

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

AGREEMENT FOR WATER DAMAGE REPAIRS AT THE FORT BEND COUNTY JUSTICE CENTER

THIS AGREEMENT is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas, and Schindler Elevator Corporation (hereinafter "Contractor"), a company authorized to conduct business in the State of Texas.

WITNESSETH

WHEREAS, County desires that Contractor furnish labor and materials necessary to repair or replace escalator components damaged by the 2021 Winter Storm at the Justice Center in Fort Bend County, Texas, (hereinafter "Services"); and

WHEREAS, County proposes to procure the Services to be provided by Contractor utilizing Sourcewell #080420-Sch; and

WHEREAS, Contractor represents that it is qualified and desires to perform such services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

AGREEMENT

Section 1. Scope of Services

Contractor shall render Services to County as defined in the proposal dated April 13, 2021, (attached hereto as Exhibit A).

Section 2. Personnel

2.1 Contractor represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Contractor shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Contractor shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Contractor who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

Section 3. Compensation and Payment

3.1 The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is eighty-eight thousand five hundred sixty-seven dollars and no/100 (\$88,567.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an amendment.

3.2 All performance of the Scope of Services by Contractor including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Contractor based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Contractor shall submit to County staff designated by Facilities Management & Planning Director, one (1) electronic (pdf) and/or one (1) original copy of invoice showing the amounts due for services performed in a form acceptable to County. County shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory work performed.

Section 4. Limit of Appropriation

4.1 Contractor clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of eighty-eight thousand five hundred sixty-seven dollars and no/100 (\$88,567.00), specifically allocated to fully discharge any and all liabilities County may incur.

4.2 Contractor does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Contractor may become entitled to and the total maximum sum that County may become liable to pay to Contractor shall not under any conditions, circumstances, or interpretations thereof exceed eighty-eight thousand five hundred sixty-seven dollars and no/100 (\$88,567.00).

Section 5. Time of Performance

The time for performance of the Scope of Services by Contractor shall begin with receipt of the Notice to Proceed from County and end no later than six (6) months thereafter. Contractor shall complete the tasks described in the Scope of Services within this time or within such additional time as may be extended by the County.

Section 6. Modifications and Waivers

6.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

6.2 No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition.

6.3 The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 7. Termination

7.1 Termination for Convenience – County may terminate this Agreement at any time upon thirty (30) days written notice.

7.2 Termination for Default

7.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

7.2.1.1 If Contractor fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

7.2.1.2 If Contractor materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

7.2.2 If, after termination, it is determined for any reason whatsoever that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 7.1 above.

7.3 Upon termination of this Agreement, County shall compensate Contractor in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Contractor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

7.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Contractor.

Section 8. Ownership and Reuse of Documents

All documents, data, reports, research, graphic presentation materials, etc., developed by Contractor as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time

of payment under Section 3 for work performed. Contractor shall promptly furnish all such data and material to County on request.

Section 9. Inspection of Books and Records

Contractor will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Contractor for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

Section 10. Insurance

10.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form (or a Claims Made form for Professional Liability insurance) from such companies having Best's rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

10.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed.

10.1.2 Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

10.1.3 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

10.1.4 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

10.1.5 Professional Liability insurance may be made on a Claims Made form with limits not less than \$1,000,000.

10.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

10.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

Section 11. Indemnity

CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS COUNTY AGAINST LOSSES, LIABILITIES, CLAIMS, AND CAUSES OF ACTION, INCLUDING THE REIMBURSEMENT OF COUNTY'S REASONABLE ATTORNEYS FEES IN PROPORTION TO CONTRACTOR'S LIABILITY, ARISING FROM ACTIVITIES OF CONTRACTOR, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, INTENTIONAL TORT, ERROR, OR OMISSION OF CONTRACTOR OR ANY OF CONTRACTOR'S AGENTS, SERVANTS OR EMPLOYEES.

Section 12. Confidential and Proprietary Information

12.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of Contractor who can be shown to have had no access to the Confidential Information.

12.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person.

Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will promptly turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.

12.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.

12.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

12.5 Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 13. Independent Contractor

13.1 In the performance of work or services hereunder, Contractor shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of contractor or, where permitted, of its subcontractors.

13.2 Contractor and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

Section 14. Notices

14.1 Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

14.2 Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Facilities Management & Planning
Attn: Director
301 Jackson Street, Suite 301
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street
Richmond, Texas 77469

Contractor: Schindler Elevator Corporation
2105 Silber Road, Suite 100
Houston, Texas 77055-2653

14.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 14.1 and 14.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

14.3.1 If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.

14.3.2 If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 15. Compliance with Laws

Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, Contractor shall furnish County with

certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 16. Standard of Care

Contractor represents shall perform the Services to be provided under this Agreement with the professional skill and care ordinarily provided by competent surveyors practicing under the same or similar circumstances and professional license. Further, Contractor shall perform the Services as expeditiously as is prudent considering the ordinary professional skill and care of a competent surveyor.

Section 17. Assignment

17.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

17.2 Neither party may delegate any performance under this Agreement.

17.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

Section 18. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity.

Section 19. Successors and Assigns

County and Contractor bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

Section 20. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the parties.

Section 21. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 22. Publicity

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Contractor release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

Section 23. Captions

The section captions used in this Agreement are for convenience of reference only and do not affect the interpretation or construction of this Agreement.

Section 24. Conflict

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

Section 25. Certain State Law Requirements for Contracts

25.1 Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, Contractor verifies that if Contractor employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

25.2 Texas Government Code Section 2251.152 Acknowledgment: By signature below, Contractor represents pursuant to Section 2252.152 of the Texas Government Code, that Contractor is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

Section 26. Human Trafficking

BY ACCEPTANCE OF AGREEMENT, CONTRACTOR ACKNOWLEDGES THAT THE COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.

IN WITNESS WHEREOF, the parties hereto have signed or have caused their respective names to be signed to multiple counterparts to be effective on the date signed by the last party hereto.

FORT BEND COUNTY

SCHINDLER ELEVATOR CORPORATION

KP George, County Judge

Lauren Offerman
Authorized Agent – Signature

Date

Lauren Offerman
Authorized Agent – Printed Name

ATTEST:

Sales Representative EI
Title

Laura Richard, County Clerk

05/05/2021
Date

APPROVED:

James Knight
Facilities Management/Planning Director

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this contract.

Robert Ed Sturdivant, County Auditor

EXHIBIT A

Schindler Elevator Corporation
2105 Silber Road
Suite 100
Houston, TX 77055-2653

Winter Storm 2021 Repair

Date: 04/13/2021

Estimate Number: LOFN-C22LAR (2021.1.1)

To:
Fort Bend County (MI)
1422 Eugene Heimann Circle
Richmond, TX 77469

Customer:
Fort Bend County (MI)
-
Rosenberg, TX 77471

Attn: Mr. Justin Zwahr

Schindler hereby proposes to furnish and install the following with respect to the equipment located at the above building:

Water Damage Repairs on Escalators 1 & 2 At The Justice Center

Schindler will furnish labor and materials necessary to repair or replace escalator components damaged by the Winter Storm. The referenced units listed above were damaged during the storm the week of 2/15/2021.

Schindler Elevator Corporation will provide the necessary material and labor to perform the following corrective action to repair or replace required items due to Winter Storm damage.

1. Secure the equipment in a safe fashion to ensure a proper safe environment.
2. Escalators 1 & 2
 - Replace 2 sections of Stepchain and Rollers
 - Replace Offset Chain Link
 - Add Floodkit
3. Make necessary adjustments and test operation of the escalator
4. Remove any associated debris from the jobsite upon completion of the work

Price: \$88,567.00, plus applicable taxes. (Quotations valid for 60 days; price based upon work during regular working hours of regular working days.)

***Financing available (see below)**

Payment: 50% of the price is due upon acceptance of this proposal;
40% of the price is due as work progresses within 30 days of invoice;
Balance due upon completion, within 30 days of invoice.

Schindler reserves the right not to source material or schedule labor for the above quoted work until initial payment has been received.

Schindler retains title to any equipment furnished hereunder until final payment is made. Late or non-payment will result in assessment of interest charged at a rate of 1 1/2% per month or the highest legal rate available, and any attorneys' fees, expenses and costs of collection.

Available Financing: Schindler understands that the cost of capital improvements can put a strain on a property's budget. For this reason, Schindler has teamed with leading financial organizations (Lender) in an effort to help our customers sort through the best options to fund these capital improvements. The financing is done directly between the Lender and you, our customer. In return, Schindler requires that you enter into a new 5-year maintenance agreement with Schindler.

Often times, other building systems will need upgrades as a part of the elevator or escalator improvements. The cost of the related work can be rolled into the total finance package with the Lender.

As an example, if you finance \$25,000.00 for 60 months, your monthly payment would be approximately \$510.00 plus any applicable state and federal tax. The monthly finance payment is an approximation and will be finalized between you and the Lender.

Financing is subject to the borrower's qualifications, including income, property evaluation, sufficient equity and final credit approval. Approvals are subject to underwriting guidelines, interest rates, and program guidelines. Loans are subject to change without notice based upon eligibility and market conditions. This is not a commitment to make a loan as financing options are subject to credit checks and approval.

This program is offered and provided through third-party financial organizations and are dependent upon those entities' rules, regulations, and restrictions.

If the maintenance agreement is cancelled for any reason prior to the 60-month term, all remaining balances become due immediately.

Your sales representative will be happy to facilitate the process moving forward if you are interested in our financing option. The finance credit approval form can be found attached to this document.

***This contract adheres to the terms and conditions of Sourcewell #080420-Sch**

The attached terms and conditions are incorporated herein by reference.

Acceptance by you as owner's agent or authorized representative and subsequent approval by our authorized representative will be required to validate this agreement.

Proposed:

Accepted:

Lauren Offerman

By: Lauren Offerman

By: _____

For: Schindler Elevator Corporation

For: Fort Bend County (MI)

Title: Sales Representative

Title: _____

Date: 4/13/2021

Date: _____

Approved:

By: Ryan Baker

Title: _____

Date: _____

TERMS AND CONDITIONS

1. Any changes to the building to meet local or state codes are to be made by Purchaser. Any changes in the Work required due to building conditions discovered in the performance of the Work will be paid by Purchaser.
2. No work, service materials or equipment other than as specified hereunder is included or intended.
3. Purchaser retains its normal responsibilities as Owner of the equipment which is subject of this Agreement.
4. Schindler will not be liable for damages of any kind, in excess of the Price of this Agreement, nor in any event for special, indirect, consequential or liquidated damages.
5. Any cutting and patching is by others and not included in this work.
6. Neither party shall be responsible for any loss, damage, detention or delay caused by labor trouble or disputes, strikes, lockouts, fire, explosion, theft, lightning, wind storm, earthquake, floods, epidemics, pandemics, storms, riot, civil commotion, malicious mischief, embargoes, shortages of materials or workmen, unavailability of material from usual sources, government priorities or requests or demands of the National Defense Program, civil or military authority, war, insurrection, failure to act on the part of either party's suppliers or subcontractors, orders or instructions of any federal, state, or municipal government or any department or agency thereof, acts of God, or by any other cause beyond the reasonable control of either party. Dates for the performance or completion of the work shall be extended by such delay of time as may be reasonably necessary to compensate for the delay.
7. We warrant that the work will comply with the specifications and that there will be no defects in materials or workmanship for one year after completion of the work or acceptance thereof by beneficial use, whichever is earlier. Our duty under this warranty is to correct nonconformance or defect at our expense within a reasonable time after the receipt of notice. THE EXPRESS WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Purchaser's remedies hereunder are exclusive.
8. Purchaser agrees to defend, indemnify and hold Schindler harmless from and against any claims, law suits, demands, judgments, damages, costs and expenses arising out of this Agreement except to the extent caused by or resulting from the sole and direct fault of Schindler.
9. For non-maintenance contract customers, Customer hereby agrees, without limitation, to defend, indemnify, release and hold harmless Schindler and its employees, affiliates, divisions, parent entities, predecessors and successors, representatives and agents from and against all claims, liabilities, losses, injuries, death, damages, fines, penalties, payments, costs, and expenses (including reasonable attorneys' fees and expenses) arising out of or relating to the Work performed by Schindler under this Agreement.
INSURANCE: At a minimum, Customer shall provide to Schindler, insurance coverages as set forth within, and a certificate of insurance evidencing such coverage: Comprehensive General Liability (including Products Liability, Completed Operations, Broad Form Property damage, and Blanket Contractual Liability) in the amounts of \$2M per occurrence, \$5M aggregate. Schindler Holding, Ltd., Schindler Elevator Corporation, and Schindler Enterprises, Inc. shall be named as additional insureds on the above referenced policies, pursuant to ISO Form CG 2010 11/85, and shall appear as such on the Certificate of Insurance. Insurance shall provide a waiver of subrogation in favor of the entities named as additional insureds. Insurance shall be primary over any other valid and collectible insurance. Any deductible / retention is the responsibility of the Named Insured.
10. Any proprietary material, information, data or devices contained in the equipment or work provided hereunder, or any component or feature thereof, remains our property. This includes, but is not limited to, any tools, devices, manuals, software, modems, source/ access/ object codes, passwords. In the event Schindler's maintenance obligation is terminated, the Schindler Ahead features ("SA") (if applicable) will be deactivated and Schindler reserves the right to remove the Schindler Ahead hardware. If Schindler is no longer the maintenance provider, Customer is responsible for obtaining alternative telephone service for the elevator phones.
11. In the event of governmental changes to applicable tariffs, tax rates, including but not limited to sales tax, use tax, excise tax, privilege tax, transaction tax and similar changes, or loss of tax exempt status, Schindler reserves the rights to adjust the contract price accordingly to account for all additional cost impacts.
12. **This contract adheres to the terms and conditions of Sourcewell #080420-Sch**