

**SUBJECT: RESOLUTION NO. 73, SERIES 2025 – A RESOLUTION
APPROVING AN AGREEMENT WITH DESIGN MECHANICAL
INCORPORATED FOR HVAC SERVICES**

DATE: OCTOBER 07, 2025

PREPARED BY: KEVIN FREY, FACILITIES SUPERINTENDENT

PRESENTED BY: KURT KOWAR, DIRECTOR, PUBLIC WORKS

SUMMARY:

Staff recommend approval of a contract with Design Mechanical Inc. in the amount of \$108,912 plus a 10% contingency in the amount of \$10,891, for a total of \$119,803 for the purchase and installation of a replacement explosion-proof heater at the Wastewater Treatment Plant. This item will be included in a future budget amendment in the Wastewater Fund.

A replacement explosion-proof heater is required due to the failure of the existing unit, which is currently out of operation. The heater's malfunction has resulted in an inability to maintain the necessary ambient temperature within the building during periods of low external temperatures. This has led to internal freezing conditions, creating potential risks to equipment integrity, process reliability, and personnel safety. To mitigate these risks and ensure compliance with environmental and safety standards for hazardous locations, the procurement and installation of a new explosion-proof heater is necessary.

BACKGROUND / PRIOR DISCUSSIONS:

The explosion-proof heater in the Headworks building has stopped operating and is beyond repair. The facilities department has engaged with vendors to make repairs, but parts and service are not available for this type of heater, and a new unit is required.

Staff solicited 3 bids from specialty HVAC vendors that were able to provide and install the specified heater. Bids received are as follows:

Contractor	Base Bid	Alternate 1	Alternate 2
Design Mechanical	\$108,912	\$0.00	\$0.00
MTECH Mechanical	\$131,851	\$0.00	\$0.00
US Engineering	No Bid	\$0.00	\$0.00

ANALYSIS:

While there is an initial cost associated with purchasing and installing a new explosion-proof heater, the financial risks of inaction are substantially higher. These include potential equipment damage, production losses, emergency repair costs, and liability from unsafe

working conditions. Proactive replacement is more cost-effective than reactive crisis management.

Approval of the purchase and installation of a new explosion-proof heater is essential. It addresses immediate safety risks, ensures regulatory compliance, preserves operational integrity, and protects the facility from costly disruptions. Delaying this approval increases exposure to unnecessary and unforeseen risks and long-term costs.

FISCAL IMPACT:

Budgeted?: **No**

The replacement of the explosion-proof heater was not included in the current fiscal year's budget and is considered an unplanned expense. The cost to replace the heater is \$108,912 and staff is requesting a 10% contingency in the amount of \$10,891, for a total of \$119,803.

Budget Amendment

The project will require additional funds that are not currently within the approved budget, so the project will require a budget amendment in the amount of \$119,803 to account 502474-550070. This amendment has been discussed with finance and will be offset by savings on other projects.

ALTERNATIVE(S):

Without proper heating, sensitive equipment and materials within the building are exposed to suboptimal conditions, which can lead to mechanical failure, product degradation, and potential downtime. The absence of temperature regulation also disrupts workflow and reduces operational efficiency, especially in temperature-sensitive processes and storage zones.

RECOMMENDATION:

Staff recommend approval for purchase of a new explosion-proof heater for the Headworks building at the wastewater treatment plant; and Resolution No. 73, Series 2025 - A Resolution Approving an Agreement with Design mechanical Incorporated for HVAC Services.

ATTACHMENT(S):

1. Resolution No. 73, Series 2025
2. Agreement w/ Design Mechanical

**RESOLUTION NO. 73
SERIES 2025**

**A RESOLUTION APPROVING AN AGREEMENT WITH DESIGN MECHANICAL
INCORPORATED FOR HVAC SERVICES**

WHEREAS, an Agreement for HVAC Services has been proposed between the City and Design Mechanical Incorporated for the purchase and installation of an explosion proof heater at the WWTP Headworks Building (the "Project"); and

WHEREAS, by this resolution the City Council desires to approve the Agreement and to authorize additional contingency for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. The City Council hereby approves the Agreement by and between the City of Louisville and Design Mechanical Incorporated for the Project (the "Agreement") in substantially the same form as the copy of such Agreement accompanying this Resolution.

Section 2. The City Council hereby approves an additional ten percent (10%) contingency in the amount of \$10,891 for a total not-to-exceed amount of \$119,803.

Section 3. The Mayor, City Manager, Public Works Director, and City Clerk are hereby authorized to execute the Agreement, change orders, and other contract documents on behalf of the City, and the Mayor is hereby further authorized to negotiate and approve such revisions to the Contract as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Agreement are not altered.

PASSED AND ADOPTED this ____ day of _____, 2025.

Christopher M. Leh, Mayor

ATTEST:

Genny Kline, Interim City Clerk

**AN AGREEMENT BY AND BETWEEN THE CITY OF LOUISVILLE
AND DESIGN MECHANICAL INCORPORATED
FOR HVAC SERVICES**

1.0 PARTIES

This AGREEMENT (this "Agreement") is made and entered into this 12th day of September, 2025 (the "Effective Date"), by and between the **CITY OF LOUISVILLE**, a Colorado home rule municipal corporation, hereinafter referred to as the "City", and **DESIGN MECHANICAL, INCORPORATED**, a Colorado limited liability company, hereinafter referred to as the "Contractor."

2.0 RECITALS AND PURPOSE

- 2.1 The City desires to engage the Contractor for the purpose of providing HVAC services as further set forth in the Contractor's Scope of Services (which services are hereinafter referred to as the "Services").
- 2.2 The Contractor represents that it has the special expertise, qualifications and background necessary to complete the Services.

3.0 SCOPE OF SERVICES

The Contractor agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as **Exhibit A** and incorporated herein by reference. Contractor shall furnish all tools, labor, and supplies in such quantities and of the proper quality as necessary to professional and timely perform the Services. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Service to the City.

4.0 COMPENSATION

- 4.1 The City shall pay the Contractor for Services and equipment under this Agreement a total not to exceed **One Hundred and Eight Thousand Nine Hundred and Twelve Dollars (\$108,912.00)** as set forth in **Exhibit A** attached hereto and incorporated herein by this reference. For Services compensated at hourly or per unit rates, or on a per-task basis, such rates or costs per task shall not exceed the amounts set forth in **Exhibit A**. The City shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Contractor's efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses,

and outside Contractor fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No City employee has the authority to bind the City with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.

- 4.2 The Contractor shall submit monthly an invoice to the City for Services rendered during the previous month. The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the City. The Contractor shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

5.0 PROJECT REPRESENTATION

- 5.1 The City designates Kevin Frey, Facilities Superintendent, as the responsible City staff to provide direction to the Contractor during the conduct of the Services. The Contractor shall comply with the directions given by the Facilities Superintendent and such persons' designees.
- 5.2 The Contractor designates Ronald Shuman as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, and should such replacement require the City or the Contractor to undertake additional reevaluations, coordination, orientations, etc., the Contractor shall be fully responsible for all such additional costs and services.

6.0 TERM

- 6.1 The term of this Agreement shall be from the Effective Date to December 31, 2025, unless sooner terminated pursuant to Section 13, below. The Contractor's Services shall be performed with diligence and promptness so that the Services are completed in a timely fashion and consistent with the City's requirements. Contractor shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.
- 6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the City under this Agreement are subject to annual budgeting and appropriation by the Louisville

City Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

7.0 INSURANCE

7.1 The Contractor agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.3. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required below shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of services hereunder. The required coverages are:

7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.

7.1.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall include the City of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the City of Louisville, its officers and its employees, and shall contain a severability of interest's provision.

7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than FOUR HUNDRED THOUSAND DOLLARS (\$400,000) per person in any one occurrence and ONE MILLION DOLLARS (\$1,000,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS (\$50,000) per occurrence, with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Contractor has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Contractor providing services to the City of Louisville under this Agreement.

7.2 The Contractor's general liability insurance and automobile liability and physical damage insurance shall be endorsed to include the City, and its elected and appointed officers and employees, as additional insureds, unless the City in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees,

shall be excess and not contributory insurance to that provided by the Contractor. Such policies shall contain a severability of interests provision. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

- 7.3 Certificates of insurance shall be provided by the Contractor as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. No required coverage shall be cancelled, terminated or materially changed until at least 30 days' prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- 7.4 Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.
- 7.5 The parties understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the City, its officers, or its employees.

8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if and to the extent such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Contractor shall further bear all other costs and expenses incurred by the City or Contractor and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Contractor. The City shall be entitled to its costs and attorneys' fees incurred in any action to enforce the

provisions of this Section 8.0. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

9.0 QUALITY OF WORK

Contractor's professional services shall be in accordance with the highest professional workmanship and service standards in the field to the satisfaction of the City.

10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Contractor is an independent contractor and not the agent, employee or servant of the City, and that:

- 10.1 **CONTRACTOR SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSED RESPONSIBILITIES INCLUDING BUT NOT LIMITED TO, PAYMENT OF STATE, FEDERAL, AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKER'S COMPENSATION AND SELF-EMPLOYMENT TAXES. NO STATE, FEDERAL OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE CITY.**
- 10.2 **CONTRACTOR IS NOT ENTITLED TO WORKER'S COMPENSATION BENEFITS EXCEPT AS MAY BE PROVIDED BY THE CONTRACTOR NOR TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THE CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY.**
- 10.3 Contractor does not have the authority to act for the City, or to bind the City in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the City.
- 10.4 Contractor has and retains control of and supervision over the performance of Contractor's obligations hereunder and control over any persons employed by Contractor for performing the Services hereunder.
- 10.5 The City will not provide training or instruction to Contractor or any of its employees regarding the performance of the Services hereunder.
- 10.6 Neither the Contractor nor any of its officers or employees will receive benefits of any type from the City.
- 10.7 Contractor represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.

- 10.8 All Services are to be performed solely at the risk of Contractor and Contractor shall take all precautions necessary for the proper and sole performance thereof.
- 10.9 Contractor will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

11.0 ASSIGNMENT

Contractor shall not assign or delegate this Agreement or any portion thereof, or any monies due or to become due hereunder without the City's prior written consent.

12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

13.0 TERMINATION

- 13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.
- 13.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least fifteen (15) days in advance of the termination date. In the event of such termination, the Contractor will be paid for the reasonable value of the services rendered to the date of termination, not to exceed a pro-rated daily rate, for the services rendered to the date of termination, and upon such payment, all obligations of the City to the Contractor under this Agreement will cease. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

14.0 INSPECTION AND AUDIT

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Contractor that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the City in performance of the Services are and shall remain the sole and exclusive property of the City. All such materials shall be promptly provided to the City upon request therefor and at the time of termination of this Agreement, without further charge or expense to the City and in hardcopy or an electronic format acceptable to the City, or both, as the City shall determine. Contractor shall not provide copies of any such material to any other party without the prior written consent of the City. Contractor shall not use or disclose confidential information of the City for purposes unrelated to performance of this Agreement without the City's written consent.

16.0 ENFORCEMENT

- 16.1 In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.
- 16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Boulder County of the State of Colorado, and in no other court. Contractor hereby waives its right to challenge the personal jurisdiction of the District Court of Boulder County of the State of Colorado over it.

17.0 COMPLIANCE WITH LAWS

Contractor shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or

certified, return receipt requested, by national overnight carrier, or by facsimile transmission, addressed to the party for whom it is intended at the following address:

If to the City:

City of Louisville
Attn: City Manager
749 Main Street
Louisville, Colorado 80027
E-mail: dlangle@louisvilleco.gov

If to the Contractor:

Design Mechanical, Incorporated
Attn: Ronald A. Schuman
312 CTC Boulevard
Louisville, CO 80027
E-mail: Ronald.schuman@designmerch.com

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail; or on facsimile transmission receipt. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

20.0 EQUAL OPPORTUNITY EMPLOYER

- 20.1 Contractor will not discriminate against any employee or applicant for employment because of age 40 and over, race, sex, color, religion, national origin, disability, genetic information, sexual orientation, veteran status, or any other applicable status protected by state or local law. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any status set forth in the preceding sentence. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.
- 20.2 Contractor shall be in compliance with the applicable provisions of the Americans with Disabilities Act as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate

stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

21.0 NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than City or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

22.0 SUBCONTRACTORS

Contractor may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Contractor will submit any proposed subcontractor and the description of its services to the City for approval. The City will not work directly with subcontractors.

23.0 AUTHORITY TO BIND

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

24.0 ADDITIONAL TERMS

- 24.1 *Warranty.* Contractor warrants that the equipment and Services furnished hereunder shall be free from defects in material and workmanship for a period of ninety (90) days from the date the Services are fully completed. If any unsatisfactory condition or damage develops within the time of this warranty due to materials or workmanship that are defective, inferior, or not in accordance with the Agreement, as reasonably determined by City, then the Contractor shall, when notified by City, immediately place such guaranteed equipment and Services in a condition satisfactory to City. The City shall have all available remedies to enforce such warranty, except that City shall not have any work performed independently to fulfill such guaranty and require Contractor to pay City such sums as were expended by the City for such work, unless the City has first given notice to the Contractor of the deficiency and given the Contractor a reasonable opportunity to cure the same.

In witness whereof, the parties have executed this Agreement to be effective on the Effective Date.

CITY OF LOUISVILLE,
a Colorado Municipal Corporation

By: _____
Christopher M. Leh, Mayor

Attest: _____
Genny Kline, Interim City Clerk

CONTRACTOR:
DESIGN MECHANICAL INCORPORATED

By: *Ronald Schuman* 9/12/2025
Ronald A. Schuman

EXHIBIT A SERVICES

Customer: City of Louisville Wastewater Treatment Facility
Job Name: Explosion Proof Duct Heater Replacement
Customer Address: 1601 Empire Road, Louisville CO 80027
Job Address: 1601 Empire Road, Louisville CO 80027

INTRODUCTION:

Design Mechanical, Inc., the premier provider of HVAC building solutions and energy services, is pleased to provide you with the following Services.

The City of Louisville ("Customer") authorizes Design Mechanical, Inc. ("Company") to furnish labor, material, and related services as described below.

DESCRIPTION:

Summary: Direct replacement of one (1) Indeeco™ Explosion Proof Duct Mounted Air Heater.

Includes:

- Qty 1 – Indeeco™ Explosion Proof Duct Heater – F03L-0506U-CDEFP4
 - 49.8Kw
 - 480/3/60
 - Explosion Proof Enclosure

SCOPE OF WORK:

- Lock out/Tag Out existing duct heater
- Disconnect existing unit from power and prepare for removal from hangers/vertical supports
- Remove existing duct heater
- Provide for and install new Indeeco™ (direct replacement) duct heater with explosion proof enclosure
- Reuse existing hangers, all thread and unit strut
- Reuse existing power shut off and thermostat
- Reuse existing pressure differential switch
- Reconnect unit reusing all existing power/controls
- Verify proper operation
- Scissor Lift Rental
 - Regular hours labor

EXCLUSIONS:

Anything not listed above.

- Electrical, line voltage
- Permits, Permit fees, Inspections
- Power Shutoff, Duct Mounted T-stat, Pressure Differential Switch
- Fire protection system work
- Building utility upgrades

PRICING:

TOTAL: \$108,912.00