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**MEMO**      **APPROVED**  
8/15/2022



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DATE: August 9, 2022  
FROM: Matney M. Ellis  
Procurement Director  
TO: Board of County Commissioners  
SUBJECT: Agreement – Schneider Electric

A handwritten signature in black ink, appearing to read "Matney M. Ellis", with a long horizontal flourish extending to the right.

Submitted for your approval and execution is the attached agreement between the Board of County Commissioners of Tulsa County on behalf of the Tulsa County Building Operations and Schneider Electric for Resource Advisor Services through June 30, 2023 for a yearly fee of \$792.95 as well as maintenance and support of existing systems through June 30, 2023 for a yearly fee of \$17,075.64 as further described in the attached.

Respectfully submitted for your approval and execution.

MME / jdf

SUBMITTED FOR: The August 15, 2022 BOCC meeting agenda.

CMF# 20221604



**DATE: 8/02/2022**

**To:** Tulsa County Board of County Commissioners

**From:** Schneider Electric

**Phone:** 918-596-5500

**Phone:** 580-341-8626

**Fax:** NA

**Fax:** 918-747-7058

**Project:** TULSA COUNTY COURTHOUSE/ADMINISTRATION BUILDING

**Location:** TULSA, OKLAHOMA

**Term:** JULY 1<sup>ST</sup>, 2022 THROUGH JUNE 2023

Building Name	Utility Type	USP	Account Number
Courthouse/Administration Building	Electric	AEP	952-979-472-0-2
Courthouse/Administration Building	Chilled Water	Veolia	2074124096
Courthouse/Administration Building	Steam	Veolia	2074124096

**This proposal includes the following for the accounts listed in the above table:**

- Billing Services
  - SE will enter billing determinants and other pertinent components of the bill into Resource Advisor
  - SE will notify the Client of any erroneous bills
- Sustainability Services Access
  - Provides Client access to its sustainability information stored within Resource Advisor
  - Provides Client fundamental carbon reporting with CarbonAlpha
  - Provides Clients a footprint assessment of the organization's carbon footprint and emission profile
  - Provides Client an emission breakdown by source, scope, and pollutant
  - Provides Client facilities or objectives inventories with access to emission factors library
  - Provides Client emission protocols for use in third-party verification and reporting
- Projects and Scenarios Module
  - Enables Client to input cost, payback, ROI, and timetables for each project entered into the system
  - Enables Client to create custom projects and abatement strategies, track key metrics, then filter and prioritize as necessary

- Enables Client to warehouse supporting documents and review activities by project
- Enables Client to conduct, name, and save “what if” project scenario analysis by projecting the cumulative impact of completed projects over a defined period of time
- Business Analytics Module
  - Enables Client to view business intelligence from enterprise to site levels on an absolute or relative/indexed basis. Customized visuals can be grouped, named, saved, and added to each user’s customized dashboard as a widget for reference upon login.
  - Enables Client to create custom charts and report business data for services and metrics tracked within Resource Advisor.
  - Enables Client to compare resource and business data by the site in graphic and tabular view formats
  - Enables Client to input and “drag-and-drop” custom data series to charts to show progress toward targets and benchmarks.

**Client Responsibilities**

The client will provide the necessary information to allow Schneider Electric to retrieve monthly energy data. If available, the Client will provide Schneider Electric online access to invoices via utility websites. If online access is not available, the Client will submit invoices to [invoices@summitenergy.com](mailto:invoices@summitenergy.com) on a monthly basis.

**Service Pricing**

The price for Resource Advisor services will be:

Total Annual Charges	\$792.95
Historical Data Upload (year 1 only)	\$0
Total Project Price	<b>\$792.95</b>

**Additional Terms**

If the Client chooses not to renew their Resource Advisor agreement at the end of Year 1, Schneider Electric reserves the right to deactivate the Client’s Resource Advisor account.

**Notes / Comments:**

1. This quote is valid for 60 days and supersedes any previous quote. Please call if we need to discuss any scope or coordination issues.
2. Terms are lump sum Net 30 days from date of invoice.

If you have questions or require clarification, please contact me.




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Russell Young – Schneider Electric  
Performance Assurance Manager

Written acceptance below or providing us your purchase order is required to proceed with preparation of submittals, subject to credit approval by our corporate office. Your signature below indicates your acceptance of the provisions of this proposal, the Terms and Conditions of Sale (consisting of 2 pages) attached, and authorization to proceed.

Accepted by, Company Name



Signature

Print

Name: Karen Keith

Title: Chairperson

Date: 8/15/2022

APPROVED AS TO FORM:

**Nicholas  
Williams**

Digitally signed by  
Nicholas Williams  
Date: 2022.08.03  
15:33:30 -05'00'

ASSISTANT DISTRICT ATTORNEY

Attest: \_\_\_\_\_



## TERMS AND CONDITIONS OF SALE

This quotation and any exhibits and attachments hereto (collectively, "Agreement") and any information contained herein, is the property of Schneider Electric Buildings Americas Inc. ("Seller") and shall constitute proprietary and confidential information unless given to a public entity and required by law to be public information. The party to whom this quotation is addressed ("Buyer") acknowledges the confidential nature of this Agreement and agrees to take all commercially reasonable and necessary precautions to ensure the confidential treatment of this Agreement and all information contained herein. The parties agree to be bound by the following terms and conditions.

- 1. Quotations and Acceptance.** The quotation is based solely on project drawings, specifications, and/or instructions of the Buyer only modified by written agreement or Seller objection. Significant deviations between the actual conditions and circumstances of the work and those specified in the bid documents shall be cause for an adjustment in work scope, price, and time allowed for performance. Written quotations shall be valid for no more than thirty (30) days from the date of issue unless specifically stated otherwise herein.
- 2. Payment.** Absent a contrary provision herein, Buyer will pay Seller monthly progress payments on a net thirty (30) days basis from the date of invoice for materials delivered (or stored at an off-site storage facility) and services performed, less any retained reserve which will be mutually agreed upon in writing by the parties. The aggregate amount of any such retained reserves shall be paid by Buyer to Seller within thirty (30) days after the date of substantial completion. If Buyer does not pay Seller, through no fault of Seller, within seven (7) days from the time payment was due, Seller may, without prejudice to any other remedy it may have, upon seven (7) additional days' written notice to Buyer, stop its work until payment of the amount owing has been received and the contract sum shall be equitably adjusted for reasonable costs of shutdown, delay and startup or in the alternative Seller may terminate this contract for material breach and all monies due Seller for services performed and materials delivered shall be paid upon demand. To the extent payments are received and as required by law, and upon Buyer's request, Seller will furnish mechanics lien waivers as the work progresses.  
Seller reserves a security interest in any goods sold to the extent of the invoiced amount to secure payment of Buyer's obligation. In event of payment default, Seller may repossess such goods and a copy of the invoice may be filed with appropriate authorities as a financing statement to event or perfect Seller's security interest in the goods. At Seller's request, Buyer will execute any necessary instrument to perfect Seller's security interest.
- 3. Price and Taxes** If applicable, Buyer shall provide Seller a copy of any appropriate tax exemption certificate for the state(s) into which the goods are to be shipped.
- 4. Changes and Claims.** All materials and labor furnished hereunder shall be in accordance with shop drawings submitted by Seller and approved by Buyer. Any changes in the work as set forth in approved shop drawings, or from the scope of work as described herein, will require a written change order submitted to Seller by Buyer. An equitable adjustment will be made in the contract price or delivery dates or both, and this Agreement will be modified accordingly in writing. The cost or credit to Buyer for performance of such change order shall be determined by mutual written agreement prior to the commencement of any work under such change order. Buyer shall notify Seller promptly in writing of any circumstances arising from the performance of the work herein described, which reasonably may be anticipated to result in a claim or back charge to Seller. Upon Seller's receipt of such notification, Seller shall have five (5) working days in which to remedy such circumstances and to avoid the imposition of such claim or back charge. Seller will not be liable for any claim or back charge where Seller has not been notified in the manner as set forth above.
- 5. Access and Overtime.** This Agreement is based upon the use of straight time labor only during regular working hours (8:00 a.m. to 5:00 p.m., Monday through Friday, excluding Seller's holidays). If Buyer Requests Seller to perform any work outside of regular working hours, overtime and other additional expense occasioned thereby will be charged to and paid by Buyer. If Seller's work is to be performed on the project site, Buyer will afford unrestricted access to Seller and its employees and agents to all work areas.
- 6. Damage or Loss to Equipment.** In the case of equipment not to be installed by or under supervision of Seller, Seller shall not be liable for damage to or loss of equipment after delivery of such equipment to the point of shipment. In the case of equipment to be installed by or under supervision of Seller, Seller shall not be liable for damage or loss after delivery by the carrier to the site of installation; if thereafter, pending installation or completion of installation or full performance by Seller, any such equipment is damaged or destroyed by any cause whatsoever, other than by the fault of Seller, Buyer agrees to promptly pay or reimburse Seller an amount equal to the damage or loss which Seller incurs as a result thereof, in addition to or apart from, any and all other sums due or to become due hereunder.
- 7. Delays.** Buyer shall prepare all work areas so as to be acceptable for Seller's work required hereunder. Buyer acknowledges that the contract sum is based upon Seller being able to perform the work in an orderly and sequential manner, as Seller so determines. If Seller's performance is delayed, interfered with, suspended, or otherwise interrupted, in whole or in part, by Buyer, other contractors on the project site, or by any other third party or by any act within the power and/or duty of Buyer to control, then Buyer agrees that it will be liable to Seller for all increased costs and damages which Seller incurs as a result thereof. Furthermore, if Seller is delayed at any time in the progress of the work by any act or neglect of Buyer, or by any separate contractor employed by Buyer, or by changes ordered in the work or by labor disputes, fire, delay in transportation, adverse weather conditions, casualties, or any other causes beyond Seller's control, then the time for completion of the work shall be extended for a period equal to the time lost by reason of such delay.
- 8. Warranty.** Seller warrants to Buyer that all tangible articles manufactured by Seller will be free of defects in workmanship and material and that the work performed will be of good quality and will conform to the requirements of the bid documents. If the article is installed by Seller, Seller's sole obligation under this warranty shall be to provide, without charge, parts and labor necessary to remedy defects which appear within twelve (12) months from the date of beneficial use or occupancy, as applicable. If Seller provides a Certificate of Substantial Completion, such certificate shall conclusively establish such date. If article is not installed by Seller, the warranty period shall be within twelve (12) months of shipment of said article. Warranty claim must be made to Seller in writing within such twelve (12) month period. All transportation charges incurred

in connection with the warranty for equipment not installed by Seller shall be borne by Buyer. Seller warrants that for equipment furnished and or installed, but not manufactured by Seller, Seller will extend the same warranty terms and conditions which Seller receives from the manufacturer of said equipment.

This warranty is the sole and exclusive warranty given with respect to any articles delivered or services performed by Seller. THE WARRANTIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED (EXCEPT WARRANTIES OF TITLE), INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. This warranty is subject to proper installation of the articles (if installation is not performed by Seller or authorized subcontractors of the Seller) and maintenance and storage of the articles in accordance with the specifications and directions supplied by Seller. This warranty does not apply to any defect, malfunction or failure caused by repairs made by other than or without the consent of Seller or the article has been subject to abuse, misuse, neglect, tampering, accident or damage by circumstances beyond Seller's control, including without limitation, acts of God, war, acts of government, corrosion, power fluctuations, freeze-ups, labor disputes, differences with workmen, riots, explosions, vandalism, or malicious mischief, nor to defective associated equipment or use of the articles with equipment for which they were not sold. All of Seller's obligations under this warranty will immediately terminate and be of no further force or effect if all or any part of the purchase price (including any installment payment) with respect to any article covered by this warranty is not paid to Seller when due. If cause of defect is found not to be Seller's responsibility, standard rates for repair or replacement and labor shall apply.

9. **Limitation of Liability.** In no event will Seller's total aggregate liability in warranty or contract exceed the contract price paid for the specific product or service that gives rise to the claim excluding third party claims for personal injury, death or property damage or as may be required by law. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF GOODWILL, BUSINESS INTERRUPTION OR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
10. **Laws and Permits.** Seller shall comply with all applicable federal, state, and local laws and regulation and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Buyer. This contract shall be interpreted and governed under and in accordance with the laws of the jurisdiction in which the goods are delivered or services are performed without regard to its choice of law provisions.
11. **Disputes.** Any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be settled by good faith consultation and negotiation.
12. **Insurance.** Unless self-insured, parties shall each maintain insurance coverage including without limitation, Workers' Compensation and Employer's Liability at statutory limits, Automobile Liability covering all owned, hired and other non-owned vehicles, and Commercial General Liability covering public liability and property damage with limits generally required for its respective industry with not less than \$1,000,000 minimum coverage per occurrence. Such insurance shall be with reputable and financially responsible carriers authorized to transact business in the state in which the project and services are being performed. No credit will be given or premium paid by Seller for insurance afforded by others.
13. **Clean Up.** Seller agrees to keep the job site clean of debris arising out of its operations. Buyer shall not back charge Seller for any costs or expenses for clean up or otherwise without prior written notice and Seller's written consent.
14. **Severability.** The invalidity or unenforceability of any provision herein shall in no way affect the validity or enforceability of any other provision.



## SCHNEIDER ELECTRIC SERVICE CONTRACT AGREEMENT

Dear Tulsa County:

This Service Contract outlines the services to be provided by Schneider Electric to Tulsa County and will go into effect July 1<sup>st</sup>, 2022 through June 2023.

### **125 Hours of Remote Energy Management, Training & Technical Support**

Schneider Electric will provide 125 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training, or technical support. All Remote Support is client-initiated, and it is the expectation of Schneider Electric that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the Schneider Electric representative documents as used for that task. No credit will be given towards future years if all of the 125 hours are not used by the end of the project year. If all of the hours are exhausted before the end of the year, additional hours can be purchased in 10-hour blocks that will remain available for use until the end of the next project year.

### **16 Hours On-Site**

Schneider Electric will provide 16 hours of onsite energy management support. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Each site visit will vary depending upon the needs of that particular visit. The customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by the Customer. Site visits must be requested 14 days or more before the requested date. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit.

### **Remote Communication Capability**

For Schneider Electric to provide the best service possible, the ability to remotely connect to Tulsa County's Building Automation System must be maintained. Schneider Electric will provide assistance and troubleshooting for resolving any system issues, but it is the responsibility of Tulsa County to also provide support for remote access to Schneider Electric.

Tulsa County maintenance personnel will have access to a dedicated team of engineers and service technicians during normal business hours (M-F 8 a.m. to 5 p.m. Central Time, excluding holidays). In addition to the support provided by this engineering team, you will also have access to the PASS Line, a toll-free remote phone support line. This support handles after-hours/holiday emergency calls.

**Special Service Pricing**

Tulsa County will receive reduced rate pricing for on-site service. On-site service beyond any included on-site support will be billed at an hourly rate discounted 15% based on the standard Schneider Electric Energy Solutions hourly service rate. Additionally, Tulsa County will receive a discounted mileage rate and preferential parts pricing available only to Schneider Electric – Energy Solutions contract holders. Note – This applies to service and support provided by Schneider Electric – Energy Solutions, other branches/contractors may not honor this Special Service Pricing.

**The total amount for the 2022 annual service agreement is \$17,075.64.**

This offer for a Service Agreement is valid for a period not to exceed 90 days. Acceptance of this offer does not automatically cancel any existing contracts between Tulsa County and Schneider Electric. Either Tulsa County or Schneider Electric can cancel this contract at any time before the renewal or within 30 days after the renewal date. This agreement may renew annually by mutual acceptance.

For our records, please sign in the space provided and return to Schneider Electric via email (russell.young@schneider-electric.com), fax (918-747-7058), or mail (Schneider Electric, Attn. Russell Young, 2021 S. Lewis Ave. Suite 560, Tulsa, OK 74104). This will indicate your acceptance of this proposal and the terms contained herein. If you have any questions, please do not hesitate to contact Russell Young at (580) 341-8626.

  
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Tulsa County Board of County Commissioners

Attest:  

APPROVED AS TO FORM:  
**Nicholas Williams** Digitally signed by  
Nicholas Williams  
Date: 2022.08.03  
15:33:47 -05'00'  
ASSISTANT DISTRICT ATTORNEY

  
\_\_\_\_\_

Russell Young – Performance Assurance Manager  
Schneider Electric Sustainability Business



## TERMS AND CONDITIONS

- A. The following Terms and Conditions apply to repair and service work (the "Work") performed by Schneider Electric Buildings Americas Inc. ("Company"). Authorization for the Work and acceptance of these Terms and Conditions is provided by the Customer's signature in the signature block of the service ticket. Any Work performed under this proposal shall be governed by the Terms and Conditions contained herein.
- B. The warranty provided herein is conditioned upon the Customer operating and maintaining systems / equipment according to industry-accepted practices and in consideration of the Company's recommendation. The Company's sole obligation shall be to repair or replace defective parts or properly re-do defective services on Company-provided items only.
- C. The Company provides a labor warranty for a period of ninety (90) days from the completion of the Work performed to remedy failures or defects in the workmanship provided. If any replacement part or equipment item installed by the Company proves defective, the Company will honor the warranty provided by the manufacturer. In the event that the Company is called for a warranty service call by the Customer, and the Customer's equipment is found to be operating normally, or if the Company does not discover a defect in material or workmanship, the Customer shall pay the Company's standard fees for any services rendered. The remedies provided herein are the Customer's sole remedies for any failure of the Company to comply with its obligations. Correction of any nonconformity in the manner and for the period of time provided above shall constitute complete fulfillment of all liabilities of the Company whether the claims of Customer are based in contract, in tort (including negligence) or otherwise with respect to or arising out of the work performed hereunder. IN NO EVENT SHALL THE COMPANY, BY REASON OF THIS WARRANTY OR OTHERWISE, BE LIABLE FOR EITHER INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES.
- D. D. This warranty does not include services occasioned by improper operation, negligence, or damage by fire, water or electrical disturbances, or repairs to equipment not performed by the Company. Also excluded is the furnishing of materials and supplies for painting or refurbishing equipment, unless specified in this proposal.
- E. E. ANY WARRANTIES PROVIDED FOR HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE).
- F. F. The Customer will provide and permit reasonable access to all equipment. The Company will be permitted use of existing facilities and building services as needed. The Customer will supply appropriate personnel to start and stop equipment as necessary, unless otherwise instructed by the customer.
- G. G. The Company shall not be liable for any loss, delay, injury or damage that may be caused by circumstances beyond its control including, but not restricted to, acts of God, war, civil commotion, acts of government, fire, theft, corrosion, floods, lightning, power fluctuations, alterations, modifications, abuse or misuse, vandalism, freeze-ups, strikes, lockouts, labor disputes, differences between workmen, riots, explosions, quarantine restriction, delays in transportation, shortage of vehicles, fuel, labor or materials, unavailability of parts or malicious mischief.
- H. H. Notwithstanding any other provisions to the contrary, the maximum liability of the Company to the Customer for any claim, loss, damage or injury for which the Company may be liable pursuant to these terms and conditions or the Work performed by the Company shall be limited to the total price to be paid by the Customer to the Company for the Work.
- I. I. Intentionally left blank
- J. J. The Company is not responsible for the identification, removal or disposal of any hazardous materials or any cost associated with those materials unless otherwise specified in this proposal. The Company's scope of work shall not include the identification, detection, abatement, encapsulation or removal of asbestos or products or materials containing asbestos or hazardous substances. In the event the Company encounters such material in performing the Work, the Company will have the right to discontinue work and remove its employees until the hazard is corrected by Customer or it is determined no hazard exists.
- K. K. The Clean Air Act, section 608 of 1992, states that the intentional venting of Class I CFC's and Class II HCFC's will be illegal as of July 1, 1992. Failing to abide by this law could result in up to \$25,000 in fines plus two (2) years in jail. Adding refrigerant to a system with a known leak could be in violation of the federal Clean Air Act. The Company and its employees will not add refrigerant to a leaking system without proper repairs.
- L. L. If a dispute arises, the parties shall promptly attempt in good faith to resolve the dispute by negotiation. If legal action is pursued by either party, the prevailing party shall recover all costs, including attorney's fees, incurred as a result of the dispute.
- M. M. Neither the Company nor the Customer will be responsible to the other for any special, indirect, or consequential damages. Neither party will be responsible to the other for damage, loss, injury, or delay caused by conditions that are beyond reasonable control as per paragraph G, if this scope of Work covers fire safety or security equipment, the customer understands that the Company is not an insurer regarding those services. The Company shall not be responsible for any damage or loss that may result from fire safety or security equipment that fails to perform properly or fails to prevent a casualty loss.

- N. N. If any equipment to be furnished by the Company under shall become temporarily or permanently unavailable for reasons beyond the control and without the fault of the Company, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent, thereof.
- O. O. The Customer agrees to pay for all services, materials or parts supplied at current rates unless specified otherwise. Payment is due upon receipt of invoice.
  
- P. P. No change or modifications of any of the Terms and Conditions stated herein shall be binding upon the Company unless specifically accepted by the Company in writing.