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## ADDENDUM TO PLANNED MAINTENANCE AGREEMENT FY 2022

THIS ADDENDUM ("Addendum") is entered into by and between **Fort Bend County**, ("County"), a body corporate and politic under the laws of the State of Texas, and **Cummins Sales and Service** ("Contractor"), a Texas limited liability company; hereinafter referred to collectively as "Parties."

## RECITALS

WHEREAS, County desires that Contractor provide preventative maintenance and monthly building load testing for generators at various county locations utilizing Sourcewell Contract #120617-CMM; and

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

WHEREAS, the purpose of this Addendum is to modify, delete, or amend certain terms and conditions set forth in the attached Planned Maintenance Agreement Terms and Conditions (dated June 11, 2021), attached as Exhibit A, and incorporated by reference; and

WHEREAS, this Addendum and the Planned Maintenance Agreement Terms and Conditions, are incorporated into each other and, when read together, shall constitute one integrated document (the "Agreement"). Any inconsistency, conflict, or ambiguity between or among this Addendum and the Planned Maintenance Agreement Terms and Conditions, shall be resolved by giving precedence and effect first to this Addendum, then to the Planned Maintenance Agreement Terms and Conditions.

NOW THEREFORE, the Parties do mutually agree to the following changes which are incorporated as if a part of the Agreement:

1. **Scope of Service.** Contractor shall provide to County preventative maintenance and monthly building load testing for generators at various county locations utilizing Sourcewell Contract# 120617-CMM ("Services,") as described in the Planned Maintenance Agreement Terms and Conditions, attached hereto as Exhibit A and incorporated by reference.

Any Services to be performed by Contractor for County must be scheduled at least two weeks in advance with the County's Facilities Maintenance Department. In order to schedule any Services, the County's Facilities Maintenance Department may be contacted between the hours of 8:00 a.m. and 5:00 p.m., excluding County holidays or other County closures, at (281) 238-3565.

2. **Term.** The term of the Agreement shall begin upon execution by County and shall expire no later than September 30, 2022, and shall not automatically renew but may be renewed upon written agreement of the parties. 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.
3. **Maximum Compensation.** The total maximum compensation cost for the performance of Services described in Exhibit A is seventy thousand five hundred forty-four dollars and 76/100 (\$70,544.76). In no case shall the amount paid by County under the Agreement or this Addendum exceed the total maximum compensation without an approved change order.
4. **Non-appropriation.** It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County.
5. **Insurance.** Prior to commencement of Service, 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.
  - A. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests 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:
    - i. Workers Compensation in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed.
    - ii. 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.
    - iii. 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.
    - iv. Business Automobile Liability coverage applying to owned, non-owned and hired automobiles with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage combined.
  - B. County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation and Professional Liability (if required). All Liability policies written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

- C. 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 the work under this Contract is completed.
  - D. Contractor shall not commence any portion of the work under this Contract until it has obtained the insurance required herein and certificates of such insurance have been filed with and approved by Fort Bend County.
  - E. No cancellation of or changes to the certificates, or the policies, may be made without thirty (30) days prior, written notification to Fort Bend County.
  - F. Approval of the insurance by Fort Bend County shall not relieve or decrease the liability of the Contractor.
6. **Taxes.** County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.
7. **Modifications.** The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.
8. **Confidential Information.** 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 Contractor 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.
9. **Performance Warranty.** Contractor warrants to County that Contractor has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession and Contractor will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in accordance with the highest professional standards.
10. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless Contractor or any other party for any reason are hereby deleted. Contractor shall Indemnify and defend county against all third party losses, liabilities, claims, causes of action, and other expenses, including reasonable attorney's fees, arising from damage to persons, including bodily injury, disease, or death or to tangible property to the extent caused by the negligent or intentional act, error or omission of Contractor or its agents, servants or employees.


11. **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.
12. **Certain State Law and County Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
  - A. Agreement to Not Boycott Israel Chapter 2270 Texas Government Code. By signature below, Contractor verifies Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.
  - B. Texas Government Code §2252.152 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.
13. **Intellectual Property.** This Agreement is for planned maintenance services on County generators. The parties do not anticipate that any intellectual property rights will be created under the Scope of Services of this Agreement; therefore, the parties agree that any reference to intellectual property rights shall be hereby deleted.
14. **Human Trafficking.** By signature below, Contractor acknowledges that Fort Bend 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.
15. **Conflict.** In the event there is a conflict between this Addendum and Exhibit A, this Addendum controls to the extent of the conflict.
16. **Understanding, Fair Construction.** By execution of this Addendum, the Parties acknowledge that they have read and understood each provision, term and obligation contained in this Addendum. This Addendum, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.

*{EXECUTION PAGE FOLLOWS}*

*{REMAINDER OF PAGE INTENTIONALLY LEFT BLANK}*

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all Parties by and through the Parties or their agents or authorized representatives. All Parties hereby acknowledge that they have read and understood this Addendum and the exhibits hereto. All Parties further acknowledge that they have executed this legal document voluntarily and of their own free will.


**FORT BEND COUNTY**

  
\_\_\_\_\_  
County Judge KP George  
KP George, County Judge

11/23/2021

\_\_\_\_\_  
Date

ATTEST

  
\_\_\_\_\_  
Laura Richard, County Clerk



**CUMMINS SALES AND SERVICE**

  
\_\_\_\_\_  
Authorized Agent – Signature

Corey Bryant  
\_\_\_\_\_  
Authorized Agent- Printed Name

PEM Sales Manager  
\_\_\_\_\_  
Title

11/2/2021  
\_\_\_\_\_  
Date

**AUDITOR'S CERTIFICATE**

I hereby certify that funds in the amount of \$ 70,544.76 are available to pay the obligation of Fort Bend County within the foregoing Agreement.


  
\_\_\_\_\_  
Robert Ed Sturdivant, County Auditor

Exhibit A: Planned Maintenance Agreement Terms and Conditions

# EXHIBIT A



# Sales and Service

June 11, 2021

Fort Bend County  
301 Jackson St Ste 301  
Richmond, TX 77469

Re: Planned Maintenance Quote

Attention : Justin Zwahr

Cummins Sales and Service is a premier engine and power generation systems provider committed to delivering fast and proven solutions to our customers. We are pleased to offer you a Planned Maintenance Proposal for your review and approval. Due to the critical nature of your standby power system, this Agreement was developed based on your specific needs and equipment to ensure maximum performance and reliability.

#### Benefits of Planned Maintenance:

- Improves system reliability.
  - Maintenance performed by certified technicians specifically trained in power generation.
  - PM customers receive preferred service for unscheduled emergency repairs.
  - Creation of a service record for customer equipment.
  - Additional maintenance recommendations documented at that time.
- Scheduling managed by Cummins Sales and Service to ensure timely maintenance intervals.
- Eliminates administrative burden, covers equipment from multiple vendors.

Please sign, date and return the enclosed Agreement to our office along with any purchase documentation necessary so we can tend to your servicing needs. Planned Maintenance Agreements are "auto-renewed" annually prior to the end of your agreement. Should you have any questions or require additional information on this or any other subject relating to your equipment, please feel free to contact me. We look forward to the opportunity to earn your trust and business.

Sincerely,

Tanner Krause  
(713) 516-5390



# Sales and Service

**HOUSTON TX BRANCH**  
**7045 North Loop East**  
**P. O. BOX 1367**  
**HOUSTON, TX 77028**  
**Phone: 713-679-2220**

## PLANNED MAINTENANCE AGREEMENT

Customer Address	Customer Contact	Quote Information
FORT BEND COUNTY	Contact: Justin Zwahr	Quote Date: 11-JUN-21
301 JACKSON ST STE 301	Phone: 281 238-3064	Quote Expires: 11-JUN-22
Richmond, TX 77469	Fax:	Quote Num: 17677
	Cust Id: 15228	Quoted By: Tanner Krause
		Quote Term: 1 Year(s)

### Site Information

1	PMA-ROAD & BRIDGE BEECH	19310 BEECHNUT	RICHMOND	TX	77469
2	PMA-ROAD & BRIDGE CRABB	201 PAYNE LN	RICHMOND	TX	77469
3	PMA-VEHICLE MAINT	230 LEGION DR	RICHMOND	TX	77469
4	PMA-MEDIC 2	406 HOUSTON ST	ROSENBERG	TX	77461
5	PMA-NEEDVILLE SC	3743 SCHOOL ST	NEEDVILLE	TX	77461
6	PMA-BULK FUEL YARD	2751 KLAUKE RD	ROSENBERG	TX	77471
7	PMA-MEDIC 3	1514 PKWY BLVD	SUGAR LAND	TX	77478
8	PMA-EMS SQUAD 2	9714 KIBLER A	ORCHARD	TX	77485
9	PMA-SHERIFF ADMIN	1840 RICHMOND PL DR	RICHMOND	TX	77469
10	PMA-MEDICAL EXAMINER	3840 BAMORE RD	ROSENBERG	TX	77471
11	PMA-FORT BEND TRANSIT	3737 BAMORE RD	ROSENBERG	TX	77471
12	PMA-ROAD & BRIDGE	12919 DAIRY ASHFORD SUGARLA	SUGAR LAND	TX	77478
13	PMA-TRAVIS BLDG.	309 S 4TH ST	RICHMOND	TX	77469
14	PMA-ROSENBERG ANNEX	4520 READING RD	ROSENBERG	TX	77471
15	PMA-GOLFVIEW RD SITE #2	122 GOLFVIEW RD	RICHMOND	TX	77469
16	PMA-MEDIC 6	204 MAIN ST	RICHMOND	TX	77469
17	PMA-NEW MEDIC 1	4336 HWY 36	ROSENBERG	TX	77471
18	PMA-JANE LONG BLDG	500 LIBERTY	RICHMOND	TX	77469
19	PMA-AUTO THEFT	231 LEGION WAY CT	RICHMOND	TX	77406
20	PMA-PCT 1 BLDG	1517 EUGENE HEIMANN CIR	RICHMOND	TX	77469
21	PMA-FAIRGROUNDS	4310 HIGHWAY 36 S	ROSENBERG	TX	77471
22	PMA-MISSOURI CITY ANNEX	307 TEXAS PKWY	MISSOURI CITY	TX	77489
23	PMA-NORTH ANNEX	22333 GRAND CORNER	KATY	TX	77494
24	PMA-PATROL	1410B WILLIAMS WAY BLVD	RICHMOND	TX	77469
25	PMA -HISTORICAL COURTHOU	401 JACKSON ST	RICHMOND	TX	77469
26	PMA - SIENNA ANNEX	5855 SIENNA SPRINGS WAY	MISSOURI CITY	TX	77459

Site	Unit Number	Manufacturer	Model	Prod Model	Serial Number	Type
1	G-1	KOHLER	GEN SET	45RZ62	304447	39 KW
2	G-11	GENERAC	GEN SET	SD150	9334300100	150 KW
3	G-6	KOHLER	GEN SET	8DRZ202	371022	80 KW
4	G-9	GENERAC	GEN SET	QT05544ANSNA	4699326	45 KW
5	G-20	KOHLER	GEN SET	125REDZJD	2238934	130 KW
6	G-22	KOHLER	GEN SET	60REOZJC	2242154	60 KW
7	G-23	GENERAC	GEN SET	QT05554ANSNA	5411144	55 KW
8	3002522773	GENERAC	GEN SET	RG04854ANAX	3002522773	48 KW
9	33045	TAYLOR POWER	GEN SET	TD1000	33045	1000 KW
10	3004746239	GENERAC	GEN SET	SD275	3004746239	275 KW

#### PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

These Planned Maintenance Agreement Terms and Conditions, together with the Quote on the front side and the Scope of Services, are hereinafter referred to as this 'Agreement' and shall constitute the entire agreement between the customer identified in the Quote ('Customer') and Cummins Southern Plains LLC ('Cummins') and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. In the event of any inconsistency between this Agreement and any purchase order, terms and conditions or other document produced or delivered by Customer, the terms and conditions of this Agreement shall take precedence.

1. **SCOPE OF SERVICES; PERFORMANCE OF SERVICES.** Cummins shall perform the maintenance ('Services') on the equipment identified in the Quote ('Equipment') in accordance with the schedule specified in the Quote. The Services include those services defined in the 'Service Event' section of the Quote. No additional services or materials are included in this Agreement unless agreed upon by the parties in writing. Unless otherwise indicated in the Quote, Cummins will provide the labor and tools necessary to perform the Services and shall keep Customer's property free from accumulation of waste materials caused by Cummins' operations. Either party may terminate this Agreement with or without cause by providing thirty (30) days written notice to the other.

2. **CUSTOMER OBLIGATIONS.** Customer shall provide Cummins safe access to Customer's site and arrange for all related services and utilities necessary for Cummins to perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to facility occupants, customers, invitees, or any third party and or property damage or work interruption arising out of the Services. Customer shall make all necessary arrangement to address and mitigate the consequences of any electrical service interruption which might occur during the Services. CUSTOMER IS RESPONSIBLE FOR OPERATING AND MAINTAINING THE EQUIPMENT IN ACCORDANCE WITH THE OWNER'S MANUAL FOR THE EQUIPMENT.

3. **PAYMENT TERMS.** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Unless otherwise stated, the Quote excludes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer and shall be stated on the invoice.

4. **DELAYS.** Any performance dates indicated in this Agreement are estimated and not guaranteed. Cummins shall not be liable for any delays in performance however occasioned, including any that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes.

5. **WARRANTY.** Cummins shall perform the Services in a reasonable and workmanlike manner. Parts and components supplied under this Agreement are governed by the express written manufacturer's limited warranty. No other warranty for parts or components is provided under this Agreement. All Services shall be free from defects in workmanship for a period of ninety (90) days after completion of Services. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ('Warrantable Defect'), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of any Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New parts supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such parts. The remedies set forth in this Section 5 shall not be deemed to have failed of their essential purpose so long as Cummins is willing to correct defective Services or refund the purchase price therefor.

#### 6. LIMITATIONS OF WARRANTIES AND LIABILITY.

THE REMEDIES PROVIDED IN THE LIMITED WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY. NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, AND DAMAGES CAUSED BY DELAYS) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF PARTS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF PARTS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

7. **INDEMNITY.** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services supplied under this Agreement (collectively, the 'Claims'), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

8. **CONFIDENTIALITY.** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

9. **GOVERNING LAW.** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

10. **INSURANCE.** Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

11. **ASSIGNMENT.** This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

12. **INTELLECTUAL PROPERTY.** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

13. **MISCELLANEOUS.** Cummins shall be an independent contractor with respect to the Services performed under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote. No amendment of this Agreement shall be valid unless it is in writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof.

14. **ON-CALL SERVICES.** Upon Customer's request, Cummins shall provide on-call services (repair, emergency work or other) on the Equipment ('On-call Services'). Any On-call Services shall be invoiced to the Customer at the Cummins current hour rate (including traveling) and shall be governed by the terms and conditions of this Agreement.



# Sales and Service

## PLANNED MAINTENANCE AGREEMENT

Customer Address			Customer Contact		Quote Information	
FORT BEND COUNTY			Contact:	Justin Zwahr	Quote Date:	11-JUN-21
301 JACKSON ST STE 301			Phone:	281 238-3064	Quote Expires:	11-JUN-22
Richmond, TX 77469			Fax:		Quote Num:	17677
			Cust Id:	15228	Quoted By:	Tanner Krause
					Quote Term:	1 Year(s)
11	3004321904	GENERAC	GEN SET	SG500	3004321904	500 KW
12	G-5	ONAN	GEN SET	DGCA-4488630	I000155374	50 KW
13	G-33	ONAN	GEN SET	500.0DFY-4XR	G880105573	500 KW
14	G200791987	ONAN	C50D6C	C50D6C	G200791987	
15	G-2	ONAN	GEN SET	80.0DGDA	D930507213	80 KW
16	G-3	GENERAC	GEN SET	4451370200	2079332	50 KW
17	G-25	KOHLER	GEN SET	230REOZJD	2288571	230 KW
18	G-32	ONAN	GEN SET	350.0DFEG	E070063830	350 KW
19	G-16	ONAN	GEN SET	80.0DSFAE	B080158514	80 KW
20	G-15	ONAN	GEN SET	80.0DSFAE	B080160188	80 KW
21	G-14	ONAN	GEN SET	500.0DFEK	B080155924	500 KW
22	G-29	ONAN	GEN SET	25.0DSKCA	G090019509	25 KW
23	G-30	GENERAC	GEN SET	12058010300	2106778	250 KW
24	G-24	GENERAC	GEN SET	11529340200	2104590	100 KW
25	G-56	GENERAC	GEN SET	SG0150KG0368N36H	8997953	150 KW
26	G-64	KATOLIGHT	GEN SET	SENL100FRG4	154130-1107	100 KW

Site	Unit Number	Service Event	Qty	Sell Price	Extended Price
1	G-1	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
2	G-11	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
3	G-6	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
4	G-9	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
5	G-20	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
6	G-22	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
7	G-23	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
8	3002522773	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
9	33045	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
10	3004746239	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
11	3004321904	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
12	G-5	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
13	G-33	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
14	G200791987	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
15	G-2	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
16	G-3	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
17	G-25	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
18	G-32	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26

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**2. CUSTOMER OBLIGATIONS.** Customer shall provide Cummins safe access to Customer's site and arrange for all related services and utilities necessary for Cummins to perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to facility occupants, customers, invitees, or any third party and or property damage or work interruption arising out of the Services. Customer shall make all necessary arrangement to address and mitigate the consequences of any electrical service interruption which might occur during the Services. **CUSTOMER IS RESPONSIBLE FOR OPERATING AND MAINTAINING THE EQUIPMENT IN ACCORDANCE WITH THE OWNER'S MANUAL FOR THE EQUIPMENT.**

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**8. CONFIDENTIALITY.** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

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# Sales and Service

## PLANNED MAINTENANCE AGREEMENT

<u>Customer Address</u>		<u>Customer Contact</u>	<u>Quote Information</u>		
FORT BEND COUNTY		Contact: Justin Zwahr	Quote Date:	11-JUN-21	
301 JACKSON ST STE 301		Phone: 281 238-3064	Quote Expires:	11-JUN-22	
Richmond, TX 77469		Fax:	Quote Num:	17677	
		Cust Id: 15228	Quoted By:	Tanner Krause	
			Quote Term:	1 Year(s)	
19	G-16	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
20	G-15	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
21	G-14	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
22	G-29	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
23	G-30	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
24	G-24	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
25	G-56	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26
26	G-64	BUILDING LOAD TEST (BLT)	11	246.66	2,713.26

\*\*\*Quote sent on behalf of Tanner Krause\*\*\*

PEM Territory Manager

Cell: 713-516-5390

Tanner.krause@cummins.com

Unless otherwise specified, first service is due to be performed within 30 days of PMA signature. Signature below acknowledges and accepts the Terms and Conditions on the back of this Agreement.

Purchase Order Number and Signature required.

Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_

\*\*\*PURCHASE ORDER NUMBER: \_\_\_\_\_

Please Provide name and e-mail address of each site contact:

Site: \_\_\_\_\_ Name: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Accounts Payable Contact - Print Name: \_\_\_\_\_

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Please indicate whether you wish to prepay the complete agreement or pay per event.

\_\_\_\_\_ Prepay \_\_\_\_\_ Pay Per Event (Subject to credit approval)

\*\*\*If paying per event select payment option preferred.

Cash/Credit Card \_\_\_\_\_ ACH/Wire \_\_\_\_\_ Credit Terms \_\_\_\_\_

\*\*\*Please reference Cummins Sales and Services Planned Maintenance Agreement Scope of Work for further details. \*\*\*

### OPTIONAL SERVICES AVAILABLE:

- Infra-Red Thermography (ATS/Gen/Switchgear/Distribution)
- Oil Sample Analysis - Fuel Sample Analysis
- Coolant Sample Analysis - Battery Replacement
- Air Filter Replacement - Remote Monitoring
- Diesel Fuel Polishing - Insulation Resistance Testing
- Loadbank Testing - Power Quality (recording/measuring)

#### PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

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# Sales and Service

## PLANNED MAINTENANCE AGREEMENT

Customer Address	Customer Contact	Quote Information
FORT BEND COUNTY 301 JACKSON ST STE 301 Richmond, TX 77469	Contact: Justin Zwahr Phone: 281 238-3064 Fax: Cust Id: 15228	Quote Date: 11-JUN-21 Quote Expires: 11-JUN-22 Quote Num: 17677 Quoted By: Tanner Krause Quote Term: 1 Year(s)

- Vibration Testing

\*\*\*All other work will be performed on a time and material basis.

NOTICE: As a result of the outbreaks of the disease COVID-19 arising from the novel coronavirus, temporary delays in delivery, labor or services from Cummins and its sub-suppliers or subcontractors may occur. Among other factors, Cummins' delivery is subject to the correct and punctual supply from our sub-suppliers or subcontractors; and Cummins reserves the right to make partial deliveries or modify its labor or service. While Cummins shall make every commercially reasonable effort to meet the delivery, service or completion described herein, such date(s) is (are) subject to change.

**Standard Agreement Amount** **\$70,544.76**

**Proposal Total** **\$70,544.76**

Pricing based off Sourcewell Contract #120617-CMM

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITY, WHICH ARE EXPRESSLY INCORPORATED HEREIN. CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD, AND ACCEPTED.

### Customer Approval

### CUMMINS SOUTHERN PLAINS LLC

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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

## PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

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# CERTIFICATE OF INTERESTED PARTIES

**FORM 1295**

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY  
CERTIFICATION OF FILING****1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Cummins Southern Plains LLC  
Houston, TX United States

**Certificate Number:**  
2021-821506

**Date Filed:**  
11/08/2021

**Date Acknowledged:**  
11/23/2021

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

Fort Bend County ESD #4

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

22-FAC-100155  
Generator PM's

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

**5 Check only if there is NO Interested Party.****6 UNSWORN DECLARATION**

My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(month) (year)

\_\_\_\_\_  
Signature of authorized agent of contracting business entity  
(Declarant)