

**RESOLUTION**

To Authorize the Mayor to Enter into a Three (3) Year Elevator Maintenance Agreement with Diversified Elevator for the Municipal Complex at a Cost not to Exceed \$2,416.00 Annually

**WHEREAS**, *Code of Alabama, 1975, as amended*, § 25-13-24 requires annual inspections of elevators; and

**WHEREAS**, the Alexander City Municipal Complex has two (2) operational elevators; and

**WHEREAS**, Diversified Elevator has presented a proposal for monthly inspections and maintenance for three (3) years; and

**WHEREAS**, the quarterly fee is set at \$604.00, for a total of \$2,416.00 annually.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Alexander City hereby authorizes the mayor to sign an agreement with Diversified Elevator for maintenance and inspection of said elevators.

ADOPTED THIS 10TH DAY OF JULY, 2023  
**FOR PUBLIC RELEASE**

**By:** Audrey "Buffy" Colvin, President  
Alexander City Council

AUTHENTICATED THIS 10TH DAY OF JULY, 2023.  
**FOR PUBLIC RELEASE**

**By:** Stephanie J. Southerland,  
City Clerk

APPROVED:  
**FOR PUBLIC RELEASE**

**By:** Curtis Woody Baird,  
Mayor

Yeas: Tapley, E. Brown, Colvin, E. Hardy, C. Brown, Keel

Nays: None

**RESOLUTION BOOK 23-82**



# DIVERSIFIED ELEVATOR

297 State Hwy 143 – Millbrook, AL 36054

PH: (334)-285-3863 FAX: (334)-285-6165

[www.DiversifiedElevator.net](http://www.DiversifiedElevator.net)

## ELEVATOR MAINTENANCE AGREEMENT

TO:

CITY OF ALEXANDER CITY

P.O. BOX 552

ALEXANDER CITY, AL 35011-0552

(hereinafter called: “you” or “Customer”)

**DIVERSIFIED ELEVATOR SERVICE and EQUIPMENT COMPANY, INC.**  
(hereinafter called the “Company”), through the Company’s office located at:

297 State Highway #143

Millbrook, Alabama 36054

agrees to service the elevator equipment described on the following terms and conditions in your building located at:

ALEXANDER CITY MUNICIPAL COMPLEX

281 JAMES D. NABORS DRIVE

ALEXANDER CITY, AL 35011

**EQUIPMENT DESCRIPTION**

Unit #	Description	State #	Type	Manufacturer	# of Stops	Capacity
1	CITY HALL	AL	HYDRAULIC	TK	3	2500
2	POLICE DEPT	AL	HYDRAULIC	VA CONTROLS	3	2500

**EXTENT OF COVERAGE**

Under this Elevator Maintenance Agreement (the "contract"), the Company will maintain elevator equipment herein described subject to the following terms and conditions.

The Company will use skilled, trained men, supervised and directly employed by the Company and use reasonable care to see that the equipment is maintained in proper operating condition.

On a QUARTERLY BASIS, the Company will examine, adjust, lubricate, and if conditions warrant, unless specifically excluded under the terms of this contract, repair or replace the:

**PUMP UNIT:** including pump, V-belts, strainers, silencers, springs and gaskets

**MOTOR:** including motor windings, bearings, rotating element, commutators, brushes, and brush holders

**VALVES:** including relief valve, pilot, lowering, leveling, and checking valves; or any of the parts thereof

**DISPATCHING EQUIPMENT:** including relays, resistors, contacts, coils, leads, fuses, transformers, timing devices, and solid state components

**SELECTOR:** including electrical or mechanical drive components, cams, contacts, relays, resistors, leads, transformers, and solid state components

**CAR:** including power door operator, door protective devices, car door hangers, car door contacts, load weighing equipment, car safety devices, car guide shoes, and sub flooring

**HOISTWAY:** including deflector sheave, secondary sheaves, buffers, governor tension assemblies, guide rails, limit switches, compensating sheave assemblies, compensating chain or cables, traveling cables, hoistway and machine room wiring, hoistway door interlocks, hoistway door hangers and gibs, and auxiliary closer

**ACCESSORY EQUIPMENT:** including all accessory elevator equipment installed prior to commencement of this contract unless excluded in the inspection paragraph

**FIXTURES:** car and hall button stations, master indicator control panels, all signal fixtures including contacts, buttons, key switches, and locks, lamps, and sockets

**FURNISH LUBRICANTS:** compounded to rigid specifications, and selected to give the best performance

**FURNISH AND MAINTAIN:** hydraulic oil at proper operating level

**PRESSURE TEST:** Perform yearly pressure test and tags for State Inspection

**ITEMS NOT COVERED**

We do not cover cosmetic, construction, or secondary components of the elevator system, including the finishing, repairing, or replacement of cab enclosure, ceiling frames, panels, and/or fixtures, hoistway door panels, door frames, sills, car flooring, floor covering, lighting fixtures, ceiling light bulbs, and tubes, main line power switches, breaker(s), feeders to controller, hydraulic elevator jack outer casing, buried piping, sump pumps, alignment of elevator guide rails, smoke sensors, heat detectors, monthly fire service testing and written record reports, communication devices, security systems not installed by us, batteries for emergency lighting and lowering, air conditioners, heaters, ventilation fans and all other items as set forth and excluded in this contract. All parts costing over \$300.00 will be billable to the customer. The labor to install parts costing over \$300.00 will also be billable to the customer. The company will provide a quote to customer for billable repairs.

**PRORATIONS**

The items listed below show considerable wear and will have to be replaced in the near future. To provide you with the maximum service from these items the Company is accepting them in their present condition with the understanding that you agree to pay, in addition to the base amount of this contract, an extra charge at the time the items are first replaced. The charge for this replacement will be determined by prorating the total cost of replacing the individual items. You agree to pay for the portion of the list of the items used prior to the date of this contract, and the Company agrees to pay for that portion used since the date of this contract.

**SCHEDULE OF PARTS TO BE PRORATED**

NAME OF PART	INSTALLED
N/A	

**HOURS OF SERVICE**

All work will be performed during regular working hours of regular working days of the elevator trade, unless otherwise specified below. The Company will provide emergency minor adjustments callback service:

- FM8 - During regular working hours of the regular working day only.
- FM24 - On a 24-hour, 7 day a week basis
- \_\_\_\_\_
- \_\_\_\_\_

**OTHER TERMS AND CONDITIONS**

You agree to keep the elevator pit(s) and motor(s) free from water and rubbish, to give the Company written notice within twenty-four hours of any accident, alteration or change affecting the equipment, to discontinue immediately the equipment from service when it becomes unsafe or operates in a manner which might cause injury to a user thereof, and to maintain surveillance for such purposes.

With the passage of time, equipment technology and designs will change. The Company is not responsible for such changes and is not obligated to: (1) make any changes or recommendations in the existing design or functions of the equipment; (2) service or make repairs to the equipment by reason of obsolescence; (3) replace obsolete or outmoded equipment; or (4) install new attachments or parts upon the equipment that are recommended by insurance companies, any government agencies or authorities, or any third parties.

The Company does not assume any liability on account of accidents to persons or property except those directly and solely due to negligent acts of the Company or its employees, and your own responsibility for accidents to persons or properties riding on or being on or about the aforesaid equipment is in no way affected by this contract. At any time the Company's serviceman is servicing the equipment the Company is asserting possession and control only over specific components being serviced at any given moment, and possession and control of the remainder of the equipment remains with you. The Company is not responsible for any situation that may occur that cannot be revealed by the ordinary inspection methods offered with this service.

The Company is not responsible or liable for any loss, damage, or delay caused by accidents, strikes, lockouts, fire, floods, acts of civil or military authorities, or by insurrection or riot, or by any other cause that is unavoidable or beyond the Company's control. In addition, the Company is not responsible or liable for any punitive, indirect, incidental, special, or consequential damages however caused and regardless of whether in contract, tort, or under any other theory of liability.

Notwithstanding anything else contained in this contract to the contrary, the Company's liability to you for all claims, demands, losses, liabilities, damages, costs, and expenses (including attorneys' fees and court costs) arising from or related in any way to this contract or any services provided by the Company hereunder (collectively, the "Claims") is limited in the aggregate to an amount equal to the total amount of fees that you have paid to the Company over the term of this contract. Accordingly, you hereby waive all Claims in excess of the maximum limitation set forth in the immediately preceding sentence. billable to the customer along with the labor to install the parts over \$300.00. The company will provide quotes for repairs. In the event of the sale, lease or other transfer of all or substantially all of the equipment described herein, or the premises in which they are located, you shall cause the purchaser of the same to agree to be bound by, and to assume, this contract and all of its terms for the balance of the term hereof. If you fail to have such purchaser agree to be bound by and assume this contract and its terms, then you will remain liable for the full unpaid

balance due for the unexpired term of the contract. Notwithstanding the foregoing, in the event of the sale, lease or other transfer of all or substantially all of the equipment described herein, the Company may terminate this contract at any time upon ninety (90) days' advance notice in writing.

### TERM

The term of this contract begins on August 1, 2023, and continues for a period of 3 years. Thereafter, this contract will automatically renew for additional periods of 3 years each, unless either party provides prior written notice to the other party of its intent to terminate the contract at the end of the initial 3 years, or at the end of any subsequent 3 years period. The written notice must be sent via certified mail and must be received by the other party no later than ninety (90) days prior to the end of the then current 3 years.

### PAYMENTS

As compensation for the services being provided by the Company under this contract, you shall pay to the Company, **in advance and not in arrears**, the sum of \$ 604.00 (Six hundred four and 00/100 dollars)

PER QUARTER

As the costs the Company incurs for providing elevator service may increase or decrease, the Company will adjust the price of your service accordingly, on an annual basis, effective January 1 of each year, when the field labor increase/decrease is implemented. The Company will adjust your quarterly payment based on the percentage change in the average rate paid to the elevator examiners. This rate consists of the hourly rate paid to examiners plus fringe benefits and union welfare granted in place of or in addition to the hourly rate. Fringe benefits include pensions, vacations, paid holidays, group insurance, sickness, and accident insurance, and hospital insurance. The maximum escalation per year is 5%.

Your payment may also increase or decrease in the event the equipment is modified from its present state.

If you do not pay any amount due under this contract within sixty (60) days from the date such amount is billed to you by the Company, then the Company may charge you a late fee equal to the lesser of 1 ½ % per month, or the highest amount permitted by law, applicable beginning the 61<sup>st</sup> day from the billing date until the overdue amount is paid in full, and may also choose to do one of the following: (1) suspend all service until all amounts due have been paid in full, (and in that case, you agree that the Company is discharged from any further obligations to perform under this contract); or (2) declare all sums for the unexpired current term of this contract due immediately and terminate this contract. If the Company elects to suspend service, the Company will not be responsible for damages or injuries to persons or property from lack of service.

In addition to the foregoing, if you breach any of your non-monetary obligations under this contract, the Company may terminate this contract upon thirty (30) days prior written notice to-you.

If the Company retains a third party to enforce and/or collect payment due under this contract, either with or without suit, you shall pay to the Company all costs and expenses thereof together with reasonable attorney's fees.

## **GOVERNING TERMS**

To the extent permitted by law, you hereby knowingly, voluntarily, and intentionally waive your right to a trial by jury in any action, suit, or other legal proceeding arising out of or relating to this contract.

You hereby (i) submit to the jurisdiction of any state or federal court sitting in Elmore County, Alabama, over any action, suit, or other legal proceeding arising out of or relating to this contract, and (ii) waive, to the extent permitted by law, any objection you now or hereafter have to the laying of the venue of any such action, suit, or other legal proceeding brought in any such court and any claim that any such action, suit, or other legal proceeding brought in any such court has been brought in an inconvenient forum. Final judgment in any such action, suit, or other legal proceeding brought in any such court will be conclusive and binding upon you and may be enforced in any court of the jurisdiction of which you are subject, by a suit upon such judgment.

This contract and the parties' rights and obligations hereunder are to be governed by, and construed and interpreted in accordance with, the laws of the State of Alabama. If any term of this contract is determined to be invalid, illegal, or unenforceable, the remaining terms of this contract remain in full force, if the essential terms of this contract for each party remain valid, binding, and enforceable. The terms of this contract may be waived only by written instrument executed by the party against whom enforcement of such waiver is sought, and no waiver by either party of any term contained herein, or of a breach of any agreement contained herein, will be deemed or construed to be a waiver of any other term, or of any other breach of any agreement, contained herein. The parties have reviewed this contract carefully and been given the opportunity to discuss it with their respective legal counsel; each word, phrase, sentence, and other part of this contract is to be given its plain meaning, and rules of interpretation or construction of contracts that would construe any ambiguity of any part of this contract against the draftsman, by virtue of being the draftsman, do not apply. This contract contains the entire agreement of the parties hereof. To be effective, any amendment or modification of this contract must be in writing and signed by the parties. Neither party may assign this contract or any of the party's rights or obligations under this contract without the prior written consent of the other party. This contract is binding upon, and inures to the benefit of, the parties and their successors, and permitted assigns.

When this contract is signed by you below, and thereafter approved by the Company's authorized representative in writing, it will constitute a legally binding agreement between the parties, and all prior representations or agreements not incorporated herein will be superseded.

Accepted For:  
Owner or Authorized Agent

Submitted For: DIVERSIFIED ELEVATOR  
SERVICE & EQUIPMENT  
COMPANY, INC.

By

**FOR PUBLIC RELEASE**

*[Handwritten signature]*

By

**FOR PUBLIC RELEASE**

Hunter Ziegler

**FOR PUBLIC RELEASE**

Approved By: DIVERSIFIED ELEVATOR  
SERVICE & EQUIPMENT  
COMPANY, INC.

Date

07/12/2023

**FOR PUBLIC RELEASE**

Title CFO

Date 7/11/2023