

CITY OF TOMBALL SERVICES AGREEMENT

THE STATE OF TEXAS §

COUNTY OF HARRIS §

Description of Services: Electrical Contractor Services

This Agreement is made and entered into by the **City of Tomball** (referred to as the “City”), with an office at 501 James Street, Tomball, TX and, **Shane Griffin Power & Electrical Services, LLC.** (the “Company”), with an office at **19638 East Lake Drive, Magnolia, Texas 77355** City hereby engages the services of Company as an independent contract for meter reading services, upon the following terms and conditions.

1. SCOPE OF AGREEMENT

- 1.1. The City hereby agrees to employ Company and Company agrees to perform the necessary services as set forth in Exhibit A – Scope of Work and Exhibit B – Contract Pricing, attached hereto and incorporated herein for all purposes.
- 1.2. In the event of a conflict among the terms of this Agreement and the Exhibit A, the term most favorable to the City, in the City’s sole discretion, shall control.

2. TERM OF AGREEMENT; TERMINATION

- 2.1. This Agreement shall be effective upon proper execution by the City. It shall be effective from **November 22, 2022 through September 30, 2023**, with three additional one-year renewal options. The City reserves the right to withdraw from the Agreement immediately if its governing body fails to appropriate funds necessary for the satisfaction of its contractual obligations. ***Either party may terminate this Agreement for any reason with ninety days (90) written notice to the other party.***
- 2.2. The City’s obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Nothing contained herein shall ever be construed so as to require City to create a sinking fund or to assess, levy and collect any tax to fund its obligations under this Agreement.
- 2.3. The City reserves the right to enforce the performance of this Agreement in any manner prescribed by law or deemed to be in the best interest of the City in the event of breach or default of any provision of this Agreement, including immediate termination of this Agreement.

3. ENTIRE AGREEMENT

This Agreement represents the entire agreement between Company and the City and no prior or contemporaneous oral or written Agreements or representations shall be construed to alter its terms. No additional terms shall become part of this Agreement without the written consent of both parties and compliance with relevant state law. This Agreement supersedes all other prior agreements either oral or in writing.

4. ASSIGNMENT

Company shall not assign or subcontract its obligations under this Agreement without the prior written consent of the City.

5. COMPENSATION

For and in consideration of the services rendered by the Company pursuant to this Agreement, the City shall pay the Company only for the actual work performed under the Scope of Work, on the basis set forth in Attachment B, up to an amount not-to-exceed \$75,000.

6. MODIFICATION OF RATES

Base Rate adjustments for changes in the Consumer Price Index (CPI) will be considered by the City no more than once per year during the renewal term of the Contract, during the month of October of each Contract Year.

7. IDEMNITY

7.1. DEFINITIONS

For the purpose of this section the following definitions apply:

- a. "City" shall mean all officers, agents and employees of the City of Tomball.
- b. "Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.
- c. "Company" includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.
- d. "Company's employees" shall mean any employees, officers, agents, subcontractors, licensees and invitees of Company.
- e. "Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:
 - i. injury or damage to any property or right
 - ii. injury, damage, or death to any person or entity
 - iii. attorneys' fees, witness fees, expert witness fees and expenses,
 - iv. any settlement amounts; and
 - v. all other costs and expenses of litigation
- f. "Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

7.2. Indemnity

COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY FROM AND AGAINST LIABILITY FOR ANY CLAIMS FOR DAMAGES ARISING OUT OF THE COMPANY'S WORK AND ACTIVITIES CONDUCTED IN CONNECTION WITH THIS AGREEMENT.

COMPANY IS AN INDEPENDENT CONTRACTOR AND IS NOT, WITH RESPECT TO ITS ACTS OR OMISSIONS, AN AGENT OR EMPLOYEE OF THE CITY.

COMPANY MUST AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS ON BEHALF OF, AND BE SOLELY RESPONSIBLE FOR, THE SAFETY OF COMPANY'S EMPLOYEES WHILE IN THE VICINITY WHERE THE WORK IS BEING DONE. THE CITY IS NOT LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS OF COMPANY OR COMPANY'S EMPLOYEES.

THE CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR DAMAGES WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS.

THE CITY AND COMPANY MUST PROVIDE THE OTHER PROMPT AND TIMELY NOTICE OF ANY COVERED EVENT WHICH IN ANY WAY AFFECTS OR MIGHT AFFECT THE COMPANY OR CITY. THE CITY HAS THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS.

THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.

8. INSURANCE

8.1. AMOUNTS OF INSURANCE

Company agrees to provide and to maintain the following types and amounts of insurance, for the term of this Contract:

TYPE	AMOUNT
(a) Workers Compensation	(where required – Statutory by State Law)
Employer's Liability	\$100,000 per occurrence

(b) Commercial (Public) Liability, including but not limited to:

- a. Premises/ Operations Combined Single Limit
- b. Independent Contractors
- c. Personal Injury
- d. Products/Completed Operations
- e. Contractual Liability (insuring above indemnity provisions)

All insured at combined single limits for bodily injury and property damage at \$500,000 per occurrence.

(c) Comprehensive Automobile Liability, in include coverage for:

- a. Owned/Leased Automobiles
- b. Non-owned Automobiles
- c. Hired Cars

All insured at combined single limits for bodily injury and property damage for \$500,000 per occurrence.

8.2. OTHER INSURANCE REQUIREMENTS

Company understands that it is its sole responsibility to provide the required Certificates and that failure to timely comply with the requirements of this article shall be a cause for termination of this Contract.

Insurance required herein shall be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies shall be subject to examination and approval by the City Attorney's Office for their adequacy as to form, content, form of protection, and providing company.

Insurance required by this Contract for the City as additional insured shall be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Company further agrees that with respect to the above required liability insurances, the City shall:

- a. Be named as an additional insured;
- b. Be provided with a waiver of subrogation, in favor of the City,
- c. Be provided with 30 days advance written notice of cancellation, nonrenewal, or reduction in coverage (all "endeavor to" and similar language of reservation stricken from cancellation section of certificate); and
- d. Prior to execution of this Agreement, be provided through the office of the City Attorney with their original Certificate of Insurance evidencing the above requirement.

The insurance requirements set out in this section are independent from all other obligations of Company under this Agreement and apply whether or not required by any other provision of this Agreement.

9. PAYMENT AND PERFORMANCE

Payment for services described in this Agreement will be made in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code, or as subsequently amended.

10. VENUE; RECOVERY OF FEES; DISPUTE RESOLUTION; CHOICE OF LAW

Any suit or claim or cause of action regarding this Agreement shall be brought in Harris County, Texas, as the choice of venue and jurisdiction and site of performance by the parties. If the City is the prevailing party in any such action, the City may recover reasonable costs, including costs of court, attorney's fees, expert witnesses' fees, and trial consultants' fees. The parties further agree that the law of the State of Texas shall govern any interpretation of the terms of this Agreement.

11. COMPANY CERTIFICATIONS

Company certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the City.

Company certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. Company further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189.

12. NO WAIVER OF IMMUNITY

The City does not waive any statutory or common law right to sovereign immunity by virtue of the execution of this Agreement.

13. NOTICES

Any written notice provided under this Agreement or required by law shall be deemed to have been given and received on the next day after such notice has been deposited by Registered or Certified Mail with sufficient postage affixed thereto and addressed to the other party to the Agreement; provided, that this shall not prevent the giving of actual notice in any manner.

Notice to Company may be sent to the following address:

19638 East Lake Drive, Magnolia, TX 77355

14. CONTRACT ADMINISTRATOR

David Esquivel, PE
City Manager

Attest:

City Secretary

RFP 2022-10R – ELECTRICAL CONTRACTOR SERVICES

EXHIBIT A – SCOPE OF WORK

I. PURPOSE

The intent of this document is to provide interested Contractors with sufficient information to enable them to prepare and submit proposals for consideration by the City of Tomball to furnish all labor, materials, tools, equipment, and supervision for electrical services (“Electrical Services”) for various City buildings and locations on an as needed basis to assist the City of Tomball with renovations, remodels and maintenance of existing facilities. All work shall be provided in a professional manner in accordance with all applicable laws, regulations and policies, including, but not limited to, all Federal, State and Local safety rules and regulations. The scope of services is to include but not limited to new installation and removal of equipment, and repairs.

II. SCOPE OF SERVICES

Electrical work may include, but not necessarily be limited to, repair, replacement, upgrade, new construction and alteration of existing electrical services, complete electrical systems, and other associated accessories and components. Scope of work will be but not limited to the following:

- a. Troubleshoots, repairs, installs and replaces building and equipment electrical and electronic systems and components
- b. Performs preventive maintenance utilizing multimeters and other specialty equipment to safely test, measure and then correct any observed deficiencies
- c. Generates material list and acquires materials for efficient work
- d. Keeps accurate records of materials used and maintains daily time reports to efficiently complete work and document details of the functions performed
- e. Performs electrical maintenance work accordance with established safety procedures
- f. Install new and repair existing electrical circuits
- g. Install and repair electrical fixtures of all types
- h. Replace and install electrical lighting, outdoor and indoor
- i. Install and replace metal and plastic conduits and associated pull boxes
- j. Install, repair and replace high / low voltage conductors
- k. Change, repair or install pad mounted transformers
- l. Install, repair or replace site building and pole lighting
- m. Interior electrical short repair
- n. Replace defective disconnects
- o. Emergency Call out

III. CITY HOURS AND OBSERVED HOLIDAYS

- a. Works Hours
 - i. Regular Hours: Monday through Friday, 7:00 a.m. – 5:00 p.m.
 - 1. Normally scheduled day hours. Paid for by the hour. Hourly rate shall include all items of cost, overhead, and profit. Work time on the job only.
- b. Weekend Hours: Saturday and Sunday, any hour, day or night

- i. Extra time beyond normal day work hours, needed to finish tasks in progress. Paid for by the hour. Hourly rate shall include all items of cost, overhead and profit. Work time on the job only.
- c. Holidays: any hour day or night per this listing:
 - i. New Year's Day (observed)
 - ii. MLK Day
 - iii. Memorial Day
 - iv. 4th of July
 - v. Labor Day
 - vi. Thanksgiving Day
 - vii. Day After Thanksgiving
 - viii. Christmas Eve (observed)
 - ix. Christmas Day (observed)

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday. Holiday hours are extra time beyond normal day work hours, needed to finish tasks in progress. Paid for by the hour. Hourly rate shall include all items of cost, overhead and profit. Work time on the job only.

- d. Overtime Hours:
 - i. Monday through Friday, after regular hours.
 - ii. Extra time beyond normal day work hours, needed to finish tasks in progress. Paid for by the hour. Hourly rate shall include all items of cost, overhead and profit. Work time on the job only.
 - e. Any Contractor desiring to respond to this RFP is required to do the following for Emergency Service:
 - i. The awarded Contractor must have a trained/qualified technician available 24 hours a day, 7 days a week, 365 days a year. Any responding technician must have the appropriate qualifications for the emergency and must report to the site with the necessary tools/equipment to effectively resolve the reported emergency issue within 30 minutes of the initial contact from City staff. (If the Contractor uses a third-party notification system, the responding technician is still responsible to be on site within the required 30 minutes.)

IV. SPECIFICATIONS

- a. Project Estimates
 - i. Contractor shall provide written "not to exceed" estimates on all projects except for emergencies. This estimate shall include the estimated number of hours, contract hourly rate, number and type of employees required, estimated material cost and project completion in number of days.
 - ii. Contractor shall respond to requests for estimates for nonemergency work within two (2) days and provide written estimates within five (5) days of first contact by the City. It shall be the Contractor's responsibility to ensure they have all information to prepare accurate estimates.
- b. Field Investigations
 - i. Review the existing materials, drawing reports, etc. prepared by City staff on the proposed project.

- ii. Review the proposed scope.
 - iii. Review the existing infrastructure in the facility.
 - iv. Locate, quote product and labor costs.
- c. Review material and Labor Options with City Staff
 - i. This phase will consist of review of quotes and materials options.
 - ii. This phase may also include detailed specifications and implementation schedule.
 - iii. Within 10 working days of the award of a project, the Contractor will submit to the City's project manager for approval, a work plan which includes the following.
 - iv. The Contractor's name and titles of personnel assigned to the project.
 - v. The project breakdown showing subprojects, cost and activities and tasks.
 - vi. The time-phased plan for completing the project.
- d. Non-emergency work shall only be performed with the City's written authorization by issuance of a Work Order from the Public Works Department. Actual work shall not exceed the Contractor's estimate without prior written authorization by the City.

V. WORK IN PROGRESS

- a. The Contractor will meet with selected representatives on a regular basis or as determined necessary by the Public Works Department Department staff/project manager to review progress and provide necessary guidance to the contractor in solving problems which may arise.
- b. Public Works Department project managers will meet as often as required with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance.
- c. The Contractor will, on a regular basis, submit brief written summaries of the work accomplished during the reporting period, work to be accomplished during the subsequent reporting period, real or anticipated problems and notification of any significant deviation from previously agreed upon work plans.
- d. All workmanship, materials, and equipment incorporated in the work must fully comply with Division 26 Electrical Technical – City of Tomball Specifications (Division 16 Pre-2004) **"Exhibit C."**
- e. It shall be the responsibility of the Contractor performing services for this contract to safeguard their own materials, tools, and equipment. The City shall not assume any responsibility for vandalism and/or theft of materials, tools and/or equipment.
- f. The Contractor shall obtain the permission of a Public Works representative regarding any needed storage of materials and equipment. Such storage shall be done in such a manner as not to interfere with the schedule for that building. The City shall not accept responsibility for losses of material or equipment regardless of approval to store in any of the City's facilities or grounds.
- g. All work areas shall be kept in orderly condition, free of unnecessary material and equipment. All debris will be picked up and hauled away by the Contractor. No additional charge for hauling away debris shall be permitted under the contract.

VI. INVOICES

- a. Invoices will be required for verification of electrical materials.

- b. The Contractor's invoice shall clearly state actual hours worked at labor rates quoted, actual cost of materials, thereof, and a complete description of work performed, location, and date.
- c. Accompanying their invoices, Contractors must also include copies of their manufacturer's/Contractor's invoices for material used thereby providing verification of actual material costs and copies of all daily work orders listing each skill level of labor and their individual hours worked.
- d. Contractor shall not subcontract any portion of the electrical work required under this contract. All work must be performed by the Contractor's work forces.
- e. Materials incorporated into the work will be paid by the cost of materials multiplied by the contract mark-up.

VII. PROJECT ESTIMATES

- a. The contract price includes all items of cost including overhead and profit for preparing estimates for projects.

VIII. Equipment Rental

- a. Equipment that must be rented to complete the job (i.e., scissor lift). Paid for by the cost of materials multiplied by the contract mark-up

IX. Employees

- a. All employees of the Contractor shall be in a company uniform that clearly identifies the name of the company and the name of the employee. The uniforms shall be clean and neat in appearance. All employees working at City facilities will be required to obtain and display a visitor's pass from the Public Works Department.
- b. Contractors shall complete background checks and maintain an active policy on drugs and alcohol in the work place that supports a drug free environment and be prepared to submit such policy upon City request.
- c. Contractor's shall complete background checks and shall perform criminal background checks on all Assigned Employees prior to the assigned employee be eligible to perform duties for the City.
- d. Contractors shall follow all the most current EEOC guideline regarding the process for performing criminal background checks.
- e. Accordingly, Contractors shall exclude any possible Assigned Employee from working for the City based on job-related functions of the position and consistent with the City's business necessity.
- f. If any person employed on a project by the Contractor shall appear to the City to be incompetent or act in a disorderly or improper manner, such person shall be removed immediately on the request of the City, and shall not be re-employed on the same project except on written consent of the City.
- g. All work shall be performed according to the standards of the electrical code as adopted by the State of Texas and to the complete satisfaction of the City. The City will be responsible for any applicable fees associated with work requiring a local permit or inspection. The Contractor shall be responsible for advising the City when a permit or inspection is needed and will apply for and pick up permit. The contractor shall schedule any needed inspections.

- h. All work shall be done in a safe manner and comply with all governing regulations concerning safety. This shall include, but not limited to OSHA, MOSHA, etc. Adequate barricades shall be erected and maintained around all areas where equipment and materials are stored and used. All work being performed for and/or on City property shall fully conform to all local, state and federal safety regulations.

X. MINIMUM QUALIFICATIONS

- a. Commercial Experience:
 - i. The Contractor must have been in business at least 5 years.
- b. Company must have at least one Master Electrician Licensed in the State of Texas.
- c. Company must have at least four additional qualified electricians available to handle services at multiple City locations concurrently.
- d. Must provide list of number of employees and respective jobs titles and licenses.
- e. Licensed to do business in the State of Texas and provide a copy of Certification.

NOTE: The City of Tomball Staff selects brands/types of equipment/supplies.

EXHIBIT B PROPOSAL SHEET

Electrician Services Compensation Proposal
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Description	Regular Time: Monday-Friday 8am - 5pm	Overtime	Weekend	Holidays (as determined by State & Federal Govt)
Master Electrician	130	195	195	260
Journeyman Electrician	100	150	150	200
Apprentince Electrician	50	75	75	100
Laborer	30	45	45	60

Percentage Mark-up for Materials and Equipment	20%
Minimum Service Charge	\$125.00

Company Name:	Shane Griffin Power & Electrical Services, LLC
Address:	19638 East Lake Drive, Magnolia, TX 77355
Telephone Number:	713-396-6960
Name & Title:	Shane Griffin , Owner
Date:	11/1/2022