

**RENEWAL AND ADDENDUM NUMBER 3 OF AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
HONEYWELL INTERNATIONAL, INC.**

**THIS RENEWAL** of the County of Monterey Agreement (hereinafter, "RENEWAL") is made and entered into, by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "County"), and Honeywell International, Inc. (hereinafter, "CONTRACTOR") (collectively, the County and CONTRACTOR are referred to as the "Parties").

**WHEREAS**, the Parties had previously entered into an Agreement (hereinafter, "Agreement"), on June 24, 2011; and

**WHEREAS**, the Agreement was amended by the Parties on December 16, 2011 (hereinafter "Addendum No. 1"), and September 28, 2012 (hereinafter, "Addendum No. 2"); and

**WHEREAS**, the Agreement as amended is attached hereto as Attachment 1; and

**WHEREAS**, that Agreement expired on December 21, 2012; and

**WHEREAS**, the Parties wish to renew and amend the Agreement, as amended, on the same or similar terms, beginning May 21, 2013; and

**WHEREAS**, County received federal funds through an Energy Efficiency and Conservation Block Grant (EECBG) from the Department of Energy (DOE) to perform an Investment Grade Audit (IGA) and Energy Efficiency Measures (EEM) under original Agreement; and

**WHEREAS**, IGA and selected EEM have been completed; and

**WHEREAS**, on March 26, 2013, the County Board of Supervisors accepted a Certificate of Completion for construction of the IGA and EEM performed by CONTRACTOR for a total Agreement value of \$1,041,277; and

**WHEREAS**, after final accounting, remaining grant funding and energy rebate revenue were identified; and

**WHEREAS**, County received an extension of time from the DOE to expend remaining grant funding and energy rebate revenue; and

**WHEREAS**, remaining grant funding and energy rebate revenue allow for implementation of additional EEM hereby included as Attachment 2 of this RENEWAL.

**NOW THEREFORE**, the Parties agree to renew and amend the Agreement as follows:

1. The Agreement is hereby renewed on its prior terms and conditions as set forth in Attachment 1, incorporated herein by this reference, except as specifically set forth below.

2. The term of this RENEWAL is from May 21, 2013 to September 30, 2013, unless sooner terminated pursuant to the terms of this RENEWAL, or extended in writing. All work shall be completed by August 31, 2013, with final payment closeout by September 30, 2013.
3. County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Attachment 1 and Attachment 2, subject to the limitations set forth in this RENEWAL. The additional EEM described generally as Mechanical Systems Controls Marina Coastal Office shall be completed for the amount of \$79,192. The total amount payable by County to CONTRACTOR under this RENEWAL shall not exceed the sum of \$1,120,469.
4. Attachment 2 is incorporated herein by reference and constitutes a part of this Renewal.
5. Except as provided herein, all other terms and conditions of the original Agreement, as amended by Addendum No. 1 and Addendum No. 2, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereby execute this RENEWAL as follows:

**COUNTY OF MONTEREY**

**CONTRACTOR\***

By: \_\_\_\_\_  
Contracts/Purchasing Officer

Honeywell International, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Paul Orzeske  
President, HBS  
\_\_\_\_\_  
(Print Name and Title)

Date: May 20, 2013

**Approved as to Form**

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO or Assistant Treasurer)

By: \_\_\_\_\_  
Deputy County Counsel

Its: Samuel Rosensteyn  
Assistant Secretary  
\_\_\_\_\_  
(Print Name and Title)

Date: 5/21/13

Date: May 20, 2013

**Approved as to Fiscal Provisions**

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

**Approved as to Indemnity, Insurance Provisions**

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

AGREEMENT TO PROVIDE INVESTMENT GRADE AUDITS AND ENERGY EFFICIENCY MEASURES

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**AGREEMENT TO PROVIDE INVESTMENT GRADE AUDIT AND ENERGY EFFICIENCY MEASURES (EEM) FOR THE COUNTY OF MONTEREY DEPARTMENT OF PUBLIC WORKS**

This AGREEMENT is made and entered into by and between the County of Monterey, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and Honeywell International, Inc, hereinafter referred to as "CONTRACTOR."

**RECITALS**

- A. WHEREAS, the COUNTY has invited proposals through the Request for Qualifications/Request for Proposals (RFP #10218) for Investment Grade Audit and Energy Efficiency Measures, in accordance with the specifications set forth in this AGREEMENT; and
- B. WHEREAS, CONTRACTOR has submitted a responsive and responsible proposal to perform such services; and
- C. WHEREAS, CONTRACTOR has the expertise and capabilities necessary to provide the services requested; and
- D. WHEREAS, COUNTY has received federal funds through an Energy Efficiency and Conservation Block Grant (EECBG) to perform Investment Grade Audit's and implement Energy Efficiency Measures (EEM);

NOW THEREFORE, the COUNTY and CONTRACTOR, for the consideration hereinafter named, agree as follows:

**PERFORMANCE OF THE AGREEMENT**

After consideration and evaluation of the CONTRACTOR'S proposal, the COUNTY hereby engages the CONTRACTOR to provide the services set forth in RFQ/RFP # 10218 and in this AGREEMENT on the terms and conditions contained herein and in RFQ/RFP # 10218. The intent of this AGREEMENT is to summarize the contractual obligations of the parties. The component parts of this AGREEMENT include the following:

RFQ/RFP # 10218 dated Friday, July 30, 2010  
Addendum #1

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CONTRACTOR's Proposal dated Thursday, September 30, 2010 including all attachments and exhibits, to RFQ/RFP # 10218

AGREEMENT

Attachment A: Fee and Project Schedules

Attachment B: EECBG "CONTRACTOR/Vendor or Subcontractor Flowdown Requirements"

Certificate of Insurance

Additional Insured Endorsements

All of the above-referenced contract documents are intended to be complementary. Work required by one of the above-referenced contract documents and not by others shall be done as if required by all. In the event of a conflict between or among component parts of the contract, the contract documents shall be construed in the following order: AGREEMENT, General Requirements and General Provisions, Attachment A: Fee and Project Schedule, Attachment B: EECBG "CONTRACTOR/Vendor or Subcontractor Flowdown Requirements" including any future amendments available at : <http://www1.eere.energy.gov/wip/guidance.html>, RFQ/RFP # 10218, Addendum # 1, CONTRACTOR's Proposal (with all attachments and exhibits), Certificate of Insurance, and Additional Insured Endorsements.

**1.0 SCOPE OF SERVICE**

The Investment Grade Audit and Energy Efficiency Measures (EEM) will be completed in two phases. This "Scope of Services" is for Phase I, which includes detailed Investment Grade Audits for fourteen (14) COUNTY facilities.

Following successful completion of the Phase I - IGA's and acceptance by the COUNTY, the parties agree to negotiate in good faith the implementation of some or all of the recommended EEM's included in the energy audits. Phase II - Implementation shall include environmental clearance of NEPA and CEQA, completion of the engineering, procurement, commissioning, training, construction management, and construction. Phase II shall not commence until an addendum to this AGREEMENT is negotiated and executed and written "Notice to Proceed" is issued by the COUNTY. CONTRACTOR acknowledges that implementation of recommend EEM's resulting from the IGA's may be considered a work of public improvement as defined by Public Contract Code (PCC) 1101 and Labor Code 1720, as such will be subject to all requirements applicable thereto including but not limited to performance and payment bonds, retention from progress payments, Davis Bacon, prevailing wages, and Buy American as described in RFP # 10218 and in Attachment B EECBG "CONTRACTOR/Vendor or Subcontractor Flowdown Requirements" to this AGREEMENT.

As part of Phase I the CONTRACTOR shall perform IGA's for the following facilities:

Facility	Address	Sq. Ft.
Adult Rehab	1412 Natividad Rd., Salinas	5,944
Correctional Facility	1410 Natividad Rd., Salinas	38,666

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New Jail	1410 Natividad Rd., Salinas	167,289
Public Safety Bldg	1414 Natividad Rd., Salinas	85,125
Probation HQ	1422 Natividad Rd., Salinas	22,565
Probation Juvenile Intake	1420 Natividad Rd., Salinas	29,874
Probation Juvenile D Wing	1420 Natividad Rd., Salinas	10,046
Probation Youth Center	970 Circle Dr., Salinas	26,818
DSES Seaside office	1281 Broadway St., Seaside	22,282
Agricultural Commissioner Admin	1428 Abbott St., Salinas	25,278
Agricultural Extension	1432 Abbott St., Salinas	13,000
Animal Shelter	160 Hitchcock Rd., Salinas	13,000
Marina Coastal Offices	2620 First Ave., Marina	13,300
Laurel Yard Facility	855 East Laurel Dr., Salinas	<u>84,000</u>
	<b>Total sq. ft.</b>	<b>557,187</b>

1.1 **Phase I - Summary of Scope** - The scope of work shall include detailed energy audits (investment grade audit). The Energy Efficiency Measures (EEM) should include, but not be limited to, energy efficiency, renewable energy, distributed generation, and sustainable materials and operation measures. The CONTRACTOR shall also demonstrate short term gains and long term results of proposed projects. Long term is defined as up to 25 years, but in no case longer than the weighted average life of the improvements.

1.2 **Project Status Meetings and Site Visits -**

1.2.1 CONTRACTOR shall attend monthly Project Status Meetings and Site Visits with designated COUNTY Staff. Meeting agenda shall include, but not be limited to, action items from previous meetings, review of project schedule and budget and addressing and complying with EEBCG reporting requirements.

1.2.2 Periodic Status Meetings and Site Visits with designated Department of Energy (DOE) Staff, in accordance with ATTACHMENT B attached to this AGREEMENT.

1.3 **Investment Grade Audit (IGA) -** CONTRACTOR shall perform analysis indicating approach to performing detailed audits, identification and design of improvement measures, and a comprehensive solution that addresses all aspects of energy and operating costs.

1.3.1 The IGA shall identify the relevant existing conditions of applicable COUNTY facilities, including but not limited to:

- a. Proposed IGA to include: facilities, systems and proposed EEM's.
- b. Building physical condition, i.e., assumptions on current and proposed facility or energy system operating conditions
- c. Hours of use or occupancy
- d. Area of conditioned space
- e. Inventory of energy-consuming equipment or systems
- f. Energy-consuming equipment operating conditions and loads
- g. Baseline weather (i.e., Cooling and Heating Degree Days)



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- h. Proposed construction and measurement and verification schedule
  - i. Energy savings calculations using formulae and procedures based on accepted engineering principles, including synergistic effects of other EEM's
  - j. Cite reference used for data, assumptions or empirical formulas
- 1.3.2 CONTRACTOR shall provide, for each EEM identified, a detailed analysis documenting the proposed annual energy savings performance of the EEM after installation, startup and testing.
- 1.3.3 CONTRACTOR shall document the results of the IGA and provide the documentation to the COUNTY in a format agreed to by the COUNTY. The IGA must include documentation for the proposed energy baseline. The CONTRACTOR and COUNTY will meet to review the results and findings of the IGA. The meeting will conclude with the comparison of the total annual energy (by type) and cost savings to current total site annual energy (by type) and costs.
- 1.3.4 CONTRACTOR shall provide a descriptive Hazardous Waste Disposal Plan for facilities identified in IGA's.

## 2.0 TERM OF AGREEMENT

- 2.1 The initial term of Phase I shall commence upon written Notice to Proceed from the COUNTY through and including 90 working days unless the time for performance is extended in accordance with Section 14.4. Upon successful completion of the Phase I and acceptance by the COUNTY, both parties agree to negotiate in good faith Phase II which will include the implementation of some or all of the recommended EEM's in Phase I.
- 2.2 Modifications to this AGREEMENT may only be made in writing through either a written amendment or a change order signed by both parties.

## 3.0 TERMINATION

- 3.1 The COUNTY may terminate the AGREEMENT or any extension of this AGREEMENT for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this AGREEMENT shall be reduced in proportion to the services provided prior to the date of termination.
- 3.2 The COUNTY may cancel and terminate this AGREEMENT, or any extension of this AGREEMENT for good cause effective immediately upon written notice

to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this AGREEMENT. If COUNTY terminates this AGREEMENT for good cause, the COUNTY may be relieved of the payment of any consideration to CONTRACTOR, and the COUNTY may proceed with the work in any manner, which COUNTY deems proper. The cost to the COUNTY shall be deducted from any sum due to the CONTRACTOR under this AGREEMENT.

**4.0. COMPENSATION AND PAYMENTS**

- 4.1 It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under the AGREEMENT in accordance with Attachment A attached hereto.
  - 4.1.1 The aggregate total paid to all CONTRACTORS under RFQ/RFP # 10218 for Phase I shall not exceed \$69,240 over the term of the AGREEMENT.
  - 4.1.2 If the COUNTY executes an addendum to this AGREEMENT for Phase II – Implementation of Energy Efficiency Measures (EEM) with the CONTRACTOR, the CONTRACTOR agrees to absorb the cost of the Phase I – Investment Grade Audits for a total of \$69,240 and shall apply these funds towards Phase II – Implementation of Energy Efficiency Measures. The amount to be paid under Phase II will be negotiated based on the EEM selected for implementation, but will not exceed the amount available through the EECBG.
  - 4.1.3 If the COUNTY does not execute an addendum to this AGREEMENT for Phase II – Implementation of Energy Efficiency Measure, the COUNTY agrees to pay the CONTRACTOR \$69,240 for Phase I – Investment Grade Audits.
- 4.2 Prices shall remain firm for the initial term of the AGREEMENT and, thereafter, may be adjusted annually as provided in this paragraph.
  - 4.2.1 The COUNTY does not guarantee any minimum or maximum amount of dollars to be spent under this AGREEMENT.
- 4.3 Invoice amounts shall be billed directly to the Department of Public Works. CONTRACTOR shall reference the AGREEMENT number and project number 855021 on all invoices submitted to the COUNTY. CONTRACTOR shall submit such invoices periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The COUNTY shall certify the invoice; either in the requested amount or in such other amount as the COUNTY approves in conformity with this AGREEMENT, and shall promptly submit such invoice

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to the COUNTY Auditor-Controller for payment. The COUNTY Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

**5.0 INDEMNIFICATION**

- 5.1 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for the COUNTY under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.
- 5.2 Indemnification for Design Professional Services Claims:  
CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this AGREEMENT, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defecting a design furnished by the COUNTY.
- 5.3 Indemnification for All Other Claims or Loss:  
For any claim, loss, injury, damage, expense or liability other than claims arising out of the CONTRACTOR's performance of design professional services under this AGREEMENT, CONTRACTOR shall indemnify, defend and hold harmless COUNTY, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this AGREEMENT by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of the COUNTY, or defect in a design furnished by the COUNTY.

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6.0 INSURANCE

6.1 Evidence of Coverage:

Prior to commencement of this AGREEMENT, CONTRACTOR shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition the COUNTY reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements. CONTRACTOR agrees to provide the COUNTY upon written notification for review a certified copy of CONTRACTORS current insurance policy at a mutually agreed upon location by both parties, and both parties agree that such policy shall remain in the possession of the CONTRACTOR. CONTRACTOR shall have five (5) business days to respond to the written notification; failure by CONTRACTOR to comply shall be a default of this AGREEMENT, which entitles COUNTY, at its sole discretion, to terminate this AGREEMENT immediately.

6.2 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the COUNTY's Purchasing Manager.

6.3 Insurance Coverage Requirements:

Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:

6.3.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent CONTRACTORS, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

6.3.2 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this AGREEMENT, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

6.3.3 Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this AGREEMENT, in accordance with California

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Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

6.3.4 Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$3,000,000 per claim and \$5,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this AGREEMENT, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this AGREEMENT.

6.3.5 Property insurance, covering the entire work at the site to the full insurable value thereof. This insurance shall include the interests of the COUNTY, the CONTRACTOR, and all subcontractors in the work and shall insure against the perils of fire, extended coverage, builder's risk, vandalism, and malicious mischief.

## 6.4 Other Insurance Requirements.

All insurance required by this AGREEMENT shall be with a company acceptable to the COUNTY and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this AGREEMENT, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this AGREEMENT.

6.5 Each liability policy shall provide that the COUNTY shall be given notice in writing ~~at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof.~~ Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each sub contractors, if any, performing work under this AGREEMENT, or be accompanied by a certificate of insurance from each sub contractor showing each sub contractor has identical insurance coverage to the above requirements.

6.6 Commercial general liability and automobile liability policies shall provide an endorsement naming the COUNTY of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the COUNTY and that the insurance of the Additional Insureds shall not be called upon

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to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

- 6.7 Prior to the execution of this AGREEMENT by the COUNTY, CONTRACTOR shall file certificates of insurance with the COUNTY's contract administrator and COUNTY's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this AGREEMENT. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this AGREEMENT, which shall continue in full force and effect.
- 6.8 CONTRACTOR shall at all times during the term of this AGREEMENT maintain in force the insurance coverage required under this AGREEMENT and shall send, without demand by COUNTY, annual certificates to COUNTY's Contract Administrator and COUNTY's Contracts/Purchasing Division. If the certificate is not received by the expiration date, COUNTY shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this AGREEMENT, which entitles COUNTY, at its sole discretion, to terminate this AGREEMENT immediately.
- 6.9 Acknowledgment of workers' compensation requirements. As required by Labor Code section 1861, the CONTRACTOR and each subcontractor shall, before commencing work on the project, sign and file with the COUNTY, the following Certificate as to Worker's Compensation.

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and I will comply with such provisions before commencing the performance of the work of this contract."

CONTRACTOR has executed acknowledgment of workers' compensation requirements as part of CONTRACTOR's Proposal submitted on September 20, 2010, herein incorporated by this reference.

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- 6.10 Compliance. In the event of the failure of CONTRACTOR to furnish and maintain any insurance required by 6.0, COUNTY shall have the right to take out and maintain such insurance for and in the name of the CONTRACTOR. CONTRACTOR shall pay the cost thereof and shall furnish all information necessary to obtain and maintain such insurance for the account of CONTRACTOR. COUNTY shall also have the right to set-off the costs of obtaining and maintaining such insurance against any amounts due CONTRACTOR under the Contract Documents. Compliance by CONTRACTOR with the requirement to carry insurance and furnish certificates or policies evidencing the same contained in 6.0 Insurance shall not relieve CONTRACTOR from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify each of the Indemnities.
- 6.11 Application of Insurance Proceeds. (a) In the event of any damage to or destruction of the work from any cause insured against by the insurance required under 6.0 Insurance, or any other insurance obtained by CONTRACTOR or any other source, COUNTY may, in its sole discretion, either (i) require CONTRACTOR to repair any such damage or destruction and reconstruct the work in accordance with the contract documents, and CONTRACTOR agrees to perform any such requirement of the COUNTY, or (ii) terminate the Contract and CONTRACTOR shall have no claim arising out of such termination. In the event the work is repaired or reconstructed, appropriate adjustments, if any, in the amount of the contract price or for the time of completion of the work shall be made by change order. COUNTY shall be given credit against any amount due CONTRACTOR under the contract documents for the amount of any insurance proceeds collected by CONTRACTOR to the extent such proceeds cover costs otherwise payable by COUNTY under the contract documents. In the event that COUNTY decides not to restore or reconstruct the work and terminates the contract, CONTRACTOR shall receive from the insurance proceeds all amounts due CONTRACTOR under the Contract for that portion of the work completed as of the date of the event of damage or destruction. (b) In the event of any damage to or destruction of the work (i) not due to or arising out of the fault or neglect of CONTRACTOR or any subcontractor and (ii) from a cause not insured against by the insurance required under 6.0 Insurance, COUNTY may, in its sole discretion, either (i) require CONTRACTOR to repair any such damage or destruction and reconstruct the work in accordance with the Contract Documents, and CONTRACTOR agrees to perform any such requirements of the COUNTY, or (ii) terminate the Contract. In the event COUNTY decides not to restore or reconstruct the work in accordance with the Contract Documents and cause termination of the Contract, CONTRACTOR shall have no claim arising out of such termination. In the event that work is repaired or reconstructed, appropriate adjustments, if any, in the amount of the contract price and for the time of completion of the work shall be made by change order. COUNTY shall be given credit against any amount due CONTRACTOR under the contract documents to the extent insurance proceeds payable to CONTRACTOR cover costs otherwise payable by COUNTY under the contract documents. In the event that COUNTY decides not to restore or reconstruct the work and causes termination of the contract, COUNTY shall pay CONTRACTOR, as its sole compensation, all amounts due under the

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Contract Documents for the portion of the work completed as of the date of the event of damage or destruction. CONTRACTOR shall be solely responsible for and shall, without cost or expense to COUNTY, promptly and with all due diligence, restore and reconstruct any uninsured loss or damage to the work which occurs as a result of any fault or neglect of the CONTRACTOR or any subcontractor. This obligation is in addition to COUNTY's remedies under the Contract Documents or by law.

**7.0 DEFINITIONS**

In addition to the terms that are defined elsewhere in this AGREEMENT, the following terms have the following meanings when used herein:

- 7.1 Construction: The work performed after the environmental clearance has been secured and designs have been approved by the COUNTY
- 7.2 Contract sum: The "contract sum" is stated in the AGREEMENT and is the total amount payable by the COUNTY to the CONTRACTOR for the performance of the work under the AGREEMENT.
- 7.3 CONTRACTOR/Vendor: The "CONTRACTOR/Vendor" is the person or organization identified as such in the AGREEMENT, or their authorized representative.
- 7.4 COUNTY: is the County of Monterey, the owner of the project and identified as such in the AGREEMENT, or its authorized representative.
- 7.5 Design: The environmental clearance of NEPA and CEQA, and the design/engineering of the project, prior to any installation, grading, or construction activities.
- 7.6 Project: The "project" includes the investment grade audits, environmental clearance of NEPA and CEQA, completion of the engineering, procurement, commissioning, training, construction management, and construction by the CONTRACTOR
- 7.7 County's Project Manager: The COUNTY's Project Manager (PM) is the person or organization identified by the Director of Public Works as the person responsible for the management of the Project on behalf of the COUNTY.
- 7.8 Contractor's Project Manager: The Contractor's Project Manager is the person or organization identified by the CONTRACTOR as the person responsible for the management of the Project on behalf of the CONTRACTOR.
- 7.9 Energy Efficiency Measures (EEM): Energy Efficiency Measure (EEM) also known as Energy conservation measure (ECM), is a modification to a building or facility which results in reduced energy use and/or energy cost <http://www.energy.ca.gov/efficiency>



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- 7.10 Energy Savings Guarantee: A guarantee of the reduction in the amount of electricity used by end users as a result of participation in energy efficiency programs and load management programs.
- 7.11 Investment Grade Audit (IGA): a comprehensive building energy systems audit, performed by a professional engineer licensed in the state of California, for the purpose of identifying and documenting conservation measures, cost savings factors, and estimated conservation-related cost savings from the conservation measures identified
- 7.12 Energy Efficiency: See EEM above.
- 7.13 Renewable Energy: Resources that constantly renew themselves or that are regarded as practically inexhaustible. These include solar, wind, geothermal, hydro and wood. Although particular geothermal formations can be depleted, the natural heat in the earth is a virtually inexhaustible reserve of potential energy. Renewable resources also include some experimental or less-developed sources such as tidal power, sea currents and ocean thermal gradients. <http://www.energy.ca.gov/glossary/glossary-r.html>
- 7.14 Distributed Generation: A distributed generation system involves small amounts of generation located on a utility's distribution system for the purpose of meeting local (substation level) peak loads and/or displacing the need to build additional (or upgrade) local distribution lines. <http://www.energy.ca.gov/glossary/glossary-d.html>
- 7.15 Sustainable Materials and Operation Measures: also known as Conservation measures: means a study, audit, improvement, equipment, alternative energy system, or change in operating practices that is designed to provide energy, water, or operational cost savings at least equivalent to the amount expended by a local government unit or state agency for the study, audit, improvement, or equipment.
- 7.16 Facility or Facilities: means the land or improvements owned and operated by the COUNTY on which EEMs will be installed.
- 7.17 Site: The "site" is the location(s) where the investment grades audits and construction subject to this AGREEMENT is to take place.
- 
- 7.18 Subcontractor: A "subcontractor" is a person or organization who has a direct contract with the CONTRACTOR to perform any of the work at the site or to furnish material worked to a special design according to plans and specifications of this work. The term "subcontractor" also includes sub-subcontractors performing work at the site or furnishing specially designed material for the work, who have only an indirect relationship to the CONTRACTOR.
- 7.19 Work: The "work" includes all labor necessary to produce the investment grade audits, design and construction required by the AGREEMENT documents, and all materials and equipment incorporated or to be incorporated in such construction.
- 7.20 Owner: The "Owner" is the COUNTY of Monterey, the owner of the project and

identified as such in the AGREEMENT.

**8.0. NOTICES**

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to the COUNTY's contract administrator or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principle place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT; provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.

Notices mailed or faxed to the parties shall be addressed as follows:

**TO THE COUNTY:**

Finance Manager III  
County of Monterey, Resource Management Agency, Administration Division  
168 W. Alisal Street, 2nd Floor  
Salinas, CA 93901-2439  
Tel. No.: (831) 755-4800 FAX No.: (831) 755-4958

**TO THE CONTRACTOR:**

Honeywell International, Inc  
353-A Vintage Park Drive  
Foster City, CA 94404  
Tel. No.: (650) 918-3244 FAX No.: (650) 918-3208

**9.0. RIGHTS TO PERTINENT MATERIALS**

Ownership and title to all documents, including but not limited to reports, estimates, information, and audit results, prepared, or obtained under the terms of the AGREEMENT are automatically vested in the COUNTY. Such documents are to be delivered to and become property of the COUNTY; no further AGREEMENT will be necessary to transfer ownership to the COUNTY.

**10.0 CONTRACT AUDITS**

- 10.1 CONTRACTOR agrees that COUNTY or its designee will have the right to review, obtain and copy all records pertaining to performance of the contract. CONTRACTOR agrees to provide Monterey COUNTY or its designee with any relevant information requested, and shall permit Monterey COUNTY or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of five (5) years after final payment under the contract.
- 10.2 CONTRACTOR shall maintain all records required by the Federal regulations specified in Attachment B EECBG "CONTRACTOR/Vendor or Subcontractor Flowdown Requirements" that are pertinent to the activities to be funded under this AGREEMENT. These records shall be retained for a period of five (5) years beginning at the time the CONTRACTOR receives notice in writing from the COUNTY that this project is complete. Such records shall include, but not be limited to:
- a. This AGREEMENT and any amendments;
  - b. Records related to 10 CFR part 600 regulations;
  - c. Records providing a full description of each activity undertaken;
  - d. Records demonstrating that each activity undertaken meets one of the National Objectives of the EECBG program.

**11.0 NON-DISCRIMINATION**

- 11.1 Non-discrimination in employment practices. CONTRACTOR and all subcontractors performing work related to this contract, shall not discriminate against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, mental disability, medical condition (cancer related), sex, sexual orientation, age (over 40) or marital status. The CONTRACTOR agrees to comply with all applicable federal, state and local laws and/or regulations including, but not limited to, the California Fair Employment and Housing Act, Government Code Sections. 12900 et seq., Labor Code Sec. 1735 and Monterey County Code, Title 2, Chapter 2.80. In addition, the CONTRACTOR agrees to require like compliance by any subcontractors employed on the work by the CONTRACTOR.
- 11.2 "Discrimination" defined. As used in this contract, the term "discrimination" includes but is not limited to the illegal denial of equal employment opportunity, harassment (including sexual harassment and violent harassment), disparate treatment, favoritism, subjection to unfair or unequal working conditions, and/or any other prohibited discriminatory practice. The term also includes any act or retaliation.

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- 11.3 Application of Monterey County Code, Chapter 2.80. The provisions of Monterey County Code, Title 2, Chapter 2.80 apply to activities conducted pursuant to this contract. CONTRACTOR and its officers and employees, in their actions under this contract, are agents of the Owner within the meaning of Chapter 2.80, and are responsible for ensuring that their workplace and the services that they provide are free from discrimination, as required by Chapter 2.80. Complaints of discrimination made by CONTRACTOR, subcontractor(s), or any of their employees or agents against the Owner may be investigated and resolved using the procedures established by Chapter 2.80. CONTRACTOR shall establish and follow its own written procedures for the prompt and fair resolution of discrimination complaints made against CONTRACTOR by its own employees, agents and third parties, and shall provide a copy of such procedures to COUNTY upon demand by COUNTY.
- 11.4 Compliance with laws. During the performance of this AGREEMENT, CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, which prohibit discrimination, including but not limited to the following:
- (a) California Labor Code section 1735;
  - (b) California Fair Employment and Housing Act, Government Code sections 12900 et seq., and the administrative regulations issued there under, Title 2 California Code of Regulations, sections 7285.0 et seq. (Division 4 - Fair Employment and Housing Commission);
  - (c) California Government Code sections 11135 - 11139.5 (Title 2, Div. 3, Part 1, Chap.1, Art. 9.5) and any applicable administrative regulations issued there under;
  - (d) Federal Civil Rights Acts of 1964 and 1991 (see especially Title VII, 42 USC sections 2000d et seq.), as amended, and all administrative rules and regulations issued there under (see especially 45 CFR Part 84); and all guidelines and interpretations issued pursuant thereto;
  - (e) The Rehabilitation Act of 1973, sections 503 and 504 (29 USC sections 793 and 794), as amended; all requirements imposed by the applicable HHS regulations (45 CFR Part 84); and all guidelines and interpretations issued pursuant thereto;
  - (f) Americans With Disabilities Act of 1990 (P.L. 101- 336), as amended, 42 USC sections 12101 et seq., and 47 USC sections 225 and 611, and any federal regulations issued pursuant thereto (see 24 CFR Chapter 1; 28 CFR Parts 35 and 36; 29 CFR Parts 1602, 1627 and 1630; and 36 CFR Part 1191;
  - (g) Unruh Civil Rights Act, California Civil Code sections 51 et seq.; and
  - (h) Monterey County Code, Title 2, Chapter 2.80, as amended and procedures issued pursuant thereto.

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- 11.5 Written assurances. Upon request by COUNTY, CONTRACTOR will give any written assurances of compliance with the Civil Rights Acts of 1964 and 1991, as amended, the Rehabilitation Act of 1973, as amended, the Americans With Disabilities Act of 1990, as amended, and/or Executive Order 11246, as may be required by the federal government in connection with this contract, pursuant to 45 CFR Sec. 80.4 or 45 CFR Sec. 84.5 or other applicable state or federal regulations.
- 11.6 Written non-discrimination policy. CONTRACTOR shall maintain a written statement of its non-discrimination policies, which shall be consistent with the terms of this AGREEMENT. Such statement shall be available to CONTRACTOR's employees, the Owner, Owner's officers and employees, and members of the public, upon request.
- 11.7 Notice to labor unions. CONTRACTOR shall give written notice of its obligations under sections 11.1 - 11.9 to labor organizations with which it has a collective bargaining or other AGREEMENT.
- 11.8 Access to records by government agencies. CONTRACTOR shall permit access by Owner and by representatives of the California Department of Fair Employment and Housing and the U.S. Equal Employment Opportunity Commission, and any federal and/or state agency providing funds for this contract upon reasonable notice at any time during normal business hours, but in no case on less than 24 hours' notice, to such of its books, records, accounts, facilities, and other sources of information as the inspecting party may deem appropriate to ascertain compliance with these non-discrimination provisions.
- 11.9 Binding on subcontractors. The provisions of sections 11.1 - 11.8 shall also apply to all of CONTRACTOR's subcontractors. CONTRACTOR shall include the non-discrimination and compliance provisions of these paragraphs in all subcontracts to perform work or provide services under this AGREEMENT.

**12.0 INDEPENDENT CONTRACTOR**

- 12.1 The CONTRACTOR shall be an independent CONTRACTOR and shall not be an employee of the COUNTY, nor immediate family of an employee of the COUNTY. CONTRACTOR shall be responsible for all insurance (General Liability, Automobile, Workers' Compensation, unemployment, etc.) and all payroll-related taxes. CONTRACTOR shall not be entitled to any employee benefits. The CONTRACTOR shall control the manner and means of accomplishing the result contracted for herein.
- 12.2 Non-Assignment: CONTRACTOR shall not assign this contract without the prior written consent of the COUNTY.

**13.0. CONFLICT OF INTEREST**

The CONTRACTOR covenants that the CONTRACTOR, its responsible officers, and its employees having major responsibilities for the performance of work under the AGREEMENT, presently have no interest and during the term of the AGREEMENT will not acquire any interests, direct or indirect, which might conflict in any manner or degree with the performance of the CONTRACTOR'S services under the AGREEMENT.

**14.0. TIME FOR PERFORMANCE AND LIQUIDATED DAMAGES**

- 14.1 Time is of the essence. All time limits stated in the contract documents are of the essence of the contract. All funds obligated under this EECBG award are required to be expended by December 20, 2012. Failure to comply with this requirement will jeopardize the funding and completion of the project.
- 14.2 Commencement and completion of work. CONTRACTOR shall commence the work on the starting date established in the Notice to Proceed and shall complete the work thereafter within the time limit established in the Project Schedule as defined in Section 16.0 Special Conditions. If there is no Notice to Proceed, CONTRACTOR shall commence the work on the starting date established in the Section 16.0 Special Conditions and shall complete the work thereafter within the time limit established in the Section 16.0 Special Conditions. If there is no Notice to Proceed and if the Section 16.0 Special Conditions do not establish a starting or completion date, CONTRACTOR shall commence the work promptly after the AGREEMENT is executed by all parties and shall prosecute the work regularly and diligently so as to complete the work within a reasonable time thereafter.
- 14.3 Prosecution of work. CONTRACTOR shall prosecute the work diligently and expeditiously with adequate forces and shall complete it within the time specified in the contract documents.
- 14.4 Grounds for extension of time. The time for completion of the work shall be extended by change order for such reasonable time as the Project Manager may determine if an extension of time is reasonably necessary due to a delay caused to the CONTRACTOR by any of the following circumstances:
- (a) sole act or sole negligence of the COUNTY, any employee of either, or any separate CONTRACTOR employed by the COUNTY;
  - (b) any change-ordered in the work, which change is requested by the COUNTY which is not due to the act or negligence of CONTRACTOR.

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- (c) any labor disputes, fire, unusual delay in transportation, unavoidable casualties, or causes beyond the CONTRACTOR's control and which CONTRACTOR could not reasonably have foreseen or made reasonable provisions for, and which are not caused by or the continuance of which is not due to, any act or failure to act on behalf of CONTRACTOR; or
- (d) any other cause which the COUNTY determines may justify the delay.

14.5 Liquidated damages. THE PARTIES AGREE THAT IN CASE ALL THE WORK CALLED FOR UNDER THE CONTRACT IN ALL PARTS AND REQUIREMENTS IS NOT COMPLETED WITHIN THE TIME SPECIFIED IN THE CONTRACT DOCUMENTS, DAMAGE WILL BE SUSTAINED BY THE COUNTY, AND THAT IT IS AND WILL BE IMPRACTICABLE AND EXTREMELY DIFFICULT TO DETERMINE THE ACTUAL DAMAGE WHICH THE COUNTY WILL THEREBY SUSTAIN. THE PARTIES THEREFORE AGREE THAT THE CONTRACTOR WILL PAY TO THE COUNTY THE SUM SET FORTH IN THE SPECIAL CONDITIONS, IF ANY, FOR EACH CALENDAR DAY OF DELAY UNTIL THE WORK IS COMPLETED AND ACCEPTED. CONTRACTOR AND HIS SURETY SHALL BE LIABLE FOR THE TOTAL AMOUNT THEREOF. THE CONTRACTOR AGREES TO PAY SAID LIQUIDATED DAMAGES ESTABLISHED HEREIN, AND FURTHER AGREES THAT THE COUNTY MAY DEDUCT THE AMOUNT THEREOF FROM ANY MONEYS DUE OR THAT MAY BECOME DUE THE CONTRACTOR UNDER THE CONTRACT.

15.0 PREVAILING WAGES

- 15.1 Prevailing wage rates determined. The Director of the California Department of Industrial Relations has determined the general prevailing rate of per diem wages in the locality in which said public work is to be performed for each craft, classification ~~or type of worker needed to execute the contract in accordance with Labor Code~~ sections 1770-75. Copies of the prevailing rate of per diem wages are on file and shall be made available to any interested party on request in the Resource Management - Public Works Office located at 168 West Alisal Street, 2<sup>nd</sup> Floor Salinas, CA 93901. Current prevailing wage rate schedules can also be found at the California Department of Industrial Relations website located at <http://www.dir.ca.gov/DLSR/PWD/>.
- 15.2 Payment of prevailing wage rates required. CONTRACTOR and all sub-contractors performing work under this contract shall pay wages to their workers employed on such work at not less than the general prevailing rate of per diem wages for such work, as required by Labor Code Sec. 1771.

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- 15.3 Penalties: Failure to pay such prevailing wages shall subject the employer to the penalties set forth in Labor Code Sec. 1775.
- 15.4 Davis Bacon: CONTRACTOR is subject to the requirements of the Davis-Bacon Act (DBA) (40 U.S.C. §141-48) as specified in Attachment B BECBG "CONTRACTOR/ Vendor or Subcontractor Flowdown. California prevailing wage rates, when higher, must be applied.

**16.0 SPECIAL CONDITIONS**

The special conditions below are included as part of the AGREEMENT for phases I and II of the project.

- 16.1 Phase II Implementation of EEM's - Negotiations. The COUNTY and CONTRACTOR agree to negotiate in good faith Phase II of the project. Phase II - Implementation shall include environmental clearance of NEPA and CEQA, completion of the engineering, procurement, commissioning, training, construction management, and construction. Phase II shall not commence until an addendum to this AGREEMENT is negotiated and executed and written "Notice to Proceed" is issued by the COUNTY.
- 16.2 Starting and completion date. Under Section 14.0, the CONTRACTOR shall commence and complete work within the following time limits:
- The duration to execute the scope of work for Phase I INVESTMENT GRADE AUDITS is ninety (90) calendar days after authorization to proceed by the COUNTY.
- All work performed under Phase I and Phase II must be completed no later than September 30, 2012.
- 16.3 Liquidated damages. Pursuant to the AGREEMENT and 14.0, the amount of liquidated damages shall be Three Thousand Five Hundred Dollars (\$3,500.00) per day.
- 16.4 AGREEMENT. CONTRACTOR will provide the following number of copies for each of the following:
- 6 executed copies of AGREEMENT  
    1 copy Certificate of Liability Insurance with endorsement
- 16.5 Material Safety Data Sheets (MSDS). MSDS sheets are required on site for all materials used in the job.



16.6 CONTRACTOR'S Request for Exceptions. The COUNTY and the CONTRACTOR have work in good faith and agreed to the following during negotiations references below are made to the Request for Qualifications/Request for Proposals #10218:

Section GP 20.0 at page 55 is amended to read as followed:

During Phase II, the CONTRACTOR shall employ a competent and qualified Superintendent and Project Manger that is satisfactory to the COUNTY. The Superintendent and or Project Manager shall provide full time, on site supervision of all aspects of the work. If CONTRACTOR fails to have such Superintendent and or Project Manager on the site at any time during the progress of the work, the COUNTY reserves the right to issue a "notice to cure". Failure of the CONTRACTOR to provide the Superintendent and or Project Manger on the next working day the COUNTY reserves the right to charge a Six Hundred Dollars (\$600.00) per day penalty which shall be deducted from the compensation otherwise due to CONTRACTOR, for each day on which such failure occurs. Such penalty shall not apply to temporary absences approved in advance by the COUNTY.

Section GP 20.10 at page 56 is amended to read as follows:

Audits rights: Any audit and inspection rights include only the rights to verify amounts invoiced by CONTRACTOR and to verify the nature of the services being invoiced limited to non-proprietary information, underlying cost markup, and overheard rates, notwithstanding any federal or state regulatory requirements.

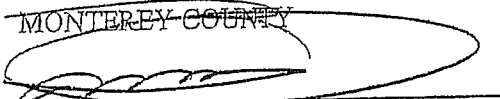
Section GP 20.0 is amended by adding GP 20.13 as follows:


COUNTY will provide to CONTRACTOR an Operations and Maintenance Manual (O&M) regarding all known conditions of the buildings. CONTRACTOR must exercise due diligence in performing work in areas known to have hazardous materials or substances so as to not cause the release or disturbance of any hazardous materials. In the event CONTRACTOR encounters, discovers, becomes aware of, or reasonably believes to be any hazardous materials not previously known to exist, CONTRACTOR shall stop work immediately and notify the COUNTY. Work shall not resume in that ~~area until the area has been inspected and rendered harmless.~~

All other agreed upon modifications to language from the Request for Qualifications/ Request for Proposals have been incorporated into this AGREEMENT.

AGREEMENT between County of Monterey and Honeywell International, Inc.  
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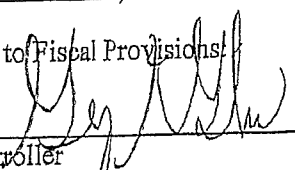
IN WITNESS WHEREOF, the COUNTY and CONTRACTOR execute this AGREEMENT as follows:

~~MONTEREY COUNTY~~  
  
\_\_\_\_\_  
Contracts/Purchasing Officer

CONTRACTOR  
By:   
\_\_\_\_\_  
Signature of Chair, President, or Vice-President

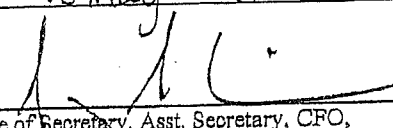
Dated: 6-24-11

Paul J. Drzesko, President  
\_\_\_\_\_  
Printed Name and Title

Approved as to Fiscal Provisions:  
  
\_\_\_\_\_  
Auditor/Controller

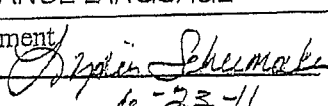
Dated: 18 May 2011

Dated: 5-19-11

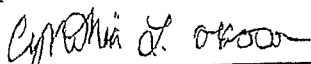
By:   
\_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

~~RISK MANAGEMENT~~  
Approved as to Liability Provisions:  
~~COUNTY OF MONTEREY~~  
APPROVED AS TO INDEMNITY/  
INSURANCE LANGUAGE

Anthony A. Kuznik, Assistant Secretary  
\_\_\_\_\_  
Printed Name and Title

Risk Management/  
By:   
\_\_\_\_\_  
Date: 6-23-11

Dated: May 17, 2011

Approved as to Form:  
  
\_\_\_\_\_  
Assistant County Counsel  
Deputy  
Dated: 5-23-11

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this AGREEMENT on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the AGREEMENT.

ENTERED

JUN 24 2011

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**FEE SCHEDULE**

Description	Amount
Contract Award	
Contract Complete for IGA Phase	
Billing Analysis, Energy Use Baseline	\$7,213
Buliding Walk-Through	\$7,213
Adult Rehab	
Correctional Facility	
New Jail	
Probation HQ	
Probation Juvenile Intake	
Probation Juvenile D Wing	
Public Safety Building	
Probation Youth Center	
DSES Seaside office	
Agricultural Commissioner Admin	
Agricultural Extension	
Animal Shelter	
Marina Coastal Offices	
Laurel Yard Facility	
Energy Balance	\$7,213
Develop EEMs	\$14,425
Preliminary IGA Report	\$3,606
Cost EEMs	\$14,425
Draft IGA Report	\$3,606
IGA Report Honeywell Peer Review	\$7,213
IGA Workshop w/lt Customer to present EEMs	\$2,885
Customer Agreement on EEMs	\$1,443
	\$ 69,240

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PROJECT SCHEDULE

Major Milestones	Target Timeline
Preliminary overview completed. Workshop with County staff is conducted to share identified measures and provide an order of magnitude for costs and savings. County staff to assist in selecting and prioritizing measures.	30-40 days after contract signature
Honeywell to perform a detailed cost analysis of selected measures, resulting in a final report containing actual costs and savings.	90 days after contract signature
A second workshop held with County staff to develop a framework to implement identified measures.	90 days after contract signature

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**ATTACHMENT B - ENERGY EFFICIENCY AND CONSERVATION  
BLOCK GRANT (EECBG) CONTRACTOR/VENDOR OR  
SUBCONTRACTORY FLOWDOWN REQUIREMENTS**

ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM

CONTRACTOR/VENDOR FLOWDOWN PROVISIONS FOR EECBG FINANCIAL  
ASSISTANCE AWARDS

SPECIAL TERMS AND CONDITIONS

DOE has classified Honeywell as a vendor in this scenario therefore the following flowdown requirements specified in the EECBG's Special Terms and Conditions apply:

The provisions in 10 CFR 600.236, "Procurement", Section (i) "Contract Provisions", numbers 1-13 are incorporated herein by reference.

1. RESOLUTION OF CONFLICTING CONDITIONS

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

2. LIMITATIONS ON USE OF FUNDS

- a. By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, for gambling establishments, aquariums, zoos, golf courses or swimming pools.

3. STATEMENT OF FEDERAL STEWARDSHIP

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

4. SITE VISITS

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Contractor/vendor must provide, and must require its subcontractors to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

5. REPORTING REQUIREMENTS

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CONTRACTOR/Vendor shall cooperate with the COUNTY's request for information related to the following reporting requirements:

- a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension or termination of the current award, and withholding of future awards. CONTRACTOR/vendor is advised that a willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.
- b. Additional Recovery Act Reporting Requirements are found in the Provision below labeled: "REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT."

## 6. PUBLICATIONS

- a. CONTRACTOR/vendor shall consult with the County prior to any publications related to the results of the work conducted under this contract.
- b. CONTRACTOR/vendor is advised that an acknowledgment of DOE support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

*Acknowledgment:* "This material is based upon work supported by the Department of Energy [National Nuclear Security Administration]-[add name(s) of other agencies, if applicable] under Award Number(s) [enter the award number(s)]."

*Disclaimer:* "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

## 7. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits, ensure the safety and structural integrity of any repair, replacement, construction and/or alteration, and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.



## 8. LOBBYING RESTRICTIONS

By accepting funds under this contract, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

## 9. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS

You are restricted from taking any action using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing either a NEPA clearance or a final NEPA decision regarding this project.

If you move forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of the final NEPA decision, you are doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost share.

If this award includes construction activities, you must submit an environmental evaluation report/evaluation notification form addressing NEPA issues prior to DOE initiating the NEPA process.

## 10. HISTORIC PRESERVATION

Prior to the expenditure of Project funds to alter any historic structure or site, the CONTRACTOR/vendor shall ensure that it is compliant with Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. If applicable, the Recipient or subrecipient must contact the State Historic Preservation Officer (SHPO), and the Tribal Historic Preservation Officer (THPO) to coordinate the Section 106 review outlined in 36 CFR Part 800. In the event that a State, State SHPO and DOE enter into a Programmatic Agreement, the terms of that Programmatic Agreement shall apply to all recipient and subrecipient activities within that State. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>. Section 110(k) of the NHPA applies to DOE funded activities.

The CONTRACTOR/vendor certifies that it will retain sufficient documentation to demonstrate that the CONTRACTOR/vendor has received required approval(s) from the SHPO or THPO for the Project. CONTRACTOR/vendor shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106. The CONTRACTOR/vendor shall deem compliance with Section 106 of the NHPA complete only after it has received this documentation. The CONTRACTOR/vendor shall make this documentation available to DOE on DOE's request (for example, during a post-award audit). CONTRACTOR/vendor will be required to report annually on September 1 the disposition of all historic preservation consultations by category.

#### 11. WASTE STREAM

The CONTRACTOR/vendor agrees that it will create or obtain a waste management plan addressing waste generated by a proposed Project prior to the Project generating waste. This waste management plan will describe the CONTRACTOR's/vendor's plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed Project. The CONTRACTOR/vendor shall ensure that the Project is in compliance with all Federal, state and local regulations for waste disposal. The CONTRACTOR/vendor shall make the waste management plan and related documentation available to DOE on DOE's request (for example, during a post-award audit).

#### 12. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS

CONTRACTOR/vendor is advised that it cannot undertake:

- (i) Decontamination and/or Decommissioning (D&D) of any of the COUNTY's facilities, or
- (ii) any costs which may be incurred by the CONTRACTOR/vendor in connection with the D&D of any of its facilities due to the performance of the work under this Contract, whether said work was performed prior to or subsequent to the effective date of the Contract.

#### 13. SUBGRANTS AND LOANS

- a. The CONTRACTOR/vendor hereby warrants that it will ensure that all its activities and activities by subcontractor(s) to accomplish the approved Project Description or Statement of Project Objectives are eligible activities under 42 U.S.C. 171534(1)-(13).
- b. Upon the CONTRACTOR/vendor selection of the subcontractor, the CONTRACTOR/vendor shall notify (i.e. approval not required) the COUNTY with the following information for each, regardless of dollar amount:
  - Name of Sub-Grantee
  - DUNS Number
  - Award Amount
  - Statement of work including applicable activities

#### ~~14. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS~~

##### A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the CONTRACTOR/vendor must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

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**B. Definitions**

For purposes of this Contract:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).
2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, subpart C:
  - a. A Governmental organization, which is a State, local government, or Indian Tribe;
  - b. A foreign public entity;
  - c. A domestic or foreign nonprofit organization;
  - d. A domestic or foreign for-profit organization; and
  - e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. Subaward:
  - a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
  - b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_.210 of the attachment to OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations).
  - c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. Subrecipient means an entity that:
  - a. Receives a subaward from you under this award; and

b. Is accountable to you for the use of the Federal funds provided by the subaward,

6. COUNTY is the County of Monterey, the owner of the project and identified as such in the AGREEMENT, or its authorized representative.

7. Subcontractor is a person or organization who has direct contract with the CONTRACTOR/vendor to perform any of the work as the site or to furnish material worked to special design according to plans and specifications of this work. The term "subcontractor" also includes sub-subcontractors performing work at the site or furnishing specially designed material for the work, who have only an indirect relationship to the CONTRACTOR/vendor.

**15. SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (May 2009)**

**Preamble**

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency, by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The CONTRACTOR/vendor will be provided these details as they become available. The CONTRACTOR/vendor shall cooperate with the COUNTY to comply with all requirements of the Act. If the CONTRACTOR/vendor believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

**Definitions**

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative AGREEMENT or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds -- the CONTRACTOR/vendor, subcontractor, grantee, or recipient, as the case may be, if the CONTRACTOR, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or

local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

Special Provisions

A. Flow Down Requirement

CONTRACTOR/vendor must include these special terms and conditions in any subcontract.

B. Segregation of Costs

CONTRACTOR/vendor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

C. Prohibition on Use of Funds

None of the funds provided under this AGREEMENT derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized --

(1) to examine any records of the CONTRACTOR/vendor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions that relate to, the subcontract, subcontract, grant, or subgrant; and

(2) to interview any officer or employee of the CONTRACTOR/vendor, grantee, subgrantee, or agency regarding such transactions.

E. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

## Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this AGREEMENT will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Protecting State and Local Government and Contractor Whistleblowers.

CONTRACTOR/Vendor is advised of the requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds;
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the

competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining AGREEMENT, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, [www.Recovery.gov](http://www.Recovery.gov), for specific requirements of this section and prescribed language for the notices.).

#### G. False Claims Act

CONTRACTOR/vendor shall promptly refer to the COUNTY any credible evidence that a principal, employee, agent, CONTRACTOR, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

#### H. Information in Support of Recovery Act Reporting

CONTRACTOR/vendor may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. CONTRACTOR/vendor shall provide copies of backup documentation at the request of the COUNTY.

I. Availability of Funds

Funds obligated to this award are available for reimbursement of costs until December 20, 2012.

**16. REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT**

CONTRACTOR/vendor shall cooperate with the COUNTY's request for information related to the following reporting and registration requirements:

(a) The CONTRACTOR/vendor is required to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due to the COUNTY no later than three calendar days after each calendar quarter in which the CONTRACTOR/vendor receives the assistance award funded in whole or in part by the Recovery Act.

(c) CONTRACTOR/vendor must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

(d) The CONTRACTOR/vendor shall provide the COUNTY documentation necessary to report the information described in section 1512(c) of the Recovery Act

**17. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

\*Special Note: Definitization of the Provisions entitled, "~~REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS - SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009~~" and "~~REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS) - SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009~~" will be done upon definition and review of final activities.



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18. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED  
GOODS – SECTION 1605 OF THE AMERICAN RECOVERY AND  
REINVESTMENT ACT OF 2009

If the CONTRACTOR/vendor determines at any time that any construction, alteration, or repair activity on a public building or public works will be performed during the course of the project, the CONTRACTOR/vendor shall notify the COUNTY prior to commencing such work and the following provisions shall apply.

(a) *Definitions.* As used in this award term and condition--

(1) *Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been--

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

(2) *Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

(3) *Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

~~(b) *Domestic preference.*~~

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111--5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) of this section and condition.

(2) This requirement does not apply to the material listed by the Federal Government as follows: None.

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that-

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- (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
  - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
  - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- (c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.*
- (1)(i) Any CONTRACTOR/vendor request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including—
    - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
    - (B) Unit of measure;
    - (C) Quantity;
    - (D) Cost;
    - (E) Time of delivery or availability;
    - (F) Location of the project;
    - (G) Name and address of the proposed supplier; and
    - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.
  - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
  - (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
  - (iv) Any CONTRACTOR/vendor request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the CONTRACTOR/vendor could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of

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the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

**Foreign and Domestic Items Cost Comparison**

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

**19. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS) – SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) *Definitions.* As used in this award term and condition--

*Designated country --*

(1) A World Trade Organization Government Procurement Agreement country (Aruba,

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Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);
- (3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom; or
- (4) An Agreement between Canada and the United States of America on Government Procurement country (Canada).

*Designated country iron, steel, and/or manufactured goods –*

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

*Domestic iron, steel, and/or manufactured good –*

- (1) Is wholly the growth, product, or manufacture of the United States; or
- (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

*Foreign iron, steel, and/or manufactured good* means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

*Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been

- (1) Processed into a specific form and shape; or

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- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

*Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.*

- (1) The award term and condition described in this section implements--

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of \$7,804,000 or more.

(2) The CONTRACTOR/vendor shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows: None.

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that--

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in

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the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
  - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- (c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*
- (1)(i) Any CONTRACTOR/vendor request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including--
    - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
    - (B) Unit of measure;
    - (C) Quantity;
    - (D) Cost;
    - (E) Time of delivery or availability;
    - (F) Location of the project;
    - (G) Name and address of the proposed supplier; and
    - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.
  - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
  - (iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.
  - (iv) Any CONTRACTOR/vendor request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
- (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the

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exception is non availability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

**Foreign and Domestic Items Cost Comparison**

Description	Unit of measure	Quantity	Cost (dollars)*
<i>Item 1:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			
<i>Item 2:</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

**20. WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**

CONTRACTOR/Vendor shall cooperate with the COUNTY's request for information related to the following Wage Rate requirements:

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by CONTRACTORS/vendors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the

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locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, refer to DOL website: <http://www.wdol.gov>. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

## 21. DAVIS-BACON ACT AND CONTRACT WORKHOURS AND SAFETY STANDARD ACT

CONTRACTOR/Vendor shall cooperate with the COUNTY's request for information related to the following Davis-Bacon Act requirements:

**Definitions:** For purposes of this provision, "Davis Bacon Act and Contract Work Hours and Safety Standards Act," the following definitions are applicable:

(1) "Award" means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, CONTRACTORS, and subcontractors.

(2) "CONTRACTOR/Vendor" means an entity that enters into a Contract. For purposes of these clauses, CONTRACTOR/vendor shall include (as applicable) prime CONTRACTORS, Recipients, Subrecipients, and Recipients' or Subrecipients' CONTRACTORS, subcontractors, and lower-tier subcontractors. "CONTRACTOR" does not mean a unit of State or local government where construction is performed by its own employees."

(3) "Contract" means a contract executed by a Recipient, Subrecipient, prime CONTRACTOR, or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.



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(4) "Contracting Officer" means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement, or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

(7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

**(a) Davis Bacon Act**

**(1) Minimum wages.**

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and, without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of

payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the CONTRACTOR/vendor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and

mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, *provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the CONTRACTOR/vendor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the CONTRACTOR/vendor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the CONTRACTOR/vendor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a

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determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the CONTRACTOR/vendor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the CONTRACTOR/vendor does not make payments to a trustee or other third person, the CONTRACTOR/vendor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *provided* that the Secretary of Labor has found, upon the written request of the CONTRACTOR/vendor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the CONTRACTOR/vendor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Department of Energy or the COUNTY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the CONTRACTOR/vendor under this Contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime CONTRACTOR, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the CONTRACTOR/vendor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the CONTRACTOR/vendor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR/vendor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the

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work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the CONTRACTOR/vendor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. CONTRACTORS/vendor employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (ii) (A) The CONTRACTOR/vendor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the CONTRACTOR/vendor will submit the payrolls to the COUNTY (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime CONTRACTOR/vendor is responsible for the submission of copies of payrolls by all subcontractors. CONTRACTORS/vendors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the CONTRACTOR/vendor will submit them to the COUNTY (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the CONTRACTOR/vendor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide

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addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the COUNTY (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the CONTRACTOR/vendor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WHI-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the CONTRACTOR/vendor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The CONTRACTOR/vendor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the CONTRACTOR/vendor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the CONTRACTOR/vendor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to

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submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### (4) Apprentices and trainees

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office; or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the CONTRACTOR/vendor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a CONTRACTOR/vendor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the CONTRACTOR's/vendor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the CONTRACTOR/vendor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are

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employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the CONTRACTOR/vendor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The CONTRACTOR/vendor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

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(6) Contracts and Subcontracts. The COUNTY, the COUNTY's CONTRACTORS/vendors and subCONTRACTOR shall insert in any Contracts the clauses contained herein in (a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The COUNTY shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a CONTRACTOR/vendor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the COUNTY, the CONTRACTOR/Vendor (or any of its subcontractors), and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this Contract, the CONTRACTOR/Vendor certifies that neither it (nor he or she) nor any person or firm who has an interest in the CONTRACTOR's/Vendor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No CONTRACTOR/Vendor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section, the CONTRACTOR/Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR/Vendor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such



individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR/Vendor or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR/Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR/Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Contracts and Subcontracts. The COUNTY, and COUNTY's CONTRACTOR/vendor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The CONTRACTOR/vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(5) The CONTRACTOR/Vendor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the CONTRACTOR/Vendor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the CONTRACTOR/Vendor or subcontractor will permit such representatives to interview employees during working hours on the job.

**(c) Responsibilities for Davis Bacon Act**

(1) On behalf of the COUNTY the CONTRACTOR/vendor shall perform the following functions:

(i) Obtain, maintain, and monitor all Davis Bacon Act (DBA) certified payroll records submitted by the subcontractors at any tier under this Contract;

(ii) Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;

(iii) Notify COUNTY of any non-compliance with DBA requirements by subcontractors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (ii) above;

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(iv) Address any subcontractor DBA non-compliance issues; if DBA non-compliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to the COUNTY;

(v) Provide the COUNTY with detailed information regarding the resolution of any DBA non-compliance issues;

(vi) Perform services in support of DOE and COUNTY investigations of complaints filed regarding noncompliance by CONTRACTORS/Vendors and subcontractors with DBA requirements;

(vii) Perform audit services as necessary to ensure compliance by CONTRACTORS/Vendors and subcontractors with DBA requirements and as requested by the COUNTY and DOE Contracting Officer; and

(viii) Provide copies of all records upon request by the COUNTY, DOE or DOL in a timely manner.

**(d) Rates of Wages**

The prevailing wage rates determined by the Secretary of Labor can be found at <http://www.wdol.gov/>.

ADDENDUM NO. 1  
TO AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
HONEYWELL INTERNATIONAL, INC.

THIS ADDENDUM NO. 1 to the Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Honeywell International, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "parties").

WHEREAS, CONTRACTOR entered into an Agreement with County on June 24, 2011 (hereinafter, "Agreement"); and

WHEREAS, services for Phase I, Investment Grade Audits, of the Investment Grade Audit and Energy Efficiency Measures (EEM) (hereinafter, "Project") has been completed; and

WHEREAS, the parties have negotiated Phase II, Implementation of EEM, which will include the implementation of some or all of the recommended EEM's in Phase I; and

WHEREAS, Phase II is considered a work of public improvement; and

WHEREAS, General Conditions applicable to managing work of public improvement projects are necessary to include for Phase II; and

WHEREAS, additional funding is necessary to fund services for Phase II of the Project; and

WHEREAS, the parties agree that Add Alternates in Attachment C: Phase II Scope of Services and Fee will only be implemented should there be any remaining project contingency; and

WHEREAS, the parties wish to further amend the Agreement to increase the amount by \$885,755 for Phase II for a total amount not to exceed \$954,995 to provide tasks identified in the Agreement and as amended by this Addendum No. 1.

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. Amend the "Performance of the Agreement" Section to include "Attachment C: Phase II Scope of Services and Fee", "Attachment D: List of Sub-Contractors", and "Attachment E: General Conditions" and add the following:

Requirements of the Federal grant take precedence over all component parts of this AGREEMENT.

Addendum No. 1 to Agreement  
Honeywell International, Inc.  
Investment Grade Audit and Energy Efficiency Measures (RFC/REP #10218)  
RMA - Department of Public Works  
Term: June 28, 2011 - September 30, 2012  
Not to Exceed: \$954,995

2. Amend Section 1.0, "Scope of Service", to add the following:

1.4 Phase II – Summary of Scope – The Phase II scope of services for retrofits to be undertaken at each building is fully described in ATTACHMENT C attached to this AGREEMENT.

1.5 Add Alternates will be implemented as directed by County subject to availability of funds through written addendum to AGREEMENT.

3. Amend Paragraph 4.1.3 in Section 4.0, "Compensation and Payments", to read as follows:

It is mutually understood and agreed by both parties that CONTRACTOR shall be compensated under the AGREEMENT for Phase II in accordance with Attachment C attached hereto.

4. Amend Section 4.0, "Compensation and Payments", to add the following:

4.1.4 The County agrees to pay the CONTRACTOR \$885,755 for a total amount not to exceed \$954,995 for Phase II – Implementation of Energy Efficiency Measures.

5. Replace Paragraph 4.3 in Section 4.0, "Compensation and Payments" with Part IV, "Payments" of the General Conditions

6. Add Section 17.0, "Licensing", as follows:

17.1 CONTRACTOR shall possess and maintain a valid Class B license as issued by the California State Contractor's License Board, during the entire term of this AGREEMENT.

17.2 CONTRACTOR shall ensure that the required licenses under both state and local jurisdictions are current during the full term of the AGREEMENT.

17.3 Each subcontractor must have an active and valid State Contractor's License with a classification appropriate for the work to be performed (Bus & Prof Code, § 7000 et seq.).

7. Revise General Provision (GP) 19.2, "Response to and Repair of Defective Work" of Request for Qualifications/Request for Proposals (RFQ/RFP) #10218, to read as follows:

All work performed under this contract shall not be construed by ESCO to be associated with or fall under any existing Maintenance Services Agreement between the ESCO and the COUNTY. ESCO shall, within a reasonable time but in no case longer than five (5) calendar days after receipt of written notice, dispatch a responder to determine nature of and cause(s) of defective materials or workmanship which may develop during said one-year period. No further documentation, such as a County issued purchase order, work authorization, or service requisition shall be required by ESCO to initiate the

Addendum No. 1 to Agreement

Honeywell International, Inc.

Investment Grade Audit and Energy Efficiency Measures (RFQ/RFP #10218)

RMA – Department of Public Works

Term: June 28, 2011 – September 30, 2012

Not to Exceed: \$954,995

service call. ESCO shall, within a reasonable time but in no case longer than fifteen (15) calendar days after receipt of written notice thereof, repair and/or replace any defects in materials or workmanship which may develop during said one-year period and any damage resulting from the repairing or replacing of such defects at his own expense and without cost to COUNTY. In the event ESCO fails to dispatch a responder or remedy any such defect within such reasonable time, COUNTY may proceed to have such defects remedied at ESCO's expense, and ESCO shall pay the costs and charges incurred thereby and any other damages of COUNTY. Nothing contained in this paragraph shall operate to relieve ESCO from responsibility after one year from the date of final acceptance of the completed work by COUNTY as regards damages resulting from defects, both latent and patent, departures from the requirements of the contract, fraud, or such other gross mistakes as amount to fraud, and ESCO shall indemnify, defend and save COUNTY harmless from and against liability, loss or damage arising by reason of any and all such matters. ESCO shall transfer to COUNTY all guarantees and warranties on equipment included within the project which ESCO receives from material men and subcontractors. Neither acceptance nor payment nor any provision in these documents shall be deemed to be a waiver by COUNTY nor to relieve ESCO of any responsibility under the contract. Notwithstanding the above, failure by the ESCO to take corrective action within 24 hours after personal or telephonic notice by the COUNTY on items affecting use of facility, safety, or the preservation of property, will result in the COUNTY taking whatever correction action it deems necessary. All costs resulting from such action by the COUNTY will be claimed against ESCO or, if necessary, the ESCO's performance bond.

8. All other terms and conditions of the Agreement remain unchanged and in full force.
9. This Addendum No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Addendum No. 1 to Agreement  
Honeywell International, Inc.  
Investment Grade Audit and Energy Efficiency Measures (RFQ/RFP #10218)  
RMA - Department of Public Works  
Term: June 28, 2011 - September 30, 2012  
Not to Exceed: \$954,995

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1 to the Agreement as of the day and year written below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: \_\_\_\_\_  
Contracts/Purchasing Officer

\_\_\_\_\_  
Honeywell International, Inc.  
Contractor's Business Name

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: Kevin Madden, Global Sales VP  
(Print Name and Title)

Date: November 23, 2011

Approved as to Form and Legality  
Office of the County Counsel

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

By: \_\_\_\_\_  
Deputy County Counsel

Its: Samuel Rosenstem, Assistant Secretary  
(Print Name and Title)

Date: \_\_\_\_\_

Date: November 23, 2011

Approved as to Fiscal Provisions

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

Approved as to Indemnity and Insurance Provisions

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Addendum No. 1 to Agreement  
Honeywell International, Inc.  
Investment Grade Audit and Energy Efficiency Measures (RFQ/RFP #10218)  
RMA - Department of Public Works  
Term: June 28, 2011 - September 30, 2012  
Not to Exceed: \$954,995

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1 to the Agreement as of the day and year written below:

COUNTY OF MONTEREY

CONTRACTOR\*

By: [Signature]  
Contracts/Purchasing Officer

Honeywell International, Inc.  
Contractor's Business Name

Date: 12.16.11

By: \_\_\_\_\_  
(Signature of Chair, President or Vice President)

Its: \_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

Approved as to Form and Legality  
Office of the County Counsel  
By: [Signature]  
Deputy County Counsel

By: \_\_\_\_\_  
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)

Its: \_\_\_\_\_  
(Print Name and Title)

Date: 11/23/11

Date: \_\_\_\_\_

Approved as to Fiscal Provisions  
By: [Signature]  
Auditor/Controller

Date: 11/28/11  
~~RISK MANAGEMENT~~

Approved as to Indemnity and Insurance Provisions  
COUNTY OF MONTEREY  
APPROVED AS TO INDEMNITY  
By: [Signature]  
INSURANCE LANGUAGE  
Risk Management

Date: 11/29/11

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Addendum No. 1 to Agreement  
Honeywell International, Inc.  
Investment Grade Audit and Energy Efficiency Measures (RFQ/RFP #10218)  
RMA -- Department of Public Works  
Term: June 28, 2011 -- September 30, 2012  
Not to Exceed: \$954,995

## ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE

## SCOPE OF WORK

Building Name	ECM Name	ECM Price
Correctional Facility (Main Jail)	Heating Units - 100% OSA	\$718,694
New Jail	Retro-Commission HV Units	\$19,511
New Jail	3- ton AC Units	\$121,462
New Jail	ACU-7 Retro-Commissioning	\$34,089
Probation Juvenile Intake	Retro-Commission Heating/Ventilating Units	\$13,372
Probation Youth Center	Retro-Commissioning Heating Units	\$6,792
Public Safety Building (Sherriff's Office)	Retrocommission HU-1 through 5	\$41,075
TOTAL OF IMPROVEMENTS		\$954,995
CREDIT FOR PHASE 1: INVESTMENT GRADE AUDITS		(\$89,240)
AMOUNT TO BE PAID		\$885,755

**Project Scope:**

Honeywell shall provide the following equipment and services ("the Work") in accordance with the attached work scope documents and terms and conditions, which form a part of this Agreement.

**Correctional Facility (Main Jail)****Men's & Women's Hexagons:**

Men's cells are served by 10 heating and ventilating units, 100% OSA, with exhaust fans. The Women's Cell Block is very similar to the Men's Block, but smaller. It has six (6) heating and ventilating systems (supply and exhaust fans) with 100% outside air. Only five (5) of the six (6) units are proposed to be replaced at this time. The 6<sup>th</sup> unit serves the Women's Dayroom, which will remain in place.

Measures include replacing these 15 units (HV-3 through HV-17)

**Replace HV Units (HV-3 through HV-17):**

Work to be performed by a mechanical subcontractor includes:

1. Removing existing units.
2. Installing new units including:
  - a. Mounting structure.
  - b. Outside, return and mixed air dampers.



## ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE

- c. Structure to mount controller.
- d. Electrical cabling, disconnects and fusing.

Honeywell scope includes the following:

1. Providing and installing controller for dampers and valves, with enclosure.
2. Providing and installing heating valves and pneumatic actuators.
3. Providing and installing pneumatic damper actuators.
4. Providing and installing supply and outdoor air temperature sensors.
5. Providing and installing CO2 sensors.
6. Installing pneumatic tubing.
7. Programming, start-up and commissioning (including smoke dampers).

Equipment listing is provided below:

## Men's &amp; Women's Hexagons

Mark	Type	Heating (MBH)	Supply Fan HP	Design Airflow (CFM)	Air Distribution Type	Min Outside Air (CFM)	Area Served
HV-3	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-4	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-5	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-6	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-7	HW Coils	190	1	3,000	CV SZ	600	Women's Holding Hexagon
HV-8	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-9	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-10	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-11	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-12	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-13	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-14	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-15	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-16	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-17	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon

New Jail:

There are 7 rooftop heating and ventilating recirculating units with economizers. They appear generally in good shape, except the economizers are rusty. There are 7 small (approximately 3 ton) rooftop cooling units

**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

(ACU-2, 3, 4, 5, 8, 9 & 10) which serve control rooms and kitchen areas. Most have economizers installed where the outside air intake bypasses the filter, which have caused damage to the cooling coils. All but one is original with the building, where one (ACU-10) has been installed recently, so is excluded from replacement. There is also a larger AC unit (ACU-7, 20 ton capacity), with DX cooling, hot water heat and economizer (badly corroded).

Scope includes replacing 6 of the smaller DX cooling only units and retro-commissioning ACU-7.

Replace ACU-2, 3, 4, 5, 8 & 9

Work to be performed by a mechanical subcontractor includes:

1. Removing existing units.
2. Installing new units including:
  - a. Curb adapter.
  - b. Outside, return and mixed air dampers.
  - c. Structure to mount controller.
  - d. Electrical cabling, disconnects and fusing.

Honeywell scope includes the following:

1. Providing and installing economizer controllers with enclosures.
2. Providing and installing damper actuators.
3. Providing and installing supply and outdoor air temperature sensors.
4. Programming, start-up and commissioning (including smoke dampers).

Equipment listing is provided below:

New Jail							
Mark	Type	Cooling (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
ACU-2	Unitary DX	24	0.25	700	CV SZ	50	Control room
ACU-3	Unitary DX	48	0.75	1,800	CV SZ	100	Kitchen offices
ACU-4	Unitary DX	24	0.25	500	CV SZ	50	Kitchen offices
ACU-5	Unitary DX	24	0.25	500	CV SZ	50	Kitchen offices
ACU-8	Unitary DX	24	0.25	500	CV SZ	50	Control room
ACU-9	Unitary DX	24	0.25	500	CV SZ	50	Control room

**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

Retro-Commission ACU-7:

Retro-Commission RTU as follows:

1. Refurbish economizer dampers. Replace damper actuators and linkages as necessary.
  2. Replace condenser coil. Re-charge refrigerant per manufacturer's instructions.
  3. Replace belts and filters as necessary.
  4. Air balance.
  5. Calibrate sensors and t-stats.
- 
6. Start-up and commissioning (including smoke dampers).

Unit specifications are as follows:

New Jall								
Mark	Type	Cooling (MBH)	Supply Fan HP	Return/Exh Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
ACU-7	Unitary DX	300	7.5	3	8,000	CV RH	1,100	Sallyport

Retro-Commission Heating/Ventilating Units:

Retro-commission as follows:

1. Refurbish economizer dampers. Replace damper actuators and linkages as necessary. Skip this step if the unit is 100% OSA.
  2. Replace belts and filters as necessary. Inspect fans and motors.
  3. Inspect heating valves. Replace as necessary.
  4. Air balance.
  5. Calibrate sensors.
- 
6. Start-up and commissioning (including smoke dampers).

**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

Equipment specifications are as follows:

New Jail								
Mark	Type	Heating (MBH)	Supply Fan HP	Return/Exh Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
HV-1	HW Coils	543	30	20	30,000	CV SZ	30,000	Kitchen
HV-2	HW Coils	150	10	7.5	11,500	CV SZ	4,200	Dorms
HV-3	HW Coils	226.5	10	5	7,500	CV SZ	1,200	Dorms
HV-4	HW Coils	235.5	10	5	7,500	CV SZ	1,600	Dorms
HV-5	HW Coils	226.5	10	5	7,500	CV SZ	1,600	Dorms
HV-6	HW Coils	154.5	7.5	5	5,500	CV SZ	1,000	Intake
HV-9	HW Coils	450	20	2	16,000	CV RH	13,000	Intake

**Probation Juvenile Intake:**

Operation schedule is 24/7. HVAC is primarily through rooftop heating and ventilating units and some ceiling mounted heating/ventilating units. During the time of the audit, none of the rooftop units were running. They were either not running due to no need for heating in the spaces or were manually turned off. The Stationary Engineer indicated the systems tend to put out too much heat, so get turned off at times. Also the Stationary Engineer indicated some rooftop exhaust fans need replacing and that the pneumatic system needs calibration.

**Retro-Commission Heating/Ventilating Units:**

Retro-commission as follows:

1. Replace belts and filters as necessary. Inspect fans and motors.
2. Inspect and replace/calibrate heating valves as necessary.
3. Clean coils.
4. Air balance.
5. Calibrate sensors, t-stats and damper sequencing.

## ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE

Equipment listing is provided below:

Probation Juvenile Intake									
Mark	Type	Heating (MBH)	Supply Fan HP	Fan Cycle?	Design airflow (CFM)	Air distribution type	Economizer (Y/N)	Min Outside Air (CFM)	Area Served
FC-1	Fan Coil	102	0.75	Y	1,200	SZ	N	240	Classroom F101
FC-2	Fan Coil	102	0.75	Y	1,200	SZ	N	240	Classroom F102
FC-3	Fan Coil	68	0.5	Y	800	SZ	N	160	Office F103A
FC-4	Fan Coil	134	0.75	Y	1,600	SZ	N	320	Classroom F106
FC-5	Fan Coil	102	0.75	Y	1,200	SZ	N	240	Cells C116-C126
FC-6	Fan Coil	134	0.75	Y	1,600	SZ	N	320	Cells C101-C115
FC-7	Fan Coil	102	0.75	Y	1,050	SZ	N	210	Cells B116-B124
FC-8	Fan Coil	134	0.75	Y	1,600	SZ	N	320	Cells B101-B115
FC-9	Fan Coil	102	0.75	Y	1,050	SZ	N	210	Cells A114-A122
FC-10	Fan Coil	134	0.75	Y	1,400	SZ	N	280	Cells A101-A113

### Probation Youth Center

Operation schedule is generally 24/7. There are seven (7) heating and ventilating units. Only one outdoor air sensor was located, but for the heating units, damper positions varied considerably. Outdoor air dampers ranged from fully open, to fully closed to ½ open. The linkage is somewhat rusty on each unit. The drawings show CO2 sensors on three units, but only one was located during the site walk. The units are controlled by a central control system with the head-end located in Laurel Yard, which controls air temperatures in the AHU through economizer and heating valve modulation. Through inspecting the EMS screens, the sensors and control loops could use calibration - many of the temperatures relative to economizer and valve position are not optimum.

### Retro-Commission Heating/Ventilating Units:

Retro-commission as follows:

1. Refurbish economizer dampers. Replace damper actuators and linkages as necessary.
2. Replace belts and filters as necessary. Inspect fans, motors, furnaces and heat exchangers.
3. Air balance.
4. Calibrate sensors (both temperature and CO2), t-stats and damper sequencing.
5. Start-up and commissioning (including smoke dampers).

## ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE

Equipment listing is provided below:

Probation YC RTUs									
Mark	Type	Heating (MBH)	Supply Fan HP (ref)	Fan Cycle?	Design airflow (CFM)	Air distribution type	Economizer (Y/N)	CO2 Sensor (Y/N)	Min Outside Air (CFM)
AH-1	Furnace	60	0.33	N	1,140	SZ	Y	Y	115
AH-2	Furnace	60	0.33	N	980	SZ	Y	N	100
AH-3	Furnace	72	0.5	N	1,680	SZ	Y	Y	170
AH-4	Furnace	60	0.33	N	1,100	SZ	Y	N	300
AH-5	Furnace	160	1.5	N	2,800	SZ	Y	Y	280
AH-6	Furnace	120	1	N	2,460	SZ	Y	Y	245
AH-7	Furnace	60	0.5	N	1,500	SZ	Y	N	150

**Public Safety Building:**

HU-1 through 5 are "hot decks" of variable air volume (VAV) dual duct multi-zone (DDMZ) systems. HU-1 through 5, served by a 1,200 MBtuh boiler, has fairly clean coils but the heating valves and IGVs appear non-functional. At the time of the audit, most valve indicators showed 100% open or closed, but they all appeared to be supplying heat. Also the fan shaft for HU-1 was sheared off with the fan motor simply running without being connected to the fan. HU-1 & 5 run 24/7 and the rest are controlled by time clocks set to run from 7 am to 5 pm.

**Retro-Commission HU-1 through HU-5:**

Retro-commission units as follows:

1. Inspect belts, filters and motors. Replace belts/filters as necessary. Repair broken shaft and replace bearings in HU-1.
2. Replace hot water valves and actuators if necessary.
3. Install controller for each unit.
4. Install VFD and set IGVs in open position for each unit.
5. Clean coils.
6. Calibrate sensors.
7. Program and commission unit. Set hot deck temperatures per the following reset schedule:

OSA 55 75

SAT 95 75

**ATTACHMENT 1**

**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

This means if the OSA temp is 55° F or below, the SAT is 95° F; if the OSA temp is 75° F or above, the SAT is 75° F. The SAT is set proportionately for any OSA temp in between 55 and 75° F.

HU-1 through HU-5 specifications is as follows:

PSB RTUs							
Mark	Type	Heating (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Schedule
HU-1	HW Coils	230	7.5	8,500	VAV - DDMZ	0	24/7
HU-2	HW Coils	60	5	6,000	VAV - DDMZ	0	7-5, M-F
HU-3	HW Coils	80	5	4,700	VAV - DDMZ	0	7-5, M-F
HU-4	HW Coils	160	5	5,500	VAV - DDMZ	0	7-5, M-F
HU-5	HW Coils	100	5	4,000	VAV - DDMZ	0	24/7

## ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE

## SCOPE OF WORK

## Add Alternates

Written Price: \$88,193.00 U.S. Dollars

Price: \$ Eighty Eight Thousand One Hundred Ninety Three U.S. Dollars

Building Name	ECM Name	ECM Price
Adult Rehab	Air Balance	\$15,842
Correctional Facility (Main Jail)	Heating Units - Receiving Wing	\$8,226
Marina Coastal Office	Wireless Pneumatic Thermostats	\$21,688
Marina Coastal Office	Retrocommission AHU	\$7,355
Probation Headquarters	Wireless Pneumatic Thermostats	\$23,328
Probation Juvenile Intake	Exhaust Fans	\$16,754
TOTAL		\$88,193

Project Scope:

Honeywell shall provide the following equipment and services ("the Work") in accordance with the attached work scope documents and terms and conditions, which form a part of this Agreement.

Adult Rehab:

The building has a center pod with 7 wings. HVAC is almost exclusively through heating/ventilating units (gas furnaces), except the control room that has a rooftop DX unit. All units run 24/7. The outside air and return air dampers all appear to be manually set, but their positions are very inconsistent. Also there is no building static pressure feedback or any relief dampers present. A number of gas furnaces were replaced four years ago.

Air balancing will be performed on these units.

Air Balance:

Perform air balance as follows:

1. Inspect HV unit. Replace belts and filters as necessary.
2. Clean unit and vacuum dust and loose debris.
3. Set return damper to full open (skip step if it's a 100% OSA unit).
4. Set outside air damper to approximately 30% open (skip step if it's a 100% OSA unit).
5. Measure supply air registers with flow hood. Adjust supply air dampers as necessary.



**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

6. Measure air flow from outdoor air intake. Adjust as necessary to meet design criteria (skip step if it's a 100% OSA unit).

Listing of HV units are as follows:

Adult Rehab							
Mark	Type	Heating Output (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
HV-1	Furnace	80	0.5	1,000	CV SZ	200	A Wing - Ext Offices
HV-2	Furnace	80	0.5	1,000	CV SZ	1,000	A Wing - Int Offices
HV-3	Furnace	262.5	1.5	4,000	CV SZ	1,200	B Wing - Rec Room
HV-4	Furnace	56.3	0.33	860	CV SZ	258	B Wing - Int Cell
HV-5	Furnace	56.3	0.33	860	CV SZ	258	B Wing - Int Cell
HV-6	Furnace	75	0.5	1,150	CV SZ	345	B Wing - Ext Cell
HV-7	Furnace	150	0.5	1,500	CV SZ	450	C Wing - Dorm
HV-8	Furnace	150	0.5	1,500	CV SZ	450	C Wing - Dorm
HV-9	Furnace	150	0.5	1,500	CV SZ	450	D Wing - Dorm
HV-10	Furnace	150	0.5	1,500	CV SZ	450	D Wing - Dorm
HV-11	Furnace	150	0.5	1,500	CV SZ	450	E Wing - Dorm
HV-12	Furnace	150	0.5	1,500	CV SZ	450	E Wing - Dorm
HV-13	Furnace	150	0.5	1,500	CV SZ	450	F Wing - Dorm
HV-14	Furnace	150	0.5	1,500	CV SZ	450	F Wing - Dorm
HV-15	Furnace	288	3	5,000	CV SZ	5,000	G Wing - Dining & TV
HV-16	Furnace	120	0.75	1,750	CV SZ	1,750	G Wing - Kitchen Make-up
HV-17	Furnace	252	2	3,600	CV SZ	1,200	H Wing - Recreation & TV
HV-18	Furnace	75	1	1,600	CV SZ	320	Corridor

**Correctional Facility Main Jail**

**Retro-Commission HV Unit (HV-2):**

One multi-zone (MZ) unit, with 3 zones, serves the Receiving Wing. Retro-commission unit as follows:

1. Inspect unit and replace belts, filters, MZ actuators and heating valves as necessary. Clean unit.
2. Balance zones.
3. Inspect and calibrate t-stats.

**Marina Coastal Office:**

Building is maybe 50% occupied from 8 am to 5 pm, M-F. Most of the building is served by a VAV (supply fan with VFD) ventilation unit with hot water reheat (no mechanical cooling). The unit is controlled by a time clock set at approximately 6 am to 6 pm, M-F, although some of the "pins" have slipped one or two hours and should be adjusted. Each zone is controlled by a pneumatic thermostat. The unit has an

**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

economizer that appears to be functional, although some of the linkage is rusty. Air filtration is not operating properly – some of the 1” pleated filters are “buckled”, thus allowing unfiltered air into the building.

Wireless Pneumatic Thermostats:

Install Cypress wireless pneumatic thermostats in 18 zones per manufacturers’ instructions.

1. Include pneumatic filters with translucent housings at each thermostat.
2. It is estimated one repeater will be required for the system.
3. Install Cypress Green Box in computer server room.

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4. For each occupied zone, set thermostats for 70° F heating and 74° F cooling.
5. For each unoccupied zone, set thermostats for 60° F heating and 84° F cooling.
6. Fourteen calendar days after installation, check filters for any moisture or oil. Inform the Honeywell Project Manager of any issues.

Retro-Commission AHU:

Retro-commission as follows:

1. Repair dampers.
2. Inspect motors and belts.
3. Repair filter bank system.

Air handler listing is as follows:

Marina Coastal Office											
Mark	Type	Supply Fan HP	Return Fan HP	VFDs? (Y/N)	Design airflow (CFM)	Air distribution type	Total VAV Reheat (MBH)	Economizer (Y/N)	Min. Outside Air (CFM)	Area Served	Schedule
SF-1 & RF-1	Vent Unit	20	10	Y	16,225	VAV RH	168.3	Y	3,245	18 Zones	M-F, 6 am to 6 pm

Probation Headquarters:

Operation schedule is 5 am to 5 pm, M-F. HVAC is a constant volume multi-zone system with 100% OSA. System is fully pneumatic with some of the zone actuators disabled. Stationary Engineer says the pneumatic thermostats need calibration. Cooling is through three (3) split systems (relatively new) mounted on the ground with refrigerant piping running up to the AHU evaporator coils in the penthouse (above the 2<sup>nd</sup> floor). Heating is through a hot water boiler. Switch-over between heating and cooling is 70 deg OSA (heating locked out above and cooling locked out below). Building exhaust is through a 5 hp fan that runs 24/7, but at the time of the audit, it was broken with no exhaust in the building. There is also a small RTU serving the courtroom only.

**ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE**

Wireless Pneumatic Thermostats:

Install Cypress wireless pneumatic thermostats in 18 zones per manufacturers' instructions.

1. Connect pneumatic MZ dampers at air handlers.
2. Calibrate and balance system. Replace any faulty pneumatic actuators.
3. Include pneumatic filters with translucent housings at each thermostat.
4. It is estimated two repeaters will be required for the system.
5. Install Cypress Green Box in telephone closet.
6. Set thermostats for 70° F heating and 74° F cooling.
7. Fourteen calendar days after installation, check filters for any moisture or oil. Inform the Honeywell Project Manager of any issues.

Air handler listing is as follows:

Probation HQ								
Mark	Type	Cooling (MBH)	Heating (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
AH-1	DX Split	288	890	7.5	13,600	CV MZ	13,600	1st Floor (12 Zones)
AH-2	DX Split	144	350	3	5,250	CV MZ	5,250	2nd Floor (6 Zones)

Probation Juvenile Intake:

Inspect and Repair Exhaust Fans:

Inspect 18 exhaust fans for proper operation. Repair as necessary. Should repairs not be feasible, replace up to 9 exhaust fans. Should other warrant replacement, report back to the shop for resolution.

Equipment list is as follows:

ATTACHMENT C: PHASE II SCOPE OF SERVICES AND FEE

F.A.M. SCHEDULE												
MARK	MINIMUM PAN CHARACTERISTICS		MOTOR CHARACTERISTICS				SERVICE			REMARKS		
	NOM. PANEL DIA.	CFM	EST. S.D.	WHEEL TYPE	REAR	MIN. H.P.	WINDAGE %	STARTER TYPE	STARTER CURRENT		ACTIVITY	
1-B	2-10"	3000	34"	R.C.	200	1	20%	MAG.	T.S.	ACTIVITY 200	SPLIT UNIT IN HALL EACH PAN HAVE SUCKET VALVE CONTROL AND 2-CELLS VFD	
2-B	2-10"	3000	34"	R.C.	200	1	20%	MAG.	T.S.	ACTIVITY 200		
3-B	2-10"	3000	34"	R.C.	200	1	20%	MAG.	T.S.	ACTIVITY 200	VFD	
4-B	2-10"	3000	34"	R.C.	200	1	20%	MAG.	T.S.	ACTIVITY 200		
5-B	2-10"	3000	34"	R.C.	200	1	20%	MAG.	T.S.	ACTIVITY 200	VFD	
6-B	2-10"	3000	34"	R.C.	200	1	20%	MAG.	T.S.	ACTIVITY 200		
7-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
8-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
9-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
10-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
11-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
12-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
13-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
14-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
15-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
16-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
17-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
18-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
19-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
20-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
21-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
22-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
23-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
24-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
25-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
26-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
27-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
28-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
29-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
30-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
31-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
32-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
33-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
34-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
35-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
36-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
37-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
38-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
39-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
40-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
41-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
42-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
43-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
44-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
45-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
46-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
47-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
48-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
49-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	
50-E	12-25"	500	14"	S.L.	400	1/2	100%	MAN.	T.S.	TOILET SW.	DND	

AC - FORWARD CURVE; SA - BACKWARD INCLINED; ST - AUTOMATIC STATIC PRESSURE; RA - INELONGUATE;  
 KS - TIME SWITCH; SH - SWITCH & PILOT LIGHT; MAG SW - PRESS SWITCH; RB (PL - PRESURE & PILOT LIGHT);  
 DND - DIRECT MOTOR DRIVE; VFD - V-BELT DRIVE; MAG - MAGNETIC; MAN - MANUAL; BHD - BOTTOM HORIZONTAL DISCHARGE

ATTACHMENT D: LIST OF SUB-CONTRACTORS

LIST OF SUBCONTRACTORS

Project Name:

COUNTY OF MONTEREY, DEPARTMENT OF PUBLIC WORKS,  
INVESTMENT GRADE AUDIT AND ENERGY EFFICIENCY MEASURES (EEM) FOR  
THE COUNTY OF MONTEREY DEPARTMENT OF PUBLIC WORKS

In compliance with the Subletting and Subcontracting Fair Practices Act (Chapter 4 [commencing with Section 4100], Part 1, Division 2 of the Public Contract Code) and any amendments thereto, Contractor shall set forth below: (a) the name and the location of the place of business of each subcontractor who will perform work or labor or render service to the contractor in or about the construction of the work or improvement to be performed under this contract or a subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications in an amount in excess of one-half of one percent of the Contractor's total cost proposal and (b) the portion of the work which will be done by each subcontractor under this Act. The Contractor shall list only one subcontractor for each such portion as is defined by the Contractor in this Agreement. The term "portion of work" refers to the type of work.

If Contractor fails to specify a subcontractor or if a Contractor specifies more than one subcontractor for the same portion of the work to be performed under the contract in excess of one-half of one percent of the Contractor's total cost proposal, he shall be deemed to have agreed that he is fully qualified to perform that portion himself, and that he shall perform that portion himself.

Contractor shall not: (a) substitute any subcontractor, (b) permit any subcontract to be voluntarily assigned or transferred or allow it to be performed by any one other than the original subcontractor listed herein, or (c) sublet or subcontract any portion of the work in excess of one-half of one percent of the Contractor's total cost proposal as to which this Agreement did not designate a subcontractor, except as authorized in the Subletting and Subcontracting Fair Practices Act. Subletting or subcontracting of any portion of the work in excess of one-half of one percent of the Contractor's total cost proposal as to which no subcontractor was designated in the Agreement shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the authority awarding this contract setting forth the facts constituting the emergency or necessity.

ATTACHMENT 1

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ATTACHMENT D: LIST OF SUB-CONTRACTORS

Portion (Type) of Work	Name of Subcontractor	Location and Place of Business	(\$ Amount of Proposal
ECM 4.1 - Men's/Women's Hexagon	Comfort Control	Salinas, CA	
ECM 4.3 - New Jail Mechanical	Comfort control	Salinas, CA	
ECM 4.1 Men's/Women's Hexagon	JM Electric	Salinas, CA	
ECM 4.3 New Jail Electrical	JM Electric	Salinas, CA	

Honeywell International  
Contractor's Business Name

By: Cindy Anderson

Print Name: Cindy Anderson

and Title: Account Executive

6505.76-7574

(This form may be duplicated as necessary)

ATTACHMENT E: GENERAL CONDITIONS

IMPLEMENTATION OF ENERGY EFFICIENCY MEASURES  
PROJECT NO. 8550; RFQ/RFP # 10218

PART I. INTRODUCTION

ARTICLE 1. DEFINITIONS.

1.01. Change Order. "Change Order" means a written modification of the Contract between the County and Contractor, signed by the County and the Contractor.

1.02. Change Order Proposal. "Change Order Proposal" means a Contractor-generated document in response to a Change Order Request (COR).

1.03. Change Order Request. "Change Order Request" (COR) means a document which informs the Contractor of a proposed change in the Work, and appropriately describes or otherwise documents such change.

1.04. Close-Out Documents. "Close-Out Documents" means the product brochures, product/equipment maintenance and operations instructions, manuals, and other documents/warranties, as-built record documents, affidavit of payment, release of lien and claim, and as may be further defined, identified, and required by the Contract Documents.

1.05. Construction Project Manager. "Construction Project Manger" is the person designated by the Director of Public Works responsible for the management of the construction component of the project.

1.06. Contract. "Contract" means the entire agreement between County and Contractor, including all of the Contract Documents.

1.07. Contract Date. "Contract Date" is the date when the agreement between the County and the Contractor becomes effective.

1.08. Contract Time. "Contract Time" means the period between the Start Date identified in the Notice to Proceed with Construction and the Substantial Completion Date identified in the Notice to Proceed or as subsequently amended by Change Order.

1.09. Date of Commencement. "Date of Commencement" means the date designated in the Notice to Proceed for the Contractor to commence the Work.

1.10: Final Completion. "Final Completion" means the date determined and certified by the County on which the Work is fully and satisfactorily complete in accordance with the Contract.

1.11. Owner's Designated Representative. "Owner's Designated Representative" (ODR) means the individual assigned by the County (Owner) to act on its behalf, and to undertake certain activities as specifically outlined in the Contract. The ODR is the only party authorized to direct changes to the scope, cost, or time of the contract.

## ATTACHMENT E: GENERAL CONDITIONS

1.12. Samples. "Samples" are representative physical examples of materials, equipment, or workmanship, used to confirm compliance with requirements and/or to establish standards for use in execution of Work.

1.13. Schedule of Values. "Schedule of Values" means the detailed breakdown of the cost of the materials, labor, and equipment necessary to accomplish the Work as described in the Contract Documents, submitted by Contractor for approval by County.

1.14. Shop Drawings. "Shop Drawings" means the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data prepared by the Contractor or any subcontractor, manufacturer, supplier, distributor, or agents, and which detail some portion of the work.

1.15. Substantial Completion. "Substantial Completion" means the date determined and certified by County, when the Work or a designated portion thereof is sufficiently complete, in accordance with the Contract, so as to be operational and fit for the use intended.

ARTICLE 2. CONTRACT INTERPRETATION.

2.01. Counting time. When any provision in the contract documents calls for computation of time in terms of days, the period so counted shall include all calendar days within the period, including usual workdays as well as weekends and holidays. Business days and workdays refer to Monday through Friday, eight-hour duration.

2.02. Gender and number. References to one gender include the other; references to either singular or plural include the other.

2.03. Headings. Article and paragraph headings are for convenience only, and shall not be used to interpret the provisions of this contract.

2.04. Express and implied work requirements. This contract requires the performance of all elements of work expressly mentioned herein, together with all elements of work that are reasonably inferable from the express terms of this contract as being necessary for the proper completion of the work.

2.05. Technical or trade meanings. Words which have well-known technical or trade meanings are used herein in accordance with such recognized meanings.

2.06. Conflicts and interpretation problems involving plans, specifications, or working details. If a conflict or other problem of interpretation involves plans, specifications, or working details, the problem shall be resolved as follows: Dimensions take precedence over scale at all times. Figured dimensions on plans shall govern, but work not dimensioned shall be as directed. Work not particularly shown or specified shall be the same as similar parts that are shown or specified. Large-scale details shall take precedence over smaller-scale details as to shape and details of construction. Specifications shall govern as to materials, workmanship, and installation procedures. Plans, specifications, and working details are intended to be fully cooperative and to agree. However, if Contractor observes that plans, specifications, and/or working details are in conflict, he shall



## ATTACHMENT E: GENERAL CONDITIONS

promptly notify the Department of Public Works Project Manager in writing and any necessary changes shall be adjusted as provided elsewhere in the contract documents for changes in work.

ARTICLE 3. CONTRACT DOCUMENTS.

3.01. Contract. The contract documents form the contract. The contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral, including the bidding documents.

3.02. Execution in quadruplicate. Unless otherwise specified in the Agreement, the contract documents shall be signed in not less than quadruplicate by the County and Contractor.

3.03. Familiarity with site and local conditions. Prior to submitting a bid, and prior to executing this contract, the Contractor shall visit the work site, familiarize himself with the local conditions under which the work is to be performed, and correlate his observations with the requirements of this contract. By executing the contract, the Contractor represents that he has done so. Based on such visits and investigations, Contractor shall notify the County in writing of any discrepancies between the local conditions and the requirements of the contract. Contractor's failure to notify County prior to submitting its bid shall be deemed an acknowledgment of and acceptance of any such discrepancies, and a waiver of any claims for extra work, which may result there from.

3.04. Contract documents furnished to Contractor. Unless otherwise provided in the contract documents, the Contractor will be furnished, one full size set and one half size set of all the contract documents, including the plans, specifications, and working details to facilitate the execution of the work. Additional copies of the contract documents may be obtained at cost of reproduction.

3.05. Ownership of documents. All plans, specifications, working details, and copies thereof furnished by the Contractor for this project are and shall remain the property of the County. Such documents shall not be used on any other project and shall be returned to the County on request at the completion of the work.

3.06. Organization of contract documents not controlling. The organization of the specifications into divisions, sections, and articles, and the arrangement of the plans or working details shall not control the Contractor in dividing the work among subcontractors or in establishing the extent of work to be performed by any trade.

3.07. Contract documents on-site. Contractor will at all times maintain at least one complete, up-to-date set of the contract documents, showing approval by the State Fire Marshal (including the original documents as well as all change orders and other supplemental and additional documents) on the site, to be available to the County.

ARTICLE 4. SUBCONTRACTORS.

4.01. No contractual relationship between County and subcontractors. Nothing contained in the contract documents shall create any contractual relation between the County and any subcontractor.

ATTACHMENT E: GENERAL CONDITIONS

4.02. Work performed by subcontractors; substitutions. Subcontracted work shall be performed only by the subcontractors identified in Contractor's bid documents, as provided by Public Contract Code sections 4100, et seq. Substitution of subcontractors may be made only in conformity with the Subletting and Subcontracting Fair Practices Act, Public Contract Code sections 4100, et seq.

4.03. Contracts with subcontractors. All work performed for the Contractor by a subcontractor shall be pursuant to a written agreement between the Contractor and the subcontractor (and where appropriate, between subcontractors and sub-subcontractors). All such agreements shall require performance by the subcontractors in conformity with the terms of this contract, and shall include all the terms of this contract, which are applicable to subcontractors.

4.04. Payments to subcontractors.

(a) The Contractor shall pay each subcontractor, upon receipt of payment from the County, any amount equal to the percentage of completion allowed to the Contractor on account of such subcontractor's work, less the percentage retained from payments to the Contractor. The Contractor shall also require each subcontractor to make similar payments to his subcontractors. County shall have the right, but not the obligation, to issue payment by joint checks payable to the order of Contractor and any of its subcontractors.

(b) If the County's Project Manager fails to issue a certificate for payment for any cause which is the fault of the Contractor and not the fault of a particular subcontractor, the Contractor shall pay the subcontractor on demand, made at any time after the certificate for payment should otherwise have been issued, for his work to the extent completed, less the retained percentage.

(c) Neither the County nor the County's Project Manager shall have any obligation to pay or to see to the payment of any monies to any subcontractor except as may otherwise be required by law. All monies paid to Contractor hereunder shall immediately become and constitute a trust fund and shall be applied by Contractor for the benefit of all persons supplying labor, materials or equipment in connection with the work and shall not be diverted to any other purpose until the claims of such persons have been discharged.

4.05. Information provided to subcontractors. The County's Project Manager may, on request, furnish to any subcontractor, if practicable, information regarding percentages of completion certified to the Contractor on account of work done by such subcontractors.

4.06. Contractor's responsibility for work of subcontractors. Contractor shall be as fully responsible to County for the acts and omissions of any subcontractor and of persons either directly or indirectly employed by the subcontractors, as he is for acts and omissions of persons directly employed by him.

PART II. CONDUCT OF WORK.

ARTICLE 5. CONTRACT ADMINISTRATION BY COUNTY'S PROJECT MANAGER.

ATTACHMENT E: GENERAL CONDITIONS

5.01. County's representative. The County's Project Manager will be the County's representative during construction and until final payment as provided in this Agreement. The County's Project Manager will have authority to act on behalf of the County to the extent provided in the contract documents, unless otherwise modified by written instrument which will be shown to the Contractor. The County's Project Manager will advise and consult with the County, and all of the County's instructions to the Contractor shall be issued through the County's Project Manager. As County's representative, the County's Project Manager will provide general administration of the contract, including performance of the functions hereinafter described. In addition, the County's Project Manager will be the County's Representative for management of construction in the field. The County's Project Manager is responsible for managing the project schedule, budget, and has the authority to act on behalf of the County as relating to the management of these items.

5.02. Instructions issued through County's Project Manager. The County shall issue instructions to the Contractor through the County's Project Manager, provided that the County shall have the right, but not the obligation, to itself or through other project representatives issue change orders, require additional work and/or direct the omission of work previously ordered by written instructions directly to Contractor, provided such project representative and instructions have been prior approved in writing by the County.

5.03. County's Project Manager's access to work. The County's Project Manager shall at all times have access to the work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the County's Project Manager may perform his/her functions under the contract.

5.04. Inspections. The County's Project Manager will make periodic visits to the site to be fully familiarized with the progress and quality of the work, to determine in general if the work is proceeding in accordance with the contract documents and to guard the County against defects and deficiencies in the work of the Contractor.

5.05. Determination of payments to Contractor. Based on such observations and the Contractor's applications for payment, the County's Project Manager will determine the amounts owing to the Contractor and will issue certificates for payment in such amounts, as provided in Articles 18-21.

5.06. Decisions on artistic effect. The County's Project Manager's decisions in matters relating to artistic effect will be final if consistent with the intent of the contract documents.

5.07. Authority to reject work or to require special inspection or testing. The County's Project Manager may reject work which does not conform to the contract documents. Whenever, in County's Project Manager's reasonable opinion, he/she considers it necessary or advisable to ensure the proper implementation of this contract, County's Project Manager may require special inspection or testing of the work in accordance with Article 11, whether or not such work is then fabricated, installed, or completed. However, the County's Project Manager's authority to act under this paragraph, or any decision made by County's Project Manager in good faith either to exercise or not to exercise such authority, shall not give rise to any duty or responsibility of the County's Project Manager to the Contractor, any subcontractor, any of their agents or employees, or any other person performing any of the work.

ATTACHMENT E: GENERAL CONDITIONS

5.08. Review of shop drawings and samples. The County's Project Manager will review shop drawings and samples as provided in Article 9.

5.09. Change orders prepared by County's Project Manager. The County's Project Manager will prepare change orders and may order minor changes in the work in accordance with Article 15.

5.10. Inspections and document review. The County's Project Manager will conduct inspections of the work (including a final inspection), will receive and review written guarantees and related documents required by the contract and assembled by the Contractor and will issue a final certificate for payment.

ARTICLE 6. SERVICES PROVIDED BY COUNTY.

6.01. Information and services provided by County. Information or services under the County's control shall be furnished by the County with reasonable promptness to avoid delay in the orderly progress of the work.

ARTICLE 7. CONTRACTOR'S ADMINISTRATIVE DUTIES.

7.01. Review of contract documents for errors. The Contractor shall carefully study and compare the contract documents and shall at once report in writing to the County's Project Manager, any error, inconsistency, or omission he may discover.

7.02. Taxes. Contractor shall pay all sales, consumer, use, and other similar taxes required by law.

7.03. Transportation and utility service. Contractor shall pay for all transportation and utility service not later than the 20th day of the calendar month following that in which such services are rendered.

7.04. Materials and equipment. Contractor shall pay for all materials, tools, and other expendable equipment to the extent of 90 percent of the cost thereof, not later than the 20th day of the calendar month following that in which such materials, tools, and equipment are delivered at the project site and the balance thereof not later than the 30th day following completion of that part of the work in or on which such materials, tools, and equipment are incorporated or used.

7.05. Contractor's responsibility for agents and employees. The Contractor shall be responsible to the County for the acts and omissions of all his employees and all subcontractors, their agents and employees, and all other persons performing any of the work under a contract with the Contractor.

7.06. Communication through County's Project Manager. The Contractor shall forward all communications to the County through the County's Project Manager.

ARTICLE 8. GENERAL PROVISIONS REGARDING CONDUCT OF WORK.

8.01. No work without construction documents. The Contractor shall do no work without current plans, specifications, working details, etc.

## ATTACHMENT E: GENERAL CONDITIONS

- 8.02. Supervision and construction procedures. The Contractor shall supervise and direct the work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the work under the contract.
- 8.03. Contractor's responsibility for labor, materials, and equipment. Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the work.
- 8.04. Conduct and skill of employees. The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the work any unfit person or anyone not skilled in the task assigned to him. Any person in the employ of the Contractor whom the County may deem incompetent or unfit shall be dismissed from the work and shall not again be employed on it except with the written consent of the County.
- 8.05. Progress schedule. The Contractor, immediately after being awarded the contract, shall prepare and submit for the County's Project Manager's approval, an estimated progress schedule for the work. The progress schedule shall be related to the entire project to the extent required by the contract documents. This schedule shall indicate the dates for the starting and completion of the various stages of construction and shall be revised weekly, subject to the County's Project Manager's approval.
- 8.06. Plans and specifications at site. The Contractor shall maintain at the site for the County one copy of all approved shop drawings, plans, specifications, working details, addenda, change orders, and other modifications, in good order and marked to record all changes made during construction. These shall be available to the County's Project Manager. A reproducible set of plans and working details, marked to record all changes made during construction, shall be delivered to the County's Project Manager for the County upon completion of the work and prior to release of final payment.
- 8.07. Dimensions to be checked. All dimensions shall be carefully checked by the various artisans. Each Contractor shall be held responsible for the accuracy of the dimensions of its own work. Dimensions shown on plans shall be adhered to insofar as it is possible, and no deviation from such dimensions shall be made except with the consent of the County's Project Manager. Where the work of one Contractor comes in contact with the work of another Contractor, each Contractor shall carefully check all dimensions which affect its own work. Wherever possible, dimensions shall be taken at the building, but no work shall be delayed or held up waiting for building dimensions, when by the exercise of foresight and proper cooperation, the dimensions may be established in advance of construction. The Contractor shall verify all dimensions at the site and shall be solely responsible for same or deviations from same.
- 8.08. Cutting and patching. The Contractor shall be responsible for any cutting, fitting, and patching that may be required to complete his work, except as otherwise specifically provided in the contract documents. The Contractor shall not endanger any work of any other contractors by cutting, excavating, or otherwise altering any work and shall not cut or alter the work of any other contractor except with the written consent of the County's Project Manager.

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8.09. Revision of operations. When, in the judgment of the County, it becomes necessary to accelerate the work, the Contractor when so ordered shall concentrate his forces at such points as directed and execute such portions of the work as may be required.

8.10. Damage to work and property on-site. All damage or loss to any property on or near the site caused in whole or in part by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, at his expense, except damage or loss attributable to the acts or omissions of the County or anyone employed by County or for whose acts County may be liable, and not attributable to the fault or negligence of the Contractor.

ARTICLE 9. SHOP DRAWINGS AND SAMPLES.

9.01. Submittal of shop drawings and samples. The Contractor shall review, stamp with his approval, and submit, with reasonable promptness and in orderly sequence so as to cause no delay in the work or in the work of any other contractor, all shop drawings and samples required by the contract documents or subsequently by the County's Project Manager as covered by modifications. Shop drawings and samples shall be properly identified as specified, or as the County's Project Manager may require. At the time of submission, the Contractor shall inform the County's Project Manager in writing of any deviation in the shop drawings or samples from the requirements of the contract documents.

9.02. Warranties concerning shop drawings and samples. By approving and submitting shop drawings and samples, the Contractor thereby represents that he has determined and verified all field measurements, field construction criteria, materials, catalog numbers, and similar data, or will do so, and that he has checked and coordinated each Shop Drawing and Sample with the requirements of the work and of the contract documents.

9.03. County's Project Manager's review and approval. The County's Project Manager will review and approve shop drawings and samples with reasonable promptness so as to cause no delay, but only for conformance with the design concept of the project and with the information given in the contract documents. The County's Project Manager's approval of a separate item shall not indicate approval of an assembly in which the item functions.

9.04. Corrections. The Contractor shall make any corrections required by the County's Project Manager and shall resubmit the required number of corrected copies of shop drawings or new samples until approved. The Contractor shall direct specific attention in writing or on resubmitted shop drawings to revisions other than the corrections requested by the County's Project Manager on previous submissions.

9.05. Contractor's responsibility. The County's Project Manager's approval of shop drawings or samples shall not relieve the Contractor of responsibility for any deviation at the time of submission, nor shall the County's Project Manager's approval relieve the Contractor from responsibility for errors or omission in the shop drawings or samples.

9.06. Completion of work in accordance with shop drawings and samples. No portion of the work requiring a Shop Drawing or Sample submission shall be commenced until the County's Project

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Manager has approved the submission. All such portions of the work shall be in accordance with approved shop drawings and samples.

ARTICLE 10. SEPARATE CONTRACTS ON SAME PROJECT.

10.01. County's right to award separate contracts. The County reserves the right to award other contracts in connection with other portions of the project.

10.02. Coordination among contractors. Contractor shall ascertain to his own satisfaction the scope of the project and the nature of any other contracts that have been or may be awarded by County in prosecution of the project, to the end that Contractor may perform this contract in light of such other contracts, if any. Nothing herein shall be interpreted as granting to Contractor exclusive occupancy at the site. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the project. If simultaneous execution of any contract for the project is likely to cause interference with the performance of some other contract or contracts, the County shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously. County shall not be responsible for any damages suffered or extra costs incurred by Contractor resulting directly or indirectly from the award or performance or attempted performance of any other contract or contracts on the project, or caused by any decision or omission of County respecting the order of precedence in performance of the contracts. Any delay in the progress of the work as a result of such priorities shall not give rise to any adjustments in the Contract Price and Contractor agrees that its sole right and remedy therefore shall be an extension of time.

10.03. Responsibility to other contractors. The Contractor shall afford other contractors on the same project reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate his work with theirs.

10.04. Duty to inspect other contractor's work. If any part of the Contractor's work depends for proper execution or results upon the work of any other separate contractor, the Contractor shall inspect and promptly report to the County's Project Manager any apparent discrepancies or defects in such work that render it unsuitable for such proper execution and results. Failure of the Contractor so to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper to receive his work, except as to defects which may develop in the other separate contractor's work after the execution of the Contractor's work. Any work exhibiting unacceptable quality as defined by the contract documents will result in Contractor's payment (or a portion thereof) being withheld until the unacceptable work is corrected to meet the required quality standards, per Article 19 herein.

10.05. Damage to other contractor's work. Should the Contractor cause damage to the work or property of any separate contractor on the project, the Contractor shall, upon due notice settle with such other contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the County or initiates an arbitration proceeding on account of any damage alleged to have been so sustained, the County shall notify the Contractor who shall defend such proceedings and indemnify and hold harmless County.

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10.06. Responsibility for costs caused by one contractor to another. Any costs to one contractor or his subcontractors on the project caused by defective or ill-timed work by another contractor or his sub-contractors on the project shall be borne by the party responsible for such defective or ill-timed work.

10.07. County's right to settle disputes over clean-up. If a dispute arises between the separate contractors as to their responsibility for cleaning up under paragraph 13.05, the County may clean up and charge the cost thereof to the several contractors, as the County shall determine to be just.

ARTICLE 11. TESTS.

11.01. Contractor's responsibility for required tests. If the contract documents, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any work to be inspected, tested, or approved, the Contractor shall give the County's Project Manager timely notice of its readiness and of the date arranged so the County's Project Manager may observe such inspection, testing, or approval. The County shall bear all costs of such inspections, tests, and approval, unless otherwise provided.

11.02. Responsibility for tests not anticipated in contract. If after the commencement of the work, the County's Project Manager determines that any work requires special inspection, testing, or approval which paragraph 11.01 does not include, he will, upon written authorization from the County, instruct the Contractor to order such special inspection, testing, or approval, and the Contractor shall give notice as in paragraph 11.01. If such special inspection or testing reveals a failure of the work to comply (1) with the requirements of the contract documents or (2) with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, then the Contractor shall bear all costs thereof, including the County's Project Manager's additional services made necessary by such failure; otherwise the County shall bear such costs, and an appropriate change order shall be issued.

11.03. Certificates of inspection. Required certificates of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by him to the County's Project Manager.

11.04. Observation by County's Project Manager. If the County's Project Manager wishes to observe the inspections, tests, or approvals required by this Article 11, he will do so promptly and, where practicable, at the source of supply.

11.05. No waiver of Contractor's responsibility. Neither the observations of the County's Project Manager in their administration of the construction contract, nor inspections, tests, or approvals by persons other than the Contractor shall relieve the Contractor from his obligations to perform the work in accordance with the contract documents.

ARTICLE 12. TIME FOR PERFORMANCE AND LIQUIDATED DAMAGES.

12.01. Date of final completion. When the Contractor believes that his work is completed, he shall request that the County's Project Manager inspect the work and certify its completion. The County will respond promptly to such a request. The date of final completion of the work or any designated



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portion thereof is the date on which, after the County certifies that construction has been completed in accordance with the contract documents, the County's Board of Supervisors accepts the work.

12.02. Extensions of time due to failure to furnish interpretation. No extension of time shall be allowed for delay caused by the County's Project Manager's failure to promptly provide an interpretation of the contract, except in the following circumstances:

(a) The County's Project Manager failed to provide the interpretation for over fifteen days after demand was made for such interpretation, and it would be reasonable to extend time due to such failure; or

(b) The parties have agreed upon a schedule for the provision of interpretations, the County's Project Manager failed to comply with that schedule, and it would be reasonable to extend time due to such failure.

12.03. Claims for extension of time. Notwithstanding the provisions of Section 12.05 and 12.06 above, none of the causes of delay described therein shall be deemed a valid excuse for Contractor's failure to start, perform, or complete the work, or any portion thereof, on time unless Contractor has notified the County's Project Manager, in writing, of the alleged cause of delay within ten (10) days after commencement of the cause of the delay. Should the County disagree with Contractor that the alleged delay warrants an extension of time for the performance of any act required hereunder, the Contractor shall notify the County in writing, as provided in Article 30; provided that the Contractor shall proceed with the work during the period that the County and Contractor seek to resolve the matter.

ARTICLE 13. USE OF SITE.

13.01. Limit of operations. The Contractor shall confine his apparatus, the storage of materials, and the operations of his workers to limits indicated on the plans, or by law, ordinances, permits, or directions of the County's Project Manager and shall not unreasonably occupy the premises with his materials. Insofar as possible, the Contractor shall arrange his work and its progress to prevent any interference with the operations of the existing facilities. All utilities must be protected and connections made to utilities so as not to interrupt service.

13.02. Utilities. Unless otherwise noted, all utilities, including but not limited to electricity, water, gas, and telephone, used on the work shall be furnished and paid for by Contractor. Contractor shall furnish and install temporary distribution systems, including meters, if necessary, from distribution points to points on-site where utility is necessary to carry on the work. Upon completion of the work, Contractor shall remove all temporary distribution systems. If this contract is for an addition to an existing facility, Contractor may, with the written permission of the County, use County's existing utilities by making prearranged payments to County for utilities used by Contractor for construction.

13.03. Metering devices. For the purpose of providing utility service to the project, Contractor may install or cause to be installed metering devices or other equipment of utility companies or of political subdivisions, title to which is commonly retained by the utility company or political

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subdivision. If any such metering device or equipment is installed, contractor shall advise County as to the owner of such device or equipment.

13.04. Sanitary facilities. Contractor shall provide sanitary toilet facilities for the use of all workers and subcontractors. The building shall be properly stocked and maintained in a sanitary condition at all times and shall be left at the site until removal is directed by the County's Project Manager. Use of the toilet facilities in the Work under construction shall not be permitted.

13.05. Cleaning up during and after work. The Contractor, at all times, shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the work, he shall remove all his waste materials and rubbish from and about the project as well as all his tools, construction equipment, machinery, and surplus materials. If the Contractor fails to clean up, the County may do so and the cost thereof shall be charged to Contractor as provided in paragraph 31.02.

13.06. The parking of equipment, storage of materials, and use of any permanent facilities in the project shall be as allowed by the COUNTY Project Manager.

ARTICLE 14. MATERIALS.

14.01. Materials provided by Contractor. Except as otherwise expressly stated in this contract, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this contract within the specified time.

14.02. Quality of materials. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality.

14.03. Provision and storage of materials. Materials shall be furnished in ample quantities and at such times as to ensure uninterrupted progress of work and shall be stored properly and protected as required. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or work under this contract. All stored items shall be inventoried, specified by identification numbers (if applicable), released to County by sureties of the Contractor and, if stored offsite, stored only in a reputable bonded warehouse.

14.04. Substitution of materials. Whenever in the specifications any materials, process, or article is indicated or specified by grade, patent, or proprietary name or by the name of the manufacturer, such specification shall be deemed to be used for the purpose of facilitating the description of the material, process, or article desired and shall be deemed to be followed by the words "or equal," and Contractor may, unless otherwise stated, offer any material, process, or article which shall in every respect be substantially equal to or better than that specified. The burden of proof as to equality of any material, process, or article shall rest with Contractor. Contractor shall submit any request for substitution, together with any substantiating data, within (35) thirty-five days after the award of this contract. These provisions authorizing submission of "or equal" justification data shall not in any way authorize an extension of time for performance of this contract. In the event Contractor-

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furnished material, processes, or articles that are more expensive than those specified, the difference in cost so furnished shall be borne by Contractor. Requests for substitution of products, materials or processes other than those specified must be accompanied by evidence whether or not the proposed substitution: (1) is equal in quality and serviceability to the specified item; (2) will not entail changes in detail and construction of related work; (3) will be acceptable in consideration of the required design and artistic effect; (4) will not provide a cost disadvantage to County. Contractor shall promptly provide, upon request, any other information that may be required of it to assist County in determining whether the proposed substitution is acceptable. The final decision shall be that of the County. County's approval shall be in writing, shall follow the procedure for change orders, and shall be required for the use of a proposed substitute material. County may condition its approval of the substitution upon delivery to County of an extended warranty or other assurances of adequate performance of the substitution.

ARTICLE 15. CHANGES IN THE WORK.

15.01. Change orders. The County, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions. The contract sum and the time for performance of the work shall be adjusted accordingly. All such changes in the work shall be authorized by change order, and shall be executed under the applicable conditions of the contract documents. The contract sum and the time for performance of the work may be changed only by change order.

The amount to be paid to the Contractor pursuant to the Contract Documents shall, where applicable, be increased or decreased in the manner hereinafter set forth; provided however, that if the Contractor should proceed with a Change in the Work upon an oral order, by whomsoever given, it shall constitute a waiver by the Contractor of any claim for an increase in the Contract Sum on account thereof. Upon receipt of said written Change Order or Written Directive, the Contractor shall promptly proceed with the Change in the Work, even though the amount of any resultant increase or decrease in the contract sum has not yet been determined. All Changes in the Work shall be performed in accordance with the Contract Documents.

15.02. Method to calculate adjustments in contract price. Determination of the method to be used to calculate adjustments in the Contract Price shall be at the sole discretion of the County. The use by the Contractor of the Total Cost Method (calculating the total sum of expenses incurred on the project, less amounts paid, marked up by overhead and profit) of pricing changes and claims is expressly prohibited (provided however, the County may use a "make whole" analysis to determine the reasonableness of the Contractor's claim). One of the following methods shall be used:

- A. Unit Price Method;
  - B. Firm Fixed Price Method (also known as Lump Sum); or
  - C. Time and Materials Method.
- A. Unit Price Method:

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1. Whenever County or its representative authorizes Contractor to perform on a Unit Price basis, County's authorization shall clearly state the:
  - a. Scope of Work to be performed;
  - b. Applicable Unit Price; and,
  - c. Not to exceed amount of reimbursement as established by the County.
2. The applicable unit price shall include reimbursement for all direct and indirect costs of the Work, including overhead and profit.
3. Contractor shall only be paid under this method for the actual quantity of materials incorporated in or removed from the Work and such quantities must be supported by field measurement statements verified by County.

## B. Firm Fixed Price Method:

1. The Contractor and County may mutually agree on a fixed amount as the total compensation for the performance of changed work.
2. Any adjustments to the Contract Price using the Firm Fixed Price Method shall include, when appropriate, all reasonable costs for labor, equipment, material, overhead and profit. Such overhead and profit shall be calculated in accordance with provision 15.04(b)(4)F.
3. Whenever the County authorizes Contractor to perform changed work on a Firm Fixed Price Method, the County's authorization shall clearly state:
  - a. Scope of Work to be performed;
  - b. Total Fixed Price payment for performing such work.

## C. Time and Materials Method:

1. Whenever the County authorizes the Contractor to perform Work on a Time and Materials basis, County's authorization shall clearly state:
  - a. Scope of Work to be performed;
  - b. A not to exceed amount of reimbursement as established by the County.
2. Contractor shall:
  - a. Cooperate with County and assist in monitoring the Work being performed;
  - b. The Contractor's and subcontractors' labor hours, materials, and equipment charged to work under the Time and Materials Method shall be substantiated by detailed time cards or logs completed on a daily basis before the close of business each working day. The Contractor shall initial each time card and/or log at the close of each working day. Records of the Contractor and Subcontractors pertaining to work paid for on a Time and Material method shall be maintained and available for inspection as requested by the County or its representatives;

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- c. Perform all work in accordance with this provision as efficiently as possible; and
  - d. Not exceed any cost limit(s) without County's prior written approval.
3. Contractor shall submit costs and any additional information requested by the County to support Contractor's requested price adjustment.

No change in the Contract Price shall be allowed to the extent (1) Contractor's changed cost of performance is due to the fault, acts, or omissions of Contractor, or anyone for whose acts or omissions Contractor is responsible; (2) the change is concurrently caused by Contractor and County; or, (3) the change is caused by an act of *Force Majeure*.

The County shall not be responsible for, and the Contractor shall not be entitled to, unallowable costs. Unallowable costs include, but are not limited to, (1) interest or attorney's fees of any type other than those mandated by California statutes, (2) claim preparation or filing costs, (3) the cost of preparing or reviewing Change Proposals or Requests for Change Orders, (4) lost profits, lost income or earnings, (5) rescheduling costs, (6) costs for idle equipment when such equipment is not at the Site, has not been employed in the Work and is not scheduled to be used at the Site, (7) lost earnings or interest on unpaid retention, (8) claims consulting costs, (9) the costs of corporate officers or staff visiting the Site or participating in meetings with the County, (10) any compensation due to the fluctuation of foreign currency conversions or exchange rates, (11) loss of other business, and (12) any other special, consequential, or incidental damages incurred by the Contractor or subcontractors.

15.03. Signatures on change orders. A change order shall be in writing and shall be signed by the County's Project Manager. Alternatively, the change order may be signed by the County's Project Manager alone, provided he has written authority from the County for such procedure and that a copy of such written authority is furnished to the Contractor if he agrees to the adjustment in the contract sum or the contract time. Except as otherwise provided herein, the change order shall also be signed by the Contractor in order to be effective, indicating the Contractor's consent to the changes made.

15.04. Determining cost or credit for change order.

- A. The cost or credit to the County resulting from a Change in the work shall be determined in one or more of the following ways:
1. by mutual acceptance of a lump sum for work and materials properly itemized;
  2. by unit prices stated in the contract documents or subsequently agreed upon; or
  3. as provided in subsection B.

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- B. All parties to the agreement shall observe the following procedures for all change proposals and shall require all subcontractors to follow the same procedures:
1. Each change proposal will carry a unique identifying number, such as C-001 or O-001 which identifies the originator, i.e. C = Contractor, O = Owner and a chronological serial number. All correspondence referring to that change order, no matter who originates the correspondence, shall refer to the same identifying number. Any change proposal without such number shall be returned to the originator.
  2. The items of Work involved shall be identified by specific reference to drawing and detail number and specification section if possible.
  3. ~~The quantities of material or other Work involved will be identified along with the costs thereof. The items of Work shall be arrayed in a manner that is consistent with the Construction Specifications Institute (CSI) (48) forty-eight division uniform system for classifying construction activities used for the schedule of values for each project component.~~
  4. The total cost of a change proposal shall be limited to the following elements of cost, overhead, and profit:
    - a. Labor - For all labor, including foreman supervision, but excluding general superintendents, as may be necessary, the Contractor shall be reimbursed for labor costs as provided herein. The labor cost of a change in the work shall be calculated as the sum of the following.
      - i. Wages of labor on the Contractor's payroll, including foreman, directly engaged in the Work; hourly rates for each classification of worker shall be identified;
      - ii. Engineering and drafting performed;
      - iii. Fringe benefits established by the governing trade organizations;
      - iv. Federal Insurance Contributions Act costs and Federal and State Unemployment Taxes;
      - v. Net actual premium change for Commercial Liability, Workers' Compensation, Property Damage, and any other forms of Insurance.
    - b. Material - The cost of materials resulting from a change in the Work shall be calculated in one or more of the following methods, at the County's election:
      - i. Invoice Cost - The Contractor may be paid the actual invoice cost of materials including actual freight and express charges and applicable taxes less all available discounts, rebates, and back charges, notwithstanding the fact that they may not have been taken by the Contractor. This method shall be considered only to the extent the Contractor's invoice costs are reasonable and the Contractor provides copies of vendor invoices, freight and express bills, and other evidence of cost accounting and payment satisfactory to the County. As to materials furnished from the Contractor's stocks for which an invoice is not available, the Contractor shall furnish an affidavit

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- certifying its actual cost of such materials and such other information as the County may reasonably require;
- ii. Wholesale Price – The Contractor may be paid the lowest current wholesale price for which the materials are available in the quantities required, including customary costs of delivery and all applicable taxes less all available discounts, rebates, and back charges; or,
  - iii. County-Furnished Materials – The County reserves the right to furnish such materials as it deems advisable, and the Contractor shall have no Claim for costs, overhead or profit on such materials.
- c. Equipment – The additional cost, if any, of machine-power tools and equipment usage shall be calculated in accordance with the following:
- i. Equipment Rates – The Contractor's own charge rates may be used if verified and approved by the County and based on the Contractor's actual ownership and operating cost experience. Rental rates contained in published rate guides may be used if their cost formulas and rate factors are identifiable, reflect the Contractor's historical acquisition cost, utilization and useful life, and do not include replacement cost, escalation contingency reserves, general and administrative expense, or profit. Rates shall be based on the Contractor's actual allowable costs incurred or the rates established according to the Rental Rate Blue book for Construction Equipment, published by Machinery Information Division of PRIMEDIA, whichever is less. The rental Rate Blue Book established rate shall be the monthly rate for the equipment plus the monthly rate for required attachments, divided by 176, plus the hourly operating cost, multiplied by the appropriate area adjustment factor if appropriate. The rates shall apply for actual equipment usage up to eight hours per day. For all hours in excess of eight hours per day or 176 hours per month, the established monthly rate shall be divided by 352, plus the hourly operating cost, multiplied by the area adjustment factor, if appropriate.
  - ii. Transportation – If necessary equipment is not already at the Site and it is not anticipated that it would be required for the performance of other work under the terms of the Contract, the calculation shall include a reasonable amount for the costs of the necessary transportation of such equipment.
  - iii. Standby – The Contractor shall only be entitled to standby equipment costs if (a) the equipment is ready, able, and available to do the Work at a moment's notice; (b) Contractor is required to have equipment standby because of an event or condition solely caused by the County; and (c) the Contractor can demonstrate that it could have and intended to use the equipment on other projects or jobs. The Contractor shall be compensated at 50% of the adjusted hourly rate identified in the Rental Rate Blue Book for Construction Equipment, published by Machinery Information Division of K-111 Directory Corp. Standby shall not be paid during periods of Contractor-caused delay, concurrent delay, unusually severe weather conditions, during any

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seasonal shutdown, routine maintenance, downtime or occurrence specified in the Contract Documents. No payment shall be made for a 24-hour period. Standby costs shall not be paid for weekends, holidays, and any time the equipment was not intended to be used on the project as demonstrated by the Project Schedule.

- d. Subcontractors' Cost -- The Subcontractor's cost of Work shall be calculated and itemized in the same manner as prescribed herein for Contractor.
- e. Bonds - Itemized statement of changes in costs of bonds.
- f. Markup -- The allowed markup for change order work shall not exceed the following two items:
  - i. 10 percent (10%) combined overhead and profit markup for the Contractor performing the actual change order work and,
  - ii. 5 percent (5%) combined overhead and profit markup on the direct costs for the Contractor's markup of subcontractor work.

In no event shall the total combined overhead and profit markup for the Contractor and all intermediate tier subcontractors and suppliers exceed 15 percent (15%) of the direct cost to perform the Change Order Work. Direct costs shall include Labor (as defined in provision 15.04(b)(4)A), Materials (as defined in provision 15.04(b)(4)B), Equipment (as defined in provision 15.04(b)(4)C), Subcontractor Costs (as defined in provision 15.04(b)(4)D), Bond (as defined in provision 15.04(b)(4)E). All other costs shall be deemed overhead costs. Profit markup shall be allowed on delay, acceleration, unabsorbed overhead, or any other asserted impact costs.

- g. Taxes - Taxes required to be paid by the Contractor, but not included above.

C. Invoices or quotes shall accompany Change Proposals from vendors. Change proposals shall be sent to the County's Project Manager in duplicate, who shall maintain a database of all proposals which can readily determine the location and status of the change request. Change proposals shall include all cost backup, including breakdown of hours expended by jobsite personnel per task with or without overall execution of the work. Lump sum change proposals lacking necessary backup, as determined by County, will not be accepted or approved.

D. All change proposals shall be checked by the County's Project Manager for accuracy and fairness. Should contractor utilize SMACNA or NECA cost estimating standards, they will use 70 percent (70%) of the most favorable labor productivity rates.

E. When the final costs are agreed upon by the County and the Contractor, a change order will be prepared by the County for signature by the County and Contractor. The Change Order shall be the record document defining the costs and time extensions, if any, of the required and agreed-to change in the Work. A Change Order calculated in accordance with the provisions of this Agreement shall be full and complete compensation and final settlement of all changes and claims for all (a) time; (b) direct, indirect, and overhead costs; (c) profit; and (d) any and all costs or damages associated with delay, inconvenience, disruption of schedule, impact, ripple effect, loss of efficiency or productivity, acceleration of work, lost profits, and/or any other costs or damages related to any work either covered or affected by the changed work, or related to the events giving rise to the change.



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F. The Contractor shall keep and present, in the American Institute of Architects' format, an itemized accounting together with appropriate supporting data. Pending final determination of cost to the County, payments on account shall be made on the Contractor's certificate for payment. The amount of credit to be allowed by the Contractor to the County for any deletion or change which results in a net decrease in cost will be the amount of the actual net decrease as confirmed by the County's Project Manager. When both additions and credits are involved in any one change, the allowance for overhead and profit shall be figured on the basis of net increase, if any.

G. If no agreement can be reached on changes in the work or costs, or the Contractor refuses to accept a Change Order, the County may issue the Change Order unilaterally. The Contractor shall comply with the requirements of the Change Order. The County shall provide for an equitable adjustment to the Contract Price and compensate Contractor accordingly. If the Contractor does not agree that the adjustment is equitable, it may submit a claim in accordance with Article 30. If Contractor refuses to comply with the Change Order, County may have the work done by another contractor or its own forces.

15.05. Changes requiring an increase in contract sum.

(a) If the County elects to have the Change in the Work performed on a lump sum basis, its election shall be based on a lump sum proposal which shall be submitted by the Contractor to the County within five (5) workdays of the County's request therefore, but the County's request for a lump sum proposal shall not be deemed an election by the County to have the Change in the Work performed on a lump sum basis.

(b) If the County elects to have the Change in the work performed on a unit-cost basis, its election shall be based on a unit price proposal which shall be submitted by the Contractor to the County within five (5) workdays of the County's request therefore, but the County's request for a unit price proposal shall not be deemed an election by the County to have the Change in the work performed on a unit price basis.

(c) If the County elects to have the Change in the work performed on a time and material basis, the same shall be performed, its election shall be based on a time and materials price proposal which shall be submitted by the Contractor within five (5) workdays of the County's request therefore, but the County's request for a time and materials price proposal shall not be deemed an election by the County to have the Change in the work performed on a time and materials basis.

(d) Nothing herein contained shall preclude the County from requesting a lump sum proposal, a unit price proposal, and a time and materials price proposal, or any two of those, with respect to the same Change in the Work, in which event, the Contractor shall submit all proposals requested.

(e) Until such time as the County makes its election under this paragraph, the Contractor shall submit daily time and material tickets to the County as required under subparagraph (c) and section 15.04(b), which shall be subject to authentication as therein provided. At such time as the County makes its election under this paragraph, an appropriate Change Order will be issued; provided however, that until such time, the County shall pay to the Contractor up to the County's reasonable estimated value of the Change in the Work.

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(f) The Contractor's proposal shall be in compliance with sections 15.02, 15.03, 15.04 of the General Conditions.

15.06. Changes requiring a decrease in contract sum. If the Change in the Work will result in a decrease in the contract sum, the County may request a quotation by the Contractor of the amount of such decrease for use in preparing a Change Order. The Contractor's quotation shall be forwarded to the County within five (5) days of the County's request and, if acceptable to the County, shall be incorporated in the Change Order. If not acceptable, the parties shall make every reasonable effort to agree as to the amount of such decrease, which may be based on a lump sum properly itemized, on unit prices stated in the Contract Documents and/or on such other basis as the parties may mutually determine. If the parties are unable to so agree, the amount of such decrease shall be the total of the estimated reduction in actual cost of the work, as determined by the County in its reasonable judgment, plus ten percent (10%) thereof as overhead and profit. The Contractor's proposal shall be in compliance with sections 15.02, 15.03 & 15.04 of the General Conditions.

15.07. Changes affecting contract time. If the Change in the Work will result in an extension or contraction of the contract time, and the parties are unable to agree as to the number of days by which the contract time will be extended or contracted, the County shall not be required to make its determination until the work has been completed, at which time its determination shall be based on a review of the Contractor's books and records relating to the time involved in performing the Change in the Work and on the County's judgment as to whether the Contractor diligently performed the same.

15.08. Disputes regarding changes. If any dispute should arise between the parties with respect to an increase or decrease in the Contract Sum or an expansion or contraction in the contract time as a result of a Change in the Work, the Contractor shall not suspend performance of a Change in the Work or the Work itself unless otherwise so ordered by the County in writing. The County shall, however, pay to the Contractor up to the County's reasonable estimate of the value of the Change in the Work, regardless of the dispute, if said Change in the Work results in an increase in the Contract Sum; and the County shall have the right to decrease the Contract Sum to the County's reasonable estimated value of the Change in the Work, regardless of the dispute, if said Change in the Work results in a decrease in the contract sum.

15.09. Adjustment of unit prices. If unit prices are stated in the contract documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed change order that application of the agreed unit prices to the quantities of work proposed will create a hardship on the County or the Contractor, the applicable unit prices shall be equitably adjusted to prevent such hardship.

15.10. Concealed conditions. If concealed conditions encountered in the performance of the work below the surface of the ground are at variance with the conditions indicated by the contract documents, or if previously unknown physical conditions encountered below the surface of the ground are of an unusual nature, differing materially from those generally recognized as inherent in work of the character and in the location provided for in this contract, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated in the

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contract documents or be of an unusual nature, at variance with those ordinarily encountered and generally inherent in the work to be performed, then the contract sum shall be equitably adjusted by change order upon claim by either party made within twenty (20) days after first observing the conditions.

15.11. Claims for additional cost. All claims for additional compensation or for an increase in the contract sum shall be made as provided in Article 30. Any change in the contract sum resulting from such claim shall be authorized by change order.

15.12. Minor changes in the work. Subject to approval by the County, the County's Project Manager may order minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time and not inconsistent with the intent of the contract documents. Such changes may be made by field order or by other written order. Such changes shall be binding on the County and the Contractor.

15.13. Field orders. The County's Project Manager may issue written Field Orders, which interpret the contract documents or order minor changes in the work without change in contract sum or contract time. The Contractor shall carry out such Field Orders promptly.

15.14. Limitations. Except as expressly provided by this Section, there shall be no change whatsoever in the plans and specifications and in the work. Contractor shall not vary the work, the contract documents, or change, add to or omit any element, component part, or portion of the work without the express written consent of County's Project Manger contained in an executed change order or field order as herein provided. County shall not be liable for the cost for any extra work or any substitutions, changes, additions, omissions, or deviations from the plans and specifications unless the same have been authorized by and the cost thereof approved in writing by change order. No extension of time for performance of the work shall be allowed hereunder unless claim for such extension shall be made at the time changes in the work are ordered and such duly adjusted in writing by County. Contractor recognizes and acknowledges that timely completion of the work is paramount and that its duty is to proceed with the work in accordance with the contract documents, notwithstanding any request for change in the work, to the extent that proceeding is reasonable and feasible under the circumstances.

15.15. Review of Contract Documents. The Contractor shall carefully study and compare the Contract Documents, including but not limited to, the Agreement, general conditions, drawings, specifications, addenda, and modifications and shall at once report to the County's Project Manager any error, inconsistency, or omission it may discover. The Contractor shall not work without proper drawings and specifications or interpretations. If the Contractor performs any construction activity knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the County's Project Manager, the Contractor shall assume appropriate responsibility for such performance and shall bear an appropriate amount of the costs attributable for correction.

15.16. Requests for Information. The Contractor shall review any Request for Information (RFI), or other Contractor or subcontractor-initiated request for information prior to submission to the County's Project Manager to ensure that the information requested in such RFI is not already

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provided in the Contract Documents. RFI submittals shall come only from the Contractor (not from any subcontractors). The Contractor shall prepare the RFI in an RFI form approved by the County's Project Manager which shall include a detailed description of the conditions, cause and/or reason for the request. The RFI shall also include a proposed resolution. Each RFI shall reference the applicable Construction Documents. A transmittal letter over a subcontractor's RFI does not constitute an approved form.

ARTICLE 16. UNCOVERING AND CORRECTION OF WORK.16.01. Uncovering of work.

(a) If any work is covered contrary to the request of the County's Project Manager, it must, at the request of the County's Project Manager, be uncovered for his observation and replaced at the Contractor's expense.

(b) The County's Project Manager may ask to see any other work that has been covered prior to its inspection by the County's Project Manager, and the Contractor shall uncover the work. If such work is found to be in accordance with the contract documents, the cost of uncovering and replacement shall, by appropriate change order, be charged to the County. If such work is found not to be in accordance with the contract documents, the Contractor shall pay such costs unless it is found that a separate contractor caused this condition, and in that event, the County shall be responsible for the payment of such costs.

16.02. Correction of work.

(a) The Contractor shall promptly correct all work rejected by the County's Project Manager as defective or as failing to conform to the contract documents whether observed before or after substantial completion and whether or not fabricated, installed, or completed. The Contractor shall bear all cost of correcting such rejected work, including the cost of the County's Project Manager's additional services made necessary thereby.

(b) All such defective or non-conforming work shall be removed from the site if necessary, and the work shall be corrected to comply with the contract documents without cost to the County.

(c) The Contractor shall bear the cost of making good all work of separate contractors destroyed or damaged by such removal or correction.

16.03. Contractor's failure to remove defective work. If the Contractor does not remove such defective or non-conforming work within a reasonable time fixed by written notice from the County's Project Manager, the County may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the County may upon ten (10) additional days' written notice sell such work at auction or a private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor including compensation for additional professional services. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate change order shall

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be issued. Such change order shall not require the Contractor's consent to be effective. Said amount may be deducted from any payment thereafter due to the Contractor under this or any other contract with County. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the County.

16.04. Contractor's failure to correct defective work. If the Contractor fails to correct such defective or non-conforming work, the County may correct it in accordance with paragraph 31.02.

16.05. Acceptance of defective or non-conforming work. If the County prefers to accept defective or non-conforming work, it may do so instead of requiring its removal and correction, in which case a change order will be issued to reflect an appropriate reduction in the contract sum, or, if the amount is determined after final payment, it shall be paid by the Contractor. The issuance of the final certificate, final payment, or any provisions in the contract documents shall not relieve Contractor of responsibility for faulty materials, equipment, or workmanship. Contractor shall remedy any defects due to, and pay for any damage to, other work in accordance with the applicable guaranty or warranty provisions of the Contract Documents.

16.06. Emergency corrective action by County. If, in the opinion of the County, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the County or third parties or to prevent interruption of operations of the County or third parties, the County will attempt to give notice to Contractor. If Contractor cannot be contacted promptly or does not comply with the County's request for correction within a reasonable time as determined by the County, the County may, notwithstanding the provisions of this contract, proceed to make such correction or provide such attention and the costs of such correction or attention shall be charged against the Contractor. Such action by the County shall not relieve Contractor of any warranty obligations provided in this contract.

PART III. SAFETY.

ARTICLE 17. PROTECTION OF PERSONS AND PROPERTY.

17.01. Contractor's responsibility for safety. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury, or loss to:

- (a) all employees on the work and all other persons who may be affected thereby;
- (b) all the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody, or control of the Contractor or any subcontractor; and
- (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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17.02. Compliance with safety requirements. The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. He shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent utilities.

17.03. Trench safety. For all trenches to be made in connection with the work, the contractor shall submit a detailed plan showing the design of shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trenches. If such plan varies from the shoring system standards, a registered civil or structural engineer shall prepare the plan. The plan shall be reviewed, and must receive approval as adequate to protect worker safety, by the County or by a registered civil or structural engineer employed by the County, in advance of excavation. The shoring, sloping, or protective system must be at least as effective as that required by the Construction Safety Orders. See Labor Code section 6705.

17.04. Hazardous substance. The term "hazardous substance" means any substance on the list of hazardous substances established by the Director of Industrial Relations pursuant to the Labor Code section 6382, which includes asbestos, lead, toxic chemicals, contaminants, any substance designated by the Environmental Protection Agency as a hazardous substance, and other pollutants and contaminants.

(a) Neither the Contractor nor any subcontractor shall cause or permit any Hazardous Substance to be brought upon the property or used in the work without the prior written consent of the County. Contractor and each subcontractor shall comply with all laws regarding the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation, or disposal of Hazardous Substances brought onto the property by Contractor, its Subcontractors, and/or their personnel.

(b) The handling of hazardous materials by CONTRACTOR shall be in conformance with all applicable legal requirements, including but not limited to Superfund Amendments and Reauthorization Act (SARA) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) while performing services under this Agreement. Any handling, treatment, removal, decontamination, cleanup, transportation, disposal, or disturbance in any of Hazardous Substances shall only be performed by the Contractor or any subcontractor licensed and certified to perform the work. Any hazardous substance abatement or remediation work will be performed in such a way that is legally consistent with the recommendations of the certified County agent, appropriate governmental agencies, and all applicable laws.

(c) If there is a Hazardous Substance on the property, Contractor shall protect adjoining property and shall provide barricades, temporary fences, and covered walkways required to protect the health and safety of passersby as required by this Agreement, prudent construction practices, and all applicable laws.

Appropriate documentation must be provided in a Material Safety Data Sheet (MSDS) and other documentation as necessary relating to the traits, characteristics, and pervasive properties of any hazardous materials shipped to the COUNTY. The CONTRACTOR and/or shipper understand that

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the COUNTY shall not accept any shipment of hazardous materials without complete documentation and safety information as required by law.

The COUNTY does not take responsibility for the improper packaging and/or transportation of any hazardous materials ordered by the COUNTY while in transit or storage prior to delivery and acceptance by the COUNTY. CONTRACTOR shall be solely liable for the transportation and disposal or release of any hazardous materials.

CONTRACTOR shall submit a Construction Waste Management Plan as part of the Construction Document Phase as specified in Section 1.3.4 of Agreement and the EECBG Special Terms and Conditions (Attachment C of Agreement).

~~17.05. Contractor's safety monitor. The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the County.~~

17.06. Unsafe loading. The Contractor shall not load or permit any part of the work to be loaded so as to endanger its safety.

17.07. Emergencies. In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 15 for changes in the work.

17.08. Accidents. Contractor shall promptly report in writing to the County all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or off the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, Contractor shall report the accident immediately to the County's Project Manager by telephone or messenger. Contractor shall thereafter promptly report the facts in writing to the County giving full details of the accident.

**PART IV. PAYMENTS.**

**ARTICLE 18. PROGRESS PAYMENTS.**

18.01. Monthly progress payments. Monthly progress payments shall be made to the Contractor, as provided in this Article.

18.02. Schedule of values. Before Contractor submits any application for payment, the Contractor shall submit to the County's Project Manager a schedule of values of the various portions of the work, to be used to enable the County to estimate the timing and amounts of the successive progress payments. If required by the County's Project Manager, the schedule shall include quantities aggregating the total contract sum, divided so as to show the Contractor's anticipated payments to subcontractors. The schedule shall be prepared in such form as may be specified in the contract documents or by the County's Project Manager, or as may be agreed upon by the County's Project

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Manager and the Contractor. The schedule shall include such data as the County's Project Manager may require substantiating its correctness. Each item in the schedule shall include its proper share of overhead and profit. This schedule, when approved by the County's Project Manager, shall be used only for preparing and reviewing the Contractor's applications for payment, and will not be considered as fixing a basis for additions to or deductions from the contract sum.

18.03. Application for payment. On or before the fifth day of each month, the Contractor shall submit to the County's Project Manager an application for payment including a schedule of values, requesting payment for the work completed up to the end of that same month, using the standard AIA form for requesting progress payments or such other form as may be prescribed by County. The application shall be itemized by task and shall be supported by such data substantiating the Contractor's right to payment as the County or the County's Project Manager may require.

18.04. Payment for stored materials and equipment. If payments are to be made on account of materials or equipment not incorporated in the work but delivered and suitably stored at the site, or at some other location agreed upon in writing, such payments shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the County to establish the County's title to such materials or equipment or otherwise protect the County's interest including applicable insurance and transportation to the site.

18.05. Certificates for payment. If the Contractor has made application for payment as above, the County's Project Manager will, with reasonable promptness but not more than ten (10) days after the receipt of the application, issue a certificate for payment to the County, with a copy to the Contractor, for such amount as he determines to be properly due, or state in writing his reasons for withholding a certificate as provided in paragraph 19.01. A payment request determined not to be a proper payment request suitable for payment will be returned to the Contractor within seven (7) days with a statement setting forth the reasons why the payment request is not proper. The final payment, if unencumbered, or any part thereof, unencumbered, shall be made not later than 60 days after completion of the work and submission of all completion documents. Payments shall be made on demands drawn in the manner required by law, accompanied by a certificate signed by the County's Project Manager, stating the work for which payment is demanded has been performed in accordance with the terms of the contract. Contractor is entitled to interest pursuant to Public Contract Code Section 20104.50 if County fails to make the progress payment within 30 days after receipt of an undisputed properly submitted payment request.

18.06. Findings to issue certificate. In determining to issue a certificate of payment, the County's Project Manager must make the following findings, based on his observations at the site, the schedule of values, and the data included in the application for payment:

- (a) that the work has progressed to the point indicated;
- (b) that, to the best of his knowledge, information, and belief, the quality of the work is in accordance with the contract documents (subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to the results of any subsequent tests required by the contract documents, to minor deviations from the contract documents correctable prior to completion, and to any specific qualifications stated in his certificate); and



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(c) that the Contractor is entitled to payment in the amount certified.

18.07. Amount of progress payment. The amount of each progress payment shall equal ninety percent of the estimated value of work performed up through the last day of the previous month, less the aggregate of all previous payments. The amount of the progress payment may be further reduced by any withholdings or deductions that may be taken from the payment pursuant to other provisions of this contract. For the purpose of determining the amount of any particular progress payment, the value of work completed is only an estimate; such value or estimate shall be used for no other purpose in connection with this contract and shall not be binding on County or County's Project Manager for any other purpose or any other payment, and County and County's Project Manager shall have the right to correct any error in such value or estimate for later payments.

~~18.08. Payment by County. Promptly after the County's Project Manager has issued a certificate for payment, the County shall submit the appropriate documentation to the Monterey County Auditor, who shall make payment to Contractor within 30 days thereafter. All material and work covered by payments made shall thereupon become the sole property of County, and this provision shall not be construed as relieving Contractor from the continuing responsibility for all materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of any right of County to require the fulfillment of all terms of this Agreement. Title to all work completed in the course of construction and to all materials, including the specifications and other documents prepared by the County's Project Manager and/or the Contractor on account of which payment has been made shall be vested in County.~~

18.09. Limited effect of issuance of certificate or progress payment. By issuing a certificate for payment, the County's Project Manager shall not thereby be deemed to represent that he has made exhaustive or continuous on-site inspections to check the quality or quantity of the work or that he has reviewed the construction means, methods, techniques, sequences, or procedures, or that he has made any examination to ascertain how or for what purpose the Contractor has used the monies previously paid on account of the contract sum. Further, no certificate for a progress payment, nor any progress payment, nor any partial or entire use or occupancy of the project by the County, shall constitute an acceptance of any work not in accordance with the contract documents.

ARTICLE 19. WITHHOLDING PAYMENTS.

19.01. Grounds for withholding payment. The County's Project Manager may decline to approve an application for payment and may withhold his certificate as to all or part of the payment amount requested, to the extent reasonably necessary to protect the County, if in his opinion he is not able to make the findings set forth in paragraph 18.06. The County's Project Manager may also decline to approve payment, in whole or in part, and, based on subsequently discovered evidence or subsequent inspections, he may nullify the whole or any part of any certificate for payment previously issued, to such extent as may be necessary in his opinion to protect the County. Such withholding of the certificate or of any amounts requested by Contractor in connection with the certificate, may be based on any of the following grounds:

- (a) defective work not remedied;
- (b) third-party claims filed or reasonable evidence indicating probable filing of such claim;

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- (c) failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment;
  - (d) reasonable doubt that the work can be completed for the unpaid balance of the contract sum;
  - (e) damage to another contractor;
  - (f) reasonable indication that the work will not be completed within the contract time;
  - (g) unsatisfactory prosecution of the work by the Contractor;
  - (h) stop notices filed for any portion of the work;
- 
- (i) failure or refusal of the Contractor to fully comply with the contract requirements; or
  - (j) Contractor's failure to comply within a reasonable time with Article 17 of these conditions.

19.02. Application of withheld amounts. County may apply any such withheld amounts to payment of such claims or obligations, in County's sole discretion. In so doing, County shall be deemed the agent of Contractor and any payment so made by County shall be considered as a payment made under contract by County to Contractor. County shall not be liable to Contractor for any such payments made in good faith. Such payments may be made without prior judicial determination of such claim or obligation. County will render to Contractor a proper accounting of any funds so disbursed on behalf of Contractor.

19.03. Payment when grounds removed. When the above grounds for withholding payment are removed by Contractor or by County, payment of the withheld amounts or the remaining balance thereof shall be made to Contractor.

ARTICLE 20. COMPLETION AND FINAL PAYMENT.

20.01. Application for final payment. When the work is complete, the Contractor shall submit to the County's Project Manager the following documents:

- (a) a written notice that the work is ready for final inspection;
- (b) an application for final payment;
- (c) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the County might in any way be responsible, have been paid or otherwise satisfied;
- (d) the consent of the sureties, if any, to final payment; and

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(e) if required by the County, other proof (such as receipts, releases, and waivers of liens) establishing payment or satisfaction of all obligations arising out of the contract, to the extent and in such form as may be designated by the County.

20.02. Bond for outstanding claims or liens. If any person refuses to furnish a release or waiver required by the County, the Contractor may furnish a bond satisfactory to the County to indemnify and defend the County against any claim that might be made against the County or any lien that might be placed against the work on account of such person. If any such claim or lien remains unsatisfied after all payments are made, the Contractor or the surety shall pay to the County all monies that the County may be compelled to pay in discharging such claim or lien, including all costs and reasonable attorneys' fees.

~~20.03. Inspection and final certificate. Upon receipt of the above documents, the County's Project Manager will promptly inspect the work. The County's Project Manager shall issue a certificate for final payment, with copies to both County and Contractor, if he makes the following findings:~~

- (a) that the work is acceptable under the contract documents;
- (b) that the contract has been fully performed;
- (c) that to the best of his knowledge, information, and belief, and on the basis of his observations and inspections, the work has been completed in accordance with the terms and conditions of the contract documents;
- (d) that all potential liens or claims for subcontractors' services and for labor, equipment and materials on the work have been satisfied or adequately secured;
- (e) that the balance noted in the final certificate is due and payable; and
- (f) that all necessary approvals of applicable federal, state, or local agencies and/or authorities have been issued.

20.04. Determination not to issue certificate for final payment. If the County's Project Manager determines that the necessary findings cannot be made to issue a final certificate, the County's Project Manager shall promptly notify the Contractor in writing of the reasons for such determination. Contractor shall promptly thereafter take appropriate steps to remove the grounds for denial of the final certificate.

20.05. Acceptance by Board of Supervisors. Promptly after the County's Project Manager issues the certificate for final payment, the matter will be submitted to the County Board of Supervisors for final acceptance of the work. Work on the contract shall be deemed complete when the Board of Supervisors accepts the work. Not later than ten (10) days after such acceptance, County shall record its notice of completion.

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20.06. Effect of final payment as to County. The making of the final payment by the County to Contractor hereunder shall not constitute a waiver of any claims which County may now or hereafter have against Contractor by reason of this Agreement or any other matter related to the work.

20.07. Effect of final payment as to Contractor. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and still unsettled.

ARTICLE 21. ALTERNATIVE PAYMENT OF WITHHELD FUNDS.

21.01. Alternatives to withholding. This contract requires a five percent (5%) withholding from progress payments. At the Contractor's request, the County shall make payment of these funds withheld from progress payments through the use of the escrow procedures provided in this paragraph and either paragraph 21.02 or 21.03. As a prerequisite to compliance with paragraph 21.02 or 21.03, the Contractor shall select an escrow agent, who shall be the County Auditor-Controller or any state or federally chartered bank in California; the parties shall enter into an escrow agreement meeting the requirements of Public Contract Code Section 22300; and the parties shall deposit with the escrow agent the escrow agreement, the withheld portions of the progress payments that have accrued before opening of the escrow, all future withheld portions as they accrue, and all other deposits required below. The Contractor shall pay all expenses incurred in implementing the procedures set forth herein.

21.02. Alternative one: substitution of securities for withheld funds. At the Contractor's request, eligible securities provided by the Contractor, equivalent to the amount withheld, shall be deposited with the escrow agent, who shall then pay the withheld monies to the Contractor. After the initial deposits and disbursements, the County shall deposit all additional amounts to be withheld with the escrow agent as they accrue, and if the Contractor desires their release, the Contractor shall increase the amount of the securities on deposit, if necessary, in order that the value of the securities on deposit shall equal or exceed the total of all amounts currently and previously authorized to be withheld under the contract without the substitution of securities. Upon satisfaction of that condition, the escrow agent shall immediately pay the additional withheld amounts to the Contractor. Upon satisfactory completion of the contract, the securities shall be returned to the Contractor.

21.03. Alternative two: investment of withheld funds. Alternatively, the Contractor may direct that the withheld funds deposited in the escrow be invested in eligible securities. Upon satisfactory completion of the contract, the Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the County. The Contractor shall pay to each subcontractor, not later than 20 days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each subcontractor, on the amount of retention withheld to ensure the performance of the Contractor.

21.04. Eligible securities: interest. Securities eligible to be used under the above paragraphs shall include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the County. The parties must agree upon the value of the securities, as a condition of their deposit in the escrow. The Contractor shall be the beneficial

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owner of any securities deposited pursuant to this Article 21 and shall receive any interest thereon. The Contractor may withdraw interest earned on securities held in escrow at any time, without notice to the County.

21.05. Inapplicability of Article 21 to certain contracts. The provisions of this Article 21 shall not apply to contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 et seq.) and where federal regulations or policies, or both, do not allow the substitution of securities.

PART V. EMPLOYMENT PRACTICES.

ARTICLE 22. APPRENTICES.

22.01. Compliance with Labor Code apprenticeship requirements. Contractor and all subcontractors shall comply with the provisions of Labor Code sections 1777.5, 1777.6, and 1777.7, when applicable, pertaining to apprentices, and with all applicable regulations there under (Title 8, Calif. Code of Regulations, sections 200 et seq., especially sections 227 et seq.), including but not limited to provisions relating to required or permitted ratios of apprentices to experienced workers. When any question exists concerning these requirements, Contractor and/or any subcontractor concerned should contact the Division of Apprenticeship Standards, 525 Golden Gate Avenue, San Francisco, CA, or one of its branch offices, prior to commencement of work. The prime contractor is responsible for ensuring compliance with this section.

CONTRACTOR is aware of all state and federal requirements with respect to the hiring of apprentices and agrees to abide by these requirements, including those provisions of the DBA and state prevailing wage laws applicable to payment of apprentices.

22.02. State policy. It is state policy to encourage the employment and training of apprentices on public works contracts in conformity with standards set by law.

ARTICLE 23. NON-DISCRIMINATION PROVISIONS.

23.01. Non-discrimination in employment practices. Contractor shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. Contractor and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

ARTICLE 24. HOURS OF WORK.

24.01. Eight-hour day; 40-hour week. No work shall be performed by employees of Contractors in excess of eight (8) hours per day or 40 hours during any one week, unless such employees are compensated for all such excess hours at not less than one-and-one-half times the basic rate of pay, as provided in Labor Code Sec. 1815. Holiday work when permitted by law shall also be compensated at not less than one-and-one-half times the basic rate of pay.

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24.02. Penalties. Pursuant to Labor Code Sec. 1813, the Contractor shall forfeit, as a penalty to the County, \$25 for each worker employed in the execution of the contract by the Contractor or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of the Labor Code sections 1810-1815.

24.03. Approvals. Contractor will not be entitled to additional compensation for work performed outside of regular working hours, except to the extent such compensation is approved in writing by County's Project Manager in advance. If so approved, such compensation shall in such event cover only the direct cost of the premium portion of the time involved, when permitted, and be without any overhead or profit.

ARTICLE 25. PAYROLL RECORDS.

25.01. Compliance with Labor Code Sec. 1776. Contractor and all subcontractors shall comply with Labor Code Sec. 1776, the requirements of which are set forth in this article. The Contractor shall be responsible for compliance with these provisions by his subcontractors.

25.02. Accurate payroll records required. Contractor and each subcontractor shall keep accurate payroll records, showing the name, address; social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice worker, or other employee employed by him or her in connection with the public work.

25.03. Certification and inspection of payroll records. The payroll records enumerated under paragraph 26.02 shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor or subcontractor on the following basis:

(a) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

(b) A certified copy of all payroll records enumerated in paragraph 26.02 shall be made available for inspection, or furnished upon request to a representative of County, the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards of the Department of Industrial Relations.

(c) A certified copy of all payroll records enumerated in paragraph 26.02 shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through the County, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of the Contractor.

25.04. Filing of records. The Contractor and each subcontractor shall file a certified copy of the records enumerated in paragraph 26.02 with the entity that requested such records within ten (10) days after receipt of a written request.

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25.05. Elimination of personal identification. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the County, the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor or subcontractor awarded the contract or performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the Federal Labor Management Cooperation Act of 1978 (29USC 175a) shall be marked or obliterated only to prevent disclosure of an individuals name and social security number.

25.06. Notice to County concerning location of records. The Contractor and each subcontractor shall inform the County as to the location of the records enumerated under paragraph 26.02, including the street address, city, and county, and shall, within five (5) workdays, provide a notice of any change of location and address.

25.07. Notice of non-compliance: penalties. In the event of non-compliance with the requirements of this section, the Contractor or subcontractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor or subcontractor must comply with this section. Should non-compliance still be evident after such 10-day period, the Contractor or subcontractor shall, as a penalty to the County, forfeit \$25 for each calendar day, or portion thereof, for each worker, until strict compliance is effected. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

**PART VI. LEGAL RELATIONS.**

**ARTICLE 26. COMPLIANCE WITH LAWS.**

26.01. Compliance with laws. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the work. If the Contractor observes that any of the contract documents are at variance therewith in any respect, he shall promptly notify the County's Project Manager in writing, and any necessary changes shall be adjusted by appropriate modification. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the County's Project Manager, he shall assume full responsibility therefore and shall bear all costs attributable thereto. Without limitation of any other provision hereof, if Contractor performs any work which is contrary to such laws, ordinances, codes, rules and regulations, Contractor shall without additional reimbursement or extension of time make all changes and bear all costs as required to comply.

26.02. Rules of governing agencies. All work and materials shall be in full accordance with the Rules and Regulations of the State Fire Marshall, the Safety Orders of the Division of Industrial Safety, and all other applicable codes and regulations.

26.03. Compliance with uniform codes. All work and materials shall comply with the current editions of the California Building Code, the National Electric Code, the Uniform Plumbing Code,

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the Uniform Mechanical Code, and the Uniform Administrative Code, as adopted and amended by the local jurisdiction in which the construction project takes place.

26.04. Statutory regulation of public works. This contract is subject to all statutes of the State of California regulating the performance of work by a public agency or political subdivision of such state, and particularly the following:

Public Contract Code sections 4100-4114 (Subletting and Subcontracting Fair Practices Act).  
Labor Code sections 1720-1743 (Public Works, Scope and Operation).  
Labor Code sections 1770-1781 (Public Works, Wages).  
Labor Code sections 1810-1815 (Public Works, Working Hours).

All work performed under this contract, whether by Contractor or by any subcontractor, shall comply with all such statutes.

26.05. Compliance with Clean Air and Clean Water Acts. Contractor and all subcontractors shall comply with the federal Clean Air Act (42 USC sections 1857 et seq. and sections 7401 et seq.) and with the federal Clean Water Act (33 USC sections 1251 et seq.) and all other applicable federal air and water pollution control rules and regulations.

26.06. Federally funded contracts. If the project for which the work under this contract is to be performed is funded in whole or in part by grants or loans from the federal government, the Contractor and all subcontractors shall comply with regulations adopted by the U.S. Secretary of Labor pursuant to 40 USC section 276c and with all other statutes, rules, and regulations that are applicable because of such federal funding.

26.07. Kickbacks and illegal withholdings of pay. Contractor and all subcontractors shall comply with the provisions of Labor Code sections 221 and 222, which prohibit kickbacks and withholdings from employee wages.

26.08. Illegal fees. Contractor and all subcontractors shall comply with the provisions of Labor Code sections 1778, 1779, and 1780, which prohibit the taking of any portion of the wages of workers employed on public works projects and the collection of certain fees from workers employed on public works projects and from applicants for such employment.

26.09. Provisions required by law deemed inserted. Each and every provision required by law to be inserted in this contract shall be deemed to be inserted herein, and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not set forth word for word in the contract documents, or is not correctly set forth, then upon the application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 27. CLAIMS AND DISPUTE RESOLUTION.

27.01. Prompt resolution of differences required. It is the intention of this Article that differences between the parties arising under and by virtue of the contract be brought to the



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attention of the County's Project Manager at the earliest possible time in order that such matters may be promptly settled, if possible, or other appropriate action may be taken promptly.

27.02. Contract interpretations, performance judging, and decisions by County's Project Manager.

(a) All claims may be presented informally first to the County's Project Manager. To the extent that resolution of the claim does not involve an extension of time or additional payments, the County's Project Manager may resolve, in writing or otherwise, claims that have been presented informally.

(b) The County's Project Manager will be, in the first instance, the interpreter of the requirements of the contract documents and the judge of the performance there under by both the County and Contractor. The County's Project Manager will, within a reasonable time, render such interpretations, as he may deem necessary for the proper execution or progress of the work. Claims, disputes and other matters in question between the Contractor and the County relating to the execution or progress of the work or the interpretation of the contract documents shall be referred initially to the County's Project Manager for decision which he will render in writing within a reasonable time. In his capacity as interpreter and judge, he will exercise his best efforts to ensure faithful performance by both the County and the Contractor and will not show partiality to either. All interpretations and decisions of the County's Project Manager shall be consistent with the intent of the contract documents.

27.03. Written notice to County's Project Manager. Any claim for additional compensation or for an extension of time shall be resolved as hereinafter provided. The Contractor shall not be entitled to the payment of any additional compensation for any occurrence or matter relating to this contract and will not be granted any extension of time for performance under this contract, unless the Contractor first gives written notice of such claim to the County's Project Manager.

27.04. Contents of notice of claim. The written notice of claim shall set forth the reasons for which the Contractor believes additional compensation will or may be due, the nature of the costs involved, the reasons for any extension of time and, insofar as possible, the amount of the claim and the amount of any time extension requested.

27.05. Time for giving notice. The notice of claim must be given to the County's Project Manager as follows:

(1) If the claim is for an increase in the contract sum, he shall give the County's Project Manager written notice thereof within ten (10) days after the occurrence of the event giving rise to such claim; in addition, this notice shall be given by the Contractor before proceeding to execute the portion of the work to which the claim relates, except in an emergency endangering life or property, and except where the Contractor could not reasonably have discovered the facts giving rise to the claim prior to commencement of that portion of the work.

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(2) All claims for extension of time shall be made in writing to the County's Project Manager no more than ten (10) days after the occurrence of the delay; otherwise they shall be waived. In the case of a continuing cause of delay, only one claim is necessary.

(3) In all other cases, notice shall be given within ten (10) days after the happening of the event, thing, or occurrence giving rise to the claim.

27.06. Response by County - claims for under \$50,000 and for extensions of time. For claims of less than \$50,000 and for claims for extension of time, County shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim any additional documentation supporting the claim or relating to defenses or claims the County may have against the claimant. If further information is thereafter required, it shall be requested and provided pursuant to Public Contract Code Section 20104.2(b)(2). The County's response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

27.07. Response by County - claims of \$50,000 or more and less than or equal to \$375,000. For claims of \$50,000 or more and less than or equal to \$375,000, and for all claims not covered by paragraph 30.04, County shall respond in writing to any written claim within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim any additional documentation supporting the claim or relating to defenses or claims the County may have against the claimant. If further information is thereafter required, it shall be requested and provided pursuant to Public Contract Code Section 20104.2(o)(2). The County's response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

27.08. Prompt response when needed. Whenever it appears that a prompt response is essential, County will respond to claims sooner than the limits prescribed above.

27.09. County's response disputed or not made. If the claimant disputes the County's written response, or if the County fails to respond within the time prescribed, the claimant may so notify the County, in writing, either within 15 days of receipt of the County's response or within 15 days of the County's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the County shall schedule a meet-and-confer conference within 30 days for settlement of the dispute.

27.10. Filing of Government Code claims. If the claimant still remains unsatisfied and desires to preserve his right to pursue the matter further, he must then file a claim with the County, pursuant to Government Code sections 900 et seq. or sections 910 et seq.

27.11. Civil action. If the Government Code claim is denied, the claimant may file an action in court. Such action shall be subject to Public Contract Code section 20104.4. This paragraph applies only to claims subject to Public Contract Code section 20104. If a claim is not subject to

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Public Contract Code section 20104, the claimant's right to file a civil action shall be as otherwise provided by law.

27.12. Claims for damages. Should either party to the contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his employees, agents, or others for whose acts he is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage, provided that in no case may such a claim be filed after expiration of any applicable statute of limitations for filing such a claim. Claims against County that are subject to this paragraph shall comply with all procedures set forth in the California Government Code concerning claims against public entities.

~~27.13. Consistency with Public Contract Code sections 20104 et seq. If any claim arising under this contract is subject to the provisions of Public Contract Code sections 20104 et seq. (Div. 2, Part 3, Chapter 1, Article 1.5), and if the provisions of that Article require a procedure or procedural element different from that established in this contract, then the provisions of that Article shall apply in place of the conflicting procedure or procedural element established herein.~~

PART VII. MISCELLANEOUS.

ARTICLE 28. MISCELLANEOUS PROVISIONS.

28.01. Contractual rights and remedies not exclusive. The duties and obligations imposed by the contract documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights, and remedies, otherwise imposed or available by law, except as otherwise specified herein.

28.02. Assignment of anti-trust causes of action. The Contractor and all subcontractors are bound by Public Contract Code section 7103.5, which provides as follows: "In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 USC section 15) or under the Cartwright Act (Chapter 2, commencing with section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties."

28.03. Royalties and patents. The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof, except that the County shall be responsible for all such loss when a particular design, process, or the product of a particular manufacturer or manufacturers is specified, but if the Contractor has reason to believe that the design, process, or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the County.

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28.04. Prohibited interests. No official of County who is authorized in such capacity and on behalf of County to negotiate, make, accept, or approve, or to take part in negotiating, making, accepting or approving any architectural, engineering, inspection, construction or material supply contract or any subcontract in connection with the project, shall become directly or indirectly interested financially in this contract or in any part thereof. No officer, employee, architect, attorney, engineer, or inspector of or for County who is authorized in such capacity and on behalf of County to exercise any executive supervisory or other similar functions in connection with construction of the project shall become directly or indirectly interested financially in this contract or in any part thereof.

28.05. No continuing waiver. A waiver of rights by County or Contractor in one instance hereunder does not constitute a waiver of rights in any similar instance thereafter.

28.06. Taxable possessory interest. The terms of this document may result in the creation of a possessory interest. If such a possessory interest is vested in a private party to this document, the private party may be subjected to the payment of personal property taxes levied on such interest.

28.07. Software Security Requirements. All software/hardware purchased must be free of malicious code such as viruses, Trojan horse programs, worms, spy ware, etc. Malicious code or malware (short for malicious software) is defined as software (or firmware) designed to damage or do other unwanted actions on a computer system. Common examples of malware include viruses, worms, Trojan horses and spy ware. Viruses, for example, can cause havoc on a computer's hard drive by deleting files or directory information. Spy ware can gather data from a user's system without the user knowing it. This can include anything from the web pages a user visits to personal information, such as credit card numbers.

28.08. Force Majeure. "Force Majeure" means any cause beyond the reasonable control of a party, including but not limited to acts of God, civil or military disruption, fire, strike, flood, riot, war, or inability due to the aforementioned causes to obtain necessary labor, materials or facilities.

If any party hereto is delayed or prevented from fulfilling its obligations under this AGREEMENT by Force Majeure, said party will not be liable under this AGREEMENT for said delay or failure, nor for damages or injuries resulting directly from the inability to perform scheduled work due to Force Majeure.

CONTRACTOR shall be granted an automatic extension of time commensurate with any delay in performing scheduled work arising from Force Majeure. CONTRACTOR agrees to resume such work within three (3) days after the Force Majeure has subsided enough to do so.

28.09. Non Appropriation. Notwithstanding anything contained in this AGREEMENT to the contrary, if insufficient funds are appropriated, or funds are otherwise unavailable in the budget for COUNTY for any reason whatsoever in any fiscal year, for payments due under this AGREEMENT, COUNTY will immediately notify CONTRACTOR of such occurrence, and this AGREEMENT shall terminate after the last day during the fiscal year for which appropriations shall have been budgeted for COUNTY or are otherwise available for payments. To the extent permitted by law,

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ATTACHMENT E: GENERAL CONDITIONS

this provision will not be construed so as to permit COUNTY to terminate this AGREEMENT in order to hire another contractor or to allocate funds directly or indirectly to perform the same services.

END OF GENERAL CONDITIONS

ADDENDUM NO. 2  
TO AGREEMENT  
BETWEEN COUNTY OF MONTEREY AND  
HONEYWELL INTERNATIONAL, INC.

THIS ADDENDUM NO. 2 to the Agreement between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Honeywell International, Inc. (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the County and CONTRACTOR are referred to as the "parties").

WHEREAS, CONTRACTOR entered into an Agreement with County on June 24, 2011 (hereinafter, "Agreement"); and

WHEREAS, Agreement was amended by the parties on December 16, 2011 (hereinafter, "Addendum No. 1"); and

WHEREAS, due to additional funding required to fund Change Order No. 1 to the Agreement, the Add Alternates included in Attachment C: Phase II Scope of Services and Fee of the Agreement have been revised to remove the Marina Coastal Office Retrocommission Air Handling Unit (AHU) from the original Energy Conservation Measures (ECM) in the amount of \$7,355; and

WHEREAS, remaining project contingency allows for complete implementation of Add Alternates in Attachment C-1: Phase II Scope of Services and Fee in the amount of \$80,838; and

WHEREAS, additional time is necessary to allow for the completion of the Add Alternates; and

WHEREAS, the parties wish to further amend the Agreement to extend the term to December 21, 2012 to allow CONTRACTOR to continue to provide tasks identified in the Agreement and as amended by this Addendum No. 2.

NOW, THEREFORE, the parties agree to amend the Agreement as follows:

1. In all places within the Agreement, any reference to Attachment C, Phase II Scope of Services and Fee, is hereby replaced with Attachment C-1, Phase II Scope of Services and Fee.
2. Amend the second sentence of Paragraph 16.2, "Starting and Completion Date", to read as follows:  
  
All work performed under Phase I and Phase II must be completed no later than December 21, 2012.
3. All other terms and conditions of the Agreement remain unchanged and in full force.
4. This Addendum No. 2 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

Addendum No. 2 to Agreement  
Honeywell International, Inc.  
Investment Grade Audit and Energy Efficiency Measures (RFQ/RFP #10218)  
RMA - Department of Public Works  
Term: June 28, 2011 - December 21, 2012  
Not to Exceed: \$954,995

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 2 to the Agreement as of the day and year written below:

COUNTY OF MONTEREY

By: [Signature]  
ACTING Director of Public Works

Date: 9/28/12

Approved as to Form and Legality  
Office of the County Counsel

By: [Signature]  
Deputy County Counsel

Date: 9/27/2012

Approved as to Fiscal Provisions

By: [Signature]  
Auditor/Controller

Date: 9-27-12

Approved as to Indemnity and Insurance Provisions

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

CONTRACTOR\*

Honeywell International, Inc.  
Contractor's Business Name

By: [Signature]  
(Signature of Chair, President or Vice President)

Its: Paul Bardon  
Vice President + GM Americas  
(Print Name and Title)

Date: September 25, 2012

By: [Signature]  
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)

Its: Samuel Rosenstern  
Assistant Secretary  
(Print Name and Title)

Date: September 24, 2012

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Addendum No. 2 to Agreement  
Honeywell International, Inc.  
Investment Grade Audit and Energy Efficiency Measures (RFQ/RFP #10218)  
RMA - Department of Public Works  
Term: June 28, 2011 - December 21, 2012  
Not to Exceed: \$954,995

**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

**SCOPE OF WORK**

<b>Building Name</b>	<b>ECM Name</b>	<b>ECM Price</b>
Correctional Facility (Main Jail)	Heating Units - 100% OSA	\$718,694
New Jail	Retro-Commission HV Units	\$19,511
New Jail	3-ton AC Units	\$121,462
New Jail	ACU-7 Retro-Commissioning	\$34,089
Probation Juvenile Intake	Retro-Commission Heating/Ventilating Units	\$13,372
Probation Youth Center	Retro-Commissioning Heating Units	\$6,792
Public Safety Building (Sherriff's Office)	Retrocommission HU-1 through 5	\$41,075
<b>TOTAL OF IMPROVEMENTS</b>		<b>\$954,995</b>
<b>CREDIT FOR PHASE 1: INVESTMENT GRADE AUDITS</b>		<b>(\$69,240)</b>
<b>AMOUNT TO BE PAID</b>		<b>\$885,755</b>

**Project Scope:**

Honeywell shall provide the following equipment and services ("the Work") in accordance with the attached work scope documents and terms and conditions, which form a part of this Agreement.

**Correctional Facility (Main Jail)**

**Men's & Women's Hexagons:**

Men's cells are served by 10 heating and ventilating units, 100% OSA, with exhaust fans. The Women's Cell Block is very similar to the Men's Block, but smaller. It has six (6) heating and ventilating systems (supply and exhaust fans) with 100% outside air. Only five (5) of the six (6) units are proposed to be replaced at this time. The 6<sup>th</sup> unit serves the Women's Dayroom, which will remain in place.

Measures include replacing these 15 units (HV-3 through HV-17)

**Replace HV Units (HV-3 through HV-17):**

Work to be performed by a mechanical subcontractor includes:

1. Removing existing units.
2. Installing new units including:
  - a. Mounting structure.
  - b. Outside, return and mixed air dampers.
  - c. Structure to mount controller.



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**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

d. Electrical cabling, disconnects and fusing.

Honeywell scope includes the following:

1. Providing and installing controller for dampers and valves, with enclosure.
2. Providing and installing heating valves and pneumatic actuators.
3. Providing and installing pneumatic damper actuators.
4. Providing and installing supply and outdoor air temperature sensors.
5. Providing and installing CO2 sensors.
6. Installing pneumatic tubing.
7. Programming, start-up and commissioning (including smoke dampers).

Equipment listing is provided below:

**Men's & Women's Hexagons**

Mark	Type	Heating (MBH)	Supply Fan HP	Design Airflow (CFM)	Air Distribution Type	Min Outside Air (CFM)	Area Served
HV-3	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-4	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-5	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-6	HW Coils	160	1	2,440	CV SZ	490	Women's Security Hexagon
HV-7	HW Coils	190	1	3,000	CV SZ	600	Women's Holding Hexagon
HV-8	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-9	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-10	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-11	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-12	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-13	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-14	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-15	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-16	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon
HV-17	HW Coils	160	1	2,440	CV SZ	490	Men's Security Hexagon

New Jail:

There are 7 rooftop heating and ventilating recirculating units with economizers. They appear generally in good shape, except the economizers are rusty. There are 7 small (approximately 3 ton) rooftop cooling units (ACU-2, 3, 4, 5, 8, 9 & 10) which serve control rooms and kitchen areas. Most have economizers installed where the outside air intake bypasses the filter, which have caused damage to the cooling coils. All but one

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**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

is original with the building, where one (ACU-10) has been installed recently, so is excluded from replacement. There is also a larger AC unit (ACU-7, 20 ton capacity), with DX cooling, hot water heat and economizer (badly corroded).

Scope includes replacing 6 of the smaller DX cooling only units and retro-commissioning ACU-7.

Replace ACU-2, 3, 4, 5, 8 & 9

Work to be performed by a mechanical subcontractor includes:

1. Removing existing units.
2. Installing new units including:
  - a. Curb adapter.
  - b. Outside, return and mixed air dampers.
  - c. Structure to mount controller.
  - d. Electrical cabling, disconnects and fusing.

Honeywell scope includes the following:

1. Providing and installing economizer controllers with enclosures.
2. Providing and installing damper actuators.
3. Providing and installing supply and outdoor air temperature sensors.
4. Programming, start-up and commissioning (including smoke dampers).

Equipment listing is provided below:

New Jail							
Mark	Type	Cooling (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
ACU-2	Unitary DX	24	0.25	700	CV SZ	50	Control room
ACU-3	Unitary DX	48	0.75	1,800	CV SZ	100	Kitchen offices
ACU-4	Unitary DX	24	0.25	500	CV SZ	50	Kitchen offices
ACU-5	Unitary DX	24	0.25	500	CV SZ	50	Kitchen offices
ACU-8	Unitary DX	24	0.25	500	CV SZ	50	Control room
ACU-9	Unitary DX	24	0.25	500	CV SZ	50	Control room

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**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

Retro-Commission ACU-7:

Retro-Commission RTU as follows:

1. Refurbish economizer dampers. Replace damper actuators and linkages as necessary.
2. Replace condenser coil. Re-charge refrigerant per manufacturer's instructions.
3. Replace belts and filters as necessary.
4. Air balance.
5. Calibrate sensors and t-stats.
6. Start-up and commissioning (including smoke dampers).

Unit specifications are as follows:

New Jail								
Mark	Type	Cooling (MBH)	Supply Fan HP	Return/Exh Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
ACU-7	Unitary DX	300	7.5	3	8,000	CV RH	1,100	Sallyport

Retro-Commission Heating/Ventilating Units:

Retro-commission as follows:

1. Refurbish economizer dampers. Replace damper actuators and linkages as necessary. Skip this step if the unit is 100% OSA.
2. Replace belts and filters as necessary. Inspect fans and motors.
3. Inspect heating valves. Replace as necessary.
4. Air balance.
5. Calibrate sensors.
6. Start-up and commissioning (including smoke dampers).

**ATTACHMENT 1**  
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**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

Equipment specifications are as follows:

New Jail								
Mark	Type	Heating (MBH)	Supply Fan HP	Return/Exh Fan HP	Design airflow (CFM)	Air distribution type	MIn Outside Air (CFM)	Area Served
HV-1	HW Coils	543	30	20	30,000	CV SZ	30,000	Kitchen
HV-2	HW Coils	150	10	7.5	11,500	CV SZ	4,200	Dorms
HV-3	HW Coils	226.5	10	5	7,500	CV SZ	1,200	Dorms
HV-4	HW Coils	235.5	10	5	7,500	CV SZ	1,600	Dorms
HV-5	HW Coils	226.5	10	5	7,500	CV SZ	1,600	Dorms
HV-6	HW Coils	154.5	7.5	5	5,500	CV SZ	1,000	Intake
HV-9	HW Coils	450	20	2	16,000	CV RH	13,000	Intake

**Probation Juvenile Intake:**

Operation schedule is 24/7. HVAC is primarily through rooftop heating and ventilating units and some ceiling mounted heating/ventilating units. During the time of the audit, none of the rooftop units were running. They were either not running due to no need for heating in the spaces or were manually turned off. The Stationary Engineer indicated the systems tend to put out too much heat, so get turned off at times. Also the Stationary Engineer indicated some rooftop exhaust fans need replacing and that the pneumatic system needs calibration.

**Retro-Commission Heating/Ventilating Units:**

Retro-commission as follows:

1. Replace belts and filters as necessary. Inspect fans and motors.
2. Inspect and replace/calibrate heating valves as necessary.
3. Clean coils.
4. Air balance.
5. Calibrate sensors, t-stats and damper sequencing.

**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

Equipment listing is provided below:

Probation Juvenile Intake									
Mark	Type	Heating (MBH)	Supply Fan HP	Fan Cycle?	Design airflow (CFM)	Air distribution type	Economizer (Y/N)	Min Outside Air (CFM)	Area Served
FC-1	Fan Coil	102	0.75	Y	1,200	SZ	N	240	Classroom F101
FC-2	Fan Coil	102	0.75	Y	1,200	SZ	N	240	Classroom F102
FC-3	Fan Coil	68	0.5	Y	800	SZ	N	160	Office F103A
FC-4	Fan Coil	134	0.75	Y	1,600	SZ	N	320	Classroom F106
FC-5	Fan Coil	102	0.75	Y	1,200	SZ	N	240	Cells C116-C126
FC-6	Fan Coil	134	0.75	Y	1,600	SZ	N	320	Cells C101-C115
FC-7	Fan Coil	102	0.75	Y	1,050	SZ	N	210	Cells B116-B124
FC-8	Fan Coil	134	0.75	Y	1,600	SZ	N	320	Cells B101-B115
FC-9	Fan Coil	102	0.75	Y	1,050	SZ	N	210	Cells A114-A122
FC-10	Fan Coil	134	0.75	Y	1,400	SZ	N	280	Cells A101-A113

**Probation Youth Center**

Operation schedule is generally 24/7. There are seven (7) heating and ventilating units. Only one outdoor air sensor was located, but for the heating units, damper positions varied considerably. Outdoor air dampers ranged from fully open, to fully closed to 1/2 open. The linkage is somewhat rusty on each unit. The drawings show CO2 sensors on three units, but only one was located during the site walk. The units are controlled by a central control system with the head-end located in Laurel Yard, which controls air temperatures in the AHU through economizer and heating valve modulation. Through inspecting the EMS screens, the sensors and control loops could use calibration - many of the temperatures relative to economizer and valve position are not optimum.

**Retro-Commission Heating/Ventilating Units:**

Retro-commission as follows:

1. Refurbish economizer dampers. Replace damper actuators and linkages as necessary.
2. Replace belts and filters as necessary. Inspect fans, motors, furnaces and heat exchangers.
3. Air balance.
4. Calibrate sensors (both temperature and CO2), t-stats and damper sequencing.
5. Start-up and commissioning (including smoke dampers).

**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

Equipment listing is provided below:

Probation YC RTUs									
Mark	Type	Heating (MBH)	Supply Fan HP (ref)	Fan Cycle?	Design airflow (CFM)	Air distribution type	Economizer (Y/N)	CO2 Sensor (Y/N)	Min Outside Air (CFM)
AH-1	Furnace	60	0.33	N	1,140	SZ	Y	Y	115
AH-2	Furnace	60	0.33	N	980	SZ	Y	N	100
AH-3	Furnace	72	0.5	N	1,680	SZ	Y	Y	170
AH-4	Furnace	60	0.33	N	1,100	SZ	Y	N	300
AH-5	Furnace	160	1.5	N	2,800	SZ	Y	Y	280
AH-6	Furnace	120	1	N	2,460	SZ	Y	Y	245
AH-7	Furnace	60	0.5	N	1,500	SZ	Y	N	150

**Public Safety Building:**

HU-1 through 5 are "hot decks" of variable air volume (VAV) dual duct multi-zone (DDMZ) systems. HU-1 through 5, served by a 1,200 MBtuh boiler, has fairly clean coils but the heating valves and IGVs appear non-functional. At the time of the audit, most valve indicators showed 100% open or closed, but they all appeared to be supplying heat. Also the fan shaft for HU-1 was sheared off with the fan motor simply running without being connected to the fan. HU-1 & 5 run 24/7 and the rest are controlled by time clocks set to run from 7 am to 5 pm.

**Retro-Commission HU-1 through HU-5:**

Retro-commission units as follows:

1. Inspect belts, filters and motors. Replace belts/filters as necessary. Repair broken shaft and replace bearings in HU-1.
2. Replace hot water valves and actuators if necessary.
3. Install controller for each unit.
4. Install VFD and set IGVs in open position for each unit.
5. Clean coils.
6. Calibrate sensors.
7. Program and commission unit. Set hot deck temperatures per the following reset schedule:

OSA 55 75

SAT 95 75

This means if the OSA temp is 55° F or below, the SAT is 95° F; if the OSA temp is 75° F or above, the SAT is 75° F. The SAT is set proportionately for any OSA temp in between 55 and 75° F.

**ATTACHMENT 1**  
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**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

HU-1 through HU-5 specifications is as follows:

PSB RTUs							
Mark	Type	Heating (MBH)	Supply Fan HP.	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Schedule
HU-1	HW Coils	230	7.5	8,500	VAV - DDMZ	0	24/7
HU-2	HW Coils	60	5	6,000	VAV - DDMZ	0	7-5, M-F
HU-3	HW Coils	80	5	4,700	VAV - DDMZ	0	7-5, M-F
HU-4	HW Coils	160	5	5,500	VAV - DDMZ	0	7-5, M-F
HU-5	HW Coils	100	5	4,000	VAV - DDMZ	0	24/7

ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE

SCOPE OF WORK  
Add Alternates

Written Price: \$80,838.00 U.S. Dollars

Price: \$ Eighty Thousand Eight Hundred Thirty Eight U.S. Dollars

Building Name	ECM Name	ECM Price
Adult Rehab	Air Balance	\$15,842
Correctional Facility (Main Jail)	Heating Units - Receiving Wing	\$3,226
Marina Coastal Office	Wireless Pneumatic Thermostats	\$21,688
Probation Headquarters	Wireless Pneumatic Thermostats	\$23,328
Probation Juvenile Intake	Exhaust Fans	\$16,754
TOTAL		\$80,838

Project Scope:

Honeywell shall provide the following equipment and services ("the Work") in accordance with the attached work scope documents and terms and conditions, which form a part of this Agreement.

Adult Rehab:

The building has a center pod with 7 wings. HVAC is almost exclusively through heating/ventilating units (gas furnaces), except the control room that has a rooftop DX unit. All units run 24/7. The outside air and return air dampers all appear to be manually set, but their positions are very inconsistent. Also there is no building static pressure feedback or any relief dampers present. A number of gas furnaces were replaced four years ago.

Air balancing will be performed on these units.

Air Balance:

Perform air balance as follows:

1. Inspect HV unit. Replace belts and filters as necessary.
2. Clean unit and vacuum dust and loose debris.
3. Set return damper to full open (skip step if it's a 100% OSA unit).
4. Set outside air damper to approximately 30% open (skip step if it's a 100% OSA unit).
5. Measure supply air registers with flow hood. Adjust supply air dampers as necessary.
6. Measure air flow from outdoor air intake. Adjust as necessary to meet design criteria (skip step if it's a 100% OSA unit).



**ATTACHMENT 1**  
**Page 126 of 128**

**ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE**

Listing of HV units are as follows:

<b>Adult Rehab</b>							
Mark	Type	Heating Output (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
HV-1	Furnace	80	0.5	1,000	CV SZ	200	A Wing - Ext Offices
HV-2	Furnace	80	0.5	1,000	CV SZ	1,000	A Wing - Int Offices
HV-3	Furnace	262.5	1.5	4,000	CV SZ	1,200	B Wing - Rec Room
HV-4	Furnace	56.3	0.33	860	CV SZ	258	B Wing - Int Cell
HV-5	Furnace	56.3	0.33	860	CV SZ	258	B Wing - Int Cell
HV-6	Furnace	75	0.5	1,150	CV SZ	345	B Wing - Ext Cell
HV-7	Furnace	150	0.5	1,500	CV SZ	450	C Wing - Dorm
HV-8	Furnace	150	0.5	1,500	CV SZ	450	C Wing - Dorm
HV-9	Furnace	150	0.5	1,500	CV SZ	450	D Wing - Dorm
HV-10	Furnace	150	0.5	1,500	CV SZ	450	D Wing - Dorm
HV-11	Furnace	150	0.5	1,500	CV SZ	450	E Wing - Dorm
HV-12	Furnace	150	0.5	1,500	CV SZ	450	E Wing - Dorm
HV-13	Furnace	150	0.5	1,500	CV SZ	450	F Wing - Dorm
HV-14	Furnace	150	0.5	1,500	CV SZ	450	F Wing - Dorm
HV-15	Furnace	288	3	5,000	CV SZ	5,000	G Wing - Dining & TV
HV-16	Furnace	120	0.75	1,750	CV SZ	1,750	G Wing - Kitchen Make-up
HV-17	Furnace	252	2	3,600	CV SZ	1,200	H Wing - Recreation & TV
HV-18	Furnace	75	1	1,600	CV SZ	320	Corridor

**Correctional Facility Main Jail**

**Retro-Commission HV Unit (HV-2):**

One multi-zone (MZ) unit, with 3 zones, serves the Receiving Wing. Retro-commission unit as follows:

1. Inspect unit and replace belts, filters, MZ actuators and heating valves as necessary. Clean unit.
2. Balance zones.
3. Inspect and calibrate t-stats.

**Marina Coastal Office:**

Building is maybe 50% occupied from 8 am to 5 pm, M-F. Most of the building is served by a VAV (supply fan with VFD) ventilation unit with hot water reheat (no mechanical cooling). The unit is controlled by a time clock set at approximately 6 am to 6 pm, M-F, although some of the "pins" have slipped one or two hours and should be adjusted. Each zone is controlled by a pneumatic thermostat. The unit has an economizer that appears to be functional, although some of the linkage is rusty. Air filtration is not operating properly - some of the 1" pleated filters are "buckled", thus allowing unfiltered air into the building.

ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE

Wireless Pneumatic Thermostats:

Install Cypress wireless pneumatic thermostats in 18 zones per manufacturers' instructions.

1. Include pneumatic filters with translucent housings at each thermostat.
2. It is estimated one repeater will be required for the system.
3. Install Cypress Green Box in computer server room.
4. For each occupied zone, set thermostats for 70° F heating and 74° F cooling.
5. For each unoccupied zone, set thermostats for 60° F heating and 84° F cooling.
6. Fourteen calendar days after installation, check filters for any moisture or oil. Inform the Honeywell Project Manager of any issues.

Probation Headquarters:

Operation schedule is 5 am to 5 pm, M-F. HVAC is a constant volume multi-zone system with 100% OSA. System is fully pneumatic with some of the zone actuators disabled. Stationary Engineer says the pneumatic thermostats need calibration. Cooling is through three (3) split systems (relatively new) mounted on the ground with refrigerant piping running up to the AHU evaporator coils in the penthouse (above the 2<sup>nd</sup> floor). Heating is through a hot water boiler. Switch-over between heating and cooling is 70 deg OSA (heating locked out above and cooling locked out below). Building exhaust is through a 5 hp fan that runs 24/7, but at the time of the audit, it was broken with no exhaust in the building. There is also a small RTU serving the courtroom only.

Wireless Pneumatic Thermostats:

Install Cypress wireless pneumatic thermostats in 18 zones per manufacturers' instructions.

1. Connect pneumatic MZ dampers at air handlers.
2. Calibrate and balance system. Replace any faulty pneumatic actuators.
3. Include pneumatic filters with translucent housings at each thermostat.
4. It is estimated two repeaters will be required for the system.
5. Install Cypress Green Box in telephone closet.
6. Set thermostats for 70° F heating and 74° F cooling.
7. Fourteen calendar days after installation, check filters for any moisture or oil. Inform the Honeywell Project Manager of any issues.

ATTACHMENT 1

ATTACHMENT C-1: PHASE II SCOPE OF SERVICES AND FEE

Air handler listing is as follows:

Mark	Type	Cooling (MBH)	Heating (MBH)	Supply Fan HP	Design airflow (CFM)	Air distribution type	Min Outside Air (CFM)	Area Served
AH-1	DX Split	288	890	7.5	13,600	CV MZ	13,600	1st Floor (12 Zones)
AH-2	DX Split	144	350	3	5,250	CV MZ	5,250	2nd Floor (6 Zones)

Probation Juvenile Intake:

Inspect and Repair Exhaust Fans:

Inspect 18 exhaust fans for proper operation. Repair as necessary. Should repairs not be feasible, replace up to 9 exhaust fans. Should other warrant replacement, report back to the shop for resolution.

Equipment list is as follows:

MARK	MODEL	FRAN	CHARACTERISTIC	MOTOR	CHARACTERISTIC	VOLTAJE	STANDARD	STARTER	WARRANTY	REMARKS
AH-1	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-5	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-6	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-7	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-8	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-9	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-10	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-11	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-12	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-13	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-14	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-15	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-16	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-17	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB
B-18	2-10"	3600	2H	FC	350	1	200,000	MAG.	T.S.	ACTIVITY BOB

LEGEND: FC - FORWARD; 2H - BACKWARD; 350 - 350 RPM; 1 - 1 PHASE; 200,000 - 200,000 BTU; MAG. - MAGNETIC; T.S. - THERMOSTATIC; ACTIVITY BOB - ACTIVITY BOB; REMARKS - REMARKS

## ATTACHMENT 2

### Honeywell Building Solutions Building Systems Agreement (DDC)

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**Proposal Number: 043013AGT**

**Agreement Number:**

**Proposal Name: County of Monterey Marina Coastal Office & DSES Seaside Office Additions**

**Date: May 1, 2013**

**Provider:**

**Honeywell Building Solutions**  
353A Vintage Park Drive  
Foster City, CA 94404

**Customer:**

**County of Monterey**

**Period of Performance:** The Work shall commence on May 21, 2013 ("Effective Date") and shall be completed by August 31, 2013 ("Completion Date").

**Scope of Work:** Honeywell shall provide the following equipment and services ("the Work") in accordance with the terms and conditions, set forth in Honeywell Agreement with County of Monterey.

**Summary of scope of work:**

**Mechanical Systems Controls Marina Coastal Office:**

1. Remove Pneumatic Boiler Controls
2. Provide and install unit controls with enclosures for AHU & boilers
3. Provide and install boiler supply and return temperature sensors
4. Tie AHU supply and return fans and dampers, boiler temperature sensors, boiler and pump controls to unit controllers.
5. Provide and install BNA to communicate to New EBI and EBI Software to be located at Laurel Dr Facility. The EBI Hardware consists of a High-end Tower Server with RAID 0 dual drives, Intel Zeon processor, Windows Server 2008, External Hard Drive, Network Adapter, Monitor and Printer. EBI Software consisting 1750 Points and 12 Reader Points, BACnet Direct Interface, Excel 5000 Interface, EBI SQL 2008, EBI DVD Media Set, EBI Manuals, EBI Configuration Guide, EBI Building Management Guide, Attune Advisory Media, 2 Station or Browser Connections, EasyMobile Client, Excel 5000 Direct Dial-up Interface License, BacNet Server, EBI Building Manager. This system will allow for future integration of the Honeywell Legacy Network to the new EBI Front-end.
6. Wire Cypress Greenbox Controller to web enabled router to communicate to EBI.

**Price:** Seventy Nine Thousand One Hundred Ninety Two **\$79,192.00 U.S.**

**THE FOLLOWING SERVICES ("Services") SHALL BE PROVIDED/PERFORMED:**

Honeywell will provide the Supervisory, Electronics Technician, Engineering, Electrical and CAD labor necessary to perform the additions to the Honeywell controls system requested for this project. Honeywell will provide installed device check-out, along with coordination with the Building Staff, for the duration of this DDC installation.

**Payment:** All check payments shall be sent directly to Honeywell ACS Lockbox, 12490 Collections Center Drive, Chicago, 60693-0124.