

RESOLUTION NO. 23-264

A RESOLUTION APPROVING THE CITY OF PORT ARTHUR SECTION 4A ECONOMIC DEVELOPMENT CORPORATION ENGAGING THE SERVICES OF SCHINDLER ELEVATOR CORPORATION OF HOUSTON, TEXAS FOR AN EXTENDED WARRANTY AGREEMENT TO SERVICE TWO (2) ELEVATORS AT THE PRESS BUILDING LOCATED AT 549 4TH STREET, IN THE AMOUNT OF \$11,184.00. FUNDS AVAILABLE IN EDC ACCOUNT NO. 120-80-625-5312-00-00-000

WHEREAS, the City of Port Arthur Section 4A Economic Development Corporation (PAEDC) owns the property located at 549 4th Street, Port Arthur, Texas and has the commitment to maintain the safety and integrity of said premises; and

WHEREAS, Schindler Elevator Services, has been servicing the elevator at the EDC building and has provided consistent dependable service; and

WHEREAS, elevator maintenance helps avoid major replacements and prolongs the life of elevators; and

WHEREAS, Schindler Elevator Corporation has provided an Extended Warranty Agreement "Exhibit A", and

WHEREAS, for the safety and comfort of the tenants, elevator maintenance is necessary; and

WHEREAS, at their June 5, 2023, Board Meeting, the PAEDC Board of Directors approved engaging the services of Schindler Elevator Corporation for the maintenance and extended warranty of the elevators at 549 4th Street, in the amount of \$11,184.00

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORT ARTHUR:

Section 1. That the facts and opinions in the preamble are true and correct.

Section 2. That the City Council authorizes PAEDC to engage the services of Schindler Elevator Corporation, for the elevator maintenance and warranty of the elevators located at 549 4th Street, in the amount of \$11,184.00.

Section 3. That a copy of the caption of this Resolution be spread upon the Minutes of the City Council.


READ, ADOPTED AND APPROVED on this 20th day of June A.D., 2023, at a Meeting of the City Council of the City of Port Arthur, Texas, by the following vote:

AYES:

Mayor Bartie, Mayor Pro Tem Hamilton,
Councilmembers Frank, Rindler, Lewis,
Marks

NOES: None


Thurman Bartie, Mayor

ATTEST:
Kelly Maare
Sherri Bellard, City Secretary


APPROVED:
Terry Stokes
Terry Stokes, PAEDC CEO

23165

Exhibit "A"

Schindler EW - Extended Warranty Agreement

Schindler Elevator Corporation
2105 Silber Road
Suite 100
Houston, TX 77055-2653
Phone: 713-576-2327
Fax: 713-692-0075

To: Port Arthur EDC
Port Arthur, TX 77640

Agent For:

This warranty is in lieu of all other warranties referred to or set forth in the Contract Documents for the Port Arthur EDC Renovations project, located at 549 4th Street, Port Arthur, TX 77640 and this Agreement takes precedence over, and incorporates no additional or different terms from any contract documents associated with the project.

Schindler warrants that the Equipment as furnished will comply with the contractual specification; sections; "warranty". If properly notified, Schindler will, at its expense, correct any defects and workmanship and materials occurring for 10 years from June 1, 2023, which are due to ordinary wear and tear and not to improper use, care, or vandalism. Schindler's total cumulative liability under this warranty or anything done in connection therewith, including breach, shall not exceed the price of the part upon which such liability based. The warranty provided herein shall be void if inspection / repair is performed by someone other than Schindler Elevator Corporation, in a manner less than Schindler Elevator Corporation's standards. Schindler Elevator Corporation maintains high and rigid standards for its personnel in product knowledge and training requirements. In addition, Schindler will extend the routine inspection necessary to maintain this warranty in force through May 31, 2033. This warranty shall be extended for additional periods of 10 years unless terminated by either party by written notice not less than 90 (ninety) days prior to the above date or the termination date of any renewal period. This Agreement will be assigned to any successor in interest, should your interest be terminated prior to the above date, or prior to the expiration date of any subsequent renewal, upon notification to and acceptance by us of such assignment.

As part of its inspection requirements, Schindler will regularly examine, clean, lubricate, adjust and where conditions warrant, repair or replace broken or malfunctioning components, including: all labor and material to keep Equipment running to original specifications by Schindler, the original Equipment manufacturer. See attached Equipment list for a **Description of Equipment** covered by this agreement.

Schindler will use only competent technicians specially trained to service this Equipment. Items beyond Schindler's control, such as vandalism and abuse of the Equipment are not covered under Schindler's inspection responsibilities. Schindler will provide emergency minor warranty service and/or repair work on a twenty-four (24) hours a day, seven (7) days a week basis, excluding elevator trade holidays. A request for service will be considered an "emergency minor warranty service and/or repair work" if it is to correct a malfunction or adjust the equipment and requires immediate attention and is not caused by misuse, abuse or other factors beyond our control. The term does not include any correction or adjustment that requires more than one technician or more than two hours to complete. If you authorize callbacks outside regular working hours, on weekends, or on elevator trade holidays, Schindler will invoice the Owner at Schindler's standard billing rates, including travel time and expenses.

For emergency repairs, please notify Schindler at 1-800-225-3123. The following information will be required:
Building identification number and a brief description of the problem.

SCHINDLER AHEAD

If included in this agreement, you will be provided access to the Schindler Ahead tools, which include Schindler Ahead hardware connectivity, Core service in the tier described below, Schindler Actionboard and Actionboard Mobile.

You will also be provided access to the optional Ahead Digital Services as selected and described below.

Schindler Ahead provides remote connectivity to your Equipment. Schindler Ahead will automatically notify us if any connected component or function is operating outside established parameters. When appropriate, we will communicate with you to schedule appropriate service calls. Monitoring will be performed 24/7 and will automatically communicate with our Customer Service Network using dedicated wireless cellular technology. Schindler will make every reasonable effort to maintain wireless connectivity. If requested, you will provide the proper wiring diagrams for the equipment covered. These diagrams will remain your property and will be maintained by Schindler for use in troubleshooting and servicing the equipment.

Schindler ActionBoard and ActionBoard Mobile are communication technologies that provide access to real-time information about your equipment including performance history, reports, push notifications, service call records, unit profiles and more.

Your contract includes the above features as well as the following Core package:

Connect – Schindler's Connect package provides wireless cellular communication from your equipment's controller to Schindler's data network. This allows the Schindler Cube or Schindler SRM to be connected to your equipment 24/7. The Connect package also provides access to the basic features of ActionBoard/Dashboard and ActionBoard Mobile/Dashboard Mobile, giving you real time information on your equipment.

Schindler Ahead, your Core package, and the digital services described in this agreement require Schindler Ahead Connectivity. If your existing unit(s) are not equipped with the Connectivity to enable the selected services, we will provide a separate invoice for this cost. By signing this agreement, you agree to pay the costs associated with this activation. Work shall be performed during our regular working hours of our regular working days. Title to Hardware remains with Schindler. Schindler may replace or modify Hardware at any time. Customer shall promptly provide Schindler access to Hardware and prevent unauthorized access thereto.

The following services are also available:

DigitalAlarm - The Schindler Ahead in-car emergency phone service will be added to your digital package. This service includes a reliable digital connection between your existing or new in-car emergency phone and our Schindler Customer Service Network that handle incoming and outgoing emergency calls with passengers in the elevator. To ensure reliability, Schindler Ahead phone service also provides monitoring of this connection. This in-car emergency phone service feature will be added along with the Schindler Ahead Core Services and is contingent

upon code approval by the local authority having jurisdiction. The Schindler Ahead solution must be installed and confirmed by Schindler to be communicating before you proceed with plans to remove or cancel your existing service provider's line for your in-car emergency phone. Schindler will notify you once the Schindler Ahead phone service connection is confirmed. This will ensure there is no disruption with emergency communications with passengers in the elevator. If proprietary telephone equipment exists, you agree to replace the proprietary hardware with compatible hardware for an additional cost.

_____ Initial here to select DigitalAlarm as an additional service

ElevateMe - The Schindler Ahead ElevateMe service, enables passengers to call an elevator via their personal smartphone. Any smartphone with an Apple iOS or a Google Android operating system, can download the ElevateMe app from the respective app store. Via the app the elevator can be called, and the desired destination floor entered. The smartphone will substitute the typical elevator call via a landing or car operating panel*. Once the service is active, all passengers using the smartphone application can place destination calls. The elevator must be equipped with Schindler Ahead to offer the feature. *The landing and operating panels will remain and work as is.

Scope of Services:

- Software update and activation of feature on Schindler Cube
- Creation, printing and installation of QR Codes
- Commissioning of system, testing and registration via Schindler Ahead Control Center
- Permanent Monitoring and support via the Technical Operation Center (TOC)
- Regular Over-The-Air Update to ensure reliability and security of the hardware

_____ Initial here to select ElevateMe as an additional service

This Agreement includes the Connect tier of service.

This agreement will become effective on June 1, 2023. The price of this extended warranty agreement shall be \$932.00 (Dollars) per month, payable in annual installments of \$11,184.00, plus any applicable sales, use or other taxes. The price shall be adjusted annually as of the date of the local labor rate adjustment, to reflect changes in Schindler costs for labor. If there is a delay in determining a new labor rate, we will notify you and adjust the price at the time of such determination, and we will retroactively bill or issue credit, as appropriate, for the period of such delay. We also reserve the right to adjust the contract price quarterly / annually on the basis of changes in other expenses such as fuel, waste disposal, government regulations or administrative costs. This offer is firm for 90 days from the date of our proposal. Acceptance beyond that date may require updates of the Price and Price Adjustment Provisions.

The pricing above includes a subscription price of \$20 per month for Schindler Ahead Connect on 2 units, totaling \$20.00 per month. This will be payable in annual installments of \$240.00, exclusive of applicable taxes.

All other terms and conditions of the maintenance agreement remain in full force and effect, except as specifically modified herein. This Agreement is incorporated into and is part of the maintenance agreement. The annual contract price adjustments will not apply to Schindler Ahead. Schindler reserves the right to make adjustments to the monthly fee for Schindler Ahead as additional features and functionality are added to this offering. During the term of this agreement, you have the ability to adjust the tier you have selected at your convenience.

The terms and conditions attached here to are incorporated herein by reference.

Acceptance by you as owner's agent or authorized representative and subsequent approval by our authorized representative will be required to validate this agreement.

Proposed By: <u>Richard Schredl</u>	Approved By: <u>Otto Leone</u>	Accepted By: _____
Estimate Number: <u>APAE-CGALL7 (2022.5.1)</u>	For: <u>Schindler Elevator Corporation</u>	For: <u>Port Arthur EDC</u>
Date: <u>February 10, 2023</u>	Date: _____	Date: _____

Terms and Conditions

Excluded from Schindler's inspection responsibilities are the following:

Hoistway door hinges, panels, frames, gates and sills; cabs and cab flooring; freight elevator door straps, cab doors, gates and removable cab panels; cab mirrors and handrails; power switches, fuses and feeders to controllers; light fixtures and lamps; cover plates for signal fixtures and operating stations; smoke detectors; cleaning of cab interiors and exposed sills; plungers, casings and cylinders; all piping and connections except that portion which is exposed in the machine room and hoistway; emergency power generators; emergency cab lighting; communication devices; intercom or music systems; air conditioners or heaters, fireman's phones and card readers. Exterior panels; skirt and deck panels; balustrades; relamping of illuminated balustrades; power switches, fuses and feeders to controllers; cleaning of exposed surfaces; escalator steps and electric walk pallets; any batteries associated with the equipment; obsolete items, (defined as parts, components or equipment either 20 or more years from original installation, or no longer available from the original equipment manufacturer or an industry parts supplier, replaceable only by refabrication.)

Other than title, there are no additional warranties or guarantees, expressed or implied, including but not limited to, warranties of merchantability or fitness for a particular purpose, which are expressly disclaimed.

The purchaser agrees to provide Schindler with full and free access to the Equipment to render inspection/service thereon, to provide a safe work place for Schindler's employees, and to remove any hazardous materials in accordance with applicable laws and regulations.

Schindler has based its price on the assumption that, in performing the work required by this Agreement, it will not encounter conditions having an unusual or adverse effect on the Equipment or the circumstances under which it must perform the work, it shall not be responsible for any adverse effects resulting from such conditions. If Schindler encounters such conditions, it may at its option, suspend the performance of inspection and its warranty obligations under the Agreement pending negotiation of additional charges as compensation for increases in its costs.

Possession or control of the Equipment shall remain with the Purchaser, and the Purchaser shall retain its normal responsibility and liability as Owner, Possessor, or Custodian of the Equipment. The Purchaser agrees to at all times carefully monitor the Equipment and its use and, in the event of the malfunction, operation problem, or dangerous condition, to immediately remove the unit from service, erect barriers and post warnings to prevent use of the Equipment, and promptly notify Schindler using the Schindler Customer Service Network.

Schindler hereby disclaims responsibility for accidents, injuries or malfunctions related to misuse of the Equipment or vandalism, or for obsolescence, or other causes beyond our control, or for Equipment failures not detectable upon normal examination or otherwise not found to be the result of Schindler's specific negligent act or omission.

Schindler will not be responsible for a loss, damage, detention, or delay caused by strikes, lockouts, labor troubles, or disputes, fire, explosion, theft, earthquake, epidemics, pandemics, severe or unusual weather conditions, shortage of material or workers, malicious mischief, war, governmental orders, acts of God, or by any other cause beyond its control. Schindler will in no event be liable for special, indirect, incidental or consequential damages.

You will assign this Agreement to your successor in interest, should your interest in the premises cease prior to the initial or any renewal termination date. If this Agreement is terminated prematurely for any reason, other than our default, including failure to assign to a successor in interest as required above, you will pay as liquidated damages (but not penalty) one-half of the remaining amount due under this agreement.

If either party to this Agreement claims default by the other, written notice of at least 30 days shall be provided, specifically describing the default. If cure of the default is not commenced within the thirty-day notification period, this Agreement may be terminated. In the event of litigation, the prevailing party will be entitled to its reasonable attorneys' fees and costs. If you elect to modernize any or all of the Equipment during the term of this agreement, you will give us the option, within a reasonable time, to prepare an offer for the work and/or evaluate competitor proposals and compare scope of work and price. If we are unable to match price and scope of work, or present an alternative proposal, this Agreement may be canceled with ninety (90) days written notice.

Invoices (including invoices for extra work outside the fixed price) will be paid upon presentation, on or before the last day of the month prior to the billing period. Late or non-payments will result in:

- (a) Interest on past due amounts at 1½% per month or the highest legal rate available;
- (b) Termination of the Agreement on ten (10) days prior written notice.

The annual contract price adjustment will not apply to Schindler Ahead. Schindler reserves the right to make adjustments to the monthly fee for the Schindler Ahead tiers as additional value added features and functionality are added to the selected offering.

Any proprietary material, information, data or devices contained in the equipment or work provided hereunder, or any component or feature thereof, remains our property. This includes, but is not limited to, any tools, devices, manuals, software, modems, source/ access/ object codes, passwords. In the event Schindler's maintenance obligation is terminated, the Schindler Ahead features ("SA") (if applicable) will be deactivated and Schindler reserves the right to remove the Schindler Ahead hardware. If Schindler is no longer the maintenance provider, Customer is responsible for obtaining alternative telephone service for the elevator phones.

Our testing responsibilities do not include fees or changes imposed by local authorities in conjunction with witnessing, witnessing costs, inspecting, assisting inspection authorities, licensing or testing the Equipment including observation of testing by 3rd parties; changes in the testing requirements after the initial start date of this Agreement, or any other testing obligations other than as specifically set forth above, including, but not limited to seismic tests. Further, our testing responsibilities do not include performance, or the keeping of records related to, monthly firefighters service.

You will prevent access to the Equipment, including the SA feature and/or dedicated telephone line if applicable, by anyone other than us. We will not be responsible for any claims, losses, demands, lawsuits, judgment, verdicts, awards or settlements ("claims") arising from the use or misuse of SA, if it or any portion of it has been modified, tampered with, misused or abused. We will not be responsible for use, misuse, or misinterpretation of the reports, calls, signals, alarms or other such SA output, nor for claims arising from acts or omissions of others in connection with SA or from interruptions of telephone service to SA regardless of cause. You agree that you will defend, indemnify and hold us harmless from and against any such claims, and from any and all claims arising out of or in connection with this Agreement, and/or the Equipment, unless caused directly and solely by our established fault.

Schindler Elevator Corporation is insured at all locations where it undertakes business for the type of insurance. You agree to accept in full satisfaction of the insurance requirements for this Agreement, our standard Certificate of Insurance. We will not name additional insureds. Limits of liability as follows:

- (a) Workers' Compensation - Equal to or in excess of limits of Workers' Compensation laws in all states and the District of Columbia.
- (b) Comprehensive Liability - Up to Two Million Dollars (\$2,000,000.00) single limit per occurrence, Products/Completed Ops Aggregate \$5,000,000.
- (c) Auto Liability - \$5,000,000 CSL.
- (d) Employer's Liability - \$5,000,000 Each Accident/Employee/Policy Limit.

The following additional terms and conditions are incorporated:

The first 3 months of service will be free if agreement is signed and returned by June 31, 2023

PAYMENT OPTIONS

(1) Please select a Method of Payment:

Direct Debit 1% Discount (Attach Copy of voided check)

Credit Card 3% Addition

Visa MC AMEX

Number: _____

Expiration Date: _____

Signature: _____

Check

Other: _____

(2) Please select a Payment Frequency (Other than Annual):

Semi-Annual 1% Addition

Quarterly 3% Addition

Monthly 5% Addition

**Port Arthur EDC Renovations
Equipment List**

EQUIPMENT DESCRIPTION:

Qty	Manufacturer	Equipment	Application	Description	Rise/Length Openings	Capacity	Speed	Install#
Port Arthur EDC Renovations 549 4th Street Port Arthur, TX 77640								
1	Schindler	Gearless	Passenger	ELEV 01 (S1026229)	2F/OR	2100	100	N3341
1	Schindler	Gearless	Passenger	ELEV 02 (S1029491)	2F/OR	2100	100	N6349