



(APPENDIX H TO THE PURCHASING POLICY AND PROCEDURES MANUAL)
CITY OF NORTH RICHLAND HILLS
COOPERATIVE PURCHASE CUSTOMER AGREEMENT

This Cooperative Purchase Customer Agreement ("Customer Agreement") is entered into by and between Penske Commercial Vehicle US, LLC dba Premier Truck Group ("Vendor") and the City of North Richland Hills, ("Customer" or "Authorized Customer"), a Texas government entity, and a Customer authorized to purchase goods or services pursuant to the Agreement between the City of Fort Worth ("Cooperative Entity") and Vendor, Contract No. RFP #24-0209, as amended, (the "Agreement") with an expiration date of 2/18/2028. This Customer Agreement includes and shall be governed by (i) the terms and conditions of the Agreement, which are incorporated herein by reference and available online at <https://www.fortworthtexas.gov/departments/finance/purchasing/bids-current> or upon request from Vendor, (ii) the attached Vendor Quote/Purchase Order No. N/A, if applicable, and (iii) the Government Contract and Purchasing Rider for Contracts with the City of North Richland Hills Contracts, if applicable, all of which are attached hereto and/or incorporated herein by reference. Authorized Customer is eligible and desires to purchase Repairs, Maintenance, & Parts for Light and Heavy-Duty Vehicles and Equipment pursuant to the terms and conditions of the Agreement as the Cooperative Entity may specify from time to time, as well as the terms and conditions of this Customer Agreement. To ensure goods and services are provided directly to the Customer, the Cooperative Entity will only be responsible for services provided to the Cooperative Entity will not be responsible for payments for services provided to the Customer.

The Authorized Customer agrees to the terms and conditions of the Agreement as applicable and as authorized by law. The Authorized Customer hereby agrees that it is separately and solely liable for all obligations and payments for equipment, products and services provided hereunder. Vendor agrees that Customer shall be entitled to the same rights and protections under the law afforded to the Cooperative Entity under the Agreement, as applicable, as if Customer had entered into the Agreement. Except in the event of gross negligence or intentional misconduct, Customer's liability shall not exceed the amount paid by Customer under this Customer Agreement for the preceding twelve (12) month period. Vendor agrees that until the expiration of three (3) years after final payment under this Customer Agreement, or the final conclusion of any audit commenced during the said three years, Customer, or Customer's designated representative, shall have access to and the right to audit at reasonable times, all records, hard copy or electronic, involving transactions relating to this Customer Agreement necessary to determine compliance herewith, at no additional cost to the Customer. Vendor agrees that the Customer shall have access to such records during normal business hours. Customer shall provide Vendor with reasonable advance notice of any intended audits.

Purchase Price - Payments under this Customer Agreement shall not exceed \$ 49,999.00 ("Purchase Price").

Term - The Term of this Customer Agreement ("Term") shall be for one of the following as selected below (Select the type of contract that applies):

☐ **Single Purchase Contract** - The Term shall not exceed one (1) year, and this Customer Agreement shall be for the purchase of goods or services as specified and quoted by the Vendor, and the Purchase Price shall not exceed the budgeted amount for Customer's current fiscal year for the applicable goods and services.

☐ **Supply / As Needed Contract** - The Term shall be effective as of October 1st and shall expire on September 30th at the end of FY 21-22. This Customer Agreement shall be for multiple purchases of goods or services on an as needed basis, from the same vendor under the same contract, and shall not exceed the budgeted amount for Customer's current fiscal year for the applicable goods and services.

☒ **Multi-Year Contract** - The Term shall be for Number of years year(s) expiring on Expiration Date. This Customer Agreement may be renewed for Number of Renewals. Customer Agreement shall be with a single vendor for products and services. If the amount of expenditures under this Multi-Year Contract equals or exceeds \$50,000 in the aggregate, City Council approval is required. In the event the City does not appropriate sufficient funds to make payments during the current or any subsequent year, the City shall have the right to terminate this Multi-Year Contract at the end of any such fiscal year without penalty.

☐ **Emergency Purchase** - Purchases that are necessary to address a public calamity, because of unforeseen damage to property, or to protect the public health or safety where the City's ability to serve the public would be impaired if the purchase were not made immediately. Emergency purchases must meet the requirements of Local Government Code 252.022, and must be ratified by City Council if the purchase is \$50,000 or more.

(Government Rider - Select if Vendor has additional terms and conditions that apply to this purchase)

☒ **Government Contract and Purchasing Rider for Contracts with the City of North Richland Hills, Texas** - If this purchase contains additional terms and conditions from the Vendor, other than those set forth in the Agreement, the Vendor shall separately execute the Government Contract and Purchasing Rider for Contracts with the City of North Richland Hills, Texas ("Government Rider"). Such applicable terms and conditions as set forth in the Government Rider shall supersede any conflicting terms of the Vendor's terms and conditions, and such Government Rider shall control. The Government Rider is attached hereto, incorporated herein by reference and made a part of this Customer Agreement for all purposes.

The undersigned represents and warrants that he/she has the power and authority to execute this Customer Agreement, bind the respective party, and that the execution and performance of this Customer Agreement has been duly authorized by the respective party. This Customer Agreement, and any amendment hereto, may be executed in counterparts, and electronically signed, scanned, digitally signed and sent via electronic mail and such signatures shall have the same effect as original manual signatures.

Each party has caused this Customer Agreement to be executed by its duly authorized representative on this 1st day of October 20 25.

[Signature Page Follows]



City Secretary Office
Official Record Copy

ACCEPTED AND AGREED :

CITY OF NORTH RICHLAND HILLS:

APPROVED: I certify that funds are currently available for this purchase.

☐ (Check the box if \$3,000 or less)

By: Xiomara Abad
Xiomara Abad, Buyer

Penske Commercial Vehicle US, LLC dba Premier Truck Group:

By: [Signature]
Name: Bob Sasser
Title: Sales Manager
Date: 09/22/2026

Department Director:

By: _____
Printed Name: _____
Department: _____

APPROVED:

By: [Signature]
Paulette Hartman, City Manager

Date: 10/1/25

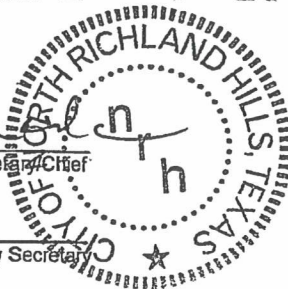
Or Designee:

By: _____ Date: _____
Name: _____
Title: _____

ATTEST:

By: [Signature]
Alicia Richardson, City Secretary/Chief Governance Officer

By: _____
Crystal Dozier, Assistant City Secretary



NRH City Council Action: ☒ Y ☐ N

Date Approved: 10-1-2025

Agenda Item No:

Ord/Res No.

APPROVED TO FORM AND LEGALITY:

By: Bradley Anderle
Bradley Anderle, City Attorney



NRH

NORTH RICHLAND HILLS

GOVERNMENT CONTRACT AND PURCHASING RIDER FOR CONTRACTS WITH THE CITY OF NORTH RICHLAND HILLS, TEXAS

By submitting a response to a solicitation or bid, or by entering into a contract for goods or services and/or by accepting a purchase order, the Contractor, Consultant, Vendor, or other party identified below (collectively "Contractor"), agrees that the terms and conditions herein shall govern all agreements with the City unless otherwise agreed to by a specifically executed provision within the contract or purchase order, provided same is permissible by law. The terms and conditions herein are BINDING and SUPERSEDE any and all other terms and conditions whether oral or written in any separate agreement or found on Contractor's website or other electronic platform.

APPLICATION. This GOVERNMENT CONTRACT AND PURCHASING RIDER FOR CONTRACTS WITH THE CITY OF NORTH RICHLAND HILLS, TEXAS ("Government Rider") applies to, is considered a part of, is incorporated into, and takes precedence over any conflicting provision in, or attached to, the Response to Solicitation or Bid, Contract or Purchase Order, Agreement for Purchase or Sale, Standard Terms and Conditions, Quote, Invoice, or other applicable agreement of the Contractor (collectively the "Agreement"), to which this Government Rider is attached and described as follows:

Title of Agreement with Additional Terms: City of Fort Worth RFP #24-0209

Legal Name of Cooperative Contractor: Penske Commercial Vehicle US, LLC dba Premier Truck Group

Legal Name of Third-Party Contractor (if applicable) (if not applicable enter N/A): N/A

Description of Goods or Services ("Goods or Services"): Repairs, Maintenance, & Parts for Light and Heavy-Duty Vehicles and Equipment

Cooperative Agreement: RFP #24-0209

Total Contract Price: \$ 49,999.00

Notwithstanding any language to the contrary in the attached Agreement between Contractor and the City of North Richland Hills ("City"), individually referred to as a "party" and collectively referred to as the "parties," the parties stipulate by evidence of execution of this Government Rider below by a representative of each party duly authorized to bind the parties hereto, that the parties hereby agree that the provisions in this Government Rider below shall be applicable to and shall modify and supersede the Agreement as set forth below:

SECTION 1. TIME FOR PAYMENT AND INTEREST. The City's payments under the Agreement, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251 of the Texas Government Code. Payment shall be due within thirty (30) days of (i) the date of the City's receipt of the goods under the Agreement; (ii) the date the performance of the services under the Agreement are completed; or (iii) the date the City receives an invoice for the goods or services, whichever is later. Interest on any overdue payment shall not exceed 1% plus the prime rate as published by the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday. The City reserves the right to modify any amount due to the Contractor presented by invoice to the City if necessary to conform the amount to the terms of the Contract, the Texas Government Code or this Government Rider. To the extent the Agreement requires the City to agree to a higher rate of interest than allowed by law, or to incur penalties or late fees prior to 30 days before receipt of invoice or services, any such requirements shall be null and void, are hereby deleted from the Agreement and shall have no force or effect.

SECTION 2. INDEMNIFICATION; LIABILITY; NO FUTURE DEBT.

2.1 Multiyear Contracts. If the NRH City Council does not appropriate funds sufficient to make any payment for a fiscal year after the City's fiscal year in which the Agreement becomes effective, and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Agreement shall automatically terminate at the end of the fiscal year for which funds were appropriated, in accordance with Section 5, Article XI of the Texas Constitution. The City shall have the right to terminate the Agreement at the end of any City fiscal year, without any penalty to the City, if the City Council does not appropriate sufficient funds to continue the Agreement to the next fiscal year. The City shall provide Contractor with as much advance written notice of such termination as is reasonably possible, but not less than thirty (30) days.

2.2 No Future Debt. In compliance with Section 5, Article XI of the Texas Constitution, all payment obligations of the City hereunder are subject to the availability of funds. If such funds are not appropriated or become unavailable during the Term of the Agreement, or in any renewal year of the Agreement, the City shall have the right to terminate the Agreement, except for those portions of funds which have been appropriated prior to termination. To the extent the Agreement requires the City to agree to the creation of future debt for which funds are not appropriated, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

2.3 INDEMNIFICATION AND LIABILITY. CONTRACTOR SHALL BE LIABLE FOR, AND SHALL INDEMNIFY AND HOLD THE CITY ITS OFFICERS, AGENTS, EMPLOYEES, VOLUNTEERS, AND REPRESENTATIVES (collectively "CITY INDEMNITEES") HARMLESS FROM ANY INJURY, LOSS OR DAMAGE DUE TO, OR ARISING OUT OF, THE NEGLIGENT ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF CONTRACTOR, TO THE EXTENT THE AGREEMENT REQUIRES THE CITY TO INDEMNIFY, DEFEND AND/OR HOLD CONTRACTOR OR ANY OF ITS AFFILIATES, EMPLOYEES, DIRECTORS, OFFICERS, VOLUNTEERS, OR REPRESENTATIVES (collectively the "CONTRACTOR INDEMNITEES") HARMLESS, THE CITY SHALL NOT BE REQUIRED TO DEFEND ANY CONTRACTOR INDEMNITEE UNDER THE AGREEMENT AND THE CITY SHALL ONLY INDEMNIFY OR HOLD ANY INDEMNITEE HARMLESS TO THE EXTENT PERMITTED BY APPLICABLE LAW, AND ONLY TO THE EXTENT SUCH INJURY, LOSS, OR DAMAGE IS DUE TO THE NEGLIGENT ACTS OR OMISSIONS OR INTENTIONAL MISCONDUCT OF THE CITY. THE CITY SHALL NOT BE UNDER ANY OBLIGATION TO CREATE ANY SINKING FUND TO SATISFY ANY OBLIGATION TO INDEMNIFY UNDER THE AGREEMENT. NOTWITHSTANDING ANY OF THE FOREGOING, IN NO EVENT SHALL THE CITY'S LIABILITY EXCEED THE TOTAL AMOUNT OF FEES PAID BY THE CITY UNDER THE AGREEMENT FOR THE PREVIOUS TWELVE MONTH PERIOD. IN NO EVENT SHALL



EITHER PARTY BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES UNDER THE AGREEMENT. THIS PROVISION SHALL SUPERSEDE ANY OTHER PROVISION OF CONTRACTOR IN ANY SEPARATE AGREEMENT, TERMS AND CONDITIONS, QUOTE OR INVOICE.

SECTION 3. TERMINATION. Notwithstanding Section 2 above, and unless otherwise specifically agreed to by the parties, either party may terminate this Agreement by providing thirty (30) days prior written notice of such termination to the other party. Termination pursuant to this Section shall not relieve the Contractor of any obligation or liability that has accrued prior to cancellation. City shall pay Contractor for any services performed up to the effective date of such termination. This Agreement is subject to termination, without penalty, at any time the City deems the Contractor to be non-compliant with contractual obligations. Unless otherwise specifically agreed to by the parties in writing, to the extent the Agreement requires the City to (i) agree to a shorter termination period than thirty (30) days; (ii) agree to automatic renewals not included as a part of the "Term of the Agreement" listed above in this Government Rider; or (iii) incur a termination penalty, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 4. INSURANCE. The City is a Government entity under the laws of the state of Texas, and pursuant to Chapter 2259 of the Texas Government Code, "Self-Insurance by Government Units," the City is self-insured and therefore is not required to purchase insurance. The City shall not be required to purchase an insurance policy under this Agreement. Any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect. The City will provide a letter of self-insured status as requested by Contractor.

SECTION 5. CONFIDENTIALITY. The City is a Government entity under the laws of the State of Texas, and all documents or information held or maintained by the City are subject to disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (the "Act"). To the extent any provision in the Agreement attempts to prevent the disclosure of information that is subject to public disclosure under federal or Texas law, including any provision that prohibits disclosure of the terms and conditions of the Agreement, such provision is invalid. Any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 6. TAX EXEMPTION. The City shall not be liable to Contractor for any federal, state or local taxes for which the City is not liable by law, including state and local sales and use taxes, pursuant to Section 151.309 of Title 3, Texas Tax Code, and federal excise tax, pursuant to Subtitle D of the Internal Revenue Code. Accordingly, those taxes shall not be added to any goods or services under the Agreement. The City shall furnish a copy of the applicable tax exemption certificate upon request from Contractor. If the City is billed for any taxes not in compliance with this Section 6, the City shall be authorized to remit payment less the taxes imposed.

SECTION 7. GOVERNING LAW AND VENUE. This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed in accordance with the laws of the United States and the state of Texas, exclusive of conflicts of laws provisions. Venue for any suit brought under this Agreement shall be in a court of competent jurisdiction in Tarrant County, Texas. To the extent this Agreement is required to be governed by any state law other than Texas or venue in any jurisdiction other than Tarrant County, any such requirement in the Agreement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 8. ATTORNEYS' FEES; PENALTIES; LIQUIDATED DAMAGES; The City shall only be liable for attorneys' fees for breach of this Agreement to the extent such attorneys' fees are reasonable and necessary and equitable and just as authorized by Section 271.153 of the Texas Local Government Code. To the extent the attached Agreement requires the City to pay attorneys' fees for any action contemplated or taken, or to incur penalties or liquidated damages in any amount not authorized by Section 271.153, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 9. SOVEREIGN IMMUNITY. Nothing in the Agreement, or herein in this Government Rider, constitutes a waiver of the City's sovereign immunity. To the extent the Agreement requires the City to waive its rights or immunities as a government entity, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 10. ASSIGNMENT: To the extent the Agreement addresses the right to assign any rights or interest in the Agreement to another party, such right of assignment shall be reciprocal, and neither party shall have the right to assign or transfer any of its rights or interests in the Agreement without the express prior written consent of the other party. Notwithstanding, the Contractor shall have the right to assign the Agreement to any entity in which it is a recognized legal affiliate or subsidiary or which such entity obtains a majority interest without the consent of the City; however, Contractor shall give the City at least thirty (30) days' written notice of any such assignment or transfer of interest.

SECTION 11. RIGHT TO TRIAL BY JURY. The City reserves its right to settle disputes by trial by jury. Any such provision in the Agreement that requires the City to waive its right to a trial by jury shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 12. ALTERNATIVE DISPUTE RESOLUTION. To the extent the Agreement requires all disputes to be resolved by binding arbitration, any such provision shall be null and void, is hereby deleted from the Agreement and shall have no force or effect. Prior to instituting litigation under the Agreement, the parties may agree to mediation upon written mutual consent. Any such mediation shall be governed by the applicable rules of the American Arbitration Association, with mediation being held in Tarrant County, Texas. Each party shall share equally in the costs of the mediator, and shall be responsible for its own attorney's fees and expenses.

SECTION 13. LIMITATION ON CLAIMS. Any claim for breach of this Agreement shall be brought within four (4) years in accordance with Texas Civil Practices and Remedies Code Sec. 16.004 and Texas Business and Commerce Code Sec. 2.725. To the extent the Agreement requires a shorter period for limitation on claims, any such requirement shall be null and void, is hereby deleted from the Agreement and shall have no force or effect.

SECTION 14. FORCE MAJEURE. Either party may terminate this Agreement and shall not be liable for any alleged damages or loss due to failure to perform its obligations under this Agreement if the performance is delayed or canceled by reason of a Force Majeure event, including but not limited to, war; civil commotion; acts of God; inclement weather; Government restrictions, regulations, or interferences; fires; labor strikes; material shortages; lockouts; national disasters; epidemics; pandemics; riots; transportation restrictions; or any other circumstances which are reasonably beyond the control of the party.



City Secretary Office Official Record Copy

SECTION 15. RIGHT TO AUDIT. The City shall, until the expiration of three (3) years after final payment under the Agreement, have the right to access and the right to examine and photocopy any directly pertinent books, documents, papers and records, whether electronic or hardcopy (collectively "Records") of Contractor involving transactions under this Agreement to ensure compliance herewith. The City shall have the right to access Contractor's Records during normal working hours and shall provide Contractor with reasonable advance notice of intended audits, but not less than ten (10) business days.

SECTION 16. SUCCESSORS AND ASSIGNS. The parties each bind themselves and their successors, executors, administrators and assigns to this Agreement and to all covenants of this Agreement hereafter.

SECTION 17. CITY'S LOGO OR MARKS. The City's logo is protected by applicable federal and state copyright and trademark laws. Contractor may not use the City's name in a demeaning, obscene or detrimental manner as determined by the City in its sole discretion, and Contractor shall not use the City's logo in any manner, except as specifically approved by the City in writing.

SECTION 18. RIDER CONTROLLING: If any provisions of the attached Agreement, conflict with the terms herein of this Government Rider, are prohibited by applicable law, conflict with any applicable rule, regulation or ordinance of the City, the terms in this Government Rider shall control.

By signature below of an authorized representative, the parties hereby accept and agree to the terms and conditions set forth in this Government Rider.

CITY OF NORTH RICHLAND HILLS:

Penske Commercial Vehicle US, LLC dba Premier Truck Group

By: *Paulette A. Hartman*

Paulette A. Hartman
City Manager

By: *Bob Sasser*

Name: Bob Sasser
Title: Sales Manager

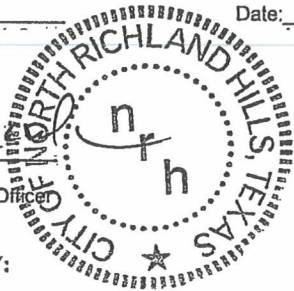
Date: 10/1/25

Date: 09/22/2025

ATTEST:

By: *Alicia Richardson*

Alicia Richardson
City Secretary/Chief Governance Officer



APPROVED AS TO FORM AND LEGALITY:

By: _____

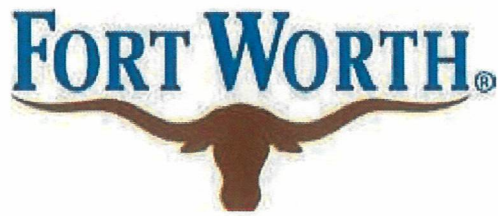
Bradley Anderle
City Attorney

NRH Council Action Y ☒ N

Date Approved 10-1-2025

Agenda No. _____

Ord / Res No. _____



VENDOR SERVICES AGREEMENT

This **VENDOR SERVICES AGREEMENT** ("Agreement") is made and entered into by and between the **CITY OF FORT WORTH** ("City"), a Texas home rule municipal corporation, and **Penske Commercial Vehicle US, LLC dba Premier Truck Group** ("Vendor") each individually referred to as a "party" and collectively referred to as the "parties."

1. **Scope of Services.** Vendor will provide fleet vehicle services including repairs, maintenance, and parts for light duty, heavy duty, turf, marine, trailer, electric, and hybrid type vehicles and equipment. The City will purchase these services on an "as needed basis" for the Property Management Department ("Services"), as set forth in more detail in Exhibit "A," attached hereto and incorporated herein for all purposes.

2. **Term.** This Agreement will begin on the date signed by the Assistant City Manager below ("Effective Date") and expires three years later ("Expiration Date"), unless terminated earlier according to this Agreement ("Initial Term"). The City will have the option, in its sole discretion, to renew this Agreement under the same terms and conditions for one (1) two-year renewal option ("Renewal Term").

3. **Compensation.**

- 3.1 The Vendor acknowledges that this is a non-exclusive agreement and there is no guarantee of any specific amount of work. Further, Vendor recognizes that the amount stated below in Section 3.2 is the total amount of funds available, collectively, for any Vendor that enters into an agreement with the City under the relevant Mayor and Council ("M&C") Communication and that once the full amount has been exhausted, whether individually or collectively, Vendor will not perform any additional services or bill for expenses incurred for City not specified by this Agreement unless City requests and approves in writing the additional costs for such services. City will not be liable for any additional expenses of Vendor not specified by this Agreement unless City first approves such expenses in writing.
- 3.2 The maximum compensation amount allowed under this non-exclusive Agreement will be up to \$10,000,000.00 for Year 1 of the Initial Term, up to \$11,500,000.00 for Year 2 of the Initial Term, and up to \$13,225,000.00 for Year 3 of the Initial Term. In the event City opts to renew the Agreement, the maximum compensation amount allowed is up to \$15,208,750.00 for Year 1 of the Renewal Term, and up to \$17,490,062.50 for Year 2 of the Renewal Term.
- 3.3 Following the award of this Agreement, additional products and services of the same general category that could have been encompassed in the award, and that are not already made a part of the Agreement, may be added based on the discount

provided on Vendor's bid response (if applicable) and price sheet provided with Vendor's bid response or a current quote provided from the Vendor.

3.4 The Parties may engage in multiple transactions under this Agreement. For each purchase made pursuant to this Agreement, Vendor must supply a quote and the quote must conform with the then-current pricing under the agreement or the discount provided on the Vendor's bid response if it is for an additional product and service of the same general category, as described above. If the City accepts the quote and places the order, that quote will be considered an addendum to this agreement but is not required to be filed in the City records. The Parties will maintain all quotes for the 3-year Audit period included herein.

3.5 City will pay Vendor in accordance with the Prompt Payment Act (Chapter 2251 of the Texas Government Code) and provisions of this Agreement, including Exhibit "B," which is attached hereto and incorporated herein for all purposes.

3.6 Vendor will not perform any additional services or bill for expenses incurred for City not specified by this Agreement unless City requests and approves in writing the additional costs for such services. City will not be liable for any additional expenses of Vendor not specified by this Agreement unless City first approves such expenses in writing.

4. Termination.

4.1 Written Notice. City or Vendor may terminate this Agreement at any time and for any reason by providing the other party with 30 days' written notice of termination.

4.2 Non-appropriation of Funds. In the event no funds or insufficient funds are appropriated by City in any fiscal period for any payments due hereunder, City will notify Vendor of such occurrence and this Agreement will terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

4.3 Duties and Obligations of the Parties. In the event that this Agreement is terminated prior to the Expiration Date, City will pay Vendor for services actually rendered up to the effective date of termination and Vendor will continue to provide City with services requested by City and in accordance with this Agreement up to the effective date of termination. Upon termination of this Agreement for any reason, Vendor will provide City with copies of all completed or partially completed documents prepared under this Agreement. In the event Vendor has received access to City Information or data as a requirement to perform services hereunder, Vendor will return all City provided data to City in a machine readable format or other format deemed acceptable to City.

5. Disclosure of Conflicts and Confidential Information.

5.1 Disclosure of Conflicts. Vendor hereby warrants to City that Vendor has made full disclosure in writing of any existing or potential conflicts of interest related to Vendor's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Vendor hereby agrees immediately to make full disclosure to City in writing.

5.2 Confidential Information. Vendor, for itself and its officers, agents and employees, agrees that it will treat all information provided to it by City ("City Information") as confidential

and will not disclose any such information to a third party without the prior written approval of City.

5.3 **Public Information Act.** City is a government entity under the laws of the State of Texas and all documents held or maintained by City are subject to disclosure under the Texas Public Information Act. In the event there is a request for information marked Confidential or Proprietary, City will promptly notify Vendor. It will be the responsibility of Vendor to submit reasons objecting to disclosure. A determination on whether such reasons are sufficient will not be decided by City, but by the Office of the Attorney General of the State of Texas or by a court of competent jurisdiction.

5.4 **Unauthorized Access.** Vendor must store and maintain City Information in a secure manner and will not allow unauthorized users to access, modify, delete or otherwise corrupt City Information in any way. Vendor must notify City immediately if the security or integrity of any City Information has been compromised or is believed to have been compromised, in which event, Vendor will, in good faith, use all commercially reasonable efforts to cooperate with City in identifying what information has been accessed by unauthorized means and will fully cooperate with City to protect such City Information from further unauthorized disclosure.

6. **Right to Audit.** Vendor agrees that City will, until the expiration of three (3) years after final payment under this Agreement, or the final conclusion of any audit commenced during the said three years, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers and records, including, but not limited to, all electronic records, of Vendor involving transactions relating to this Agreement at no additional cost to City. Vendor agrees that City will have access during normal working hours to all necessary Vendor facilities and will be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City will give Vendor reasonable advance notice of intended audits.

7. **Independent Contractor.** It is expressly understood and agreed that Vendor will operate as an independent contractor as to all rights and privileges and work performed under this Agreement, and not as agent, representative or employee of City. Subject to and in accordance with the conditions and provisions of this Agreement, Vendor will have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its officers, agents, servants, employees, Vendors, and subcontractors. Vendor acknowledges that the doctrine of *respondeat superior* will not apply as between City, its officers, agents, servants and employees, and Vendor, its officers, agents, employees, servants, contractors, and subcontractors. Vendor further agrees that nothing herein will be construed as the creation of a partnership or joint enterprise between City and Vendor. It is further understood that City will in no way be considered a Co-employer or a Joint employer of Vendor or any officers, agents, servants, employees, contractors, or subcontractors. Neither Vendor, nor any officers, agents, servants, employees, contractors, or subcontractors of Vendor will be entitled to any employment benefits from City. Vendor will be responsible and liable for any and all payment and reporting of taxes on behalf of itself, and any of its officers, agents, servants, employees, or contractors.

8. **Liability and Indemnification.**

8.1 **LIABILITY - VENDOR WILL BE LIABLE AND RESPONSIBLE FOR ANY AND ALL PROPERTY LOSS, PROPERTY DAMAGE AND PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH, TO ANY AND ALL PERSONS, OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, TO THE EXTENT CAUSED BY THE NEGLIGENT ACT(S) OR OMISSION(S), MALFEASANCE OR INTENTIONAL**

MISCONDUCT OF VENDOR, ITS OFFICERS, REPRESENTATIVES, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS.

8.2 GENERAL INDEMNIFICATION - VENDOR HEREBY COVENANTS AND AGREES TO INDEMNIFY, HOLD HARMLESS, AND DEFEND CITY, ITS OFFICERS, AGENTS, REPRESENTATIVES, SERVANTS, AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS OR LAWSUITS OF ANY KIND OR CHARACTER, WHETHER REAL OR ASSERTED, FOR EITHER PROPERTY DAMAGE OR LOSS (INCLUDING ALLEGED DAMAGE OR LOSS TO VENDOR'S BUSINESS AND ANY RESULTING LOST PROFITS) AND PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH, TO ANY AND ALL PERSONS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OR MALFEASANCE OF VENDOR, ITS OFFICERS, AGENTS, REPRESENTATIVES, SERVANTS, EMPLOYEES, CONTRACTORS, OR SUBCONTRACTORS.

8.3 INTELLECTUAL PROPERTY INDEMNIFICATION – Vendor agrees to defend, settle, or pay, at its own cost and expense, any claim or action against City for infringement of any patent, copyright, trade mark, trade secret, or similar property right arising from City's use of the software or documentation in accordance with this Agreement, it being understood that this agreement to defend, settle or pay will not apply if City modifies or misuses the software and/or documentation. So long as Vendor bears the cost and expense of payment for claims or actions against City pursuant to this section, Vendor will have the right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, City will have the right to fully participate in any and all such settlement, negotiations, or lawsuit as necessary to protect City's interest, and City agrees to cooperate with Vendor in doing so. In the event City, for whatever reason, assumes the responsibility for payment of costs and expenses for any claim or action brought against City for infringement arising under this Agreement, City will have the sole right to conduct the defense of any such claim or action and all negotiations for its settlement or compromise and to settle or compromise any such claim; however, Vendor will fully participate and cooperate with City in defense of such claim or action. City agrees to give Vendor timely written notice of any such claim or action, with copies of all papers City may receive relating thereto. Notwithstanding the foregoing, City's assumption of payment of costs or expenses will not eliminate Vendor's duty to indemnify City under this Agreement. If the software and/or documentation or any part thereof is held to infringe and the use thereof is enjoined or restrained or, if as a result of a settlement or compromise, such use is materially adversely restricted, Vendor will, at its own expense and as City's sole remedy, either: (a) procure for City the right to continue to use the software and/or documentation; or (b) modify the software and/or documentation to make it non-infringing, provided that such modification does not materially adversely affect City's authorized use of the software and/or documentation; or (c) replace the software and documentation with equally suitable, compatible, and functionally equivalent non-infringing software and documentation at no additional charge to City; or (d) if none of the foregoing alternatives is reasonably available to Vendor terminate this Agreement, and refund all amounts paid to Vendor by City, subsequent to which termination City may seek any and all remedies available to City under law.

9. Assignment and Subcontracting.

9.1 Assignment. Vendor will not assign or subcontract any of its duties, obligations or rights under this Agreement without the prior written consent of City. If City grants consent to

an assignment, the assignee will execute a written agreement with City and Vendor under which the assignee agrees to be bound by the duties and obligations of Vendor under this Agreement. Vendor will be liable for all obligations of Vendor under this Agreement prior to the effective date of the assignment.

9.2 **Subcontract.** If City grants consent to a subcontract, the subcontractor will execute a written agreement with Vendor referencing this Agreement under which subcontractor agrees to be bound by the duties and obligations of Vendor under this Agreement as such duties and obligations may apply. Vendor must provide City with a fully executed copy of any such subcontract.

10. Insurance. Vendor must provide City with certificate(s) of insurance documenting policies of the following types and minimum coverage limits that are to be in effect prior to commencement of any Services pursuant to this Agreement:

10.1 Coverage and Limits

Vendor shall maintain an Auto Dealer policy that includes Commercial General Liability, Automobile Liability and Auto Dealer's Errors and Omissions coverage on an occurrence basis as noted below:

(a) Commercial General Liability:

\$1,000,000 - Each Occurrence
\$2,000,000 - Aggregate

(b) Automobile Liability:

\$1,000,000 - Each occurrence on a combined single limit basis

Coverage will be on any vehicle used by Vendor, or its employees, agents, or representatives in the course of providing Services under this Agreement. "Any vehicle" will be any vehicle owned, hired and non-owned.

(c) Worker's Compensation:

Statutory limits according to the Texas Workers' Compensation Act or any other state workers' compensation laws where the Services are being performed

Employers' liability

\$100,000 - Bodily Injury by accident; each accident/occurrence
\$100,000 - Bodily Injury by disease; each employee
\$500,000 - Bodily Injury by disease; policy limit

(d) Auto Dealers (Errors & Omissions):

\$1,000,000 - Each Claim Limit
\$1,000,000 - Aggregate Limit

An annual certificate of insurance must be submitted to City to evidence coverage.

10.2 General Requirements

- (a) The commercial general liability and automobile liability policies must name City as an additional insured thereon, as its interests may appear. The term City includes its employees, officers, officials, agents, and volunteers in respect to the contracted services. A Blanket Additional Insured Endorsement may be used to satisfy this requirement.
- (b) The workers' compensation policy must include a Waiver of Subrogation (Right of Recovery) in favor of City.
- (c) A minimum of Thirty (30) days' notice of cancellation or reduction in limits of coverage must be provided to City. Ten (10) days' notice will be acceptable in the event of non-payment of premium. Notice must be sent to the City in accordance with the notice provision of this Agreement.
- (d) The insurers for all policies must be licensed and/or approved to do business in the State of Texas. All insurers must have a minimum rating of A- VII in the current A.M. Best Key Rating Guide, or have reasonably equivalent financial strength and solvency to the satisfaction of Risk Management. If the rating is below that required, written approval of Risk Management is required.
- (e) Any failure on the part of City to request required insurance documentation will not constitute a waiver of the insurance requirement.
- (f) Certificates of Insurance evidencing that Vendor has obtained all required insurance will be delivered to the City prior to Vendor proceeding with any work pursuant to this Agreement.

11. **Compliance with Laws, Ordinances, Rules and Regulations.** Vendor agrees that in the performance of its obligations hereunder, it will comply with all applicable federal, state and local laws, ordinances, rules and regulations and that any work it produces in connection with this Agreement will also comply with all applicable federal, state and local laws, ordinances, rules and regulations. If City notifies Vendor of any violation of such laws, ordinances, rules or regulations, Vendor must immediately desist from and correct the violation.

12. **Non-Discrimination Covenant.** Vendor, for itself, its personal representatives, assigns, contractors, subcontractors, and successors in interest, as part of the consideration herein, agrees that in the performance of Vendor's duties and obligations hereunder, it will not discriminate in the treatment or employment of any individual or group of individuals on any basis prohibited by law. **IF ANY CLAIM ARISES FROM AN ALLEGED VIOLATION OF THIS NON-DISCRIMINATION COVENANT BY VENDOR, ITS PERSONAL REPRESENTATIVES, ASSIGNS, CONTRACTORS, SUBCONTRACTORS, OR SUCCESSORS IN INTEREST, VENDOR AGREES TO ASSUME SUCH LIABILITY AND TO INDEMNIFY AND DEFEND CITY AND HOLD CITY HARMLESS FROM SUCH CLAIM.**

13. **Notices.** Notices required pursuant to the provisions of this Agreement will be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the

transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

To CITY: City of Fort Worth Attn: Assistant City Manager 100 Fort Worth Trail Fort Worth, TX 76102 Facsimile: (817) 392-8654 With copy to Fort Worth City Attorney's Office at same address	To VENDOR: Penske Commercial Vehicle US, LLC dba Premier Truck Group Bob Sasser, Parts Sales Manager 1804 NE Loop 820 Fort Worth, Texas 76106
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14. **Solicitation of Employees.** Neither City nor Vendor will, during the term of this Agreement and additionally for a period of one year after its termination, solicit for employment or employ, whether as employee or independent contractor, any person who is or has been employed by the other during the term of this Agreement, without the prior written consent of the person's employer. Notwithstanding the foregoing, this provision will not apply to an employee of either party who responds to a general solicitation of advertisement of employment by either party.

15. **Governmental Powers.** It is understood and agreed that by execution of this Agreement, City does not waive or surrender any of its governmental powers or immunities.

16. **No Waiver.** The failure of City or Vendor to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein does not constitute a waiver of City's or Vendor's respective right to insist upon appropriate performance or to assert any such right on any future occasion.

17. **Governing Law / Venue.** This Agreement will be construed in accordance with the laws of the State of Texas. If any action, whether real or asserted, at law or in equity, is brought pursuant to this Agreement, venue for such action will lie in state courts located in Tarrant County, Texas or the United States District Court for the Northern District of Texas, Fort Worth Division.

18. **Severability.** If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

19. **Force Majeure.** City and Vendor will exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but will not be held liable for any delay or omission in performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law, ordinance, or regulation; acts of God; acts of the public enemy; fires; strikes; lockouts; natural disasters; wars; riots; epidemics or pandemics; government action or inaction; orders of government; material or labor restrictions by any governmental authority; transportation problems; restraints or prohibitions by any court, board, department, commission, or agency of the United States or of any States; civil disturbances; other national or regional emergencies; or any other similar cause not enumerated herein but which is beyond the reasonable control of the Party whose performance is affected (collectively, "Force Majeure Event"). The performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided the

affected Party provides notice of the Force Majeure Event, and an explanation as to how it prevents or hinders the Party's performance, as soon as reasonably possible after the occurrence of the Force Majeure Event, with the reasonableness of such notice to be determined by the City in its sole discretion. The notice required by this section must be addressed and delivered in accordance with Section 13 of this Agreement.

20. Headings not Controlling. Headings and titles used in this Agreement are for reference purposes only, will not be deemed a part of this Agreement, and are not intended to define or limit the scope of any provision of this Agreement.

21. Review of Counsel. The parties acknowledge that each party and its counsel have reviewed and revised this Agreement and that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or Exhibits A and B.

22. Amendments / Modifications / Extensions. No amendment, modification, or extension of this Agreement will be binding upon a party hereto unless set forth in a written instrument, which is executed by an authorized representative of each party.

23. Counterparts. This Agreement may be executed in one or more counterparts and each counterpart will, for all purposes, be deemed an original, but all such counterparts will together constitute one and the same instrument.

24. Warranty of Services. Vendor warrants that its services will be of a high quality and conform to generally prevailing industry standards. City must give written notice of any breach of this warranty within thirty (30) days from the date that the services are completed. In such event, at Vendor's option, Vendor will either (a) use commercially reasonable efforts to re-perform the services in a manner that conforms with the warranty, or (b) refund the fees paid by City to Vendor for the nonconforming services.

25. Immigration Nationality Act. Vendor must verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Vendor will provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Vendor must adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Vendor employee who is not legally eligible to perform such services. **VENDOR WILL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY VENDOR, VENDOR'S EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, OR AGENTS.** City, upon written notice to Vendor, will have the right to immediately terminate this Agreement for violations of this provision by Vendor.

26. Ownership of Work Product. City will be the sole and exclusive owner of all reports, work papers, procedures, guides, and documentation that are created, published, displayed, or produced in conjunction with the services provided under this Agreement (collectively, "Work Product"). Further, City will be the sole and exclusive owner of all copyright, patent, trademark, trade secret and other proprietary rights in and to the Work Product. Ownership of the Work Product will inure to the benefit of City from the date of conception, creation or fixation of the Work Product in a tangible medium of expression (whichever occurs first). Each copyrightable aspect of the Work Product will be considered a "work-made-for-hire" within the meaning of the Copyright Act of 1976, as amended. If and to the extent such Work Product, or any part thereof, is not considered a "work-made-for-hire" within the meaning of the Copyright Act of 1976, as amended, Vendor hereby expressly assigns to City all exclusive right, title and interest in

and to the Work Product, and all copies thereof, and in and to the copyright, patent, trademark, trade secret, and all other proprietary rights therein, that City may have or obtain, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on the part of City.

27. Signature Authority. The person signing this Agreement hereby warrants that they have the legal authority to execute this Agreement on behalf of the respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. This Agreement and any amendment hereto, may be executed by any authorized representative of Vendor. Each party is fully entitled to rely on these warranties and representations in entering into this Agreement or any amendment hereto.

28. Change in Company Name or Ownership. Vendor must notify City's Purchasing Manager, in writing, of a company name, ownership, or address change for the purpose of maintaining updated City records. The president of Vendor or authorized official must sign the letter. A letter indicating changes in a company name or ownership must be accompanied with supporting legal documentation such as an updated W-9, documents filed with the state indicating such change, copy of the board of director's resolution approving the action, or an executed merger or acquisition agreement. Failure to provide the specified documentation so may adversely impact future invoice payments.

29. No Boycott of Israel. If Vendor has fewer than 10 employees or this Agreement is for less than \$100,000, this section does not apply. Vendor acknowledges that in accordance with Chapter 2271 of the Texas Government Code, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" has the meanings ascribed to those terms in Section 2271 of the Texas Government Code. **By signing this Agreement, Vendor certifies that Vendor's signature provides written verification to the City that Vendor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Agreement.**

30. Prohibition on Boycotting Energy Companies. Vendor acknowledges that in accordance with Chapter 2276 of the Texas Government Code, the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the City with a company with 10 or more full-time employees unless the contract contains a written verification from the Vendor that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement. To the extent that Chapter 2276 of the Government Code is applicable to this Agreement, by signing this Agreement, Vendor certifies that Vendor's signature provides written verification to the City that Vendor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement.

31. Prohibition on Discrimination Against Firearm and Ammunition Industries. Vendor acknowledges that except as otherwise provided by Chapter 2274 of the Texas Government Code, the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the City with a company with 10 or more full-time employees unless the contract contains a written verification from the Vendor that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Vendor certifies that Vendor's signature provides written verification to the City that Vendor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.

32. Electronic Signatures. This Agreement may be executed by electronic signature, which will be considered as an original signature for all purposes and have the same force and effect as an original signature. For these purposes, “electronic signature” means electronically scanned and transmitted versions (e.g. via pdf file or facsimile transmission) of an original signature, or signatures electronically inserted via software such as Adobe Sign.

33. Entirety of Agreement. This Agreement contains the entire understanding and agreement between City and Vendor, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.

(signature page follows)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in multiples.

City: By: <u><i>Dana Burghdoff</i></u> <small>Dana Burghdoff (Feb 18, 2025 18:28 CST)</small> Name: Dana Burghdoff Title: Assistant City Manager Date: <u>02/18/2025</u>	Vendor: Penske Commercial Vehicle US, LLC dba Premier Truck Group By: <u><i>Bob Sasser</i></u> <small>Bob Sasser (Feb 17, 2025 08:43 CST)</small> Name: Bob Sasser Title: Parts Sales Manager Date: <u>02/17/2025</u>
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FOR CITY OF FORT WORTH INTERNAL PROCESSES:

Approval Recommended: By: <u><i>Marilyn Marvin</i></u> Name: Marilyn Marvin Title: Property Management Department Director Approved as to Form and Legality: By: <u><i>Jessika Williams</i></u> Name: Jessika J. Williams Title: Assistant City Attorney Contract Authorization: M&C: 24-1016 M&C Approved: 11/19/2024 Form 1295 Certification No.: 2024-1219632	Contract Compliance Manager: By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements. By: <u><i>Eliana Guevara on behalf of Denise Garcia</i></u> <small>Eliana Guevara on behalf of Denise Garcia (Feb 17, 2025 22:52 CST)</small> Name: Denise Garcia Title: Purchasing Manager City Secretary: By: <u><i>Jannette Goodall</i></u> Name: Jannette Goodall Title: City Secretary
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EXHIBIT A
SCOPE OF SERVICES

1.0 INTENT

- 1.1 Vendor will provide service, repairs, maintenance, and parts for light duty, heavy duty, turf, marine, trailer, electric, and hybrid type vehicles and equipment as listed, but not limited to the scope of work described herein. The City will purchase these products and services on an “as needed basis” for the Property Management Department.

2.0 DEFINITIONS

- 2.1 The City: The City of Fort Worth
- 2.2 Vendor: Successful Vendor(s) awarded an agreement
- 2.3 First Responder Vehicle/Equipment: Any type of vehicle/equipment utilized by the City of Fort Worth’s Police or Fire Department. These vehicle(s)/equipment require immediate attention by Vendor and require their own response times.
- 2.4 PMD Fleet: The City of Fort Worth’s Property Management Department Fleet Division
- 2.5 Light Duty Vehicles: Vehicles with a Gross Vehicle Weight under 10,000 pounds. National Association Fleet Administrators (NAFA) Class codes 8,500 (1000-2999).
- 2.6 Medium/Heavy Duty Vehicles: Vehicles with a Gross Vehicle Weight over 10,000 pounds. NAFA Class codes (3,000-8999).
- 2.7 NAFA Class Codes: Standard vehicle and equipment classification system created and maintained by National Association of Fleet Administrators Fleet Management Association.
- 2.8 OEM: Original Equipment Manufacturer (OEM) – is a company that supplies equipment to other companies to resell or incorporate into another product using the Manufacturer’s brand name. It also may be used to refer to the company that acquires a product or component and reuses or incorporates it into a new product with its own brand name.
- 2.9 Specialty/Off-road Equipment: A piece of equipment with unique or specialized performance capabilities that allow it to perform prescribed task. NAFA Class Codes (000-0999 & 9000-9999)
- 2.10 PO: Purchase Order
- 2.11 EV: Electric Vehicle
- 2.12 Flat Travel Rate: This is a rate the Vendor will use to come out to work on a request from the City and will go in tandem with the field hourly charge. The Vendor will not be allowed to charge mileage since there is a flat travel rate offered.
- 2.13 Transport Fee: This fee will be charged to the City from the Vendor to pick up and/or deliver the asset to the City.

3.0 DELIVERY OF SERVICES

- 3.1 Upon arrival at each facility the vendor will contact the PMD Fleet on-site supervisor prior to performing any work, as well as, signing out with said supervisor upon completion of duties.
- 3.2 The vendor agrees to perform all work between the hours of 7:00 am and 4:00 pm Monday through Friday.
 - 3.2.1 This excludes all observed City holidays; New Year’s Day, Martin Luther King Day,

Memorial Day, Juneteenth, Independence Day, Labor Day, Thanksgiving Day (Thurs and Fri) and Christmas day.

- 3.3 Vendors will provide the City an acceptable level of service in terms of cost, time and workmanship. Upon return and inspection of services completed, PMD Fleet personnel will notify the Vendor if any issues regarding the services or parts are found to be unsatisfactory.
- 3.4 Vendor(s) will be given opportunity to correct any unacceptable levels of service. Failure of Vendor to correct services or parts to a satisfactory condition will be considered grounds for terminating the agreement.
- 3.5 Vendors will be required to perform the work using the most up to date and appropriate methods available from the Original Equipment Manufacturer (OEM) or equivalent OEM standards. This includes, but is not limited to, all suitable repair equipment and parts to insure the satisfactory execution of any repair or installation.
- 3.6 Vendor will have the ability to look up OEM parts based on vehicle identification number, serial number, or engine number.
- 3.7 The Vendor will have and operate a full-time, permanent business address with the ability to be reached by email and telephone.
- 3.8 The Vendor will have a minimum of five people available to provide the services as outlined in the scope of work.
- 3.9 The Vendor will possess all needed diagnostic equipment and tools to support the service and product the Vendor is bidding on.
- 3.10 At the City's request the Vendor will be required to provide industry training and certification documentation on their personnel.
 - 3.10.1 Certifications could include, the National Institute for Automotive Service Excellence (ASE) or Manufacturer required training, which qualifies the vendor to perform said work.
- 3.11 Vendors will provide the City priority service, as many City vehicles are utilized for public safety and emergency response. Expeditious turn-around is critical to City operations. However, additional fees for priority services are prohibited.
- 3.12 The City will ensure that vehicles and equipment will have a minimum of a quarter (1/4) tank of fuel when dropped off for service.
- 3.13 Vendor will provide a minimum of one-year warranty on all parts and repairs. The warranty will begin upon installation and final acceptance by the City of provided products.

4.0 RESPONSE TIMES & LOCATIONS

- 4.1 Vendor will respond/acknowledge to emails and calls from the PMD Fleet within 24 - 48 hours.
- 4.2 Vendors, which provide delivery service, will return completed vehicles to the Fleet Service Center, Monday through Friday between 7:00 a.m.– 4:00 p.m. unless expressly authorized by the Fleet Service Center Supervisor(s) or their designee. Any deviation from this timeframe will require written approval from the Fleet Service Center Supervisor(s) or their designee.
- 4.3 After hours are considered from Friday at 4:01 p.m. through Monday at 6:59 a.m.
- 4.4 Fleet Service Center locations:

Service Center	Location
Brennan Body Shop	2500 Brennan Street Fort Worth, TX 76106
James Avenue Service Center	5021 James Avenue Fort Worth, TX 76115
Northside Service Center	317 Hillshire Drive Fort Worth, TX 76131
Water Service Center	2222 West Daggett Fort Worth, TX 76102

5.0 PARTS

- 5.1 All parts utilized in repairs, replacements or installations on City vehicles and equipment must be new unless otherwise requested in writing by PMD Fleet personnel.
 - 5.1.1 Any rebuilt or remanufactured parts can be considered but must be approved in writing by City PMD Fleet personnel prior to being utilized by a vendor.
- 5.2 Vendor will warranty all work and products supplied under this Agreement against any defects in design, workmanship, materials and failure to operate satisfactorily.
 - 5.2.1 Each product will be constructed to the highest industry standards. Products manufactured of poor workmanship will not be accepted.
- 5.3 The City reserves the right to supply parts as the City determines is necessary.
- 5.4 Vendor may charge a list less (-) for parts, unless otherwise approved by the City. The list less pricing should be submitted with the Vendor's bid response and updated lists should be made available for review by the City as requested.
- 5.5 All parts used for repair will meet the strict OEM standards and specifications.
- 5.6 There are no guarantees the City will accept or be held financially liable for costs outside of labor and materials/parts if the submitted pricing is deemed excessive and not included in Exhibit B, Payment Schedule.
- 5.7 The Vendor will provide a point of contact for parts and service repairs.

6.0 ESTIMATES

- 6.1 Vendor will be required to provide written or electronically produced estimates to PMD Fleet personnel before the start of any work. The estimates must be emailed to the PMD Fleet employee(s) and/or PMD Fleet facility location who requested the services to be completed.
- 6.2 Estimates will be approved and authorized by PMD Fleet personnel in writing via email with purchase order number **prior** to work being performed. Verbal approvals should not be considered.
 - 6.2.1 Fleet will create necessary work order for tracking.
 - 6.2.2 Vendor will be notified, via email, of repairs needed and/or diagnosis from PMD Fleet.

- 6.2.3 Vendor will identify the repair direction and will email an estimate with specific details of the repairs needed regardless of warranty or non-warranty.
- 6.2.4 Warranty and billable repairs will be on separate estimate(s) / invoicing in ALL cases.
- 6.2.5 Fleet will document the approval and will update the work order detailing all communications and repairs with denial or approval information.
- 6.2.6 PMD Fleet will issue a purchase order for billable repairs via email. Repairs are NOT to be performed until a purchase order has been issued and provided to the Vendor by PMD Fleet Division. This ensures proper tracking and documentation are in place for the Vendor and the City.
- 6.3 Final submitted invoices submitted to the City for work performed should always match the final estimate received by the City. All revised estimates must be approved in writing prior to billing.
 - 6.3.1 All provided estimates must match contract pricing, specifications, and standards.
- 6.4 If City vehicle or equipment is serviced by a Vendor for warranty work, the estimate provided by the Vendor to the City will state 'Warranty Service'.
- 6.5 All estimates provided by Vendors will be quoted on a 'time and materials' basis, adherence to the agreed upon contract rate(s) and itemized to illustrate the cost of each of the following, if applicable, to the service or work performed:
 - 6.5.1 **Estimates will include number of and cost of each part(s) to be installed.**
 - 6.5.2 **Estimates will include cost of labor to perform repair and/or installation; itemized by number of labor hours per labor line and labor rate per hour.**
 - 6.5.4 Transportation fees, if any, Pick-up & Delivery Inclusive.
 - 6.5.5 Sublet charges, if any.
 - 6.5.6 **Shop fees will not be allowed.** These costs should be broken down in labor, parts, or established fees defined in the bid lines. This should be considered when bidding applicable costs in the other time and materials categories.
 - 6.5.7 Travel charges for mobile services will be considered at a standard flat rate.

7.0 INVOICES

- 7.1 All invoices must include the vehicle VIN#, Unit #, mileage, labor hours, and Purchase Order #.
- 7.2 If the final invoice needs to be updated for any reason (i.e. charges, unit number, etc.) the date on the final invoice must be updated to match the date the revised invoice was submitted for processing.
 - 7.2.1 All invoices must match prior City approved estimates or payment may be delayed.
- 7.3 **INVOICE SUPPORTING DOCUMENTATION**
 - 7.3.1 Supporting Documentation for Labor charges must include, at a minimum: 1) the total number of labor hours performed; and 2) the labor rate. Vendor must provide the City with documentation which identifies the per hour labor rate.
 - 7.3.2 Supporting Documentation for Parts charges must include, at a minimum: 1) a short and plain description of the part; 2) the vendor part number; and 3) the vendor's cost for the part and any markups.

- 7.3.3 Supporting Documentation for Chemicals must include, at a minimum: 1) the amount and name of chemicals used; and 2) the cost of for each chemical used.
- 7.3.4 Supporting Documentation for Sublet charges must include, at a minimum: 1) a short and plain statement of the parts and services provided by sublet providers; 2) the cost for each of the parts and services provided by sublet providers; and 3) documentation from the sublet provider establishing the vendor's authorization of the sublet provider to provide parts and services.
- 7.3.5 Vendor must obtain a Purchase Order number before performing any services.
- 7.3.6 Vendor must itemize all charges on the Vendor's invoice billing statement, and provide documentation establishing the charges on the Vendor's invoice billing statement.

EXHIBIT B
PAYMENT SCHEDULE

Line	Description	UOM	Unit Price	Brand and Make, if applicable
1	HEAVY DUTY - Shop Hourly Rate, Monday - Friday, 7:00am- 4:00pm	HR	\$159.00	All Makes
2	HEAVY DUTY - Field Hourly Rate, Monday - Friday, 7:00am - 4:00pm	HR	\$159.00	All Makes
3	HEAVY DUTY- Field Hourly Labor Rate, After Hours (Friday from 4:01pm through Monday at 6:59am), Holidays, Weekends	HR	\$159.00	All Makes
4	HEAVY DUTY- Transportation Fee (Pick-up & Delivery Inclusive) If applicable, Round Trip	EA	\$0.00	This will be offered at no cost to the City.
9	Flat Travel Rate to: Brennan Body Shop, 2500 Brennan Street, Fort Worth, 76106	EA	\$159.00	All Makes; Flat Rate Travel Charge
16	Freight, Cost Plus Percentage Markup. Example: If your markup is 5%, $1000 \times .05 = 50$. Unit Cost would be \$0.05, Total Cost would be \$1050.00. Leaving this blank will be considered a \$0.00 mark up.	DO	\$0.10	Cost + 10% markup for freight
17	Subcontracting, Cost Plus Percentage Markup. Example: If your markup is 5%. Unit Cost is \$0.05, Total Cost is \$1050.00, Leaving this blank will be considered a \$0.00 mark up.	DO	\$0.15	Cost + 15% markup for subcontracting
18	Parts, List Less (-) Percentage Discount. Example: If you are offering a discount of 5%, $1000 \times .05 = 50$, Unit Cost would be \$0.95, Total Cost would be \$950.00. Leaving this blank will be considered a \$0.00 discount.	DO	\$0.80	List less 20% discount for parts
19	Flat Travel Rate to: James Ave Service Center, 5021 James Ave, Fort Worth, 76115	EA	\$159.00	Flat Rate Travel Charge
20	Flat Travel Rate to: Northside Service Center, 317 Hillshire Drive, Fort Worth, 76131	EA	\$159.00	Flat Rate Travel Charge
22	Flat Travel Rate to: Water Service Center, 2222 West Daggett Fort Worth, 76102	EA	\$159.00	Flat Rate Travel Charge

City of Fort Worth, Texas

Mayor and Council Communication

DATE: 11/19/24M&C FILE NUMBER: M&C 24-1016

LOG NAME: 13P RFP 24-0209 FLEET VEHICLE REPAIR SERVICES AND PARTS EC PMD

SUBJECT

(ALL) Authorize Execution of Non-Exclusive Agreements with Multiple Vendors for Fleet Vehicle Services and Parts for an Initial Three-Year Term in a Combined Amount Up to \$10,000,000.00 for Year One of the Initial Term, \$11,500,000.00 for Year Two of the Initial Term, and \$13,225,000.00 for Year Three of the Initial Term and Authorize One Two-Year Renewal Option in a Combined Amount Up to \$15,208,750.00 for Renewal Year One and \$17,490,062.50 for Renewal Year Two for the Property Management Department

RECOMMENDATION:

It is recommended that the City Council authorize execution of non-exclusive agreements with multiple vendors for fleet vehicle services and parts for an initial three-year term in a combined amount up to \$10,000,000.00 for year one of the initial term,\$11,500,000.00 for year two of the initial term, \$13,225,000.00 for year three of the initial term, and authorize one two-year renewal option in a combined amount up to \$15,208,750.00 for renewal year one and \$17,490,062.50 for renewal year two for the Property Management Department.

DISCUSSION:

The purpose of this M&C is to authorize the execution of non-exclusive agreements with multiple vendors for fleet vehicle services and parts for the Property Management Department. To procure these services, Purchasing staff issued Request for Proposal (RFP) No. 24-0209. The RFP consisted of detailed specifications needed to maintain all of the vehicles in the City's fleet inventory and all manner of equipment attached to the Fleet Division including, but not limited to, turf equipment, compressors, man-lifts, etc.

The Property Management Department, in anticipation of future needs, such as the transition of Emergency Medical Services (EMS) from MedStar to the City, has requested an annual increase of fifteen percent (15%). The maximum amount allowed under this agreement will be up to \$10,000,000.00 for year one of the initial term, up to \$11,500,000.00 for year two of the initial term, up to \$13,225,000.00 for year three of the initial term, up to \$15,208,750.00 for renewal year one, and up to \$17,490,062.50 for renewal year two for the Property Management Department.

The RFP was advertised in the Fort Worth Star-Telegram on May 22, 2024, May 29, 2024, June 5, 2024, and June 12, 2024. The City received twenty-one (21) responses.

An evaluation panel consisting of representatives from the Property Management Department, Transportation and Public Works Department, and Public Events Department reviewed and scored the submittals using Best Value criteria.

The individual scores were averaged for each of the criteria and the final scores are listed in the table below:

Proposer	Evaluation Factors						Total	Rank
	a	b	c	d	e	f		
Magneto & Diesel Injector Service, Inc. dba M&D Distributors, Inc.	22.00	2.67	3.00	17.50	0.00	30.00	75.17	1.00
Trailer Doctor, Inc. dba TDI Fleet Services	25.00	4.33	4.17	21.67	4.17	0.01	59.34	2.00
Texas Kenworth Company, LLC dba MHC Kenworth Fort Worth	25.00	4.17	4.17	21.67	4.17	0.08	59.24	3.00
Penske Commercial Vehicles US, LLC dba Premier Truck Group	24.00	4.17	4.00	20.83	4.17	0.08	57.25	4.00

Siddons-Martin Emergency Group, LLC	26.00	3.50	3.33	20.00	4.17	0.07	57.07	5.00
Southwest International Trucks, Inc.	25.00	4.17	3.83	20.00	3.17	0.04	56.21	6.00
Industrial Disposal Supply Company, LLC	24.00	3.33	3.50	20.83	3.67	0.04	55.38	7.00
Fort Worth Motors, LLC	23.00	4.17	3.83	20.83	3.33	0.12	55.29	8.00
Custom Truck One Source	23.00	4.00	3.83	20.00	3.50	0.03	54.36	9.00
Crafco, Inc.	24.00	3.17	3.17	18.33	4.00	0.19	52.86	10.00
Texan Waste Equipment, Inc.	24.00	3.50	3.33	19.17	0.50	0.03	50.53	11.00
Buck's Wheel and Equipment Company	24.00	4.00	3.50	16.67	1.83	0.10	50.10	12.00
Kirby-Smith Machinery, Inc.	21.00	4.00	3.83	17.50	3.50	0.03	49.86	13.00
Terex Utilities, Inc.	22.00	2.33	2.67	15.83	3.67	0.15	46.65	14.00
Fastlap, LLC dba Blagg Tire & Service, Inc.	20.00	3.50	3.50	16.67	1.33	0.07	45.07	15.00
Elite Material Handling, LLC	22.00	3.67	3.33	12.50	3.50	0.03	45.03	16.00
Advance Autoparts, LLC	17.00	3.83	3.17	15.83	3.67	0.05	43.55	17.00
Family Auto Repair, Inc.	18.00	2.50	3.83	15.00	2.00	0.20	41.53	18.00
Texas Underground, Inc.	21.00	2.50	2.83	13.33	0.50	0.09	40.25	19.00
Kinloch Equipment & Supply, Inc.	18.00	2.50	2.67	15.83	0.00	0.03	39.03	20.00
Caliber Bodyworks of Texas, LLC dba Caliber Collision	16.00	3.67	3.33	13.33	1.50	0.48	38.31	21.00

Evaluation Criteria:

- a) Qualifications and Experience
- b) Resources (Personnel)
- c) Resources (Equipment & Facilities)
- d) Ability to Meet the Needs of the City
- e) Sample Invoice & Documentation
- f) Cost

After evaluation, the panel concluded that an award to all Proposers presented the best value to the City to ensure capacity and coverage for the various manufacturers needed, including specialized equipment for which limited vendors are available in the market. Therefore, the panel recommends that the City Council authorize non-exclusive agreements with Magneto & Diesel Injector Service, Inc. (M&D Distributors, Inc.), Trailer Doctor Inc. (TDI Fleet Services), Texas Kenworth Company, LLC (MHC Kenworth Fort Worth), Penske Commercial Vehicles US, LLC (Premier Truck Group), Siddons Martin Emergency Group, LLC, Southwest International Trucks, Inc., Industrial Disposal Supply Company, LLC, Fort Worth Motors, LLC, Custom Truck One Source, Crafcro, Inc., Texan Waste Equipment, Inc., Buck's Wheel and Equipment Company., Kirby-Smith Machinery, Inc., Terex Utilities, Inc., Fastlap, LLC dba Blagg Tire & Service, Inc., Elite Material Handling, LLC, Advance Autoparts, Inc., Family Auto Repair, Inc., Texas Underground, Inc., Kinloch Equipment & Supply, Inc., Caliber Bodyworks of Texas, LLC (Caliber Collision). No guarantee was made that a specific amount of services would be purchased. Staff certifies that the recommended vendors' bids met specifications.

FUNDING: The maximum amount allowed under this agreement will be up to \$10,000,000.00 for year one of the initial term, up to \$11,500,000.00 for year two of the initial term, up to \$13,225,000.00 for year three of the initial term, up to \$15,208,750.00 for renewal year one, and up to \$17,490,062.50 for renewal year two; however, the actual amount used will be based on the need of the department and available budget. Funding is budgeted in the Fleet Svc Outside Rep & Maint account within the Fleet & Equipment Serv Fund for the Property Management Department.

DVIN-BE: This solicitation was reviewed by The Business Equity Division for available business equity prospects according to the City's Business Equity Ordinance. There were limited business equity opportunities available for the services/goods requested, therefore, no business equity goal was established.

ADMINISTRATIVE CHANGE ORDER: An administrative change order or increase may be made by the City Manager up to the amount allowed by relevant law and the Fort Worth City Code and does not require specific City Council approval as long as sufficient funds have been appropriated.

AGREEMENT TERMS: Upon City Council approval the non-exclusive agreements will begin upon execution and shall expire three years from that date.

RENEWAL TERMS: The non-exclusive agreements may be renewed for up to one two-year renewal option.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that upon approval of the recommendation, funds are available in the current operating budget, as previously appropriated, in the Fleet & Equipment Serv Fund. Prior to an expenditure being incurred, the Property Management Department has the responsibility to validate the availability of funds.

<u>Submitted for City Manager's Office by:</u>	Reginald Zeno	8517
	Dana Burghdoff	8018
<u>Originating Business Unit Head:</u>	Reginald Zeno	8517
	Marilyn Marvin	7708
<u>Additional Information Contact:</u>	Jo Ann Gunn	8525
	Eugene Chandler	2025