

Multi-Year Pricing

<u>Year</u>	<u>Annual Pricing</u>
Year 1	\$55,018
Year 2	\$56,669
Year 3	\$58,369

Preferred Automation Maintenance Services

1.1 Scope - HONEYWELL will maintain building automation system hardware and software found in the List of Covered Equipment and Software below.

List of Covered Equipment:

Quantity	Description	Model Number	Location
19	Schneider Electric	MNB-300	Mechanical Room
1	Schneider Electric	MNB-1000	Mechanical Room
1	Schneider Electric	UNC-520	Mechanical Room
1	Vykno	JACE-601	Mechanical Room

List of Covered Software:

Drawing number(s) and date(s) (if applicable)				
Quantity	Software Product Number	Version	Product Description	Location
1		N4.3	Honeywell Tridium Software	Mechanical Room

1.2 Coverage - Unless noted by exception, maintenance intervals will be determined by equipment, application, location and HONEYWELL’S computer data bank of maintenance experience and manufacturer’s specifications, according to HONEYWELL’S best judgment.

After each service call is completed, details from the service report will be provided to CUSTOMER.

HONEYWELL will review current data and applications and will verify correct operation of connected HVAC equipment.

1.3 Hardware Support - HONEYWELL will perform scheduled maintenance services on the Equipment covered under this Agreement as detailed on the List of Covered Equipment.

HONEYWELL will repair or replace serviceable components and parts found on the List of Covered Equipment and Software, which have been found to be defective or have failed. Replaced components will be new or reconditioned components of compatible design as required to maintain CUSTOMER’S system. At HONEYWELL’S sole discretion, marginal components may also be repaired or replaced. These replacements will be based upon commercial availability of parts and/or components. All exchanged parts shall become the property of HONEYWELL.

Notwithstanding the foregoing, at initial inspection or following twelve (12) months of service, or at initial seasonal start-up, if any individual component cannot, in the sole or exclusive opinion of HONEYWELL, be properly repaired, due to obsolescence, lack of commercial availability of standard parts, and/or excessive wear or deterioration, HONEYWELL may remove said component from the List of Covered Equipment, with sixty (60) days written notice. Non-maintainable components will be eliminated from coverage under this Agreement and HONEYWELL shall adjust the price accordingly.

1.4 Software Support - HONEYWELL will maintain the present system within the functional limitations of presently installed hardware and/or software included in the List(s) of Covered Equipment and Software. This may include providing software patches, revisions and/or bug fixes to standard HONEYWELL software that may be periodically created by HONEYWELL to maintain present system operations. Third-party applications and/or software including, but not limited to, operating system(s), web browsers, local area network (LAN) and computerized maintenance management systems and any labor, software and/or hardware required to maintain the present applications and/or implement functional enhancements, will be CUSTOMER’S sole responsibility.

CUSTOMER shall be solely responsible for and agrees to purchase any and all hardware, firmware, and/or software that may hereafter be required to improve performance of the software installed on CUSTOMER’S system. HONEYWELL shall not be responsible to provide any improvements, functional, operational or otherwise. Third party software that adds, enhances or improves functional performance of CUSTOMER’S system are excluded under this Agreement and will be provided when and if available and at CUSTOMER’S expense.

Upon request, HONEYWELL will provide documentation to operate all HONEYWELL licensed software. Upon termination of this Agreement, all documentation, including software, will become operational property and responsibility of CUSTOMER, provided that CUSTOMER abides by the terms of the License Agreement for Software Products.

1.5 Emergency Service - Activities performed under this Agreement are designed to minimize the incidence of emergency situations. However, should an emergency arise, HONEYWELL personnel will assess the situation either by phone or remote diagnostics, or both, and will determine the required course of action with CUSTOMER. If it is determined that a site visit is required, HONEYWELL personnel will arrive at CUSTOMER’S site within 4 hours. If the resolution of the emergency service call requires HONEYWELL to provide service for equipment, software or any components thereof that are not listed on the List of Covered Equipment and Software, CUSTOMER will be liable for charges then prevailing for such service.

Emergency Service will be provided during the following periods during the term of this Agreement (check box for desired level of emergency service coverage):

- Continuous Emergency Service:**
24 hours per day, seven days per week, federal holidays included
- Extended Hours Emergency Service:**
12 hours per day, five days per week, federal holidays excluded.
Specified hours: 6:00 a.m. - 6:00 p.m., Monday through Friday.

- **Regular Business Hours Emergency Service:**
8.5 hours per day, five days per week, federal holidays excluded.
Specified hours: 8:00 a.m. - 4:30 p.m., Monday through Friday.

□ **1.6 Operator Training Support** - To provide for the proper ongoing operation and improving application of the building management system by CUSTOMER personnel, HONEYWELL personnel will conduct hours of on-site training dedicated to operating and/or programming issues mutually pre-determined by CUSTOMER and HONEYWELL.

Tuition for person(s) to attend scheduled training session(s) on system operation and programming at HONEYWELL'S Building Solutions Training Center has been included hereunder. Cost of travel and/or accommodations is not included and shall be CUSTOMER'S sole responsibility.

1.7 Performance Review - A review of the Services provided within this Agreement will be performed by HONEYWELL on an annual basis at CUSTOMER'S request. HONEYWELL and CUSTOMER will discuss work performed since the last review, answer questions pertaining to Service delivery, and identify opportunities to further improve performance of the Equipment.

1.8 Honeywell ServicePortal – HONEYWELL will provide customer access to an Internet-based application that will allow the CUSTOMER to securely submit non-emergency service requests online; view status of all service calls, whether scheduled, open or closed; view appointments and task detail of work performed on contracted service calls; and view contract and equipment coverage details (12 month history and includes only service performed per the HONEYWELL contract). Functionality enhancements or deletions are at the discretion of HONEYWELL.

Preferred Mechanical Maintenance Services

1.1 Scope - HONEYWELL will maintain the mechanical systems, components, and hardware listed below:

List of Covered Equipment:

Quantity	Description	Model Number	Location
OUTDOOR EQUIPMENT			
1	Cooling Tower	EVAPCO A1WB93H82	Behind City Hall, parking lot
1	VFD	Yaskawa E7NVB011623	
INDOOR EQUIPMENT			
2	Condenser Water Pumps	Weg-Nema 00718ET3E213TC	Mechanical Room
1	Ductless Split-Fan Coil	Mitsubishi MUY-A17NA	Mechanical Room
1	Gas Water Boiler	Raypak H3-0514A-EECRDAA9510126674	Mechanical Room
1	Water Source Heat Pump #1A	Florida HP EC049-4VTN	Mechanical Room
1	Water Source Heat Pump #1B	Florida HP EC096-4VTN	Mechanical Room
1	Water Source Heat Pump #2	Florida HP EC061-4VTN	Mechanical Room
1	Water Source Heat Pump #3	Florida HP EC018-4CFN	Mechanical Room
1	Water Source Heat Pump #4	Florida HP EC072-4VTN	Mechanical Room
1	Water Source Heat Pump #5	Florida HP EC024-4CFN	Mechanical Room
1	Water Source Heat Pump #6	Florida HP EC035-4CFN	Mechanical Room
1	Water Source Heat Pump #7	Florida HP EC030-4CFN	Mechanical Room
1	Water Source Heat Pump #8	Florida HP EC024-4CFN	Mechanical Room
1	Water Source Heat Pump #9	Florida HP EC024-4CFN	Mechanical Room
1	Water Source Heat Pump #10	Florida HP EC030-4CFN	Mechanical Room
1	Water Source Heat Pump #11	Florida HP EC096-4VTN	Mechanical Room
1	Water Source Heat Pump #12	Florida HP EC072-4VTN	Mechanical Room
1	Water Source Heat Pump #13	Florida HP EC061-4VTN	Mechanical Room
1	Water Source Heat Pump #14	Florida HP EC072-4VTN	Mechanical Room
1	Water Source Heat Pump #15	Florida HP EC015-2VTN	Mechanical Room
1	Water Source Heat Pump OAT-1	Florida HP EC061-4VTN	Mechanical Room
1	Water Source Heat Pump OAT-2	Florida HP EC071-4VTN	Mechanical Room
1	Water Source Heat Pump OAT-3	Florida HP EC035-4VTN	Mechanical Room

1.2 Preventive Maintenance - Each preventive maintenance call will be scheduled by a computer-generated service report detailing the tasks to perform, the skill levels required, and the special tools and instrumentation required to maintain the systems. Maintenance intervals will be determined by either equipment run time or a frequency determined from consideration of equipment operation, application, location, or criticality of end use. Upon completion of each service call, a summary of the preventive maintenance tasks completed will be provided to CUSTOMER.

1.3 Component Replacements - HONEYWELL will maintain CUSTOMER'S presently installed system within the functional limitations of presently installed hardware, firmware, and software found on CUSTOMER'S system(s).

HONEYWELL will repair or replace serviceable components and parts found on the List of Covered Equipment that have been found to be defective or have failed. Replaced components will be new or reconditioned components of compatible design as required to maintain CUSTOMER'S system. At HONEYWELL'S sole discretion, marginal components may also be repaired or replaced. These replacements will be based upon commercial availability of parts and/or components. All exchanged parts shall become the property HONEYWELL. Automatic valve and damper maintenance and repair are included in this Agreement. The labor required for their removal and installation is not included.

Notwithstanding the foregoing, at initial inspection, at initial seasonal start-up, or following twelve (12) months of service, if any individual component cannot, in the sole or exclusive opinion of HONEYWELL, be properly repaired, due to obsolescence, lack of commercial availability of standard parts, and/or excessive wear or deterioration, HONEYWELL may remove said component from the List of Covered Equipment, with sixty (60) days written notice. Non-maintainable components will be eliminated from coverage under this Agreement and HONEYWELL shall adjust the price accordingly.

1.4 Emergency Service - Activities performed under this Agreement are designed to minimize the incidence of emergency situations. However, should an emergency arise, HONEYWELL personnel will assess the situation either by phone or remote diagnostics, or both, and will determine the required course of action with CUSTOMER. If it is determined that a site visit is required, HONEYWELL personnel will arrive at CUSTOMER site within 4 hours. If the resolution of the emergency service call requires HONEYWELL to provide service for equipment that is not listed in Article 1.1 above, CUSTOMER will be liable for charges prevailing for such service.

Emergency Service will be provided during the following periods during the term of this Agreement (check box for desired level of emergency service coverage):

- Continuous Emergency Service:**
24 hours per day, seven days per week, federal holidays included
- Extended Hours Emergency Service:**
12 hours per day, five days per week, federal holidays excluded.
Specified hours: 6:00 a.m. - 6:00 p.m., Monday through Friday.
- Regular Business Hours Emergency Service:**
8.5 hours per day, five days per week, federal holidays excluded.
Specified hours: 8:00 a.m. - 4:30 p.m., Monday through Friday.

1.5 Performance Review - A review of the Services provided within this Agreement will be performed by HONEYWELL on an annual basis at CUSTOMER'S request. HONEYWELL and CUSTOMER will discuss work performed since the last review, answer questions pertaining to Service delivery, and identify opportunities to further improve performance of the Equipment.

1.6 Honeywell Service Portal – HONEYWELL will provide customer access to an Internet-based application that will allow the CUSTOMER to securely submit non-emergency service requests online; view status of all service calls, whether scheduled, open or closed; view appointments and task detail of work performed on contracted service calls; and view contract and equipment coverage details (12 month history and includes only service performed per the HONEYWELL contract). Functionality enhancements or deletions are at the discretion of HONEYWELL.

Flex Automation Services

1.1 Scope – HONEYWELL will maintain and inspect the building automation hardware and software listed below:

List of Covered Equipment:

Quantity	Description	Model Number	Location
24	Thermostats		Various

List of Covered Software:

Drawing number(s) and date(s) (if applicable)				
Quantity	Software Product Number	Version	Product Description	Location
1			LG AC Smart Touch Panel	IDF Room
1			WattMaster	IDF Room

1.2 Preventative Maintenance – Each inspection call will be:
 scheduled by a computer-scheduled service report detailing the tasks to perform, the skill levels required, and the special tools and instrumentation required to inspect the systems for optimum system performance, both from a hardware and software perspective. Typical activities include:

- Checking software schedules against occupancy schedules
- Inspecting hardware operator - machine interface and field panels for proper operation.
- Review false alarm activity
- Review trend logs
- Random sampling of temperature sensors to identify need to calibrate

Customer Planned – based on 4 inspections/hours per year.

1.3 Coverage – This Agreement includes all travel, and living expenses to perform the inspection services described above for the Equipment and Software. **The costs for labor and travel for repair work, emergency service, and any replacement materials are not included in this Agreement.** If emergency service is required, CUSTOMER will receive a priority response and will be billed at a preferred maintenance labor rate. If necessary equipment repairs are approved, CUSTOMER will be billed on a Time-and-Material (T&M) basis, with labor costs reflecting the preferred rate.

1.4 Performance Review – A review of the Services provided within this Agreement will be performed by HONEYWELL on an annual basis if requested by CUSTOMER. HONEYWELL and CUSTOMER will discuss work performed since the last review, answer questions pertaining to Service delivery, and identify opportunities to further improve performance of the Equipment.

1.5 Honeywell ServicePortal – HONEYWELL will provide customer access to an Internet-based application that will allow the CUSTOMER to securely submit non-emergency service requests online; view status of all service calls, whether scheduled, open or closed; view appointments and task detail of work performed on contracted service calls; and view contract and equipment coverage details (12 month history and includes only service performed per the HONEYWELL contract). Functionality enhancements or deletions are at the discretion of HONEYWELL.

Flex Mechanical Maintenance Services

1.1 **Scope** - HONEYWELL will, maintain & inspect the mechanical systems, components, and Equipment listed below:

List of Covered Equipment:

Quantity	Description	Model Number	Location
	Public Works and Animal Control		
	OUTDOOR EQUIPMENT		
1	CU-1	PURY-P144YSLMU-A	MAIN 1
3	OACU-1,CU-2,OACU-2	PURY-P120TXMU-A	OAHU-1,MAIN2, ANIMAL
3	ACCU-1, 1A, 1B	PUY-A12NHA4	ACCU-1,1A,1B
1	CU-1B	PUHY-P72YLMU-A	BLDG B
1	CU-1A	PUZ-A36NHA4	BLDG A
	INDOOR EQUIPMENT		
1	FCU 1-1	PEFY-P18NMAU-E3	MAIN 1 OFFICES
5	FCU 1-2, 1-3, 1-4, 2-2, 2-3	PEFY-P24NMAU-E3	MAIN 1 & 2 OFFICES
1	FCU 1-5	PLFY-P18NBMU-ER2	MAIN 1 BREAK ROOM
1	FCU 1-6	PLFY-P15NBMU-ER2	MAIN 1 CONFERENCE
3	FCU 1-7, 2-1, 2-4	PEFY-P36NMAU-E3	MAIN 1 LOBBY, MAIN 2 OFFICES
2	OAHU-1 & 2	PEFY-AF1200CFMR	MAIN 1 OFFICES, ANIMAL
3	ACCU-1, 1A, 1B	PKA-A12HA4	MDF/IDF ROOMS
3	FCU 1-1B, 1-2B, 1-3B	PEFY-P27NMAU-E3	BLDG B OFFICES
1	FCU 1-1A	PEAD-A36AA4	BLDG A
2	ERV 1 & 2	LGH-F470RX5-E	
1	BC-1	CMB-P1008NU-HA1	MAIN 1
	BC-2	CMB-P108NU-GA	MAIN 2
2	BC-3 & 4	CMB-P106NU-G	OAHU-1 & ANIMAL
	Firehouse 1		
1	ACCU-1 14 Ton DX split system	Carrier 38ARD016---501LA	Behind Fire Station
1	ACCU-2 8.7 Ton DX split system	Carrier 38ARD012---501LA	Behind Fire Station
1	ACCU-3 7.0 Ton DX split system	Carrier 38ARD008---501LA	Behind Fire Station
1	ACCU-4 4 Ton DX split system	Carrier 24ACB748A310	Behind Fire Station
	Community House		
2	AHU 1 & 2	Trane TTA120A300FA	Behind Community House

1.2 **Preventative Maintenance** - Each preventative maintenance call will be:

scheduled by a computer-generated service report detailing the tasks to perform, the skill levels required, and the special tools and instrumentation required to inspect the systems. Upon completion of each service call, a summary of the tasks completed will be provided to CUSTOMER. If repair requirements on covered Equipment are identified during the service call, a corrective action plan will be discussed with CUSTOMER.

Customer Planned – Based on 4 inspections/hours per year.

1.3 **Coverage** - This Agreement includes all labor, travel, and living expenses to perform the inspection services and inspection maintenance described above for the Equipment. Usual mechanical maintenance materials, such as lubricants, contact cleaner, and cleanup materials are included in this Agreement. Unless otherwise stated, the costs of labor and travel for repair work, emergency service, and other materials such as air filters, refrigerant, water treatment chemicals, temperature controls, or other parts and materials required for Equipment repairs, are not included in this Agreement. If emergency service is required, CUSTOMER will receive a priority response and will be billed at a preferred maintenance labor rate. If necessary Equipment repairs are approved, CUSTOMER will be billed on a Time-and-Material (T&M) basis, with labor costs reflecting the preferred rate.

1.4 **Performance Review** - A review of the Services provided within this Agreement will be performed by HONEYWELL on an annual basis. HONEYWELL and CUSTOMER will discuss work performed since the last review, answer questions pertaining to Service delivery, and identify opportunities to further improve performance of the Equipment.

1.5 **Honeywell ServicePortal** – HONEYWELL will provide customer access to an Internet-based application that will allow the CUSTOMER to securely submit non-emergency service requests online; view status of all service calls, whether scheduled, open or closed; view appointments and task detail of work performed on contracted service calls; and view contract and equipment coverage details (12 month history and includes only service performed per the HONEYWELL contract). Functionality enhancements or deletions are at the discretion of HONEYWELL.

Air Filter Services

1.1 **Scope** - HONEYWELL will furnish and install air filters appropriate for the design condition of CUSTOMER’S ventilation systems. Media for the fan system units listed in this section will be replaced according to the following schedule:

List of Covered Equipment:

Fan System Unit	Quantity	Size	Type	Changes per year (1,2,4,6, or 12)
Fire Station 1				
	9	16x20x2	2” Surface Pleated	4
	8	16x24x2	2” Surface Pleated	4

Community House				
AHU 1 & 2	8	16x25x1	1" Surface Pleated	4

1.2 Coverage - It is understood that the air filter media replacement services apply only to the fan system units listed in Article 1.1 above. If this Agreement is terminated, HONEYWELL will remove any HONEYWELL-supplied frames from the facility, or offer CUSTOMER the opportunity to purchase them at the current market value.

1.3 Frequency of Air Filter Media Replacement - Should filter loading experience indicate a need to adjust the frequency of media changes for the fan systems listed in Article 1.1 above, the frequency will be changed, and the Agreement amended to reflect the new media change frequency. The Agreement price will be adjusted to account for the revised media change frequency.

1.4 Performance Review - A review of the Services provided within this Agreement will be performed by HONEYWELL on an annual basis at CUSTOMER'S request. HONEYWELL and CUSTOMER will discuss work performed since the last review, answer questions pertaining to Service delivery, and identify opportunities to further improve performance of the Equipment.

Water Treatment Services

1.1 Scope - HONEYWELL will provide a water treatment program for the following systems:

List of Covered Equipment:

Quantity	Description	Model Number	Location
1	City Hall Cooling Tower		Parking lot behind City Hall

1.2 Preventive Maintenance - A computer-scheduled treatment program for the control of scale, corrosion, and biological fouling will be provided. HONEYWELL will regularly examine, test, and adjust all covered water treatment devices, and will perform periodic water analysis. On systems requiring continuous water analysis, an electronic monitoring system will be installed and maintained. The electronic monitoring system will automate the water analysis process, and adjust chemical feed and bleed interval automatically.

1.3 Supplies and Materials - HONEYWELL will provide and maintain all monitoring equipment, and will supply biodegradable chemicals necessary to maintain proper water treatment. All monitoring and application equipment furnished by HONEYWELL will remain the property of HONEYWELL.

1.4 Emergency Service - Should an emergency related to the function of the Water Treatment Services arise, HONEYWELL personnel will assess the situation either by phone or remote diagnostics, or both, and will determine the required course of action with CUSTOMER. If it is determined that a site visit is required, HONEYWELL personnel will arrive at CUSTOMER site within 4 hours. If the resolution of the emergency service call requires HONEYWELL to provide service for equipment that are not listed in Article 1.1 above, CUSTOMER will be liable for charges prevailing for such service.

General Terms and Conditions

1. WORKING HOURS

Unless otherwise stated, all labor and services under this Agreement will be performed during the hours of 8:00 a.m. - 4:30 p.m. local time Monday through Friday, excluding federal holidays. If for any reason Customer requests Honeywell to furnish any labor or services outside of the hours of 8:00 a.m. - 4:30 p.m. local time Monday through Friday (or on federal holidays), any overtime or additional expenses, such as repairs or material costs not included in this Agreement, will be billed to and paid by Customer.

2. TAXES

2.1 Customer agrees to pay the amount of any new or increased taxes or governmental charges upon labor or the production, shipment, sale, installation, or use of equipment or software which become effective after the date of this Agreement. If Customer claims any such taxes do not apply to transactions covered by this Agreement, Customer shall provide Honeywell with a tax exemption certificate acceptable to the applicable taxing authorities.

2.2 Tax-Related Cooperation. CUSTOMER agrees to execute any documents and to provide additional reasonable cooperation to HONEYWELL related to HONEYWELL tax filings under Internal Revenue Code Section 179D. HONEYWELL will be designated the sole Section 179D beneficiary.

3. PROPRIETARY INFORMATION

3.1 All proprietary information (as defined herein) obtained by Customer from Honeywell in connection with this Agreement will remain the property of Honeywell, and Customer will not divulge such information to any third party without prior written consent of Honeywell. The term "proprietary information" means written information (or oral information reduced to writing), or information in machine-readable form, including but not limited to software supplied to Customer which Honeywell deems proprietary or confidential and characterizes as proprietary at the time of disclosure to Customer by marking or labeling the same "Proprietary", "Confidential", or "Sensitive". The Customer shall incur no obligations hereunder with respect to proprietary information which: (a) was in the Customer's possession or was known to the Customer prior to its receipt from Honeywell; (b) is independently developed by the Customer without the utilization of such confidential information of Honeywell; (c) is or becomes public knowledge through no fault of the Customer; (d) is or becomes available to the Customer from a source other than Honeywell; (e) is or becomes available on an unrestricted basis to a third party from Honeywell or from someone acting under its control; (f) is received by Customer after notification to Honeywell that the Customer will not accept any further information. Honeywell acknowledges that the City of Seabrook is subject to the Public Information Act, Texas Government Code Chapter 552, and that following Attorney General review, information may be required to be released to the public.

3.2 Customer agrees that Honeywell may use nonproprietary information pertaining to the Agreement, and the work performed under the Agreement, for press releases, case studies, data analysis, promotional purposes, and other similar documents or statements to be publicly released. The rights and obligations in this Section 3 shall survive expiration or termination of this Agreement.

4. INSURANCE OBLIGATIONS

Honeywell shall, at its own expense, carry and maintain in force at all times from the effective date of the Contract through final completion of the work the following insurance. It is agreed, however, that Honeywell has the right to insure or self-insure any of the insurance coverages listed below:

- (a) Commercial General Liability Insurance to include contractual liability, products/completed operations liability with a combined single limit of USD \$5,000,000 per occurrence. Such policy will be written on an occurrence form basis;
- (b) If automobiles are used in the execution of the Contract, Automobile Liability Insurance with a minimum combined single limit of USD \$5,000,000 per occurrence. Coverage will include all owned, leased, non-owned and hired vehicles.
- (c) Where applicable, "All Risk" Property Insurance, including Builder's Risk insurance, for physical damage to property which is assumed in the Contract.
- (d) Workers' Compensation Insurance Coverage A - Statutory limits and Coverage B-Employer's Liability Insurance with limits of USD \$1,000,000 for bodily injury each accident or disease.

Prior to the commencement of the Contract, Honeywell will furnish evidence of said insurance coverage in the form of a Memorandum of Insurance which is accessible at: <http://honeywell.com/sites/moi/>. All insurance required in this Article will be written by companies with a rating of no less than "A-, XII" by A.M. Best or equivalent rating agency. Honeywell will endeavor to provide a thirty (30) day notice of cancellation or non-renewal to the Customer. In the event that a self-insured program is implemented, Honeywell will provide adequate proof of financial responsibility.

5. HAZARDOUS SUBSTANCES, MOLD AND UNSAFE WORKING CONDITIONS

5.1 Customer has not observed or received notice from any source (formal or informal) of (a) Hazardous Substances or Mold, either airborne or on or within the walls, floors, ceilings, heating, ventilation and air conditioning systems, plumbing systems, structure, and other components of the Site, or within furniture, fixtures, equipment, containers or pipelines in a Site; or (b) conditions that, to Customer's knowledge, might cause or promote accumulation, concentration, growth or dispersion of Hazardous Substances or Mold on or within such locations.

5.2 Honeywell is not responsible for determining whether the Covered Equipment or the temperature, humidity and ventilation settings used by Customer, are appropriate for Customer and the Site except as specifically provided in an attached Work Scope Document.

5.3 If any such materials, situations or conditions, whether disclosed or not, are in fact discovered by Honeywell or others and provide an unsafe condition for the performance of the work or Services, the discovery of the condition shall constitute a cause beyond Honeywell's reasonable control and Honeywell shall have the right to cease the work or Services until the area has been made safe by Customer or Customer's representative, at Customer's expense. Honeywell shall have the right to terminate this Agreement if Customer has not fully remediated the unsafe condition within sixty (60) days of discovery.

5.4 Customer represents that Customer has not retained Honeywell to discover, inspect, investigate, identify, prevent or remediate Hazardous Substances or Mold or conditions caused by Hazardous Substances or Mold.

5.5 Customer is responsible for the containment of any and all refrigerant stored on or about the premises. Customer accepts all responsibility for and agrees to indemnify Honeywell against any and all claims, damages, or causes of action that arise out of the storage, consumption, loss and/or disposal of refrigerant, except to the extent Honeywell has brought refrigerant onsite and is directly and solely negligent for its mishandling.

6. WARRANTY

6.1 Honeywell will replace or repair any product Honeywell provides under this Agreement that fails within the warranty period of one (1) year because of defective workmanship or materials, except to the extent the failure results from Customer negligence, fire, lightning, water damage, or any other cause beyond the control of Honeywell. This warranty is effective as of the date of Customer acceptance of the product or the date Customer begins beneficial use of the product, whichever occurs first, and shall terminate and expire one (1) year after such effective date. Honeywell's sole obligation, and Customer's sole remedy, under this warranty is repair or replacement, at Honeywell's election, of the applicable defective products within the one (1) year warranty period. All products repaired or replaced, if any, are warranted only for the remaining and unexpired portion of the original one (1) year warranty period.

6.2 EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6.1, HONEYWELL MAKES NO REPRESENTATIONS OR WARRANTIES, WHETHER WRITTEN, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE AND ANY AND ALL WARRANTIES REGARDING HAZARDOUS SUBSTANCES OR MOLD. NO EXTENSION OF THIS WARRANTY WILL BE BINDING UPON HONEYWELL UNLESS SET FORTH IN WRITING AND SIGNED BY HONEYWELL'S AUTHORIZED REPRESENTATIVE.

6.3 Honeywell shall have no duty, obligation or liability, all of which Customer expressly waives, for any damage or claim, whether known or unknown, including but not limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, adverse health effect or any special, consequential, punitive, exemplary or other damages, regardless of whether such damages may be caused by or otherwise associated with defects in the Services, in whole or in part due to or arising from any investigation, testing, analysis, monitoring, cleaning, removal, disposal, abatement, remediation, decontamination, repair, replacement, relocation, loss of use of building, or equipment and systems, or personal injury, death or disease in any way associated with Hazardous Substances or Mold.

7. INDEMNITY

HONEYWELL HEREBY AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, DEMANDS, CAUSES OF ACTION, SUITS AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEYS' FEES, FOR INJURY TO OR DEATH OF ANY PERSON, FOR LOSS OF USE OR REVENUE, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE ACTUAL OR ALLEGED MALFUNCTION, DESIGN OR WORKMANSHIP IN THE MANUFACTURE OF EQUIPMENT, THE FULFILLMENT OF CONTRACT, OR THE BREACH OF ANY EXPRESS OR IMPLIED WARRANTIES UNDER THIS CONTRACT. SUCH INDEMNITY SHALL APPLY WHERE THE CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS OR LIABILITY ARISE IN PART FROM (I) THE JOINT NEGLIGENCE OF THE CITY AND THE CONTRACTOR, AND/OR THEIR RESPECTIVE OFFICERS, AGENTS AND/OR EMPLOYEES OR (II) THE SOLE NEGLIGENCE OF THE CONTRACTOR, ITS OFFICERS, AGENTS AND EMPLOYEES. IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH CONTRACTOR AND THE CITY, THAT THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH IS INDEMNITY BY CONTRACTOR TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCE OF (I) THE CITY'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE WITH THAT OF THE CONTRACTOR OF THE INJURY, DEATH OR DAMAGE AND/OR (II) THE CONTRACTOR'S OWN NEGLIGENCE WHERE THAT NEGLIGENCE IS THE SOLE CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE, CAUSE OF ACTION, SUIT AND LIABILITY WHERE IN INJURY, DEATH OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE CITY UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR ENTITY. IN THE EVENT ANY ACTION OR PROCEEDING IS BROUGHT AGAINST THE CITY BY REASON OF ANY OF THE ABOVE, THE CONTRACTOR AGREES AND COVENANTS TO DEFEND THE ACTION OR PROCEEDING BY COUNSEL ACCEPTABLE TO THE CITY. THE INDEMNITY PROVIDED FOR HEREIN SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, (I) IN NO EVENT WILL HONEYWELL BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, STATUTORY, OR INDIRECT DAMAGES, LOSS OF PROFITS, REVENUES, OR USE, OR THE LOSS OR CORRUPTION OF DATA OR UNAUTHORIZED ACCESS TO OR USE OR MISAPPROPRIATION OF DATA BY THIRD PARTIES, EVEN IF INFORMED OF THE POSSIBILITY OF ANY OF THE FOREGOING, AND (II) THE AGGREGATE LIABILITY OF HONEYWELL FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL IN NO CASE EXCEED THE PRICE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS WILL APPLY WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, INDEMNITY, WARRANTY, TORT, OPERATION OF LAW, OR OTHERWISE.

9. EXCUSABLE DELAYS

Honeywell is not liable for damages caused by delay or interruption in Services due to fire, flood, corrosive substances in the air, strike, lockout, disputes with workmen, inability to obtain material or services, commotion, war, acts of God, the presence of Hazardous Substances or Mold, or any other cause beyond Honeywell's reasonable control. Should any part of the system or any Equipment be damaged by fire, water, lightning, acts of God, the presence of Hazardous Substances or Mold, third parties or any other cause beyond the control of Honeywell, any repairs or replacement will be paid for by Customer. In the event of any such delay, date of shipment or performance will be extended by a period equal to the time lost by reason of such delay, and Honeywell will be entitled to recover from Customer its reasonable costs, overhead, and profit arising from such delay.

10. PATENT INDEMNITY

10.1 Honeywell shall, at its expense, defend or, at its option, settle any suit that may be instituted against Customer for alleged infringement of any United States patents related to the hardware or software manufactured and provided by Honeywell under this Agreement ("the equipment"), provided that a) such alleged infringement consists only in the use of such equipment by itself and not as part of, or in combination with, any other devices, parts or software not provided by Honeywell hereunder, b) Customer gives Honeywell immediate notice in writing of any such suit and permits Honeywell, through counsel of its choice, to answer the charge of infringement and defend such suit, and c) Customer gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit.

10.2 If such a suit has occurred, or in Honeywell's opinion is likely to occur, Honeywell may, at its election and expense: a) obtain for Customer the right to continue using such equipment; b) replace, correct or modify it so that it is not infringing; or if neither a) or b) is not reasonable then c) remove such equipment and grant Customer a credit therefore, as depreciated.

10.3 In the case of a final award of damages in any such suit, Honeywell will pay such award. Honeywell will not, however, be responsible for any settlement made without its written consent.

10.4 THIS ARTICLE STATES HONEYWELL'S TOTAL LIABILITY AND CUSTOMER'S SOLE REMEDY FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT BY THE HARDWARE MANUFACTURED AND PROVIDED BY HONEYWELL HEREUNDER.

11. SOFTWARE LICENSE

All software provided in connection with this Agreement shall be licensed and not sold. The end user of the software will be required to sign a license agreement with provisions limiting use of the software to the equipment provided under these specifications, limiting copying, preserving confidentiality, and prohibiting transfer to a third party. Licenses of this type are standard for computer-based equipment of the type covered by this Agreement. Customer shall be expected to grant Honeywell access to the end user for purposes of obtaining the necessary software license.

12. DISPUTE RESOLUTION

With the exception of any controversy or claim arising out of or related to the installation, monitoring, and/or maintenance of fire and/or security systems, the Parties agree that any controversy or claim between Honeywell and Customer arising out of or relating to this Agreement, or the breach thereof, will be settled by arbitration in a neutral venue, conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Any award rendered by the arbitrator will be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Any controversy or claim arising out of or related to the installation, monitoring, and/or maintenance of systems associated with security and/or the detection of, and/or reduction of risk of loss associated with fire will be resolved in a court of competent jurisdiction.

13. ACCEPTANCE

This proposal and the pages attached shall become an Agreement upon signature above by Honeywell and Customer. The terms and conditions are expressly limited to the provisions hereof, including Honeywell's General Terms and Conditions attached hereto, notwithstanding receipt of, or acknowledgment by, Honeywell of any purchase order, specification, or other document issued by Customer. Any additional or different terms set forth or referenced in Customer's purchase order are hereby objected to by Honeywell and shall be deemed a material alteration of these terms and shall not be a part of any resulting order.

14. MISCELLANEOUS

14.1 This Agreement represents the entire Agreement between Customer and Honeywell for the Work described herein and supersedes all prior negotiations, representations or Agreements between the Parties related to the work described herein.

14.2 None of the provisions of this Agreement shall be modified, altered, changed or voided by any subsequent Purchase Order or other document unilaterally issued by Customer that relates to the subject matter of this Agreement. This Agreement may be amended only by written instrument signed by both parties.

14.3 This Agreement is governed by the law of the State where the work is to be performed.

14.4 Any provision or part of this Agreement held to be void or unenforceable under any laws or regulations will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Honeywell and Customer, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

14.5 Customer may not assign or transfer its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of Honeywell. Honeywell may assign or transfer this Agreement, in whole or in part, or any of its rights or obligations under this Agreement without consent.

14.6 Notwithstanding any other provision of this Agreement or any other agreement and to the extent permitted by applicable law, Honeywell and its affiliates may, in any country in which they or their agents or suppliers conduct business, during and after the term of this Agreement, (a) collect, transmit, receive, process, maintain, modify, and use for any purpose, and disseminate, disclose, license, and sell in anonymized or aggregated form, all data and information obtained in connection with this Agreement, and (b) assign or transfer the rights under this Section 14.6. To the extent required by Honeywell, Customer will enable Internet connectivity between its applicable system(s) and the Honeywell Sentience™ cloud platform, or other Honeywell-utilized system(s), and hereby consents to such connectivity throughout the term of this Agreement. This Section 14.6 shall survive expiration or termination of this Agreement.

15. COVERAGE

15.1 Customer agrees to provide access to all Equipment covered by this Agreement. Honeywell will be free to start and stop all primary equipment incidental to the operation of the mechanical, control, automation, and life safety system(s) as arranged with Customer's representative.

15.2 It is understood that the repair, replacement, and emergency service provisions apply only to the Equipment included in the attached List of Covered Equipment. Repair or replacement of non-maintainable parts of the system such as, but not limited to, ductwork, piping, shell and tube (for boilers, evaporators, condensers, and chillers), unit cabinets, boiler refractory material, heat exchangers, insulating material, electrical wiring, hydronic and pneumatic piping, structural supports and other non-moving parts, is not included under this Agreement. Costs to repair or replace such non-maintainable parts will be the sole responsibility of Customer.

15.3 Honeywell will not reload software, nor make repairs or replacements necessitated by reason of negligence or misuse of the Equipment by persons other than Honeywell or its employees, or caused by lightning, electrical storm, or other violent weather or by any other cause beyond Honeywell's control. Honeywell will provide such services at Customer's request and at an additional charge. Customer is entitled to receive Honeywell's then current preferred-Customer labor rates for such services.

15.4 Honeywell may install diagnostic devices and/or software at Honeywell's expense to enhance system operation and support. Upon termination of this Agreement, Honeywell may remove these devices and return the system to its original operation. Customer agrees to provide, at its sole expense, connection to the switched telephone network for the diagnostic devices and/or software.

15.5 Honeywell will review the Services delivered under this Agreement on an annual basis, unless otherwise noted.

15.6 This Agreement assumes that the systems and/or Equipment included in the attached List of Covered Equipment are in maintainable condition. If repairs are necessary upon initial inspection or initial seasonal start-up, repair charges will be submitted for approval. Should these charges be declined, those non-maintainable items will be eliminated from coverage under this Agreement and the price adjusted accordingly.

15.7 In the event that the system or any equipment component thereof is altered, modified, changed or moved, this Agreement may be immediately adjusted or terminated, at Honeywell's sole option. HONEYWELL is not responsible for any damages resulting from such alterations, modifications, changes or movement.

15.8 Honeywell is not responsible for maintaining a supply of, furnishing and/or replacing lost or needed refrigerants not otherwise expressly required under this Agreement. Customer is solely responsible for the cost of material and labor of any such refrigerant not otherwise provided for under this Agreement at current market rates.

15.9 Maintenance, repairs, and replacement of Equipment parts and components are limited to restoring to proper working condition. Honeywell is not obligated to provide replacement software, equipment, components and/or parts that represent a significant betterment or capital improvement to Customer's system(s) hereunder.

15.10 Unless otherwise specified, Customer retains all responsibility for maintaining LANs, WANs, leased lines and/or other communication mediums incidental or essential to the operation of the system(s) or Equipment found included in the attached List of Covered Equipment.

15.11 Customer will promptly notify Honeywell of any malfunction in the system(s) or Equipment covered under this Agreement that comes to Customer's attention.

16. TERMS OF PAYMENT

16.1 Subject to Honeywell's approval of Customer's credit, Customer will pay or cause to be paid to Honeywell the full price for the Services as specified on the first page of this Agreement. Honeywell will submit annual invoices to Customer in advance for Services to be performed during the subsequent billing period, and payment shall be due within thirty (30) days after Customer's receipt of each such invoice. Payments for Services past due more than five (5) days shall accrue interest from the due date to the date of payment at the rate of one and one-half percent (1.5%) per month, compounded monthly, or the highest legal rate then allowed. Customer will pay all attorney and/or collection fees incurred by Honeywell in collecting any past due amounts.

16.2 **Price Adjustment.** Honeywell may annually adjust the amounts charged to Customer under this Agreement, and Customer will pay to Honeywell such adjusted amounts in accordance with Section 16.1 and the other applicable provisions of this Agreement.

17. TERMINATION

17.1 Customer may terminate this Agreement for cause if Honeywell defaults in the performance of any material term of this Agreement, or fails or neglects to carry forward the Services in accordance with this Agreement, after giving Honeywell written notice of its intent to terminate. If, within thirty (30) days following receipt of such notice, Honeywell fails to cure or perform its obligations, Customer may, by written notice to Honeywell, terminate this Agreement.

17.2 Honeywell may terminate this Agreement for cause (including, but not limited to, Customer's failure to make payments as agreed herein) after giving Customer written notice of its intent to terminate. If, within thirty (30) days following receipt of such notice, Customer fails to make the payments then due, or otherwise fails to cure or perform its obligations, Honeywell may, by written notice to Customer, terminate this Agreement and recover from Customer payment for Services performed and for losses sustained for materials, tools, construction equipment and machinery, including but not limited to, reasonable overhead, profit and applicable damages.

17.3 **Cancellation** - This Agreement may be canceled at Honeywell's option in the event Honeywell equipment on Customer's premises is destroyed or substantially damaged. Likewise, this Agreement may be canceled at Customer's option in the event Customer's premises are destroyed. In the event of such cancellation, neither party shall be liable for damages or subject to any penalty, except that Customer will remain liable for Services rendered to the date of cancellation.

18. DEFINITIONS

18.1 "Hazardous substance" includes all of the following, whether naturally occurring or manufactured, in quantities, conditions or concentrations that have, are alleged to have, or are believed to have an adverse effect on human health, habitability of a Site, or the environment: (a) any dangerous, hazardous or toxic pollutant, contaminant, chemical, material or substance defined as hazardous or toxic or as a pollutant or contaminant under state or federal law, and (b) any petroleum product, nuclear fuel or material, carcinogen, asbestos, urea formaldehyde, foamed-in-place insulation, polychlorinated biphenyl (PCBs), and (c) any other chemical or biological material or organism, that has, is alleged to have, or is believed to have an adverse effect on human health, habitability of a Site, or the environment.

18.2 "Mold" means any type or form of fungus or biological material or agent, including mold, mildew, moisture, yeast and mushrooms, and any mycotoxins, spores, scents, or by-products produced or released by any of the foregoing. This includes any related or any such conditions caused by third parties.

18.3 "Covered Equipment" means the equipment covered by the Services to be performed by Honeywell under this Agreement, and is limited to the equipment included in the respective work scope attachments.

18.4 "Services" means those services and obligations to be undertaken by Honeywell in support of, or to maintain, the Covered Equipment, as more fully detailed in the attached work scope document(s), which are incorporated herein.

Inclusions:

1. Wherever there are conflicting terms, City of Seabrook Bid Document 2019-03 is the prevailing document for this agreement.
2. In the event that the terms of this Agreement and/or the prevailing document conflict with the public purchasing laws of the State of Texas, those laws will prevail.

Exclusions:

1. Non-Maintainable parts listed:
 - a. Rusted cabinet
 - b. Condenser fin deterioration from salt air or prior cleaning
 - c. Holes in drain pan

Equipment to be covered:

1. See City of Seabrook bid document 2019-03 HVAC Maintenance for list of covered equipment not listed above.