

**RESOLUTION NO. 23-73**

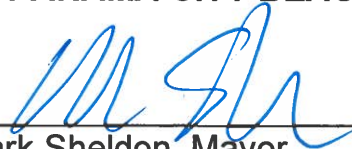
**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH DAIKIN APPLIED AMERICAS, INC. FOR THE REPLACEMENT OF ONE 20 TON OAU UNIT AT THE AQUATIC CENTER IN THE AMOUNT OF \$173,399.51.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain Agreement between the City and Daikin Applied Americas, Inc., relating to the replacement of one 20 ton OAU unit at the Aquatic Center, in the amount of One Hundred Seventy-Three Thousand, Three Hundred Ninety-Nine Dollars and Fifty-One Cents (\$173,399.51), in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in special session this 8<sup>th</sup> day of December, 2022.

**CITY OF PANAMA CITY BEACH**

By:  \_\_\_\_\_  
Mark Sheldon, Mayor

**ATTEST:**

 \_\_\_\_\_  
Lynne Fasone, City Clerk

# DAIKIN, OMNIA PUBLIC PROJECT QUOTE



**OMNIA**<sup>®</sup>  
P A R T N E R S

## City of PCB - Aquatic Center 20 Ton OAU Replacement - TK

16200 Panama City Beach Parkway  
Panama City Beach, FL 32413

**Certified Proposal #:** R200401-FL- 317869  
**OMNIA Membership ID:** 5325381  
**Quote #:** Q-00125

### Prepared for:

Cheryl Joyner  
Director - Parks and Recreation  
CITY OF PANAMA CITY BEACH  
Quote Document Date: 11/14/22

### Prepared by:

Anthony 'Spence' Corrao  
SSR  
**Phone:** (850)-420-8592 **Mobile:**  
**E-mail:** spence.corrao@daikinapplied.com

## Scope of Services

Daikin Applied Americas, Inc. is pleased to offer the following Quote for your consideration. Thank you for selecting Daikin Applied Service Group to care for your building's system. Our service personnel have the knowledge and experience to deliver the best support available. Daikin is pleased to offer this Quote for your consideration.

Daikin Applied will provide the turnkey equipment replacement as described in the scope of work below.

### City of PCB - Aquatic Center OAU Replacement

- Lock out and tag out electrical to existing condensing unit and air handler.
- Demo and remove existing electrical to condensing unit and air handler.
- Disconnect and save existing controls to be reinstalled on new unit.
- Disconnect and demo existing supply and return duct on air handler.
- Recover remaining refrigerant charge and dispose of per the epa regulations.
- Demo and remove existing air handler and condensing unit and dispose of.
- Provide and install (1) new 20-ton ADDISON 100% outside air split system with the following options listed below.
  - 460/3 phase voltage (indoor and outdoor).
  - Electric heat (50 KW) SCR controllers.
  - Modulating gas reheat.
  - ALC controller and unit mounted controls.
  - Plenum supply fan with ECM motor.
  - Coated evaporator and condenser coils.
  - Horizontal AHU.
  - 2" filter rack.
  - R410A refrigerant.
  - Dual circuit condenser.
  - Variable speed inverter compressor (lead circuit).
  - Suction and discharge isolation valves.
  - Zone temp and humidity sensor.
- Rigging to remove existing unit and install new to be provided by Daikin Applied.
- Provide and install new insulated supply and return duct.
- Provide and install new insulated refrigerant piping.
- Piping to be pressure tested, evacuated, and charged by Daikin Applied.
- Provide and install new electrical conduit and wire to air handler and condenser.
- Mount and install new ALC controller, run wiring for zone temp and humidity sensor and terminate at ALC controller.
- Commission and perform startup for new unit.
- Reconnect existing controls, integration of existing ASI controls not included.
- Necessary mechanical permits to be provided by Daikin Applied.

### Exclusions

- Test and balance.
- Controls integration other than stated.
- Anything not listed in the scope of work above.

Each of our sub-contractors will be maintaining a consistent project manager who will be represented when appropriate during our project time frame.

Staff and resource planning will be maintained throughout the project through our project communications efforts.

## Quote Clarifications, Exclusions, and Exceptions:

### *Clarifications:*

1. This Quote takes precedence over any other written, verbal, or other statements of scope, schedule, and pricing.
2. Acceptance of a Notice to Proceed is not an acceptance of terms and conditions. Any Notice to Proceed will be based upon the terms and conditions contained in this Quote.
3. All working hours are estimated at regular or straight time rates. Accelerated or expedited project execution schedules and associated costs are subject to additional quotation.
4. Daikin Applied is not responsible for any delays or cost as a result of delays incurred due to limited or no access to roads, buildings or equipment required to complete the scope of work provided for in this Quote.
5. Sales taxes are not included within our pricing.
6. Costs associated with Owner directed programs or software required to fulfill project reporting, execution, safety management, and or Owner or Owner's Representative invoicing are not covered and will be invoiced in addition to the agreed Quote price.
7. Signage will not be provided or installed by Daikin Applied.
8. Staffing of onsite Safety or Security personnel during project execution or after working hours will not be provided and Daikin Applied understands this is the responsibility of the Owner or Owner's Representative.
9. Site drainage, pollution prevention plan and execution, temporary bathrooms, emergency eye-wash stations, barricades, ramps, splash-blocks, fire protection plans and systems required during construction, flagman, access controls features, trash repositories and pick services are not included. Daikin Applied understands the Owner or Owners Representative is responsible for these measures.
10. Daikin Applied understands temporary HVAC, temporary power, work site lighting, and temporary water required to perform the scope of work provided is the Owner or Owner's Representative responsibility.
11. Daikin Applied will only provide supervision for itself and its sub-contractors when we or they are on site.
12. Daikin Applied Material or Labor warranty is excluded on Owner or Owner's Representative provided equipment.

### *Exclusions:*

1. Any labor, materials, or subcontracted service not specifically provided for in the description or scope of work.
2. Identification and remediation of existing code violations.
3. Authority Having Jurisdiction required changes are not included and will be quoted as additional work scope.
4. Painting, repair work to buildings, and/or equipment which is not specifically identified in the description or scope of work.
5. Costs associated with hazardous materials identification, removal, and/or abatement.
6. Temporary or portable HVAC equipment and connections to existing systems.
7. The creation of new Building Automation Systems graphics, monitoring, trending, analysis or any other software or labor required for implementation of these items.
8. Testing and balancing.
9. Commissioning plan development and execution.
10. Sound testing or acoustical treatments for any elements inside or external to the work site or equipment.
11. Seismic analysis and certification for all materials and equipment.
12. Permits, insurance coverages other than indicated in the attached Evidence of Insurance, and performance and payment bonds.
13. Professional services including Architectural, Mechanical, Electrical, Structural and other Engineering Disciplines.
14. Fire, Smoke and/or Security controls, equipment, repair, graphics, programming, replacement or upgrades.

## OMNIA Pricing and Payments

Feel free to contact me if you have any questions or concerns regarding the information contained in this Project Quote. If you would like us to proceed with the solution presented above, sign the acceptance line below (including PO# if applicable) and return a copy so that we can begin to mobilize our efforts to complete services as quickly as possible. We appreciate the opportunity to provide you with this solution and look forward to working with you on this and servicing your needs in the future.

### Investment Amount and Billing Terms:

Investment required to implement the proposed solution

\$173,399.51 (One Hundred Seventy Three Thousand, Three Hundred Ninety Nine dollars and Fifty One cents)

*\*Price does not include applicable sales tax*

Quote, inclusive of the pricing, is provided in accordance with Region 4 ESC Contract # R200401, available via OMNIA Partners, including the terms and conditions contained therein (<https://public.omniapartners.com/suppliers/daikin-applied/contract-documentation#c38611>) shall govern this Quote and the corresponding scope of work as described herein which are hereby incorporated by this reference. Pricing and acceptance are subject to Daikin Applied's final credit approval.

**Billing/Payment Terms\*:** Billed in full upon completion

\*All billings are due immediately upon Receipt

This Quote will be honored by Daikin Applied for 30 days from the date on the front of the Quote. After 30 days, Daikin Applied reserves the right to evaluate cost changes (both increases and decreases) from the Quote.

## Contractor Agreement

This **CONTRACTOR AGREEMENT** ("**Agreement**"), effective as of \_\_\_\_\_ ("**Effective Date**"), is made and entered into by and between CITY OF PANAMA CITY BEACH (hereinafter "**Owner**") and Daikin Applied (hereinafter "**Contractor**").

WHEREAS, Contractor is in the business of providing equipment, labor and/or material, which may involve subcontracting a third party ("Subcontractors") to provide labor and material, to perform the scope of work described in **the Quote** No. Q-00125 Dated: 11/14/22 hereto ("**Work**"), and,

WHEREAS, Contractor has offered to perform the Work for Owner with respect to the property located at 16200 Panama City Beach Parkway Panama City Beach, FL 32413 (hereinafter "**Property**");

WHEREAS, Owner desires to retain Contractor to perform the Work;

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements of the parties, it is agreed as follows:

1. **Work. Subject to credit approval**, Contractor agrees to furnish all labor, materials, tools, equipment, and samples necessary to complete the Work. Contractor acknowledges that in providing such Work, it shall at all times comply with all laws and regulations affecting, Contractor. Owner agrees that Contractor may retain one or more subcontractors ("**Subcontractors**") to perform the Work through a Subcontract Agreement.
2. **Term of Agreement**. Contractor will commence Work on the commencement date ("**Commencement Date**"). Owner will notify Contractor of the Commencement Date in writing by issuing a Notice to Proceed. The Notice to Proceed shall be issued at least fourteen (14) days before the Commencement Date. Upon substantially completing the Work, Contractor shall present a Certificate of Substantial Completion to Owner.
3. **Contract Price**. For full performance of the Work in conformance with this Agreement, Owner shall pay the Contractor the fixed sum specified in **the Quote** hereto ("**Contract Price**"), subject to adjustment per mutual agreement of the parties should the scope of Work change. The Contract Price does not include sales tax.
4. **Relationship of Parties**. Contractor is retained by Owner only for the purpose and to the extent set forth in this Contractor Agreement. Contractor's relationship with Owner shall, during the entire term of this Contractor Agreement, be that of an independent contractor. Contractor, and any employee, agent, servant, officer, director or shareholder of Contractor, shall not be deemed an agent, servant, or employee of Owner.
5. **Compliance with Laws**. Contractor and Owner agree that parties shall comply with all federal, state, and local laws and regulations applicable to its activities under this agreement, including without limitation to the hiring, safety, and taxation of its employees, as well as obtaining and maintenance of any applicable licenses and/or permits as required by all laws and regulations applicable to its activities under this Agreement.
6. **Insurance**. At all times while performing the Work, Contractor shall maintain, at its sole cost and expense, insurance as customary within the industry. If requested Contractor will present a copy of their certificate of insurance.
7. **Indemnification**. It is the parties' obligation to defend and indemnify upon prompt receipt of written notice to defend, indemnify, and hold harmless each other's officers, directors, employees, and agents, from and against those damages, liabilities, claims, and causes of action, for property damage, personal injury or death (including without limitation injury to or death of employees or any subcontractor thereof) (jointly referred to as "Claims"), directly caused by Contractor's negligence, gross negligence, or willful misconduct of the indemnifying party during the performance of the Work.
8. **Default**.
  1. A default occurs under the terms of this Agreement if: (a) Contractor substantially fails to perform any of its material obligations under this Agreement; (b) if Owner becomes insolvent, and/or; (c) if Owner fails to tender payment to Contractor under this Agreement for thirty (30) days after the date such payment is due (together "Event of Default").
  2. Upon the occurrence of an Event of Default, the non-breaching party shall provide written notice to the breaching party ("Notice of Default"). Upon receipt of the Notice of Default, the breaching party shall immediately correct the default. If the breaching party fails to correct the default for thirty (30) days after receipt of the Notice of Default, or fails to provide evidence that appropriate corrective action is in reasonable process, the non-breaching party may terminate this Agreement upon written notice ("Notice of Termination"). The parties shall have any legal remedies at their disposition, as allowed by local law.
9. **Termination**. Absent an uncured Event of Default, this Agreement may only be terminated only by the consent of the parties.

1. The termination shall be evidenced by: (a) execution of a single writing; (b) signed by Contractor and Owner; (c) that specifically identifies this Agreement, and (d) states that Owner and Contractor terminate this Agreement as of a specified date ("Termination Agreement").
  2. Prior to execution of the Termination Agreement, Contractor shall present Owner with an Application for Payment for actual Work rendered under this Agreement as of the date the parties intend to execute the Termination Agreement, and Owner shall pay Contractor the amount requested in the Application Payment contemporaneously with the parties execution of the Termination Agreement.
10. **LIMITATION OF LIABILITY: NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, DELAY, LIQUIDATED, SPECIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, REVENUE, PROFITS, GOODWILL, OR OTHER BUSINESS INTERRUPTION DAMAGES, THAT ARISE OUT OF OR RELATED IN ANY WAY TO THEIR PERFORMANCE OR LACK OF PERFORMANCE UNDER THIS AGREEMENT, WHETHER BASED ON STATUTE, TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CLAIM OR THEORY OF RECOVERY OR LIABILITY WHATSOEVER, REGARDLESS OF WHETHER THESE DAMAGES COULD HAVE BEEN FORESEEN OR NOT.**
11. **Warranty.** All equipment furnished hereunder is provided with the manufacturer's warranty as the exclusive warranty for such equipment. Contractor provides such warranty as a pass-through to Owner. The manufacturer's warranty for equipment manufactured by Daikin Applied and Daikin North America are attached hereto and incorporated herein by this reference. The Contractor agrees to perform Work in a manner which is in accordance with industry standards for the operation, appearance, and public perception established by those engaged in a business similar to that of Contractor. Subcontractor Agreements will contain warranties that Subcontractors will perform the Work in a similar manner. Valid for one year from completion of the Work.
12. **Asbestos and Hazardous Materials.** In the event Contractor encounters asbestos, lead and/or other hazardous materials, Contractor will stop work and notify Owner, and shall have the right to suspend its work at no penalty to Contractor until such products or materials and the resultant hazards are removed. Completion of the work shall be extended to the extent caused by the suspension and the contract price equitably adjusted. Owner shall remediate any asbestos, lead or other hazardous materials at Owner's expense, and shall be responsible for all costs, expenses, damages, fines, penalties, claims and liabilities associated with or incurred in connection with any hazardous materials or substances, upon, beneath, about or inside Owner's equipment or property, shall bear title to, ownership of, and legal responsibility and liability for any and all such hazardous materials or substances, and shall be responsible for the removal, handling and disposal of all hazardous materials and substances in accordance with all applicable Governmental Regulations. Owner shall defend, indemnify, reimburse and hold harmless Contractor and its officers, directors, agents, and employees from and against any and all claims, damages, costs, expenses, liabilities, actions, suits, fines and penalties (including without limitation, attorneys' fees and expenses) suffered or incurred by any such indemnified parties, based upon, arising out of or in any way relating to exposure to, handling of, or disposal of any hazardous materials or substances, in connection with the services performed hereunder. Contractor reserves the right to engage others in a subcontractor status to perform the work hereunder.
13. **Confidentiality.** Owner agrees to keep confidential and use its best efforts to cause any sales representative and employees to keep confidential all trade secrets, proprietary, and confidential information (hereinafter "Confidential Information") related to Daikin Applied and safeguard all Confidential Information from disclosure or use by any person directly or indirectly under Owner's control. Confidential Information does not include (i) information which is in the public domain other than through a breach of this clause and (ii) information which was received by Owner independently of Daikin Applied. Neither expiration nor termination of this Agreement for any reason shall release Owner from the obligations of this Section.
14. **Notices.** Any information or notices required to be given under this Agreement shall be in writing and shall be delivered either by (a) certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid, in the U.S. mail; (b) a reputable messenger service or a nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) business day after deposit with such messenger or courier; or (c) personal delivery with receipt acknowledged in writing, in which case notice shall be deemed delivered when received. All notices shall be addressed as follows:



If to Contractor:

Daikin Applied Americas Inc.  
Attn: Legal Department  
13600 Industrial Park Blvd  
Plymouth, MN 55340

If to Owner:

CITY OF PANAMA CITY BEACH  
Attn: Cheryl Joyner

16200 Panama City Beach Parkway Panama City Beach, FL 32413

The foregoing addresses may be changed from time to time by notice to the other party in the manner hereinbefore provided for.

15. **No Waiver.** A party's failure or neglect to enforce any provision hereof shall in no way constitute a waiver of said party's rights under any other provision.
16. **Severability.** If any provision hereof is deemed to be invalid or unenforceable under applicable law, the remaining provisions of this Agreement shall continue to be enforceable.
17. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, except conflicts of law which may require the application of another jurisdiction's laws.
18. **Miscellaneous.**
  1. Force Majeure. Notwithstanding anything to the contrary contained in the Agreement, Daikin Applied shall have a reasonable opportunity to cure any alleged unmet performance obligations thereunder. Additionally, in the event either party is delayed in its performance due to causes outside its reasonable control, the time for such party's performance will be extended for a period of time reasonably necessary to overcome the delay.
  2. Entire Agreement; Modifications. This Agreement constitutes the entire agreement between the parties with respect to the Work and supersedes all prior negotiations, representations or agreements relating thereto either written or oral, except to the extent that they are expressly incorporated herein. No modifications or alterations shall be made to this Agreement unless in writing and agreed upon by the parties.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the Effective Date, the corporate parties by their officers duly authorized.

**OWNER:**

CITY OF PANAMA CITY BEACH  
Cheryl Joyner  
16200 Panama City Beach Parkway  
Panama City Beach, FL 32413

**CONTRACTOR:**

Daikin Applied Americas  
13600 Industrial Park Boulevard  
Plymouth, MN 55441

\_\_\_\_\_  
(Print Full Legal Name of Customer)

\_\_\_\_\_  
(Print Full Legal Name of Daikin Applied Representative)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

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

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



**Region 4 Education Service Center (ESC)**

**Contract #R200401**

*for*

HVAC Equipment, Installation, Services & Related  
Products

*with*

**Daikin Applied Americas Inc.**

Effective: October 1, 2020