG GST #1**

Fair Oaks Ranch, TX

October 31, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #2 – 150KG GST #1 Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

## EXHIBIT B

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

### 3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

### 4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** \_\_\_quarterly, \_\_\_semi-annually, or X

## EXHIBIT B

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

### **7. ASSIGNMENT:**

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

### **8. INDEMNIFICATION:**

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

### **9. REMEDIES**

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.



## EXHIBIT B

### 10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

### 11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

### 12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

### 13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

**Compliance with all Codes, Permitting and Licensing Requirements.** The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

**Liability and Indemnity of City.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

**Indemnity and Independent Contractor Status of Contractor.** Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

## EXHIBIT B

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

**Liens.** Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

**Tax Exemption.** The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

**Contractual Limitations Period.** Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

**Sovereign Immunity.** Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

**Governing Law and Venue.** Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

**Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to

**EXHIBIT B**

the proper completion of the TEC Form 1295.

**Texas Government Code Mandatory Provisions.** The City may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it; (i) does not boycott Israel; (ii) will not boycott Israel during the term of the contract; (iii) does not boycott energy companies; (iv) will not boycott energy companies during the term of the contract; (v) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (vi) will not discriminate during the term of the contract against a firearm entity or firearm trade association (Texas Government Code, Chapter 2271.002; 2274.002).

Company hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as this term is defined in the Texas Government Code, Section 808.001, as amended. Company hereby verifies that it does not boycott energy companies, and agrees that, during the term of this agreement, will not boycott energy companies as this term is defined in Texas Government Code, Section 809.001, as amended. Company hereby verifies that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and agrees that, during the term of this agreement, will not discriminate against a firearm entity or firearm trade association as those terms are defined in Texas Government Code, Section 2274.001, as amended.

Company hereby certifies that it is not a company identified under Texas Government Code, Section 2252.152 as a company engaged in business with Iran, Sudan, or Foreign Terrorist Organizations.

Owner: \_\_\_\_\_

**MAGUIRE IRON, INC.**

By: \_\_\_\_\_  
(Name) (Title)

By: \_\_\_\_\_  
(Name) (Title)

By: Roxana Bagwell 09/27/2024  
(Authorized Agent) (Date)

Date Accepted: \_\_\_\_\_

*Upon acceptance, please provide two (2) signatures and date the agreement.*

## EXHIBIT B

### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

### Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 24 inch fail safe steel vent.

### Roof Acces

- Contractor will remove existing roof manway and install new 30 inch square manway

## EXHIBIT B

### Misc Steel Repair

- Remove Interior Ladder
- Remove Level Indicator System

### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #2 – 150KG GST #1		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$20,508.00
2026	Visual Inspection	\$20,508.00
2027	Visual Inspection	\$20,508.00
2028	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$20,508.00
2029	Visual Inspection	\$20,508.00
2030	Visual Inspection	\$20,508.00
2031	Visual Inspection	\$20,508.00
2032	Clean Out / ROV	\$20,508.00
2032	Visual Inspection	\$20,508.00
2033	Visual Inspection	\$20,508.00



# FULL-SERVICE MAINTENANCE PLAN

Fair Oaks Ranch, TX - City of

**Plant #2, 4000KG GST #2**

Fair Oaks Ranch, TX

October 31, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #2 – 400KG GST #2 Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.



## EXHIBIT B

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

### 3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

### 4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** \_\_\_quarterly, \_\_\_semi-annually, or X

## EXHIBIT B

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

### **7. ASSIGNMENT:**

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

### **8. INDEMNIFICATION:**

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

### **9. REMEDIES**

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

## EXHIBIT B

### 10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

### 11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

### 12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

### 13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

**Compliance with all Codes, Permitting and Licensing Requirements.** The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

**Liability and Indemnity of City.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

**Indemnity and Independent Contractor Status of Contractor.** Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

## EXHIBIT B

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

**Liens.** Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

**Tax Exemption.** The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

**Contractual Limitations Period.** Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

**Sovereign Immunity.** Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

**Governing Law and Venue.** Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

**Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to



## EXHIBIT B

### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

#### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

#### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

#### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

#### Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 24 inch fail safe steel vent.

#### Misc Steel Repair

- Remove Interior Ladder

## EXHIBIT B

### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #2 – 400KG GST #2		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$26,504.00
2026	Visual Inspection	\$26,504.00
2027	Visual Inspection	\$26,504.00
2028	Visual Inspection	\$26,504.00
2029	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$26,504.00
2030	Visual Inspection	\$26,504.00
2031	Visual Inspection	\$26,504.00
2032	Visual Inspection	\$26,504.00
2032	Clean Out / ROV	\$26,504.00
2033	Visual Inspection	\$26,504.00





# FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of  
**Plant #3, 150KG Wild Oak Hill Tank #1**

Fair Oaks Ranch, TX

October 31, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #3 –150KG GST Wild Oak Hill Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

## EXHIBIT B

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

### 3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

### 4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** \_\_\_quarterly, \_\_\_semi-annually, or X

## EXHIBIT B

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

### **7. ASSIGNMENT:**

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

### **8. INDEMNIFICATION:**

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

### **9. REMEDIES**

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

## EXHIBIT B

### 10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

### 11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

### 12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

### 13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

**Compliance with all Codes, Permitting and Licensing Requirements.** The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

**Liability and Indemnity of City.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

**Indemnity and Independent Contractor Status of Contractor.** Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

## EXHIBIT B

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

**Liens.** Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

**Tax Exemption.** The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

**Contractual Limitations Period.** Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

**Sovereign Immunity.** Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

**Governing Law and Venue.** Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

**Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to



## EXHIBIT B

### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

#### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

#### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

#### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

#### Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 24 inch fail safe steel vent.

#### Misc Steel Repair

- Install Anti-Climb Gate on Existing Ladder Cage



## EXHIBIT B

### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #3 –150KG GST Wild Oak Hill		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$19,518.00
2026	Visual Inspection	\$19,518.00
2027	Visual Inspection	\$19,518.00
2028	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$19,518.00
2029	Visual Inspection	\$19,518.00
2030	Visual Inspection	\$19,518.00
2031	Visual Inspection	\$19,518.00
2032	Clean Out / ROV	\$19,518.00
2032	Visual Inspection	\$19,518.00
2033	Visual Inspection	\$19,518.00



# FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

**Plant #3, 350MG Wild Oak Hill**

Fair Oaks Ranch, TX

October 31, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #3 –350KG GST Wild Oak Hill Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

## EXHIBIT B

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

### 3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

### 4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** \_\_\_quarterly, \_\_\_semi-annually, or X

## EXHIBIT B

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

### **7. ASSIGNMENT:**

The Owner may not assign or otherwise transfer all or any of its interest under this Agreement without the prior written consent of the Company. If the Company agrees to the assignment, the Owner shall remain responsible under this Agreement, until its assignee assumes in full and in writing all of the obligations of the Owner under this Agreement.

### **8. INDEMNIFICATION:**

THE COMPANY AGREES TO INDEMNIFY THE OWNER AND HOLD THE OWNER HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ANY ACT, OMISSION, OF THE COMPANY OR ITS SUBCONTRACTORS, AGENTS, OR EMPLOYEES. THE OWNER AGREES TO INDEMNIFY THE COMPANY AND HOLD THE COMPANY HARMLESS FROM ANY AND ALL CLAIMS, DEMANDS, ACTIONS, DAMAGES, LIABILITY, AND EXPENSE IN CONNECTION WITH LOSS OF LIFE, PERSONAL INJURY, AND/OR DAMAGE TO PROPERTY CAUSED BY ACT OR OMISSION OF THE OWNER OR ITS CONTRACTORS, AGENTS, OR EMPLOYEES. THE INDEMNIFICATION PROVIDED IN THIS PARAGRAPH DOES NOT AFFECT THE COMPANY'S LIMITATIONS OF LIABILITY SET FORTH IN OTHER PARAGRAPHS OF THIS AGREEMENT.

### **9. REMEDIES**

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.

## EXHIBIT B

### 10. MISCELLANEOUS:

No modifications, amendments, or alterations of this Agreement may be made except in writing signed by all the parties to this Agreement. No failure or delay on the part of any party hereto in exercising any power or right hereunder shall operate as a waiver thereof. The parties expressly warrant that the individuals who sign below are authorized to bind them without further action.

### 11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

### 12. SEVERABILITY:

If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

### 13. VISUAL INSPECITON DISCLAIMER

This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

**Compliance with all Codes, Permitting and Licensing Requirements.** The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

**Liability and Indemnity of City.** Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.. (Section 5, Article XI, Texas Constitution)

**Indemnity and Independent Contractor Status of Contractor.** Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a

## EXHIBIT B

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

**Liens.** Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

**Tax Exemption.** The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

**Contractual Limitations Period.** Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

**Sovereign Immunity.** Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

**Governing Law and Venue.** Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

**Certificate of Interested Parties (TEC Form 1295).** For contracts needing City Council approval, the City may not accept or enter into a contract until it has received from the Contractor a completed, and signed TEC Form 1295 complete with a certificate number assigned by the Texas Ethics Commission ("TEC"), pursuant to Texas Government Code § 2252.908 and the rules promulgated thereunder by the TEC. The Contractor understands that failure to provide said form complete with a certificate number assigned by the TEC may prohibit the City from entering the Contract.

Pursuant to the rules prescribed by the TEC, the TEC Form 1295 must be completed online through the TEC's website, assigned a certificate number, printed, signed and notarized, and provided to the City. The TEC Form 1295 may accompany the bid or may be submitted separately, but must be provided to the City prior to the award of the contract. Neither the City nor its consultants have the ability to verify the information included in a TEC Form 1295, and neither have an obligation nor undertake responsibility for advising any bidder with respect to





## EXHIBIT B

### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
- Contractor will apply one (1) additional coat of NSF-61 approved epoxy to be applied by brush and roller to all edges, weld seams and sharp angles.
- Contractor will apply one (1) intermediate coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).
- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

### Roof Access

- Contractor will remove existing roof manway and install new 30 inch square manway.

### Misc Steel Repair

- Remove Interior Ladder

## EXHIBIT B

### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #3 –350KG GST Wild Oak Hill		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$26,539.00
2026	Visual Inspection	\$26,539.00
2027	Visual Inspection	\$26,539.00
2028	Visual Inspection	\$26,539.00
2029	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$26,539.00
2030	Visual Inspection	\$26,539.00
2031	Visual Inspection	\$26,539.00
2032	Visual Inspection	\$26,539.00
2032	Clean Out / ROV	\$26,539.00
2033	Visual Inspection	\$26,539.00



# FULL-SERVICE MAINTENANCE PLAN



Fair Oaks Ranch, TX - City of

**Plant #5 125KG GST**

Fair Oaks Ranch, TX

October 31, 2024

## EXHIBIT B

### FULL-SERVICE MAINTENANCE PLAN CONTRACT

THIS AGREEMENT is made this 31 day of October, 2024, by and between Fair Oaks Ranch, TX - City of, hereinafter referred to in this Agreement as "Owner", and Maguire Iron, Inc. of Sioux Falls, SD, hereinafter referred to in this Agreement as "the Company".

This Agreement along with all incorporated documents referenced herein shall set forth the full terms and conditions agreed to between the parties in reference to the inspection, maintenance, and rehabilitation of the Plant #5 – 125KG GST Water Tower(s) by the Company as outlined in **Schedule A**.

#### 1. SCOPE:

The Owner agrees to employ the Company to maintain its water storage tanks in accordance with this Agreement. This Agreement binds the Company to responsibility for the care and maintenance of the above described water storage tanks. Care and maintenance shall include the following:

- a. **Inspection:** The Company will annually inspect and service the tanks beginning in the year of 2025 as per the schedule with visual inspections and cleanout inspections. If any significant repair or touch up is observed we will schedule a time for the owner to drain the tank to make necessary repairs.
- b. **Drainage:** When a cleanout/inspection is done, the tanks will be completely drained and cleaned to remove and properly dispose of all sediment and other accumulations that might be harmful to the tank or its contents (not including staining). This cleaning will use high-pressure equipment. Any necessary touch up will be done at time of cleaning to extend coating life.
- c. **Disinfection:** After cleaning is completed, the interior will be inspected and disinfected by the Company prior to returning to service. Sampling and testing will be the responsibility of the Owner.
- d. **Painting:** The Company will clean and repaint the interior and/or exterior of the tanks at such time as painting is needed, but at a minimum in accordance with the schedule mutually agreed upon by the Owner and the Company, unless otherwise requested and extended by the Owner in writing. The need for interior painting will be determined by the thickness of the existing liner and its protective condition. The need for exterior painting will be determined by the appearance and protective condition of the existing paint. When painting is needed, all products and procedures will be equal to, or exceed the requirements of the state, the American Water Works Association, and the Steel Structures Painting Council as to surface preparation, coating materials, and disinfections. A lock, provided by the Owner will be installed on the roof hatch of the tanks to prevent any unauthorized entry to the water tanks. The keys to the tank will be retained by the Owner.

## EXHIBIT B

- e. **Emergency:** The Company will provide emergency services, when needed, to perform all repairs covered under this contract. Reasonable travel time must be allowed for the repair unit to reach the tank site. The Company will furnish temporary use of relief valves, if needed, to install in the water system so the Owner can pump direct to maintain water pressure while the tank is being serviced. The owner has the option to purchase relief valves for long-term use.
  
- f. **Exclusions:** This Agreement does NOT include the cost for and/or liability on the part of the Company for: (1) containment of the tanks at any time during the term of the Agreement; (2) disposal of any hazardous waste materials; (3) resolution of operational problems or structural damage due to cold weather, acts of terrorism or other "Acts of God"; (4) repair of structural damage due to antenna installations or other attachments for which the tank was not originally designed; (5) riser pipes that are smaller than 36 inches in diameter; (6) insulation, frost jackets, and fill lines; (7) negligent or intentional acts of Owner's employees, invitees, agents, or contractors or subcontractor or any person or entity under Owner's control; (8) resolution of operational problems or repair of structural damage or site damage caused by physical conditions below the surface of the ground; (9) damages, whether foreseen or unforeseen, caused by the Owner's use of pressure relief valves and site conditions; (10) repairs to the foundation of the tank; (11) payment of prevailing wages at any time throughout the duration of this agreement; (12) negligent acts of Owner's employees, agents or contractors in the operation of the water system.

### 2. **INSURANCE:**

The Company will furnish current certificates of insurance coverage to the Owner at the time any work is performed. Company insurers shall waive subrogation

### 3. **TERM:**

This agreement shall be for one year and automatically renews annually on the contract execution date. The Owner shall have the right to continue this contract for an indefinite period of time providing the annual fee is paid in accordance with the terms of payment. This agreement is subject to termination by the Owner upon written notice of intent to terminate which must be received by the Company ninety (90) days prior to the effective date of termination. Notice of Termination is to be delivered by certified mail to Maguire Iron Inc. PO Box 1446 Sioux Falls, SD 57101, and signed by the Mayor, City Manager or authorized agent. The owner will be responsible to the Company for the cost (at current market rates) of any work that has been performed prior to termination. Any disputes arising out of such termination are subject to the remedies section hereinafter set out.

### 4. **COST/PAYMENT TERM:**

The cost of the program is detailed in the **attached Schedule A**. Each year thereafter, the annual fee will be adjusted to reflect the current cost of service. The adjustments will be limited to a five percent annual increase. **Payment Options:** \_\_\_quarterly, \_\_\_semi-annually, or X

## EXHIBIT B

annual payments are due the first business day of selected payment period. Net 30 days from acceptance and invoicing, plus applicable sales, use, excise, transfer or similar taxes required by law. A service charge of 1.5% per month (18% per annum) will be charged on past due accounts.

### **5. TANK MODIFICATION:**

The Company's fees are based upon the existing structure and components of the tanks. *Any modifications to the tanks, including but not limited to antenna installations, shall be approved by the Company, prior to installation or modification and may result in an increase to the annual fee.*

### **6. CHANGES IN LAW:**

The Owner agrees that future mandated environmental, health, safety, or labor requirements as well as changes in site conditions at the tank site which cause an increase in the cost of tank maintenance will be just cause for modification of Section 4 of this Agreement. Modification of this Agreement will reasonably reflect the increased cost of the service with a newly negotiated annual fee.

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### **9. REMEDIES**

Company or Owner shall in no event be liable for consequential, incidental or punitive damages whatsoever.



## EXHIBIT B

### 10. MISCELLANEOUS:

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### 11. ENTIRE AGREEMENT:

This Agreement constitute the entire agreement of the parties and supersedes all prior communications, understandings, and agreement relating to the subject matter hereof, whether oral or written.

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If any term of this Agreement is to any extent invalid, illegal, or incapable of being enforced, such term shall be excluded to the extent of such invalidity, illegality, or unenforceability; all other terms hereof shall remain in full force and effect.

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This Contract is based upon a visual inspection of the Tank. The Owner and the Company hereby acknowledge and agree that a visual inspection is intended to assess the condition of the Tank for all patent defects. If latent defects are identified once the tank has been drained for repairs, the Owner agrees and acknowledges that the Company shall not be responsible to repair the latent defects unless the Owner and the Company renegotiate the annual fees. The definition of a "latent defect" shall be any defect of the Tank which is not easily discovered (e.g., corrosion of the floor plates, damage to the roof of the tank which is not clearly visible during the visual inspection, etc.).

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## EXHIBIT B

willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

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### **WITNESSETH:**

Contractor agrees to make the following repairs and improvements on the Owner's water supply tank, and to furnish the necessary equipment, labor, material, as well as Workmen's Compensation Insurance and Contractor's Liability Insurance, and to do the work hereinafter stated in a good and workmanlike manner.

#### Exterior Renovation

- Contractor will pressure wash the complete exterior (100%) in accordance with SSPC SP No. 12.
- Contractor will SSPC SP No. 2 / 3 Hand tool clean / Power tool clean all rusted areas.
- Contractor will apply one (1) spot coat of epoxy to the rusted and abraded areas. Coatings shall be applied to manufacturer's recommended film thickness (2.0 - 4.0 mils DFT).
- Contractor will apply one (1) finish coat of acrylic to the complete exterior (100%) shall be applied to the manufacturer's recommendations (2.0 - 3.0 mils DFT).

#### Interior Wet Renovation

- Contractor will abrasive blast clean the complete interior (100%) to an SSPC - SP No. 10 "Near White Metal". After abrasive blast cleaning, all surfaces shall be cleaned of any dust residue or foreign debris.
- Contractor will apply one (1) prime coat of NSF-61 approved zinc rich primer to the complete interior (100%) shall be applied to manufacturer's recommended film thickness (2.5 - 3.5 mils DFT).
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- Contractor will apply one (1) finish coat of NSF-61 approved epoxy to the complete interior (100%) shall be applied to the manufacturer's recommendations (4.0 - 6.0 mils DFT).

#### Disinfection Method

- Contractor will disinfect the interior of the tank as per AWWA Standard C652-02, Chlorine Method #3 prior to the owner filling the tank.
- Water samples and testing is the responsibility of the owner.

#### Frost Proof Vent

- Contractor will remove existing vent and furnish and install a new state compliant 30 inch fail safe steel vent.

#### Misc Steel Repair

- Install Gate on Existing Ladder Cage
- Caulk Gap between Foundation and Tank

## EXHIBIT B

### Visual Inspection

- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tower.
- Contractor will work up a report of the findings during the Inspection of the city's water tower and send a detailed report that will include current condition, and future recommendations as applicable. Inspection to cover, Coatings, Sanitary, Security, Safety and Structural conditions.

### Cleanout

- Contractor will furnish tools, labor, and materials as well as necessary insurance to perform the work in a good and workmanlike manner.
- Contractor will furnish a pressure relief valve / blow off valve for use by the Owner if needed at no charge.
- Contractor will wash out heavy sediment once the tank is emptied by the owner.
- Contractor will power wash the bottom 6' of the interior wet area of the tank after heavy sediment has been removed from the tank. Some staining may remain.
- Should any emergency repair or renovation be necessary, cost and details to be submitted. No extra work will be done without the owner's authorization.
- Contractor will do a complete inspection along with photos of the complete interior and exterior of the water tank.



### Schedule A: Cost Schedule

Fair Oaks Ranch, TX - City of Plant #5 125KG GST		
Year	Service	Annual Spend
2025	Clean Out / ROV	\$18,677.00
2026	Visual Inspection	\$18,677.00
2027	Visual Inspection	\$18,677.00
2028	Visual Inspection	\$18,677.00
2029	Visual Inspection	\$18,677.00
2030	Paint - Exterior Paint - Interior Wet Steelwork Repairs	\$18,677.00
2031	Visual Inspection	\$18,677.00
2032	Visual Inspection	\$18,677.00
2032	Visual Inspection	\$18,677.00
2033	Clean Out / ROV	\$18,677.00