
TULSA COUNTY

**PURCHASING
DEPARTMENT**

MEMO

DATE: JUNE 15, 2016

FROM: LINDA R. DORRELL
PURCHASING DIRECTOR



TO: BOARD OF COUNTY COMMISSIONERS

SUBJECT: MAINTENANCE AGREEMENT – O.M.E. CORPORATION, LLC

THE TULSA COUNTY PURCHASING DEPARTMENT RESPECTFULLY REQUESTS THE BOARD OF COUNTY COMMISSIONERS APPROVE AND EXECUTE THE ATTACHED MAINTENANCE AGREEMENT BETWEEN THE BOARD OF COUNTY COMMISSIONERS ON BEHALF OF THE TULSA COUNTY ELECTION BOARD AND O.M.E. CORPORATION, LLC FOR MAINTENANCE ON MACHINE MODEL NUMBER 106, WHICH ARE LOCATED AT THE ELECTION BOARD, 555 N. DENVER, TULSA, OK 74103.

RESPECTFULLY SUBMITTED FOR YOUR APPROVAL AND EXECUTION.

LRD/arh

ORIGINAL: PAT KEY, COUNTY CLERK, FOR THE JUNE 20, 2016 AGENDA.

COPIES: COMMISSIONER JOHN M. SMALIGO
COMMISSIONER KAREN KEITH
COMMISSIONER RON PETERS
MICHAEL WILLIS, CHIEF DEPUTY
VICKI ADAMS, CHIEF DEPUTY
PATTY BRYANT, ELECTIO BOARD

TERMS AND CONDITIONS

The parties here to covenant and agree as follows:

1. This Agreement shall commence on the date first above appearing ("Commencement Date") and shall continue for an original term of one (1) year and shall only renew thereafter for successive like periods upon mutual agreement of the parties unless terminated by either party by the giving of written notice to the other party not less than thirty (30) days prior to the expiration of then current term (original or renewal). The terms and conditions set forth herein shall remain in full force and effect during any renewal term, except that the rate set forth on the reverse side hereof shall be adjusted during any renewal term to the then current rates.
2. During the term hereof, as extended or renewed, OME shall provide Customer pursuant to the terms and condition set forth herein, certain out-of-warranty Service (as herein defined) with respect to the equipment listed on the reverse side hereof (herein collectively called "Machine") unless Service with respect to a particular Machine is scheduled to begin as herein indicated on a date other than the commencement date as shown on the reverse side.
3. OME's obligations hereunder ("Service") shall be limited to providing (i) labor required for satisfactory operation of the Machine and (i) repair or replacement of defective or worn out parts of the Machine but not including shop reconditioning or replacement of complete assemblies resulting from the wearing out of parts.
4. OME's obligations hereunder shall not include (i) service or maintenance required due to accident, negligence, misuse, specification changes or causes other than normal use, (ii) any service or maintenance in connection with attachments or alteration of the Machine, or (iii) furnishing supplies or additional operator instruction after initial installation of the Machine.
5. Any parts or labor provided by OME under a warranty made by OME in connection with the sale of the Machine by OME to Customer shall be provided pursuant to the terms and conditions of said warranty and not pursuant to this Agreement.
6. Service shall be performed during OME's normal business hours: However, Service, when and if available after OME's normal business hours and on Saturdays and Sundays and Holidays shall be charged at OME's then current maintenance rate for labor, travel and expenses in addition to any amount paid by Customer pursuant to this Agreement.
7. If the Machine is regularly used by more than one (1) shift of personnel, the charge set forth herein shall be increased by fifty (50%) percent for each additional shift regularly using the Machine.
8. If, in OME's opinion, the Machine should be removed for shop reconditioning because on-site repair and/or replacement of parts will not keep the Machine in satisfactory operating condition, OME will submit a cost estimate to Customer for reconditioning, and if authorized by Customer, OME will recondition the Machine at the sole expense of Customer, which will be in addition to any amounts paid by Customer pursuant to this Agreement.
9. With respect to any mechanical scales which may be included under this Agreement, OME will undertake, at an additional charge, to adapt such scale to reflect postal rate changes occurring during the term hereof by supplying, if available from manufacturer, revised charts, overlays, parcel delivery service rate strips or other means of updating. The adaptation of each scale will be scheduled within a reasonable length of time prior to or subsequent to the effective date of a postal rate change.
10. Any parts supplied hereunder shall be free from manufacturing defects in material and workmanship under normal use for period of ninety (90) days after same are supplied to Customer. Under this Agreement OME may occasionally install used parts without altering customer's warranty for that part. This warranty does not apply to any part, which has been tampered with or repaired by persons other than a person authorized by OME to perform Service on the Machine or the part has been subjected to misuse or abuse.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. IN CASE OF ANY BREACH OF THIS WARRANTY, OME'S OBLIGATIONS SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF ANY DEFECTIVE PART WITHOUT CHARGE. OME SHALL NOT BE LIABLE, IN ANY EVENT, FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES IN CONNECTION WITH SERVICE, PARTS OR LABOR PROVIDED HEREUNDER OR RESULTING FROM ANY USE OR FAILURE OF MACHINES, INCLUDING WITHOUT LIMITATION, LIABILITY FOR CUSTOMER'S EXPENSES OR LOSS OF INCOME WHILE MACHINES ARE OUT OF OPERATION.

11. The following are hereby expressly excluded from OME's obligation hereunder:

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| * Electronic circuit boards | * Consumable supplies |
| * Electronic components required for rate increase/change | * Ink rollers, ink, pre-inked assemblies |
| * Rubber rollers and other consumable rubber parts | * Ink cartridges, ribbons |
| * Advertisement Plates | * Training New Employees |
| * Running Jobs or Applications | * Customer Network / IT required issues |
| * Equipment Moves | * Environmental Factors |

12. Customer represents that Customer is not a party to or bound by any contract, agreement, commitment, or obligation, a breach or default of which would be triggered by Customer's execution and delivery of this Agreement.
13. This Agreement constitutes the entire Agreement between the parties hereto, and supersedes all previous negotiations, commitments and agreements, with respect to its subject matter. This Agreement may not be modified except in writing signed by both parties. The terms of this Agreement shall prevail over any inconsistent terms appearing on any purchase orders or acknowledgements submitted by Customer. Neither this Agreement nor any rights hereunder may be assigned by Customer without the prior written consent of OME.