CITY OF COSTA MESA PROFESSIONAL SERVICES AGREEMENT WITH AIR EXCHANGE, INC.

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 2nd day of January, 2018 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and AIR EXCHANGE, INC., a California corporation ("Contractor").

WITNESSETH:

- A. WHEREAS, City proposes to utilize the services of Contractor as an independent contractor to install Plymovent vehicle exhaust removal systems at City's Fire Stations Nos. 2, 3, 4, 5, and 6, as more fully described herein; and
- B. WHEREAS, Contractor represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Contractor desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONTRACTOR

- 1.1. Scope of Services. Contractor shall furnish and install Plymovent vehicle exhaust removal systems at Fire Stations Nos. 2, 3, 4, 5, and 6, as more fully described in Contractor's Proposal, attached hereto as Exhibit "A" and incorporated herein by this reference. Contractor shall train all shifts at each Fire Station on the proper operation of the Plymovent vehicle exhaust removal system. Contractor shall further provide to City a training video outlining proper operation of the Plymovent system. Upon complete installation of the Plymovent system at each Fire Station listed herein, Contractor shall demonstrate to City, by conducting operational testing, that the system has been fully installed and is working properly.
- 1.2. <u>Professional Practices</u>. All professional services to be provided by Contractor pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional contractors in similar fields and circumstances in accordance with sound professional practices. Contractor also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Contractor's performance of this Agreement.

- 1.3. <u>Performance to Satisfaction of City</u>. Contractor agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:
 - (a) Meet with Contractor to review the quality of the work and resolve the matters of concern:
 - (b) Require Contractor to repeat the work at no additional fee until it is satisfactory; and/or
 - (c) Terminate the Agreement as hereinafter set forth.
- 1.4. <u>Warranty</u>. Contractor warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Contractor shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Contractor's performance under this Agreement.
- 1.5. <u>Non-Discrimination</u>. In performing this Agreement, Contractor shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, except as permitted pursuant to section 12940 of the Government Code.
- 1.6. <u>Delegation and Assignment</u>. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Contractor may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Contractor's sole cost and expense.
- 1.7. <u>Confidentiality</u>. Employees of Contractor in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Contractor covenants that all data, documents, discussion, or other information developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Contractor without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Contractor's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. <u>Compensation</u>. Contractor shall be paid in accordance with the fee schedule set forth in Exhibit A. Contractor's total compensation shall not exceed Two Hundred Forty-Nine Thousand Dollars (\$249,000.00).

- 2.2. <u>Additional Services</u>. Contractor shall not receive compensation for any services provided outside the scope of services specified in the Contractor's Proposal unless the City or the Project Manager for this Project, prior to Contractor performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.
- 2.3. Method of Billing. Contractor may submit invoices to the City for approval upon completion and City acceptance of system installation at each fire station. Said invoice shall be based on the total of all Contractor's services which have been completed to City's sole satisfaction. City shall pay Contractor's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail the services performed, the materials and/or equipment installed, and the date of performance. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.
- 2.4. <u>Records and Audits</u>. Records of Contractor's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

- 3.1. <u>Commencement and Completion of Work</u>. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. The services to be performed hereunder shall be completed within six (6) months from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.
- 3.2. <u>Excusable Delays</u>. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

- 4.1. <u>Term.</u> This Agreement shall commence on the Effective Date and continue through complete installation and final acceptance by City of the Plymovent vehicle exhaust removal systems at City's Fire Stations Nos. 2, 3, 4, 5, and 6, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.
- 4.2. <u>Notice of Termination</u>. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Contractor. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Contractor shall immediately stop rendering services under this Agreement unless directed otherwise by the City.
 - 4.3. Compensation. In the event of termination, City shall pay Contractor for

reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Contractor.

4.4. <u>Documents</u>. In the event of termination of this Agreement, all documents prepared by Contractor in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Contractor, at no cost to City. Any use of uncompleted documents without specific written authorization from Contractor shall be at City's sole risk and without liability or legal expense to Contractor.

5.0. INSURANCE

- 5.1. <u>Minimum Scope and Limits of Insurance</u>. Contractor shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:
 - (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
 - (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
 - (c) Workers' compensation insurance as required by the State of California. Contractor agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Contractor for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
 - (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract

work. Contractor shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

- 5.2. <u>Endorsements</u>. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:
 - (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Contractor pursuant to its contract with the City; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; automobiles owned, leased, hired, or borrowed by the Contractor."
 - (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
 - (c) Other insurance: "The Contractor's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
 - (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
 - (e) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 5.3. <u>Deductible or Self Insured Retention</u>. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.
- 5.4. <u>Certificates of Insurance</u>. Contractor shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit "B" and incorporated herein by this reference.
- 5.5. <u>Non-Limiting</u>. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. <u>Entire Agreement</u>. This Agreement constitutes the entire agreement between the

parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. <u>Representatives</u>. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Contractor shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Contractor called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. <u>Project Managers</u>. City shall designate a Project Manager to work directly with Contractor in the performance of this Agreement.

Contractor shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Contractor or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. <u>Notices</u>. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: (a) at the time of delivery if such communication is sent by personal delivery, and (b) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONTRACTOR:

IF TO CITY:

Air Exchange, Inc. 1494-B East Francis Street Ontario, CA 91761 Tel: (909) 720-7064 Attn: Jim Cleary

77 Fair Drive Costa Mesa, CA 92626 Tel: (714) 754-5155

City of Costa Mesa

Attn: Jason Pyle

Courtesy copy to:

City of Costa Mesa 77 Fair Drive Costa Mesa, CA 92626

Attn: Finance Dept. | Purchasing

6.5. <u>Drug-Free Workplace Policy</u>. Contractor shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Contractor's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

- 6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.
- 6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.
- 6.8. <u>Assignment</u>. Contractor shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Contractor's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Contractor of Contractor's obligation to perform all other obligations to be performed by Contractor hereunder for the term of this Agreement.
- 6.9. Indemnification and Hold Harmless. Contractor agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Contractor's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Contractor, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Contractor, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Contractor, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Contractor, its employees, and/or authorized subcontractors under this Agreement, whether or not the Contractor, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Contractor shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Contractor's Proposal, which shall be of no force and effect.
- 6.10. Independent Contractor. Contractor is and shall be acting at all times as an independent contractor and not as an employee of City. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Contractor shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Contractor and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Contractor shall indemnify and hold City harmless from any

and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor further agrees to indemnify and hold City harmless from any failure of Contractor to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

- 6.12. <u>Cooperation</u>. In the event any claim or action is brought against City relating to Contractor's performance or services rendered under this Agreement, Contractor shall render any reasonable assistance and cooperation which City might require.
- 6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Contractor or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Contractor agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Contractor. City shall indemnify and hold harmless Contractor from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Contractor. Contractor shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.
- 6.14. Public Records Act Disclosure. Contractor has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Contractor, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code section 6250 et seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code section 6254.7, and of which

Contractor informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

- 6.15. <u>Conflict of Interest</u>. Contractor and its officers, employees, associates and subcontractors, if any, will comply with all conflict of interest statutes of the State of California applicable to Contractor's services under this agreement, including, but not limited to, the Political Reform Act (Government Code sections 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Contractor and its officers, employees, associates and subContractors shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subContractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute.
- 6.16. Responsibility for Errors. Contractor shall be responsible for its work and results under this Agreement. Contractor, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Contractor occurs, then Contractor shall, at no cost to City, provide all necessary design drawings, estimates and other Contractor professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.
- 6.17. <u>Prohibited Employment</u>. Contractor will not employ any regular employee of City while this Agreement is in effect.
- 6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.
- 6.19. <u>Costs</u>. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.
- 6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Contractor and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.
- 6.21. <u>Headings</u>. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.
- 6.22. <u>Construction</u>. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties

and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

- 6.23. <u>Amendments</u>. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.
- 6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.
- 6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.
- 6.26. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.
- 6.27. <u>Corporate Authority</u>. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CONTRACTOR	
Signature Cares	Date: 01/04/2018
STEPHEN L HARRIS ONS, MER [Name and Title]	Social Security or Taxpayer ID Number
CITY OF COSTA MESA	
Thomas Hatch	Date: 2/6/18
City Manager	

ATTEST: Breuda gren 2-7-18 City Clerk APPROVED, AS TO FORM: Date: 2/5/18 Thomas Duarte Oity Attorney APPROVED AS TO INSURANCE: Date: 1/12/18 Ruth Wang Risk Management APPROVED AS TO CONTENT: Date: 1/16/18 Jason Pyle Project Manager **DEPARTMENTAL APPROVAL:** Date: 1/18/18 Daniel Stefano Fire Chief APPROVED AS TO PURCHASING: OTHER ATV GILENST Stephen Dunivent Interim Finance Director

EXHIBIT A CONTRACTOR'S PROPOSAL

PLYMIJVENT®

Plymovent Corporation 5 Corporate Drive Cranbury, NJ 08512 Phone (800) 644-0911 Fax (609) 655-0569

September 20, 2017

To Whom It May Concern:

This letter is to clarify the issue of who represents the Plymovent Emergency Vehicle Exhaust Removal products in your area. Plymovent has an established network of certified dealers throughout the country. All of our dealers attend sales, service, and installation training on a yearly basis to maintain their dealership and certification to work with our products.

Air Exchange of 1494-B East Francis Street, Ontario, California is the only Plymovent assigned sole source distributor for the engineering design, sales, turnkey installation, and service of the Firehouse products in the state of California and Nevada.

Plymovent has worked for nearly 30 years to develop both a premier market leading product, as well as a program to keep our dealers trained and certified to work with our products. It is Plymovent's policy, due to insurance and product liability reasons, to require this certification of all of the authorized installers.

If you have any questions regarding the above information please feel free to contact me directly.

Best Regards,

Bryan Reeves

Fire Segment Manager

Plymovent Corporation



495 Edison Court, Suite A, Fairfield, CA 94534 1494-B East Francis St., Ontario, CA 91761 Phone: 800-300-2945 Fax: 707-864-2700

E-Mail: info@airexchange.com

11.1.17

CITY OF COSTA MESA FIRE DEPARTMENT **QUOTATION & EQUIPMENT LISTING**

PLYMOVENT MAGNETIC VEHICLE EXHAUST REMOVAL SYSTEM **STATION #2**

DAN STEFANO, FIRE CHIEF JASON PYLE, DIVISION CHIEF CITY OF COSTA MESA FIRE DEPARTMENT 77 FAIR DRIVE P.O. BOX 1200 COSTA MESA, CA. 92628-1200

email: dan.stefano@costamesaca.gov

Phone: 714-754-5144

jason.pyle@costamesaca.gov

Phone: 714-754-5155

Equipment to be furnished:

QTY 1	PLYMOVENT MODEL VSRX-60-1 D Straight Rail System for door-to-door system hook-up & release drive through capability, 60' RAIL, 25' of 4" diameter Flexible Hose for each rail, "MAGNETIC GRABBER" Nozzle, Safety Disconnect, Spring Balancer. (1 apparatus for one VSRX rail)
QTY 2	PLYMOVENT MODEL SBTA-21-B Sliding Balancer Track System , 20 ft. track complete with 25 ft. of 4" dia. hose, "MAGNETIC GRABBER" Nozzle, safety disconnect, for "back in" configurations.
QTY 1	5 HP., single phase, Radial Exhaust Fan rated at 2,640 CFM @ 6.0 " w.g. at 3450 rpm.
QTY 1	PLYMOVENT OS-3 Engine Sensor Control Box, 208-230 volt, 1 phase for 5 HP . To include pressure sensors for a "wireless" fan activation by vehicle exhaust, all necessary motor starters, disconnects and timer.
LOT	Support Legs, braces, and misc. hardware provided by Plymovent.

Material	\$ 19,717.00
Ductwork, Installation Hardware, & misc. parts	<u>\$ 1,550.00</u>
SUBTOTAL (Material)	\$ 21,267.00
SALES TAX @ 7.75%	\$ 1,648.19

LOT

INSTALLATION COMPLETE, including Plymovent System, fan, ducting, supports, electrical hook up & connection to adequate POC, lifts and labor @ <u>PREVAILING WAGE RATES including state required sheet metal workers union apprentice program.</u> Any modification to the above proposal as required by municipality will be at an additional charge. Includes silencer, backdraft damper & raincap on blower.

INSTALLATION LABOR @ PREVAILING RATE	\$ 20,600.00
FREIGHT	\$ 2,000.00
TOTAL COST	\$ 45 515 19

EXPIRATION DATE: 90 days from date on quote

EXCLUSIONS:

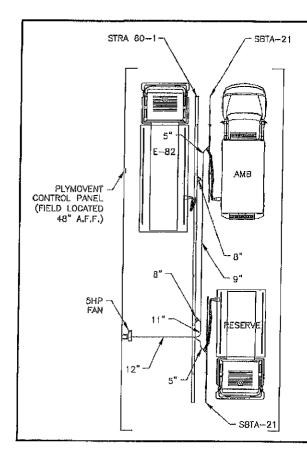
- · Permit fees of any kind
- Bonds of any kind (can be added if required)
- Blocking & painting of any kind
- Engineering fees of any kind including Structural Calculations or Electrical Load Calculations or any labor or material resulting from any structural or electrical load calculations.
- Engineered drawings if required

Delivery of hardware is estimated at 6-8 weeks ARO. Installation scheduled at that time. PLYMOVENT is an American Corporation and provides quality product and support for the Fire Service. PLYMOVENT is an ISO-9001 Certified Supplier and UL Certified Manufacturer. All Plymovent systems comply with the Buy American Act.

Thank you for the opportunity to be a part of this project. If you have any questions regarding this information, please contact me at your convenience.

Best Regards,
AIR EXCHANGE

Jim Cleary (cell) 909-720-7064



EQUIPMENT LIST

1(EA) STRA 60-1 2(EA) SBTA-21 1(EA) SHP FAN 1(EA) OS-3 CONTROL PANEL

NOTE: DRAWINGS ARE DIAGRAMMATICAL IT SHALL BE THE VEHICLE EXHAUST SYSTEM SPECIALISTS OPTION TO MODIFY LOCATIONS, ELEVATIONS AND DETAILS AT THE PROPOSED POINTS OF CONNECTION AND IN AREAS OF POSSIBLE CONFLICT.



CMFD Filre Station #2 800 Baker Street Costa Mesa, CA 92626

SSUE:	DATE:	DESCRIPTION:
A	06/17/14	Drawn by Bob T.
A,1		updates REV2
<u>B.</u>	08/01/17	updales REV B
DRAW	i 9Y:	Bob Tradinnish
REVIEW	VEO DY:	Gary Graven
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APPRO	VED BY:	éti Citaly

AIR EXCHANGE, INC.

495 Edison Ct., Suite A Fairfield, Ca 94534 1494-B East Francis St. Ontario, CA 91761

9H:800-300-2945 FX:707-864-2705 INFO@AIREXCHANGE,COM WWW.ATREXCHANGE.COM

800

VEX-2

SHEET NO.



495 Edison Court, Suite A, Fairfield, CA 94534 1494-B East Francis St., Ontario, CA 91761 Phone: 800-300-2945 Fax: 707-864-2700

E-Mail: info@airexchange.com

11.1.17

CITY OF COSTA MESA FIRE DEPARTMENT QUOTATION & EQUIPMENT LISTING

PLYMOVENT MAGNETIC VEHICLE EXHAUST REMOVAL SYSTEM <u>STATION #3</u>

DAN STEFANO, FIRE CHIEF
JASON PYLE, DIVISION CHIEF
CITY OF COSTA MESA FIRE DEPARTMENT
77 FAIR DRIVE
P.O. BOX 1200
COSTA MESA, CA. 92628-1200

email: dan.stefano@costamesaca.gov

Phone: 714-754-5144

jason.pyle@costamesaca.gov

Phone: 714-754-5155

Equipment to be furnished:

QTY 1	PLYMOVENT MODEL VSRX-60-1 D Straight Rail System for door-to-door system hook-up & release dri	
	through capability, 60' RAIL, 25' of 4" diameter Flexible Hose for each rail, "MAGNETIC GRABBER"	
	Nozzle, Safety Disconnect, Spring Balancer. (1 apparatus for one VSRX rail)	

- QTY 2 PLYMOVENT MODEL SBTA-21-B Sliding Balancer Track System, 20 ft. track complete with 25 ft. of 4" dia. hose, "MAGNETIC GRABBER" Nozzle, safety disconnect, for "back in" configurations.
- QTY 1 5 HP., 3 phase, Radial Exhaust Fan rated at 2,640 CFM @ 6.0 " w.g. at 3450 rpm.
- QTY 1 **PLYMOVENT** OS-3 Engine Sensor Control Box, 208-230 volt, 3 phase for **5 HP**. To include pressure sensors for a "wireless" fan activation by vehicle exhaust, all necessary motor starters, disconnects and timer.
- LOT Support Legs, braces, and misc. hardware provided by Plymovent.

Material		\$ 19,752.00
Ductwork, Installation Hardware, & misc. parts		\$ 1,550.00
SUBTOTAL	(Material)	\$ 21,302.00
SALES TAX @ 7	7.75%	\$ 1,650.90

LOT

INSTALLATION COMPLETE, including Plymovent System, fan, ducting, supports, electrical hook up & connection to adequate POC, lifts and labor @ <u>PREVAILING WAGE RATES including state required sheet metal workers union apprentice program.</u> Any modification to the above proposal as required by municipality will be at an additional charge. Includes silencer, backdraft damper & raincap on blower.

INSTALLATION LABOR @ PREVAILING RATE	\$ 20,600.00
FREIGHT	\$ 2,000.00
TOTAL COST	\$ 45.552.90

EXPIRATION DATE: 90 days from date on quote

EXCLUSIONS:

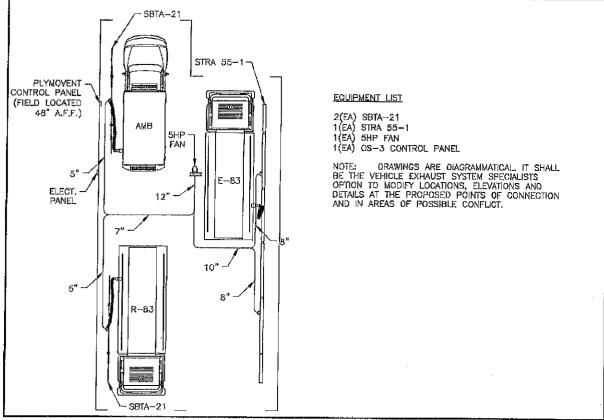
- Permit fees of any kind
- Bonds of any kind (can be added if required)
- Blocking & painting of any kind
- Engineering fees of any kind including Structural Calculations or Electrical Load Calculations or any labor or material resulting from any structural or electrical load calculations.
- Engineered drawings if required

Delivery of hardware is estimated at 6-8 weeks ARO. Installation scheduled at that time. PLYMOVENT is an American Corporation and provides quality product and support for the Fire Service. PLYMOVENT is an ISO-9001 Certified Supplier and UL Certified Manufacturer. All Plymovent systems comply with the Buy American Act.

Thank you for the opportunity to be a part of this project. If you have any questions regarding this information, please contact me at your convenience.

Best Regards,
AIR EXCHANGE

Jim Cleary (cell) 909-720-7064





CMFD Filre Station #3 1865 Park Avenue Costa Mesa, CA 92627

	WED BY:	Jim Cleary
REVIE	NEDDI.	
	WED BY:	GRLY GREYON
DRAW	N BY:	Bab Tredinak);
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A.1		updaes REV2
A	06/17/14	Dreyn by Bob T.
	DATE:	DESCRIPTION;

AIR EXCHANGE, INC.

495 Edison Ct., Suite A Fairfield, Ca 94534 1494-B East Francis St. Ontario, CA 91761

PH:800-300-2945 FX:707-864-2705 INTO@AIREXCHANGE.COM YWWW.AIREXCHANGE.COM

1865

VEX-3

BLDG.

SHEET NO.



495 Edison Court, Suite A, Fairfield, CA 94534 1494-B East Francis St., Ontario, CA 91761 Phone: 800-300-2945 Fax: 707-864-2700

E-Mail: info@airexchange.com

11.1.17

CITY OF COSTA MESA FIRE DEPARTMENT **QUOTATION & EQUIPMENT LISTING**

PLYMOVENT MAGNETIC VEHICLE EXHAUST REMOVAL SYSTEM **STATION #4**

DAN STEFANO, FIRE CHIEF JASON PYLE, DIVISION CHIEF CITY OF COSTA MESA FIRE DEPARTMENT 77 FAIR DRIVE P.O. BOX 1200 COSTA MESA, CA. 92628-1200

email: dan.stefano@costamesaca.gov

Phone: 714-754-5144

jason.pyle@costamesaca.gov

Phone: 714-754-5155

Equipment to be furnished:

QTY 1	PLYMOVENT MODEL VSRX-55-1 D Straight Rail System for door-to-door system hook-up & release drive through capability, 60' RAIL, 25' of 4" diameter Flexible Hose for each rail, "MAGNETIC GRABBER" Nozzle, Safety Disconnect, Spring Balancer. (1 apparatus for one VSRX rail)
QTY 2	PLYMOVENT MODEL SBTA-21-B Sliding Balancer Track System , 20 ft. track complete with 25 ft. of 4" dia. hose, "MAGNETIC GRABBER" Nozzle, safety disconnect, for "back in" configurations.
QTY 1	5 HP., 1 phase, Radial Exhaust Fan rated at 2,640 CFM @ 6.0 " w.g. at 3450 rpm.
QTY 1	PLYMOVENT OS-3 Engine Sensor Control Box, 208-230 volt, 1 phase for 5 HP . To include pressure sensors for a "wireless" fan activation by vehicle exhaust, all necessary motor starters, disconnects and timer.
LOT	Support Legs, braces, and misc. hardware provided by Plymovent.

SALES TAX @ 7.75%	\$ 1,718.64
SUBTOTAL (Material)	\$ 22,176.00
Ductwork, Installation Hardware, & misc. parts	\$ 1,550.00
Material	\$ 20,626.00

INSTALLATION COMPLETE, including Plymovent System, fan, ducting, supports, electrical hook up & connection to adequate POC, lifts and labor @ PREVAILING WAGE RATES including state required sheet metal workers union apprentice program. Any modification to the above proposal as required by municipality will be at an additional charge. Includes silencer, backdraft damper & raincap on blower.

INSTALLATION LABOR @ PREVAILING RATE	\$ 20,600.00
FREIGHT	\$ 2,000.00
TOTAL COST	\$ 46,494.64

EXPIRATION DATE: 90 days from date on quote

EXCLUSIONS:

- Permit fees of any kind
- Bonds of any kind (can be added if required)
- Blocking & painting of any kind
- Engineering fees of any kind including Structural Calculations or Electrical Load Calculations or any labor or material resulting from any structural or electrical load calculations.
- Engineered drawings if required

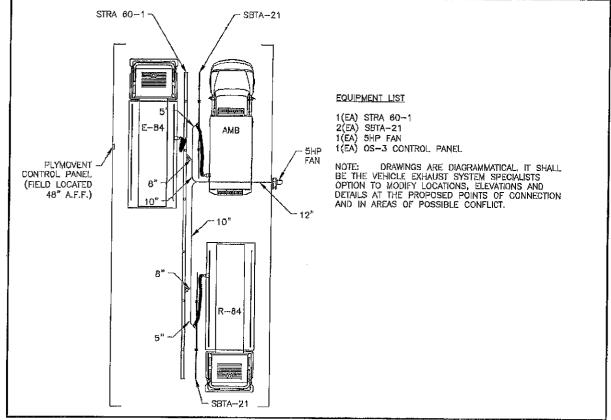
Delivery of hardware is estimated at 6-8 weeks ARO. Installation scheduled at that time. PLYMOVENT is an American Corporation and provides quality product and support for the Fire Service. PLYIMOVENT is an ISO-9001 Certified Supplier and UL Certified Manufacturer. All Plymovent systems comply with the Buy American Act.

Thank you for the opportunity to be a part of this project. If you have any questions regarding this information, please contact me at your convenience.

Best Regards, AIR EXCHANGE

LOT

Jim Cleary (cell) 909-720-7064





CMFD Filire Station #4 2300 Placentia Avenue Costa Mesa, CA 92626

1880	E DATE:	DESCRIPTION:
Α		Drawn by Bob T.
A.1	08/18/14	updates REV2
Β'	09/01/17	updates REV B
DRAM	N BY:	Bob Tredinsek
REVIEWED BY:		Gzn/ Gravon
APPROVED BY:		Jim Cleary
AE PR	O IECT :	Costa Mesa FD #4

AIR EXCHANGE, INC.

495 Edison Ct., Suite A Fairfield, Ca 94534 1494-B East Francis St. Ontario, CA 91761

PH:800-300-2945 FX:707-864-2705 INFO@AUREXCHANGE.COM WWW.AUREXCHANGE.COM

2300

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SHEET NO.



495 Edison Court, Suite A, Fairfield, CA 94534 1494-B East Francis St., Ontario, CA 91761 Phone: 800-300-2945 Fax: 707-864-2700

E-Mail: info@airexchange.com

11.1.17

CITY OF COSTA MESA FIRE DEPARTMENT **QUOTATION & EQUIPMENT LISTING**

PLYMOVENT MAGNETIC VEHICLE EXHAUST REMOVAL SYSTEM **STATION #5**

DAN STEFANO, FIRE CHIEF JASON PYLE, DIVISION CHIEF CITY OF COSTA MESA FIRE DEPARTMENT 77 FAIR DRIVE P.O. BOX 1200 COSTA MESA, CA. 92628-1200

email: dan.stefano@costamesaca.gov

Phone: 714-754-5144

jason.pyle@costamesaca.gov

Phone: 714-754-5155

Equipment to be furnished:

QTY 1	PLYMOVENT MODEL VSRX-55-1 D Straight Rail System for door-to-door system hook-up & release drive through capability, 60' RAIL, 25' of 4" diameter Flexible Hose for each rail, "MAGNETIC GRABBER" Nozzle, Safety Disconnect, Spring Balancer. (1 apparatus for one VSRX rail)
QTY 2	PLYMOVENT MODEL SBTA-21-B Sliding Balancer Track System , 20 ft. track complete with 25 ft. of 4" dia. hose, "MAGNETIC GRABBER" Nozzle, safety disconnect, for "back in" configurations.
QTY 1	5 HP., 3 phase, Radial Exhaust Fan rated at 2,640 CFM @ 6.0 "w.g. at 3450 rpm.
QTY 1	PLYMOVENT OS-3 Engine Sensor Control Box, 208-230 volt, 3 phase for 5 HP . To include pressure sensors for a "wireless" fan activation by vehicle exhaust, all necessary motor starters, disconnects and timer.
LOT	Support Legs, braces, and misc. hardware provided by Plymovent.

Material	\$ 20,000.00
Ductwork, Installation Hardware, & misc. parts	\$ 1,550.00
SUBTOTAL (Material)	\$ 21,550.00
SALES TAX @ 7.75%	\$ 1,670.12

LOT

INSTALLATION COMPLETE, including Plymovent System, fan, ducting, supports, electrical hook up & connection to adequate POC, lifts and labor @ PREVAILING WAGE RATES including state required sheet metal workers union apprentice program. Any modification to the above proposal as required by municipality will be at an additional charge. Includes silencer, backdraft damper & raincap on blower.

INSTALLATION LABOR @ PREVAILING RATE	\$ 20,600.00
FREIGHT	\$ 2,000.00
TOTAL COST	\$ 45,820.12

EXPIRATION DATE: 90 days from date on quote

EXCLUSIONS:

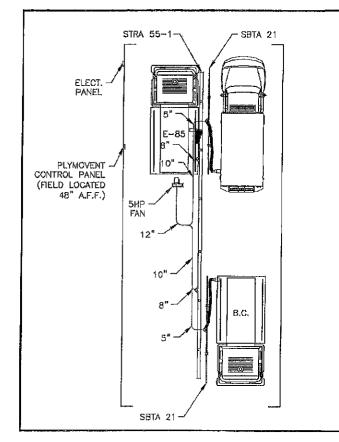
- Permit fees of any kind
- Bonds of any kind (can be added if required)
- Blocking & painting of any kind
- Engineering fees of any kind including Structural Calculations or Electrical Load Calculations or any labor or material resulting from any structural or electrical load calculations.
- Engineered drawings if required

Delivery of hardware is estimated at 6-8 weeks ARO. Installation scheduled at that time. PLYMOVENT is an American Corporation and provides quality product and support for the Fire Service. PLYMOVENT is an **ISO-9001** Certified Supplier and UL Certified Manufacturer. All Plymovent systems comply with the Buy American Act.

Thank you for the opportunity to be a part of this project. If you have any questions regarding this information, please contact me at your convenience.

Best Regards,
AIR EXCHANGE

Jim Cleary (cell) 909-720-7064



EQUIPMENT LIST

2(EA) SBTA 21 1(EA) STRA 55-1 1(EA) 5HP FAN 1(EA) OS-3 CONTROL PANEL

NOTE: DRAWINGS ARE DIAGRAMMATICAL IT SHALL BE THE VEHICLE EXHAUST SYSTEM SPECIALISTS OPTION TO MODIFY LOCATIONS, ELEVATIONS AND DETAILS AT THE PROPOSED POINTS OF CONNECTION AND IN AREAS OF POSSIBLE CONFLICT.



CMFD Flire Station #5 2450 Vanguard Way Costa Mesa, CA 92626

168UE	DATE:	DESCRIPTION:
X.		Drawn by Bob T.
A.1	06/18/14	updated REV2
8	09/01/17	updates REV B
DRAW	HDY:	Boš Tredinnick
REVIE	MEDOY:	Cuy Greven
APPRO	WED BY:	Jins Oleany

AIR EXCHANGE, INC.

495 Edison Ct., Suite A Fairfield, Ca 94534 1494-B East Francis St. Ontario, CA 91761

PH:800-300-2945 FX:707-864-2705 INFO@AIREXCHANGE.COM WWW.AIREXCHANGE.COM

2450

M-5

BLDG.

SHEET NO.



495 Edison Court, Suite A, Fairfield, CA 94534 1494-B East Francis St., Ontario, CA 91761 Phone: 800-300-2945 Fax: 707-864-2700

E-Mail: info@airexchange.com

11.1.17

CITY OF COSTA MESA FIRE DEPARTMENT QUOTATION & EQUIPMENT LISTING

PLYMOVENT MAGNETIC VEHICLE EXHAUST REMOVAL SYSTEM <u>STATION #6</u>

DAN STEFANO, FIRE CHIEF

JASON PYLE, DIVISION CHIEF

CITY OF COSTA MESA FIRE DEPARTMENT

77 FAIR DRIVE

P.O. BOX 1200

COSTA MESA, CA. 92628-1200

email: dan.stefano@costamesaca.gov

Phone: 714-754-5144

jason.pyle@costamesaca.gov

Phone: 714-754-5155

Equipment to be furnished:

LOT

QTY 2 PLYMOVENT MODEL VSRX-60-1 D Straight Rail System for door-to-door system hook-up & release drive through capability, 60' RAIL, 25' of 4" diameter Flexible Hose for each rail, "MAGNETIC GRABBER" Nozzle, Safety Disconnect, Spring Balancer. (1 apparatus for one VSRX rail)

QTY 1 5 HP., 3 phase, Radial Exhaust Fan rated at 2,640 CFM @ 6.0 " w.g. at 3450 rpm.

QTY 1 **PLYMOVENT** OS-3 Engine Sensor Control Box, 208-230 volt, 3 phase for **5 HP**. To include pressure sensors for a "wireless" fan activation by vehicle exhaust, all necessary motor starters, disconnects and timer.

Support Legs, braces, and misc. hardware provided by Plymovent.

Material \$ 23,278.00

Ductwork, Installation Hardware, & misc. parts \$ 1,550.00

SUBTOTAL (Material)

\$ 24,828.00

SALES TAX @ 7.75%

\$ 1,924.17

LOT

!NSTALLATION COMPLETE, including Plymovent System, fan, ducting, supports, electrical hook up & connection to adequate POC, lifts and labor @ **PREVAILING WAGE RATES including state required sheet metal workers union apprentice program**. Any modification to the above proposal as required by municipality will be at an additional charge. Includes silencer, backdraft damper & raincap on blower.

INSTALLATION LABOR @ PREVAILING RATE

\$ 20,600.00

FREIGHT

\$ 2,000.00

TOTAL COST

\$ 49,352.17

EXPIRATION DATE: 90 days from date on quote

EXCLUSIONS:

Permit fees of any kind

Bonds of any kind (can be added if required)

Blocking & painting of any kind

 Engineering fees of any kind including Structural Calculations or Electrical Load Calculations or any labor or material resulting from any structural or electrical load calculations.

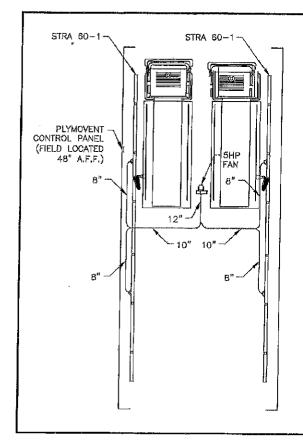
Engineered drawings if required

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Thank you for the opportunity to be a part of this project. If you have any questions regarding this information, please contact me at your convenience.

Best Regards,
AIR EXCHANGE

Jim Cleary (cell) 909-720-7064



EQUIPMENT LIST

2(EA) STRA 60-1 1(EA) 5HP FAN 1(EA) OS-3 CONTROL PANEL

NOTE: DRAWINGS ARE DIAGRAMMATICAL, IT SHALL BE THE VEHICLE EXHAUST SYSTEM SPECIALISTS OPTION TO MODIFY LOCATIONS, ELEVATIONS AND DETAILS AT THE PROPOSED POINTS OF CONNECTION AND IN AREAS OF POSSIBLE CONFLICT.



CMFD Filre Station #6 3350 SAKTOKA DRIVE COSTA MESA, CA 92626

ISSUE;	OATE:	DESCRIPTION
A		Drawn by Bob T.
A.f	05/18/14	updates REV2
8	09/01/17	updates REV B
DRAWA	BY:	Rob Tredinaink
DRAWA PIEVIEV	•	Bob Tredinaick Gary Bravon
REVIEV	•	

AIR EXCHANGE, INC.

495 Edison Ct., Suite A Falrfield, Ca 94534 1494-8 East Francis St. Ontario, CA 91761

PH:800-300-2945 FX:707-864-2706 INFO@AIREXCHANGE.COM WWW.AIREXCHANGE.COM

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GHEET NO.