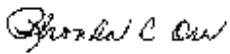




March 3, 2011		AGENDA ITEM		Item 10
<input type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input checked="" type="checkbox"/> Other
Department: Financial and Administrative Services		File Number: VC-1296223946688-A		
Division: Central Services				
Subject: Contract with Control System Specialists, Inc., a single source provider of energy management and control system				
Account Number(s): Buildings and structures 001-870-4200-6200 for \$225,000.00				
Total Item Budget: \$225,000.00				
Staff Contact(s): George Baker Phone: 254-1595 ext. 1850 Charles Hargrove Phone: 736-5950 ext. 2530 Rhonda Orr Phone: 943-7054 ext. 7054				
Summary/Highlights: In 2004, county council approved the standardization of Alerton HVAC Controls and single sourced all parts and service with Control System Specialists, Inc.(CSSI), Tampa, Florida. CSSI is the only authorized dealer of Alerton systems in Central Florida. Funds are available in the current budget to replace 195 variable air volume (VAV) controls in the TCK building. The VAV controls are being changed from pneumatic to electronic which will allow staff to automate and monitor the HVAC controls remotely via networked building automated controls (BACnet). This standardization will result in improved energy efficiency.				
Recommended Motion: Approval.				
Rhonda Orr, Deputy Director Director Financial and Administrative Services  Jeaniene Jennings Director Purchasing No Signature Present	OMB No Signature Present Approved as to Budget Requirements	Legal  Approved as to Form and Legality	Betty Holness County Manager's Office  Approved Agenda Item For: March 3, 2011	
Council Action:		Modification:		
<input type="checkbox"/> Approved as Recommended <input type="checkbox"/> Approved With Modifications <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued Date:				

Summary/Highlights Continued:

Staff is requesting approval of the attached contract with CSSI for a contract term of five years.



**CONTRACT FOR ENERGY MANAGEMENT
AND CONTROL SYSTEM**

Between

THE COUNTY OF VOLUSIA

AND

CONTROL SYSTEM SPECIALISTS, INC.

County of Volusia
Purchasing & Contracts Division
123 West Indiana Avenue, Suite 302
DeLand, Florida 32720-4608
(386) 736-5966

CONTRACT FOR ENERGY MANAGEMENT AND CONTROL SYSTEM (EMCS)

This Contract for Energy Management and Control System (EMCS) made and entered by and among **Control System Specialist, Inc. or C.S.S.I.**, a corporation duly authorized to conduct business in the State of Florida, whose principal place of business is located at 2430 U. S. Highway 301 South, Tampa, Florida 33619 (hereinafter "**Contractor**"); and the County of Volusia, a body corporate and politic and a subdivision of the State of Florida, whose address is County of Volusia, 123 West Indiana Avenue, DeLand, Florida 32720 (hereinafter the "**County**").

WITNESSETH:

WHEREAS, the County requires a competent and qualified contractor to provide services in support of the County's operations;

WHEREAS, the County has requested and received expressions of interest for the retention of services of contractor;

WHEREAS, the County has determined that the Contractor is fully qualified to render the required service. Among the factors considered in making this finding were the capabilities, adequacy of personnel, past record, and experience of the firm or individual;

WHEREAS, Honeywell International, Inc., d/b/a Alerton, a foreign profit corporation, has assured the County in a letter dated July 2, 2010, (attached hereto as Exhibit D), that it will provide corporate support necessary to ensure the performance or work or services in the Contract documents, in the event CSSI fails to perform its obligations under this Contract. As a result, the County was induced to enter into this Contract with C.S.S.I.

WHEREAS, it has been determined that the execution of this Contract is beneficial to the people of the County of Volusia, Florida; and,

WHEREAS, the County seeks a contractor qualified to provide Building Automation Controls (BAS) and related energy management equipment needs to the County.

NOW, THEREFORE, in consideration of the foregoing recitals which are material, true and incorporated herein by reference, and other specific consideration set forth in this Contract, the receipt and sufficiency of which is acknowledged by the Contractor and County, the parties agree and stipulate as follows:

1. DEFINITIONS

- 1.1. **Acceptance:** A signed document indicating that a Deliverable meets the Acceptance Criteria specified in the Contract, or deemed acceptance.
- 1.2. **Acceptance Criteria:** Measure by which a Deliverable or set of Deliverables shall be approved.
- 1.3. **Addendum:** A written explanation, interpretation, change, correction, addition, deletion, or modification affecting the contract documents, including drawings and specifications approved by the County and issued by the County or Contractor and/or distributed to third parties.
- 1.4. **Affidavit:** The instrument which is to be signed by the Contractor and submitted to the County upon the County's request through the Project Manager, upon completion of that job, showing that all bills have been paid. It shall also mean such instrument that may be requested by the County incidental to partial payments. Affidavit may also describe any required signed, sworn

and notarized statement.

- 1.5. **After Hours:** Any work requested outside of regular business hours of 7:00 a.m. through 5:00 p.m., Monday through Friday, except County recognized holidays, is considered after hours.
- 1.6. **Agency:** The state, a state agency, a municipality, a political subdivision, a school district, or a school board. The term "agency" does not extend to a nongovernmental developer that contributes public facilities to a political subdivision under Sections 380.06 or 163.3220-163.3243 of the Florida Statutes.
- 1.7. **Agreement:** This Agreement between the County and Contractor, covering the services requested.
- 1.8. **Amendment:** An amendment to this Contract in writing by the County, approved by the Director of Purchasing, and signed by an authorized representative of the County authorizing an addition, deletion, or revision in the scope of services, or an adjustment in the Contract price or the time for completion issued after execution of this Contract.
- 1.9. **Calendar day:** Any day, including Saturdays, Sundays, and holidays, regardless of weather conditions.
- 1.10. **Change Order:** A written order to the Contractor, signed by an authorized representative of the County, authorizing an addition, deletion, or revision in the work, or an adjustment in the contract price or time.
- 1.11. **Compensation:** The amount to be paid by the County to the Contractor for professional services regardless of whether stated as compensation or stated as hourly rates, overhead rates, or other figures or formulas from which compensation can be calculated, which includes the total monies payable to the Contractor under this Contract, and which further includes all services, labor, materials, supplies, travel, training, profit, overhead, costs, expenses, and any other costs necessary to complete this Contract.
- 1.12. **Completion Date:** The date that the County or its designated representative approves and accepts all Work or Services for a Scope of Services in this Contract.
- 1.13. **Contract:** This Agreement including its Scope of Services and any attachments or Contract Documents.
- 1.14. **Contractor:** That person or entity, including employees, servants, partners, principals, agents and assignees of the person or entity that has submitted a bid proposal for the purpose of obtaining business with the County to provide the product and/or services set forth herein and is properly licensed and certified. The Contractor performing the work or services under this Contract is Control System Specialists, Inc. or C.S.S.I.
- 1.15. **Contractor's services:** Those services within the Scope of Services of this Contract or any exhibit, attachment or addendum thereto which relates to the General Scope of Services in Section 3.1 in connection with the Contractor's employment or practice.
- 1.16. **Contract Administrator:** The Director of Purchasing and Contracts or designee shall serve as Contract Administrator. The Contract Administrator shall be responsible for addressing any concerns within the scope of the contract. Any changes to the resulting contract shall be made in writing and authorized by the Director of Purchasing and Contracts.

- 1.17. Contract Documents:** Contract Documents shall include, but are not limited to the following: (1) this Contract and Exhibits “A” - “C”, (2) certificates of insurance, (3) Notice of Award and/or Notice to Proceed, (4) the conditions of this Contract (general, special, supplementary, and other), (5) drawings, (6) job specifications, (7) written interpretations, (8) change orders, (9) project manuals, (10) addenda (including RSQs, RFPs and the Contractor’s responses to RFPs) issued before the execution of this Contract, and, (11) any modifications or amendments to this Contract issued after execution.
- 1.18. County Representative:** Also known as the person designated by the County to review, approve and make decisions regarding the Scope of Services in this Contract.
- 1.19. County:** The County of Volusia, Florida, a political subdivision of the State of Florida for whom the work is to be performed.
- 1.20. Deliverable:** The result(s) or end product(s) or service(s) of a Project that meet the defined plans, specifications, requirements, warranties, and functional parameters articulated in the Scope of Services for this Contract, including but not limited to: design drawings, specifications, studies, reports, written documentation, training, systems or processes.
- 1.21. Effective Date:** The date that this Contract, including any Addendum, Amendment, Modification or exhibits attached thereto, is fully executed by the Contractor and the County.
- 1.22. Final Acceptance:** Shall take place after all Deliverables of the Scope of Services have been delivered, installed, tested, transitioned into service and accepted by the County pursuant to the this Contract.
- 1.23. Final Completion:** **The date, as certified by the County’s Project Manager, when the Project** or this Contract is sufficiently completed to the satisfaction of the County or its designated representative, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it was intended; or if there be no such certification, the date when final payment is due in accordance with this Contract.
- 1.24. Manufacturer:** Honeywell International d/b/a Alerton.
- 1.25. Master Agreement:** The payment vehicle through which the Contractor shall be compensated. This Agreement shall be issued in accordance with the specifications, terms, and conditions of this Contract document and shall be valid for a specified period of time.
- 1.26. Modification:** A written amendment to the Contract Documents approved by the County which includes, but is not limited to, the following:
- 1.26.1. Change Order:** A written order to the Contractor signed by an authorized representative of the County authorizing an addition, deletion, revision in the Work, or an adjustment in the construction, contract price or time, that is issued after execution of the Contract.
- 1.26.2. Field Order:** A written clarification, interpretation, minor change or alteration issued by the Contractor.
- 1.26.3. Addenda:** A written document that is executed by the Contractor and an authorized representative of the County that is added to the original Contract Documents to clarify, revise, add to, or delete from the original Contract Documents or previous addenda. This includes a written clarification or interpretation when executed by authorized

representatives of both Parties.

- 1.27. **Normal Business Hours**: 7:00 a.m. to 5:00 p.m. Monday through Friday, excluding County Recognized Holidays.
- 1.28. **OEM**: Original Equipment Manufacturer. The original equipment manufacturers for this Contract, including Alerton.
- 1.29. **Original Expiration Date**: The date that this Contract was originally intended to expire excluding any extensions or renewals of this Contract for a time certain.
- 1.30. **Owner**: The owner is the County of Volusia, for whom all Work or Services under this Contract are to be performed by the Contractor.
- 1.31. **Person or Persons**: An individual, firm, partnership, corporation, association, executor, administrator, trustee, or other legal entity, whether singular or plural, masculine or feminine, as the context may require.
- 1.32. **Project Manager or County Project Manager**: The County employee who is assigned to the Project and is responsible for the day-to-day administration and coordination of the Project for the County. The County may change the Project Manager at any time by providing notice to the Contractor.
- 1.33. **Scope of Services/Work**: The general services/work, herein defined in this Contract, including responsibility for performing and complying with all incidental matters pertaining thereto pursuant to the Project Specifications and requirements.
- 1.34. **Services**: Those services that are to be performed by the Contractor pursuant to this Contract, more particularly described in Exhibit "A".
- 1.35. **Specifications**: The document that establishes the material and performance requirements or criteria of goods and services.
- 1.36. **State**: State of Florida.
- 1.37. **Subcontractor**: A person or entity, other than the Contractor, that enters into a contract with the Contractor for the performance of any part of this Contract.
- 1.38. **Turnkey Solution**: A complete solution that is supplied, installed, or purchased in a condition ready for immediate use, occupation, or operation within a specified time frame.
- 1.39. **Work**: Any and all obligations, services, duties and responsibilities necessary to the successful completion of the Project assigned to or undertaken by the Contractor under the Contract Documents, including the furnishing of all labor, materials, equipment and other incidentals.

2. EXHIBITS AND SCOPE OF SERVICES

- 2.1. **Exhibits**. The exhibits listed below are incorporated into and made a part of this Contract.
 - 2.1.1. Exhibit "A" - Manufacturer's Sole Source Letter
 - 2.1.2. Exhibit "B" – Scope of Services

2.1.3. Exhibit “C” – Pricing Schedule

2.2. Authority or Contracting.

2.2.1. County enters into this Contract pursuant to Section 2-276(a)(6) Code of Ordinances based upon the sole source letter attached hereto and incorporated herein as Exhibit “A”.

2.3. General Scope of Services. The following general Scope of Services shall be governed by Section 2.4. of this Contract. Eight (8) County facilities currently contain Alerton automated HVAC controls. The Contractor shall provide equipment and installation services as required by this Contract and in Exhibit “B” in accordance with the Scope of Services set forth as follows:

2.3.1. Labor rates: Normal Business hours are Monday through Friday from 7 a.m. to 5 p.m., excluding County recognized holidays. All after hours work must be authorized by the County’s Project Manager for this Contract. All after hours work shall be authorized in writing. The County shall not pay any invoice for after hours labor unless accompanied by said authorization.

2.3.2. The County may provide parts to be installed or may request that the Contractor supply parts. Contractor shall provide the percentage of discount off retail (Manufacturer’s or OEM’s list, whichever is greater) for such parts.

2.3.3. All installation(s), maintenance, and repairs shall be performed in accordance with the manufacturer’s specifications. Contractor shall be an authorized representative of the manufacturer. Contractor shall be an authorized center for warranty and repairs of each product.

2.3.4. Contractor shall be responsible for any damage to serviced equipment, facilities, and personnel due to Contractor’s negligence and/or poor safety procedures at time of service.

2.3.5. All parts furnished by Contractor or Manufacturer for repair, replacement, and service shall be “first use”, new, free of cracks, breaks, wear, dents, corrosion, etc., and of the highest quality.

2.3.6. A designated County employee must sign each installation, maintenance, and/or repair invoice and the employee’s name must also be printed on the invoice.

2.3.7. Each repair, installation, and maintenance invoice shall be itemized and include labor hours charged as well as a list of parts used by part number, including a description, the retail price, and the discounted price.

2.3.8. Prices submitted shall include all labor, materials, supervision, and equipment required by the Contractor.

2.4. Performance Criteria.

2.4.1. All Work or Services shall be performed in accordance with the Contract Documents and shall be approved by the County in writing prior to commencing any Work or Service(s) described herein.

- 2.4.2.** Notwithstanding the General Scope of Services provision set forth in Section 2.3 above, the Scope of Services for a Project shall be set forth with specificity and describe in detail all specifications and requirements, deliverables, additional performance criteria, compensation, the commencement and completion dates, materials, products, equipment, testing, and any other item or criteria required to complete the Work or Services.
- 2.4.2.1.** As a condition precedent to performing work or delivering goods under this Contract, Contractor shall furnish proof acceptable to the County showing that the Manufacturer has obtained from the Florida Division of Corporations a fictitious name registration for its tradename "Alerton" to be authorized to do business with the County using said tradename.
- 2.4.3. Materials.** All materials and/or equipment shall be new, except as otherwise provided in the Contract Documents. Contractor shall furnish satisfactory evidence as to the kind and quality of materials and/or equipment furnished under this Contract.
- 2.4.4. Substitute Materials or Equipment.** If it is indicated in this Contract or the Contract Documents that Contractor may furnish or use a substitute that is equal to any material or equipment specified, and if Contractor wishes to furnish or use a proposed substitute, Contractor shall promptly make written application to the County, prior to substituting any material or equipment in a Project, for approval of such a substitute by the County. Contractor shall certify in writing that the proposed substitute shall satisfy the functional and design specification of the Scope of Services for this Contract; be similar and of equal substance or design criteria to that specified in the Scope of Services be suited to the same use and capable of performing the same function as that specified in the Scope of Services. No substitute shall be ordered or installed without the prior written approval of the County.
- 2.4.5.** All materials and labor necessary to complete the Scope of Services shall be furnished by the Contractor unless the Contract Documents state otherwise. Said materials shall be of good quality and as specified in the Contract Documents; and all Work and labor shall be performed in a good and competent workmanlike manner to the satisfaction of the County.
- 2.4.6.** The Contractor shall provide the Services required herein strictly in an independent contractor relationship with the County, and except as expressly set forth herein, is not, nor shall be, construed to be an agent or employee of the County. Nothing herein shall create any association, partnership, joint venture or agency relationship between them. The County shall not pay for any business, travel, office, or training expense, or any other contract performance expense not specifically set forth in the Scope of Services of this Contract. The Contractor is not exclusively bound to the County and may provide service to other private and public entities as long as the Service by the Contractor for such entities does not conflict with the Contractor's services to the County under this Contract.
- 2.4.7. Changes to Scope of Services.** The County may at any time, by written order, make changes within the general Scope of Services to be performed under this Contract. Except as provided in this Contract otherwise, if any such change causes an increase or decrease in the Contractor's cost of, or the time required for performance of the Project Work or Services, an equitable adjustment shall be made and this Contract shall be amended in writing, signed by authorized representatives of the parties, stating the equitable adjustment. Unless the County grants, in writing, an additional period of time

before the completion of the Contract, any claim by the Contractor for adjustment under this Section must be asserted in writing within thirty (30) days from the date of receipt by the Contractor of the notification of change; otherwise, the claim shall be deemed waived. The Contractor shall then proceed with the prosecution of the Work or Service as changed. Except as otherwise provided in this Contract, no charge for any extra work or materials shall be allowed or approved by the County. No additional work shall be performed or extra materials purchased until a written Change Order has been approved by Contractor and County.

2.4.8. Parts, Materials and Equipment. All parts, materials, or equipment shall be new, not used or reconditioned, and are not of such age or so deteriorated as to impair their usefulness or safety and that the parts, goods, materials, supplies, or components offered are current production models of the respective manufacturer.

2.4.9. The list price multiplier as shown in Exhibit "C" shall be fixed for the life of the contract unless a greater discount becomes available, and at this time Contractor shall pass this savings to the County.

2.4.9.1. Any increase in manufacturer's list price shall be submitted to the County with an explanation of the price increase. The County shall review and may approve the new pricing prior to being charged the increased price.

2.4.10. Emergency Service.

2.4.10.1. In the event of emergency request for service, Contractor agrees to furnish the requested service within twelve (12) hours of receipt of the request.

2.4.11. Minimum Warranty and Parts.

2.4.11.1. Contractor warrants that it is a dully authorized reseller (ASR) of products and goods and that if Contractor is unable to perform its obligations under this Contract or no longer provides services under this Contract, Manufacturer shall authorize a substitute distributor or ASR to replace Contractor under this Contract.

2.4.11.2. Contractor warrants that all standard products delivered under this Contract are warranted to be free from defects in materials and workmanship, under normal use and service, for a period of one (1) year from the date of F.O.B (destination) or for the duration of Manufacturer's or OEMs warranty or as stated in Exhibit "B", which ever is greater.

2.4.11.3. The equipment, products or goods delivered under this Contract are warranted by Contractor to provide the functions, features and capabilities specified and described in this Contract or in the Manufacturer's or OEM's documentation associated with its goods for the purposes of this Contract.

2.4.11.4. Contractor is responsible for the quality, technical accuracy, timely completion and delivery of all deliverables, goods, products, equipment, and services furnished under this Contract.

2.4.11.5. Contractor warrants that the goods furnished under this Contract are merchantable and fit for the particular purpose for which they shall be used by Volusia County under this Contract. Contractor assumes no responsibility for County's negligent or

intentional misuse or abuse of any goods delivered under this Contract.

- 2.4.11.6.** In the event of a conflict between the terms and conditions in Section 2.3 and Exhibit “B”, the terms and conditions in this Section 2.3 shall be controlling.
- 2.4.12. Service.** Contractor shall, provide service and maintenance acquisition of all goods, products or equipment under in this Contract. Contractor is to be an authorized dealer, distributor, and/or representative of the Manufacturer or OEMs for the brand/model on all goods or products used or sold under and for the life of this Contract. Contractor is also required to maintain all certification requirements of Manufacturer or OEMs to service said goods, products, or equipment for the purposes of this Contract. Contractor is required to notify the County of any changes to the certifications, or other industries standards for all equipment covered under this Contract. Contractor is to maintain a normal supply of repair parts and be equipped with personnel and facilities to provide such service as necessary to keep the equipment in operation with a minimum of delay. In addition, all repairs made to equipment shall be original equipment manufactured parts (OEM), and shall be done using authorized and certified repair technicians. All repairs shall be made in compliance with the warranty requirements of the equipment. Failure to meet any or all of the above mentioned requirements may be cause for termination and Contractor may be liable for any actions as a result of not following the terms of service.
- 2.4.13. Shipping and Risk of Loss.** All equipment, goods and materials shipped by or on behalf of Contractor under this Contract shall be F.O.B. Destination. Contractor acknowledges that all provided equipment, goods and materials for the Scope of Services that are shipped or provided to Contractor by or on behalf of the County under this Contract shall be new and shall have been purchased by the County specifically for implementing the Project under this Contract. Contractor acknowledges that any loss or damage during shipment of the equipment, goods, and materials requires that County be made whole with new equipment, goods, and materials of the same type, brand, and quality unless otherwise agreed upon in writing by the County. The valuation of the equipment, goods and materials shall be as “new” and not “used.”
- 2.4.14. Time is of the Essence.** Time is of the essence for all work performed under this Contract.
- 2.4.15.** For each purpose related to this Contract, the Contractor and the Contractor’s subcontractors shall be independent contractors with respect to the County and nothing herein shall create any association, partnership, joint venture or agency relationship between them.
- 2.4.16.** The parties shall exhaust all methods to resolve issues, including but not limited to, the Dispute Resolution (Article 16) procedures set forth in this Contract before any action is taken to declare the County or the Contractor in default.

3. TERM OF CONTRACT

- 3.1.** The term of this Contract shall commence on the Effective Date of this Agreement. This Contract shall be applicable to all of the equipment and installation needs in the Scope of Services identified in Article 2 of this Contract. Unless sooner terminated or extended by the parties as provided herein, this Contract shall commence when this contract is fully executed by all parties, and terminate on December 31, 2015 (“Term”). Upon mutual written agreement of the County, this Contract may be extended by the parties.

3.2. The Work or Services to be rendered by the Contractor shall be commenced, as specified in this Contract as may be issued hereunder, and shall be completed within the time specified herein.

4. PAYMENTS TO THE CONTRACTOR

4.1. The Contractor shall be paid compensation for all Work or Services, including labor and materials, performed under this Contract for each service request pursuant to Pricing Schedule, attached as Exhibit C.

4.1.1. Compensation shall not be adjusted because of errors or omissions which are not the fault of the County in computing the Project costs which result in an increase in the cost of this Contract or because the time for completion varies from the original estimate. In addition, Contractor shall certify that the original cost of work or Compensation for Work and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the cost of work or Compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

4.1.2. **Payments.**

4.1.2.1. **Invoice Detail.** Contractor shall breakdown the request for payment on its invoice by labor hours, by classification, by units, associated rates, any material or subcontracted costs and any indirect rates or costs. All of the above shall sum to the total amount requested. If material or subcontracted costs are submitted, they shall also be broken out in line item detail.

4.1.3. **Invoices.** Invoices or payment requests shall be addressed by Contractor or Manufacturer and submitted to the County's Project Manager.

4.1.4. The County may withhold payment of any specific invoiced charges in a pay request or statement which it disputes in good faith and pay all undisputed charges on the invoice, pay request or statement.

4.1.5. Within forty-five (45) days of acceptance by the County Project Manager of all the Work or Services for which Contractor has submitted the monthly statement of professional services, the Contractor shall be paid the unpaid balance of any money due for any undisputed Work or Services covered by said statement. All payments shall be governed by the Florida Prompt Payment Act.

4.1.6. **Taxes.** County is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for work performed under this Contract.

4.1.7. Pursuant to the terms and conditions articulated in this Contract, an appropriate fee shall be negotiated for the Project or Scope of Services to be performed under this Contract and such fee shall be stipulated, together with the Scope of Services.

4.1.8. **Contractor's Continuing Obligations.** Contractor's obligation to perform the Work in accordance with the Contract Documents shall be absolute. Neither approval of any payment by County to Contractor under the Contract Documents nor any act of acceptance by the County nor any failure to do so, nor any correction of defective work by County shall constitute an acceptance of Work or Services not in accordance with the Contract Documents.

4.2. Pricing Schedule

See Exhibit "C" for Pricing Schedule.

5. TERMINATION

- 5.1.** This Contract may be terminated by the Contractor or County, without cause, upon provision of ninety (90) days prior written notice thereof to either party. After receipt of a Termination Notice, and except as otherwise directed by the County or the County Court, the Contractor shall transfer all active files to the County or the County Court, or Agency designated by the County or the County Court, transfer any funds that have been collected and not yet disbursed, and assist the County and the County Court in an orderly transition.
- 5.2.** The performance of Work or Services under this Contract may be terminated by the County in accordance with this Section in whole, or from time to time in part, upon at least thirty (30) calendar days prior written notice to the Contractor whenever the County shall determine that such termination is in the best interest of the County. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of Work or Services under the Contract is terminated, and the subsequent date upon which such termination becomes effective.
- 5.3.** The County may terminate this Contract immediately for cause (such cause amounting to a material breach of the terms hereof) or for non-appropriation of funds by providing written notice to the Contractor. Notwithstanding the foregoing, County's obligation to pay Contractor is limited to the budgeted amount for this fiscal year approved by the County Council for the then current fiscal year of this Contract and is otherwise limited to legally available non-ad valorem tax revenues.
- 5.4.** After receipt of a Notice of Termination, and except as otherwise directed by the County, the Contractor shall:
 - 5.4.1.** Stop work under the Contract on the date and to the extent specified in the Notice of Termination.
 - 5.4.2.** Place no further orders or subcontracts for materials, services or facilities except as may be necessary for completion of such portion of the work under the Contract as is not terminated.
 - 5.4.3.** Terminate all orders and subcontracts pursuant to this Article to the extent that they relate to the performance of Work or Services terminated by the Notice of Termination.
 - 5.4.4.** Assign to the County, in the manner, at the times and to the extent directed by the County, all of the right, title and interest of the Contractor under the orders and subcontracts so terminated, in which case the County shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
 - 5.4.5.** With the approval of the County and to the extent required by the County, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts. The County's approval of such settlements shall be final for all the purposes of this Article 5. Additionally, transfer title and deliver to the County, in the manner, at the times, and to the extent, if any, directed by the County:
 - 5.4.5.1.** The reports, estimates, other documentation and/or other Work-in-process, completed Work or Services, supplies, and other materials produced as a part of, or acquired in connection with the performance of the Work or Services terminated by

the Notice of Termination; and

- 5.4.5.2.** The completed or partially completed reports, estimates or other documentation which, if the Work had been completed, would have been required to be furnished to the County.
- 5.4.6.** Complete performance of such part of the Work or Services as shall not have been terminated by the Notice of Termination.
- 5.4.7.** After receipt of a Notice of Termination, the Contractor shall submit to the County its termination claim, in the form and with a certification as prescribed by the County. Such claim shall be submitted promptly, but in no event later than thirty (30) days from the effective date of termination, unless one or more extensions in writing are granted by the County, upon request of the Contractor made in writing within such thirty (30) day period or authorized extension thereof. Upon failure of the Contractor to submit its termination claim within the time herein allowed, the County may determine on the basis of information available to it, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.
- 5.4.8.** Subject to the provisions of this Article 5, the Contractor and the County may agree upon the whole, or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of Work or Services pursuant to Article 5, provided that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract price or Compensation as reduced by the amount of payments otherwise made and as further reduced by the payment of Compensation for Work not terminated. As such, the Contract shall be amended accordingly and the Contractor shall be paid the agreed upon amount. Nothing herein prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the County to agree upon the whole amount to be paid to the Contractor by reason of the termination of Work or Services pursuant to this clause shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor.
- 5.4.9.** In the event of the failure of the Contractor and the County to agree as provided in 5.4.8. above upon the whole amount to be paid to the Contractor by reason of the termination of Work or Services pursuant to this Article 5, the County shall pay to the Contractor the amounts determined by the County as follows (but without duplication of any amounts already agreed upon by the parties):

 - 5.4.9.1.** For completed Work or Services accepted by the County, the price or prices or Compensation specified in this Contract for such work, less any payments previously made.
 - 5.4.9.2.** For incomplete Work or Services, the total compensation shall include the total of the following:

 - 5.4.9.2.1.** The costs incurred by the Contractor in the performance of the Work and Services terminated, including initial costs and preparatory expenses allocable thereto, but exclusive of any costs attributable to the Work and Services paid or to be paid for under Section 5.4.8. hereof; and,
 - 5.4.9.2.2.** The cost of settling and paying claims arising out of the termination of Work or Services under subcontracts or orders as provided herein, which are

properly chargeable to the terminated portion of the Contract exclusive of amounts paid or payable on account of work or services delivered or furnished by subcontractors prior to the effective date of termination, which amounts shall be included in the costs payable herein.

5.4.10. If the County terminates this Contract, the County may either take over and complete the Work or Services, or contract with another entity for completion of the Work or Services. In either event, the Contractor shall be liable to the County for any increased cost of the Project reasonably incurred by the County in the process of completing the Contractor's unfinished Work or Services. As such, the County may apply unpaid Compensation due and owing to the Contractor for Work or Services performed by the Contractor prior to the default as a set off against the costs incurred by the County for taking over such Work or Services.

5.5. The right of termination provided to the County and the Contractor herein shall be cumulative of all other remedies available at law.

6. RESPONSIBILITY OF THE CONTRACTOR

6.1. The Contractor's performance of Work/Services shall be to provide Energy Management and Control System (EMCS) equipment and installation services to the County to carry out the activities within the Scope of Services and Contract Documents under the direction of the Project Manager.

6.2. The Contractor shall perform Work or Services required under this Contract, including but not limited to the installation, maintenance and repair of EMCS systems and items described in Exhibit "A". The services of the Contractor shall also include the following:

6.2.1. Unless otherwise provided in this Contract, the Contractor shall furnish, in accordance with the Contract Documents, the Services required for the Project.

6.2.2. The Contractor shall certify in writing to the County that installation, products, goods or equipment therewith conform to the Scope of Services in this Contract and applicable governmental regulations, statutes, and ordinances, including any amendments thereto. Said certification shall be in the form acceptable to the County and made a part of this Contract and incorporated herein by reference.

6.2.3. The Contractor covenants and agrees that there are no obligations, commitments, or impediments of any kind that shall limit or prevent the Contractor's performance of the Work or Services.

6.2.4. The Contractor agrees that it shall not contract for or accept employment for the performance of any work or service with any individual, business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract with the County.

6.2.5. The Contractor covenants and agrees that all of the Work or Services to be furnished by the Contractor under this Contract, from the inception of this Contract until the Work has been fully completed, shall be of the standard and quality that prevail among similarly situated Contractors engaged in the Contractor's profession or practice in the State of Florida under the same or similar circumstances involving the same or similar Service or Work.

- 6.2.6.** The Contractor covenants and agrees that all of the Work or Services to be furnished by the Contractor shall be in accordance with the most current specifications and available technology at the time this Contract is fully executed and as of the time the Contractor delivers to the County the drawings, specifications and/or deliverables. Thereafter, the Contractor shall keep the County informed of any changes or advancements in such specifications or technology occurring any time during the term of this Contract.
- 6.2.7.** The Contractor covenants and agrees as follows:
- 6.2.7.1.** That the Contractor recognizes that its special talent, training, and experience caused the County to select the Contractor to be the prime professional on the Project; and
 - 6.2.7.2.** That the Contractor comprehends the specifications and requirements of the Scope of Services and the use of the same in their entirety to provide the Work or Services; and
 - 6.2.7.3.** That the Contractor possesses the special skills to recognize material errors or omissions that shall make a deliverable fail to perform within the specifications and requirements of the Scope of Services.
- 6.2.8.** The Contractor covenants and agrees that any Work or Service performed by the Contractor and/or its agents and/or subcontractors shall be completed in a competent and workmanlike manner. In addition, Contractor shall apprise County of warnings about known hazards to goods, products, or equipment.
- 6.2.9.** The Contractor covenants and agrees that its duties as set forth herein shall at no time be in any way diminished by reason of any approval by the County of any Work or Services, nor shall the Contractor be released from any liability by reason of such approval by the County, it being understood that the County at all times is ultimately relying on the Contractor's skill, expertise, and knowledge in the installation and/or acquisition of EMCS goods, products or equipment. As such, said approval shall not be a defense to a claim or cause of action for contribution or indemnification by the County.
- 6.2.10.** The Contractor covenants and agrees that its business is duly registered and licensed to conduct business in the State of Florida, that the person(s) executing this Contract is a duly authorized and designated representative of Contractor or Manufacturer, and that those persons who are directly in charge of the professional work being performed under this Contract are duly registered and licensed under Florida law (if applicable) and pursuant to this Contract.
- 6.2.11.** The Contractor covenants and agrees that it shall be liable for all errors and/or omissions proximately caused by Contractor, if any, in judgment relative to the Work or Services performed by them under this Contract.
- 6.2.12.** The Contractor covenants and agrees to call to County's attention anything of any nature in any reports, studies, warranties, bulletins, documentation, safety notices/requirements, specifications, requirements or instructions prepared by the Contractor or data supplied to the Contractor by the County or any other party that the Contractor regards in the Contractor's professional opinion as unsuitable, improper, or inaccurate in connection with the purposes for which Work or Services are performed or goods or products are installed under this Contract.

- 6.2.13.** The Contractor covenants and agrees to furnish efficient business administration of the Project and perform all Work or Services in the most expeditious and economical manner consistent with the standard of care applicable to a person, pursuant to the standard stated in section 6.2.5.
- 6.2.14.** The Contractor covenants and agrees that it shall, at its own cost, make good any defects in its Work or Services as soon as the Contractor becomes aware of such defects or is notified of such defects. Should the Contractor refuse or neglect to make good such defects within a reasonable time after receiving notice requesting such remedial work, then the County, pursuant to this Article 5 herein, shall be entitled to make good such defective Services at the expense of the Contractor and/or terminate this Contract. This commitment by the Contractor is in addition to, and not in substitution for, any other remedy for defective Work or Services that the County may have at law or in equity.
- 6.3. Assurance.** Consistent with the standard in Section 6.28, Contractor gives the County its assurance that all Work or Services performed under this Contract by them shall be performed in a competent and workmanlike manner and in accordance with the specifications and requirements of the Contract Documents and of any inspections (if applicable), tests (if applicable) or approvals required under the Contract Documents. All Work not conforming to the specifications and requirements of the Scope of Services or with the inspections, tests (if applicable) or approvals as set forth in the Scope of Services or Services shall be considered materially defective and constitute a breach of this Contract.
- 6.4. Tests and Inspections.** If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction over the Work or Service performed under this Contract require any Work or Services to specifically be inspected and tested, the Contractor agrees to furnish the County's Project Manager with the required documentation evidencing such testing and inspections, certificates of inspection, testing or approval.
- 6.5.** The Contractor shall be responsible for the professional and technical accuracy of all data, reports and any other service furnished by the Contractor under this Contract. The Contractor shall, without additional cost to the County, correct or revise any errors or deficiencies in its Work or Services for which it is responsible.
- 6.6.** All Work performed by the Contractor including all general provisions, special provisions, job specifications, drawings, addendum, written interpretations, and written orders for minor changes in Work, shall comply with the Scope of Services and all applicable local laws, codes, ordinances and statutes. Work not covered by the Contract Documents shall not be required in a Project unless the County, in its sole discretion, determines that it is required by reasonable inference as being necessary to produce the intended deliverable(s).
- 6.7.** The Contractor shall supervise and direct all Work or Services efficiently and in a competent and workmanlike manner. As such, the Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures for installation and acquisition of deliverables or goods or products. Further, the Contractor shall be responsible for assuring the County that finished deliverables comply accurately with the Contract Documents and specifications of the Scope of Services.
- 6.8.** The Contractor shall issue with reasonable promptness all written clarifications or interpretations regarding the Scope of Services or specifications or requirements of the Scope of Services that the Contractor may determine are necessary, which shall be consistent with or reasonably inferable

from the overall intent of the Contract Documents.

6.9. Concerning Subcontractors.

- 6.9.1.** The Contractor shall not employ any subcontractor, other person, or third party or organization against whom the County may have reasonable objection, nor shall the Contractor be required to employ any subcontractor against whom it has reasonable objection. The Contractor shall not make any substitution for any subcontractor who has been accepted by the County without the County's approval.
- 6.9.2.** The County's disapproval or requirement of removal or replacement of the Contractor's employee or subcontractor shall be deemed for lawful reasons if, in County's reasonable judgment, such Contractor's employee or subcontractor poses a threat or causes harm to the health, welfare, safety, or morale of the County or its agencies, personnel or property or who fails any drug test administered in connection with this Contract, or who has been convicted of a felony or a misdemeanor involving "moral turpitude."
- 6.9.3.** The Contractor shall be fully responsible for all negligent acts and omissions of its subcontractor(s) and of persons directly or indirectly employed by them and of persons for whose negligent acts any of them may be liable to the same extent that it is responsible for the negligent acts and omissions of persons directly employed by it. Nothing in the Contract Documents shall create any contractual relationship between any subcontractor and the County or any obligation on the part of the County to pay or to see to the payment of any money due any subcontractor, except as may otherwise be required by law. The County may furnish to any subcontractor, to the extent practicable, evidence of amounts paid to the Contractor on account of specific work done in accordance with the schedule of values.
- 6.10.** The Contractor agrees to bind specifically every subcontractor to the applicable terms and conditions of the Contract Documents and the terms and conditions of Articles 1, 2 and 13 of this Contract for the benefit of the County.
- 6.11.** The Contractor shall require all subcontractors or outside associates employed in connection with the performance of this Contract to comply fully with the terms and conditions of this Contract between the County and the Contractor.
- 6.12.** Any subcontractors and/or outside firms and/or associates required by the Contractor in connection with the Services covered by this Contract shall be limited to such individuals or Contractors as are specifically identified for each project phase performed under this Contract. Any substitution of such subcontractors, firms or associates shall be subject to the prior written approval of the County Project Manager.
- 6.13.** All subcontractors or agents of Contractor engaged in any of the Work or Services performed pursuant to this Contract shall, at all times and in all places, be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees or agents of the County. The Contractor does not have the power or authority to bind the County in any promise, agreement, or representation other than specifically provided for in this Contract.

7. AUTHORIZATION FOR SERVICES

7.1. **No Guarantee to Perform Projects.** The County makes no covenant or promise as to the number of available Projects, nor that the Contractor shall perform any Project for the County during the life of this Contract. The County reserves the right to contract with other parties for the services contemplated by this Contract when it is determined by the County to be in the best interest of the County.

8. INDEMNIFICATION

- 8.1. Personal Injury and Property Damage.** The Contractor shall, at its own expense, indemnify and hold harmless the County and its public officials (elected and appointed), successors and successors in interest, officers, agents, attorneys, and employees from and against all claims, damages, losses and expenses, including reasonable attorney's fees, caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and its subcontractors or agents performing Work or Services under this Contract, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent act or omission of the Contractor, any of the Contractor's subcontractors, anyone employed by any of them or anyone for whose acts any of them may be liable, regardless of whether it is caused in part by a party indemnified under this Section. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Contract.
- 8.2.** In all claims against the County, or any of its public officials (elected and appointed), successors and successors in interest, officers, agents, attorneys, and employees by any employee of the Contractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.
- 8.3.** The terms "proprietary software," "sensitive information," and "trade secret" shall constitute Confidential Information and shall be that which is defined in and exempt from disclosure pursuant to Section 119, Florida Statutes (as amended) and Article I, Section 24 of the Florida Constitution ("Florida Public Records Laws"), and Section 812, Florida Statutes (as amended) (Hereinafter "Confidential Information"). In addition and for the purposes of this Contract, Confidential Information shall also include confidential information and/or trade secret information disclosed by the Contractor to the County that is expressly identified in writing by the Contractor and its subcontractors. Any Confidential Information provided to the County by the Contractor must be expressly identified in a "Nondisclosure Agreement for Confidential Materials" form which the Contractor may obtain from the County's Purchasing Division.
- 8.3.1.** Confidential Information and/or Trade Secret does not include the following:
- 8.3.1.1.** Information already known or independently developed by the party in possession;
or
 - 8.3.1.2.** Information in the public domain through no wrongful act of the party in possession;
or
 - 8.3.1.3.** Information received by the party in possession from a third party who was free to disclose it; or
 - 8.3.1.4.** Information regularly disclosed to third parties without restriction on disclosure, or information required to be disclosed by law or an order of court of competent jurisdiction.
- 8.4. Confidential Information and Infringement.** If the Contractor is licensing, or developing software (including derivative works) for use by the County, the Contractor grants to the County a perpetual,

fully-paid, non-assignable, non-exclusive, royalty-free license to use the Contractor's software deliverables developed or licensed under this Contract. Said license includes software owned by the Contractor which is furnished under this Contract, for the County's internal use with such use to include the right to modify such deliverable(s) and to create derivative works for such internal use, including without limitation the right to use such deliverable(s)

8.5. If the Contractor is licensing, providing or developing software (or firmware), including derivative works for use by the County, the Contractor agrees to protect, defend and indemnify and hold harmless the County, its agents, officials including elected officials, and employees of the County harmless from and against any and all claims, demands, actions, and causes of action which may arise asserting that all or any part of the Contractor-licensed applications as provided under any software owned by the Contractor and licensed to the County, or provided by the Contractor for use thereof by the County, infringes or misappropriates any third party's United States patent, copyright, any trade secret protected under United States law.

8.5.1. In addition to the foregoing indemnification provision, the Contractor shall also take the following steps to ensure that the County can continually use the software which the Contractor has directly licensed to the County, or provided for use thereof by the County, in substantially the same manner delivered or subsequently enhanced or modified:

8.5.1.1. Promptly replace the allegedly infringing or misappropriated item or items with compatible, functionally equivalent items which are not alleged to be infringing or misappropriated; or

8.5.1.2. Promptly modify the alleged infringing or misappropriated item or items to eliminate the alleged infringement or misappropriation without impairing the County Agency's intended use of licensed applications and/or sublicensed applications in any manner; or

8.5.1.3. Promptly procure the right for the County agencies to continue to use the licensed applications and/or sublicensed applications without modification; and

8.5.1.4. Unless otherwise agreed by the parties, promptly shall mean for the purposes of this Section that the events described herein shall occur in no less than sixty (60) days from the date that notice of the claim is received by the Contractor.

8.6. In the event that the Contractor does not enable the County to use that which the Contractor has delivered through accomplishing one (1) or more of the alternatives set forth above within the aforementioned time period during the term of this Contract, the Contractor shall be in material default of this Contract and subject to the termination provisions of Article 5 - Termination of this Contract.

8.7. If the Contractor is granting a license or develops software for the County under the Scope of Services, it hereby warrants and represents that:

8.7.1. The Contractor is the sole owner of all right, title, and interest in and to the Contractor-licensed software, user manuals and documentation, including all patents, copyrights, copyright rights, trade secrets, trademarks, trade names and all proprietary and intellectual rights and confidential information contained therein, and that it is authorized to enter into this Contract and hereby grants to the County a license (perpetual or any applicable software license agreement owned by the Contractor); and/or

8.7.2. No portion of any license(s) or right(s) granted to the County to use the Contractor's software pursuant to the terms of the applicable software license agreement of the Contractor for any work performed under this Contract violates or is protected by any right, title, interest or similar right of any third person or entity.

8.8. **Payment of the Contractor's Subcontractors.** The Contractor shall save and hold the County harmless from any and all claims or actions by the Contractor's subcontractors for payment of monies such subcontractor(s) claims to be owed by the Contractor for Work or Services performed under this Contract.

8.9. Nothing in this Contract shall create any obligation on the part of the County to pay directly to any subcontractors of the Contractor any monies due to such subcontractor or claims of any subcontractor for amounts owed by the Contractor to any such subcontractor for Work performed under this Contract.

9. LIMITATION OF LIABILITY AND REMEDIES

9.1. **Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes (2010). Notwithstanding anything set forth in any Section of this Contract to the contrary, nothing in this Contract or the Contract Documents shall be deemed as a waiver of immunity or limits of liability of the County beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature, or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages, regardless of the number or nature of claims in **tort, equity or contract**, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Contract or the Contract Documents shall inure to the benefit of any third party for the purpose of allowing any claim against the County which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

9.2. If the Contractor should become entitled to claim damages against the County for breach of contract arising from this Contract or the Contract Documents, the County shall be liable only for the amount of the Contractor's actual direct damages up to the amount of the contract price that is the subject of the claim. In no event shall either party be liable to the other for any incidental, indirect, special, punitive or consequential damages even if the party knew or should have known about the possibility of such damages resulting from violation of any provision of this Contract.

10. COUNTY REPRESENTATIVE

10.1. The Work or Services shall be under the direction of the authorized County Representative, except as limited by the County's Purchasing and Contracts Procedures, who shall have decision authority, subject to the requirements of the County's Purchasing Procedures Manual, for all phases of the Work, including general direction, review, and approval of the Work or Services.

10.2. Neither the County Representative's review, approval or acceptance of, nor payment for, any of the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and shall remain liable to the County for all costs of any kind which were incurred by the County as a result of the Contractor's negligent performance of the services furnished under this Contract.

11. EXPERT WITNESS

11.1. If the County so requests, the Contractor shall serve as an expert or professional witness for the County in any legal proceeding(s) arising in connection with this Contract. The expert or professional witness fee due to the Contractor for said service(s) shall be such reasonable fee negotiated at the time the Contractor is called for such duty.

12. INSURANCE

12.1. The Contractor shall not commence any Work or Services in connection with this Contract until it has obtained all of the following types of insurance in Article 12 and such insurance has been approved by the County. Approval by the County of any policy of insurance shall not, however, relieve the Contractor from its responsibility to maintain the insurance coverage required herein for the entire term of this Contract and for such longer periods of time as may be required under other clauses of this Contract or the Contract Documents. During the term of the Contract, the Contractor shall also be responsible for providing the County with copies of notices of cancellation and/or any other changes in the terms and conditions of the original insurance policies approved by the County.

12.2. At the County's request, the Contractor shall furnish to the County certificates of insurance evidencing the coverages required hereunder. Should the County find it necessary to require copies of the underlying policies, the Contractor shall provide them promptly for the County's review and approval. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification required by these provisions. No work shall be commenced under this Contract until the County has approved these policies. This Contract may be terminated by the County, without penalty or expense, if proof of any insurance required hereunder is not provided to the County for review within thirty (30) days of the date of execution of this Contract.

12.3. All certificates required hereunder must contain language requiring thirty (30) days notification to the insured (unless otherwise agreed to in writing by the parties, but under no circumstance upon less than ten (10) days notice, or as permitted under Florida law) prior to any cancellation(s) or reduction(s) of limits taking effect. Upon receipt of any such notification, the Contractor shall promptly advise the County Purchasing & Contracts and Risk Management Departments of the same and provide the County with a copy of such notification.

12.4. All insurance policies shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of A-, in the "Best Key Rating Guide" published by A.M. Best & Company, Inc.

12.5. **Personal Property.** The Contractor shall secure and maintain during the Contract term, adequate insurance coverage for its own personal property and for the personal property of its employees and agents located on County property, and shall require the same coverage for its subsidiaries and subcontractors and their employees and agents.

12.6. **Worker's Compensation.** The Contractor shall maintain Workers' Compensation Insurance as required by Florida law.

12.7. **Commercial General.** The Contractor shall secure and maintain during the contract term no less than THREE MILLION DOLLARS (\$3,000,000.00) aggregate/ONE MILLION DOLLARS (\$1,000,000.00) per occurrence Commercial General Liability insurance protecting itself, its employees, agents, Contractors or subsidiaries and their employees or agents, for claims for damages caused by personal injury, loss or damage of property and other such causes including what is commonly known as groups A, B, and C (libel, false arrest, slander). Such policies shall

include coverage for claims by any person as a result of actions directly or indirectly related to the employment of such person by the Contractor or any of its subcontractors doing work in connection with this Contract. Public liability coverage shall include either blanket contractual insurance or a designated contract contractual liability coverage endorsement, indicating expressly the Contractor's agreement to hold the County harmless.

12.7.1. Subrogation. Contractor shall subrogate to County the right to sue and recover damages or payments from any party (including insurance carrier) by reason of any claim, demand, suit or settlement arising out of this Contract for any claim for damages including bodily injury, property damage or personal injury of anyone that is covered by commercial general liability insurance.

12.8. Motor Vehicle. The Contractor shall secure and maintain during the contract term, ONE HUNDRED THOUSAND DOLLARS/THREE HUNDRED THOUSAND DOLLARS (\$100,000.00/300,000.00) "Any Auto" limit Business Automobile Liability insurance protecting itself, its employees, agents, subcontractors and/or subsidiaries and their employees or agents, against claims for damages caused by personal injury, loss or damage of property and other such causes.

12.9 Professional Liability. For the professional services provided under this Agreement, the Contractor shall ensure that the Contractor or the Contractor's subcontractor(s) secures and maintains, during the term of this Agreement, Professional Liability insurance coverage with minimum limits of ONE MILLION DOLLARS (\$1,000,000.00). Such policy shall cover all of the Contractor's, or its subcontractor's professional liabilities whether occasioned by the Contractor, its contractors or subcontractor, their agents, or employees. If the Contractor, or its contractor or subcontractor fail to secure and maintain the professional liability insurance coverage required herein, the Contractor shall be obligated to obtain and maintain said insurance as stated in this paragraph, and shall be liable to the County and agrees to indemnify, hold harmless, and defend the County against all claims, actions, losses or damages covered by such insurance. It is the Contractor's responsibility to verify and cause its subcontractors to maintain this coverage in strict accordance with the stipulations of this Agreement. For policies written on a "Claims-Made" basis the Contractor or its subcontractors agree to maintain a retroactive date prior to or equal to the effective date of this Agreement and agrees to require any contractors or subcontractors to maintain comparable insurance coverage for a period not less than three (3) years after the completion of term of this Agreement. The Contractor shall require its subcontractors to purchase a Supplemental Extended Reporting Period ("SERP") with a minimum reporting period of not less than three (3) years in the event a subcontractor's policy is canceled, not renewed, switched to occurrence form, or any other event which triggers the right to purchase the SERP during the life of this Agreement. The contractor's or subcontractor's purchase of the SERP shall not relieve the Contractor, contractors or subcontractors of the obligation to provide replacement coverage. In addition, the Contractor shall require its subcontractors to have the contractor's or subcontractor's carrier to immediately inform the Contractor and the County of Volusia's Risk Management Department of any contractual obligations that may alter its professional liability coverage under this Agreement.

The foregoing notwithstanding, if the County determines that the deductible for any of the foregoing classes or types of insurance may be increased, the County shall not be responsible or liable for paying such deductible(s) or increase **included in this Article 12.**

12.10. Upon request from the County, the Contractor shall furnish copies of the forgoing policies, and any changes or amendments thereto, immediately to the County and the County's Risk Management and Purchasing & Contracts Departments, and prior to the commencement of any contractual obligations set forth herein. The proposed policy shall be subject to the County's

approval and such approval shall not be unreasonably withheld.

- 12.11. The County shall be named as additional insured to the extent of the liabilities assumed by the Contractor under the indemnity provisions set forth in Section 9 of this Contract. The County shall also be named as an additional insured on the Commercial General Liability policy(ies) required herein.

13. LOCAL GOVERNMENT POLICIES

- 13.1. **Public Records Law.** The Contractor acknowledges that the County and the Contractor are required to comply with the Florida Constitution, and Section 119, Florida Statutes (as amended), in the handling of the materials created under this Contract and that said statute controls over the terms of this Contract. To the extent practicable, the County agrees to notify the Contractor of any public records request concerning the Contractor or matters relating to the services provided pursuant to this Contract.
- 13.2. **Financial Records.** The Contractor agrees to maintain such financial records and other records as may be prescribed by the County or by applicable federal and state laws, rules, and regulations. The County shall have the right to audit the books, records, and accounts of the Contractor that are directly related to this Contract. The Contractor shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Contract. The Contractor shall preserve and make available, at reasonable times for examination and audit by the County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Contract for a minimum period of three (3) years after termination of this Contract. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings; provided, however, that it shall be the County's responsibility to notify the Contractor of the pendency of such audit. Any incomplete or incorrect entry in such books, records, and/or accounts shall be a basis for the County's disallowance and recovery of any payment upon such entry. The Contractor shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the Work as well as records of payments received and disbursed for at least five (5) fiscal years. The County, the County Court, the Auditor General, and/or agents thereof shall have access to such books, records, and documents as required in this Section for the purpose of inspection or audit during normal business hours, at the Contractor's place of business, pursuant to Section 948.15(3), Florida Statutes (2010).
- 13.3. **Payments Subject to Appropriation.** Notwithstanding any other term or provision of this Contract to the contrary, the continuation of this Contract beyond a single fiscal year of the County is subject to the appropriation and availability of funds in accordance with Section 129, Florida Statutes (as amended). If at any time funds are not appropriated for the Services and Deliverables provided or to be provided under this Contract, cancellation shall be accepted by the Contractor with thirty (30) days prior written notice, but failure to give such notice shall be of no effect. Termination by the County due to non-appropriation shall be without a termination charge by the Contractor. The County shall not be obligated to pay the Contractor under this Contract beyond the date of termination for non-appropriation except as set forth in Section 5 herein. The County's obligation to pay the Contractor is limited to the budgeted amount for a fiscal year approved by the Volusia County Council for the then-current fiscal year of this Contract, and is otherwise limited to legally available non-ad valorem tax revenues. The Contractor shall have no right to compel the Volusia County Council to appropriate funds for any fiscal year to pay the compensation set forth in Section 4 herein. The cost of the remaining Project shall be the maximum not-to-exceed compensation or the total agreed price of this Contract less all amounts paid and less all amounts on pending undisputed invoices. Unless the parties agree that the

funding allocated for the next fiscal year is adequate for the next fiscal year's Work or Services, either party may terminate this Contract in accordance with the provisions of Section 5 herein.

- 13.4. No Contingent Fees.** The Contractor hereby warrant that neither the Contractor, nor any of their parent or subsidiary corporation(s), have employed or retained any company or persons, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract and that the Contractor has neither paid, nor agreed to pay any person(s), company, corporation, individual, contractor or subcontractor, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the County shall have the right to terminate this Contract, in the County's sole and absolute discretion, without liability and to deduct from the Contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
- 13.5. Changes Due to Public Welfare.** The County and Contractor agree to enter into good faith negotiations regarding modifications to this Contract which may be required in order to implement changes in the interest of the public welfare or due to change in law or Ordinance.
- 13.6. Compliance with Applicable Laws.** The Contractor shall perform their obligations hereunder in accordance with all applicable federal, state and local laws, ordinances, rules, regulations, and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the performance of this Contract. The Contractor shall protect and indemnify the County and all its officers, agents, servants, and/or employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order, or decree caused or committed by the Contractor, its representatives, subcontractors, professional associates, agents, servants, or employees. Additionally, the Contractor shall obtain and maintain, at its own expense, all applicable licenses and permits to conduct business pursuant to this Contract from the federal government, State of Florida, County of Volusia, or municipalities when legally required and shall maintain same in full force and effect during the term of this Contract.
- 13.7. Drug Free Workplace.** The County of Volusia is a drug-free and smoke-free workplace. The Contractor agrees that it shall provide a drug-free environment to its personnel during the term(s) of this Contract and shall comply, subject to the prior receipt thereof, with the County's policies on drug-free and smoke-free work place during the term of this Contract.
- 13.8. Background Checks.** The Contractor understands that certain areas of the County's premises may not be available to the Contractor or the Contractor's personnel without background checks and that such access is not required to perform the services contemplated by this Contract.
- 13.9. Employment of Illegal Aliens.** The Contractor certifies that it does not knowingly or willing, and shall not during the performance of the Contract, employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986, as amended.
- 13.10. Nondiscrimination and Americans with Disabilities Act.** The Contractor shall not unlawfully discriminate against any person in the operations and activities in the use or expenditure of the funds or any portion of the funds provided by this Contract. The Contractor agrees it shall comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any Services funded by the County, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In performing under this Contract, the Contractor agrees that it shall not commit an unfair employment practice in violation of any state or federal law and that it shall not discriminate against any member of the public, employee or applicant for employment for work under this

Contract because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and shall take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability.

13.11. Public Records Law.

13.11.1. The Contractor acknowledges the County's obligations under Article 1, Section 24, Florida Constitution and Section 119, Florida Statutes (as amended) (the Public Records Laws), to release public records to members of the public upon request. The Contractor acknowledges that the County is required to comply with the Public Records Laws in the handling of the materials created under this Contract, and that said laws control the terms of this Contract. The Contractor agrees to comply with all provisions of such Public Record Laws as they apply to the Contractor.

13.12. Disclosure and Conflict of Interest.

13.12.1. The Contractor represents that they presently have no interest and shall acquire no interest, either direct or indirect, which could conflict in any manner with the performance of Work or Services required hereunder, as provided for in Section 112.311, Florida Statutes (2010). The Contractor further represents that no person having any such interest shall be employed by the Contractor for said performance.

13.12.2. Upon execution of this Contract, and thereafter as any changes occur, the Contractor shall notify the County and the County Court of any financial interest it may have in any and all programs utilized by those people placed on probation in Volusia County which the Contractor sponsors, endorses, recommends, supervises, or requires for counseling, assistance, evaluation, or treatment. This provision shall apply whether or not such program is required by statute, as a condition of probation, or is provided on a voluntary basis and requires provision of any and all information available to the Contractor which may assist the County and the County Court in evaluating the various programs and their relationships with the Contractor.

13.12.3. Financial interest includes, but is not limited to: monetary compensation, referral fees, and mutuality of officers, directors or employees.

13.12.4. Contractor represents that is has disclosed an outstanding debt, tax, payment it owes or may owe the County. Contractor agrees that failure to disclose a financial obligation or debt owed to the County prior to the execution of this Contract shall constitute a material breach.

14. DISPUTE RESOLUTION

14.1. The parties to this Contract shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect to this Contract in accordance with the provisions set forth in this Section. The Contractor and the County Project Manager shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution of issues that arise in performance of this Contract and any applicable Scope of Services. Issues shall be escalated to successive management levels as needed.

14.2. If a dispute develops between the parties concerning any provision of this Contract, or the interpretation thereof, or any conduct by the other party under this Contract, and the parties are unable to resolve such dispute within five (5) days, that party, known as the Invoking Party, through its applicable Project Manager, shall promptly bring the disputed matter to the attention of the non-Invoking Party's Project Manager or designated representative, as the case may be, of

the other party in writing (“Dispute Notice”) in order to resolve such dispute.

- 14.3.** Upon issuance of a Dispute Notice, the Project Manager(s) or designated representative(s) shall furnish to each other all non-privileged information with respect to the dispute believed by them to be appropriate and germane. The Project Manager(s) or designated representative(s) shall negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. If such dispute is not resolved by the Project Manager(s) or designated representative(s) within five (5) business days, the Project Manager(s) or designated representative(s) shall escalate the dispute as indicated below.

Business Days	Contractor’s Representative	County Representative
5	Contractor’s Project Manager	County Representative
10	Contractor’s Engagement Manager	Director of Purchasing
10	Contractor’s Business Unit Manager or Designee	Deputy County Manager

- 14.4. Formal Dispute Resolution.** At any point after issuance of a Dispute Notice under this Section, either party may initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Section 44, Florida Statutes (as amended). If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize such termination remedies and commence litigation in a court of competent jurisdiction.

15. FORCE MAJEURE

- 15.1.** Neither party shall be liable for any failure or delay in the performance of its obligations under this Contract (and the failure or delay shall not be deemed a default of this Contract or grounds for termination) if both of the following conditions are satisfied: (i) the failure or delay could not have been prevented by reasonable precautions, and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and (ii) the failure or delay is caused, directly or indirectly, by reason of fire or other casualty, natural disaster, epidemic or accident; strikes or labor disputes; inability to procure raw materials, equipment, power or supplies; war, terrorism or other violence; any law, order, proclamation, regulation, ordinance, demand, or requirement of any governmental agency or intergovernmental body other than a party hereto; or any other act or condition beyond the reasonable control of the non-performing party. Accordingly, the parties further agree that:

15.1.1. Upon the occurrence of an event which satisfies both of the above conditions (a "Force Majeure Event"), the non-performing party shall be excused from any further performance of those obligations under this Contract affected by the Force Majeure Event for as long as (i) the Force Majeure Event continues; and (ii) the non-performing party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

15.1.2. Upon the occurrence of a Force Majeure Event, the non-performing party shall notify the other party within two (2) business days of the failure, or as soon as possible after such failure or delay if the Force Majeure Event prevents compliance within two (2) business days of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event.

15.1.3. In the event of a Force Majeure Event, the time for performance by the parties under the applicable Statement of Work shall be extended for a period of time equal to the time lost by reason of such cause through execution of a Change Order pursuant to the terms of this Contract.

16. CLAIMS NOTICE

16.1. The Contractor shall timely report in writing to the County's Director of Risk Management any incident which it believes might result in claims against the County under any of the coverages mentioned herein.

Name: Risk Management Department
Address: 230 North Woodland Boulevard, Suite 250
DeLand, Florida 32720
Telephone: (386) 736-5963
Fax: (386) 822-5006

17. SUCCESSORS AND ASSIGNS

17.1. The County and Contractor each binds itself and its partners, successors and successors in interest, affiliates, executors, administrators, assigns and legal representatives to the other party to this Contract and to the partners, successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this Contract. Neither the County nor the Contractor shall assign, sublet or transfer any rights under or interest in this Contract without the written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment by the County Council, no assignment shall release or discharge the assignor from any duty or responsibility under this Contract.

18. ADDITIONAL RIGHTS AND REMEDIES

18.1. The rights and remedies of the County provided for under this Contract are in addition to any other rights and remedies provided by law; the County may assert its right of recovery by any appropriate means including, but not limited to, set-off, suit, with-holding, recoupment, or counterclaim, either during or after performance of this Contract.

19. CONTROLLING LAW

19.1. This Contract is to be governed by the laws of the State of Florida. Venue for any litigation between the parties to this Contract shall be in the County of Volusia, Florida and any trial shall be non-jury. Each party agrees to bear its own costs and attorneys fees relating to any dispute arising under this Contract (including mediation or arising under Article 14).

20. MODIFICATIONS TO CONTRACT

20.1. This Contract and any exhibits, amendments and schedules may only be amended, supplemented, modified or canceled by a written instrument duly executed by the parties hereto.

21. NOTICE

21.1. All notice required under this Contract shall be in writing and shall be sent by certified United States Mail or national parcel service, postage prepaid, return receipt requested, or by hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this Section. For the present, the parties designate the following:

In the case of County:	with a copies of legal notices to:
County of Volusia Attn: Director of Purchasing and Contracts Address: 123 W. Indiana Ave., Room 302 DeLand, Florida 32720 Phone: (386) 736-5935 Fax: (386) 736-5972	County of Volusia Attn: County Attorney Address: 123 W. Indiana Ave., Room 301 DeLand, Florida 32720 Phone: (386) 736-5950 Fax: (386) 736-5990
In the case of Contractor:	with a copy of legal notices to:
Control System Specialists Attn: Dick Pressnell Address: 2430 U.S. Highway 301 South Tampa, FL 33619 Phone: (813) 628-0647 Fax: (813) 620-0335	Control System Specialists Attn: Dick Pressnell Address: 2430 U.S. Highway 301 South Tampa, FL 33619 Phone: (813) 628-0647 Fax: (813) 620-0335

22. COMPLETE CONTRACT

22.1. This Contract, together with any exhibits and amendments thereto, and schedules constitute the entire Contract among the County and Contractor, and supersede all prior written and oral understandings. None of the provisions, terms, and conditions contained in this Contract may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

23. AUTHORITY TO PRACTICE

23.1. The Contractor hereby represents and warrants that they have and shall continue to maintain all licenses and approvals required to conduct its business, and that it shall at all times conduct their business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the County upon request and prior to commencing any Work or Services under this Contract.

24. SEVERABILITY

24.1. If any term or provision of this Contract, or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, and the application of such term(s) or provision(s) to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Contract for Energy Management and Control System, the day and year last below written.

CONTRACTOR: Control System Specialists, Inc. (SEAL)

BY: _____
Dick Pressnell, President

Date: _____

ATTEST: _____

COUNTY OF VOLUSIA

BY: _____
Frank T. Bruno, Jr.
County Chair

(SEAL)

Date: _____

ATTEST:

County Council Approval Date: _____

James T. Dinneen
County Manager

-
- Exhibit "A" - Contractor's Sole Source Letter
 - Exhibit "B" - Scope of Services
 - Exhibit "C" - Pricing Schedule
 - Exhibit "D" - Letter of Assurance from Manufacturer

March 3, 2010

County of Volusia
Purchasing Card Administration
123 W. Indiana Ave.
Room 204
DeLand, FL 32724

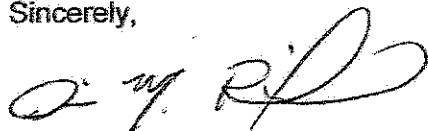
Attn: Ms. Kathy Williams

This letter will serve to confirm the current status of Alerton's Dealer coverage in your area. Alerton control systems are only available through approved Alerton dealers. Control Systems Specialist, Inc. (CSSI) is the exclusive Alerton dealer serving central Florida. CSSI is the only company authorized to sell, install and service Alerton systems in these markets. Additionally, customer service, training, and warranty service for Alerton Systems is only available through approved Alerton Dealers. CSSI has Alerton factory-trained personnel on staff, and has access to proprietary products and information that are part of the Alerton Building Management System.

CSSI has the management, financial and technical resources necessary to install and provide exceptional service for the customers that they serve. During their years as an Alerton dealer, CSSI has demonstrated a consistent pattern of exceptional performance, professionalism, and customer satisfaction. CSSI is also recognized annually as one of the top performing Alerton dealers and we are confident that they will continue to grow their leadership position. CSSI has successfully completed the certified factory-training classes provided for the Alerton systems. This comprehensive training, combined with more than twenty years of Alerton experience makes CSSI a highly qualified provider of Alerton systems.

Thank you for your interest in Alerton and CSSI. We appreciate the opportunity to serve the needs of your facility. It is our goal to help you to achieve the performance goals for your facility and to maintain your system at the highest standards. Please let me know if you have any additional questions. I can be reached at (615) 495-1048 or denis.riordan@alerton.com.

Sincerely,



Denis M. Riordan
Regional Manager
Alerton

ALERTON

6670 185th Avenue NE Redmond, WA 98052

Telephone: (425) 869-8400

Fax: (425) 869-8445

Web site: www.alerton.com

EXHIBIT B – SCOPE OF SERVICES

This scope of work is to establish a contractual relationship with the Energy Management & Control System (EMCS) Contractor authorized as the local manufacturer's representative for Alerton. The authorized EMCS for Alerton in the Central Florida area is Control Systems Specialist, Inc. (CSSI). CSSI shall remain a manufacturer's authorized representative for Alerton Control Systems for the duration of this contract.

Control Systems Specialist, Inc. shall provide all hardware, software, engineering, equipment, technical supervision and labor required for a complete system, including all control devices, wire, conduit, installation, start-up, set up, commissioning, warranty and service to include but not limited to:

1. Complete EMCS for new construction.
2. Retrofit of existing systems.
3. Warranty service and repairs.
4. Wiring schematics in PDF format.
5. Training
6. Energy management technology support and programming.

QUALITY ASSURANCE

- A. CSSI shall be responsible for all EMCS engineering, programming, graphics generation, system set up and cooperation with system commissioning agent related to the EMCS.
- B. CSSI shall have local maintenance capabilities available within Volusia County.
- C. All work shall be performed by specially trained personnel in the direct employ of CSSI who have received special training and are proficient on Alerton's equipment for the required tasks (programming, installation, commissioning, training, etc.). If the County or EDP (Engineering Design Professional) are not satisfied with the quality or have any issues with the personnel assigned to the project, CSSI shall provide other personnel who are acceptable.

WORKMANSHIP

Materials and equipment shall be installed in a professional manner. The EDP or the County may direct replacement of items that, in their opinion, do not present a professional appearance. Replacement or reinstallation of these items shall be at the expense of CSSI.

CODE REQUIREMENTS AND STANDARDS

Work shall be performed in accordance with applicable statutes, ordinances, codes, and regulations of governmental authorities having jurisdiction. Applicable codes include the following

1. American National Standards Institute (ANSI).
2. National Electrical Code (NEC).
3. National Electrical Manufacturers Association (NEMA).
4. National Fire Protection Association (NFPA).
5. Underwriters' Laboratories (UL).
6. Occupational Safety and Health Regulations (OSHA).
7. Local, State and National Codes, Standards and Ordinances.

MATERIALS AND EQUIPMENT

CSSI shall use only new products that Alerton is currently manufacturing and selling for use in new installations. Spare parts shall be available for at least five years after completion of this contract. All software will be backward compatible with existing County Alerton systems.

CLEANING

- A. CSSI shall clean up all debris daily. CSSI shall remove all cartons, containers, crates, etc., as soon as their contents have been removed. Waste shall be collected and placed in a designated location.
- B. At the completion of work in any area, CSSI shall clean all work, equipment, etc., keeping it free from dust, dirt, debris, etc

DAMAGE TO OTHER WORK AND PERSONNEL

- A. CSSI shall adequately protect work, equipment, fixtures, and materials. At work completion, all work shall be clean and in good condition.
- B. CSSI shall carry insurance as required by the County.
- C. CSSI shall pay for all damages caused by CSSI personnel and subcontractors.

WARRANTY

Labor and materials for the EMCS shall be warranted free from defects for a period of twelve (12) months after final completion and County receives beneficial use of the system. EMCS failures during the warranty period shall be adjusted, repaired or replaced at no additional cost or reduction in service to the County. CSSI shall respond to the County's request for warranty and after warranty service within 12 hour of complaint or onsite within 24 hours during normal business hours.

Control Systems Specialists, Inc.

CSSI

January 24, 2011

Kathy Williams Cc: Dick Pressnell
County of Volusia
3811 Tiger Bay Road
Daytona Beach, Florida 32124

Reference: Pricing for complete renovation of EMS and control work in Volusia County buildings per Volusia County agreement

Kathy,

Please find below the County of Volusia pricing, discounts and rates as they apply to Alerton, Belimo, non-Alerton, and all of labor rates as well for referenced work.

Alerton Parts-----List X .30 Multiplier or 70% off of list

Belimo Parts-----List X .39 Multiplier or 61% off of list

Non-Alerton/Belimo----Cost + 25%

Engineering Rate----- \$ 58.50 per hour

Project Manager Rate----- \$ 58.50 per hour

Technician Rate----- \$ 53.50 per hour

Installer Rate-----\$ 43.50 per hour

Sub-contract work----Actual invoice cost plus 15%

Mileage to be billed at .53 per mile.

Freight to be added at actual cost with no mark-up

If you have questions or concerns with this matter please do not hesitate to call, thank you.

Sincerely,

Josh Lemus
Control Systems Specialist, Inc.



July 2, 2010

Mr. Kevin M. Kane
Facilities Supervisor
County of Volusia
123 W. Indiana Avenue
DeLand, FL 32720-4608

Dear Mr. Kane:

Control Systems Specialists, Inc. (CSSI) is a Contractor Partner representing Alerton. As such, CSSI is authorized to sell, engineer, install and service Alerton's building management and direct digital control systems and related HVAC control components. CSSI works with Alerton to provide its customers with cost-effective solutions based on Alerton's high-quality HVAC controls and facility management systems.

Alerton has stringent standards in selecting its dealers to ensure they meet or exceed our customers' requirements. Alerton selected CSSI to represent the product line after it met and exceeded these requirements. These include their proven reputation within the construction industry, financial resources necessary to undertake large projects, and their technical expertise in all facets of building control applications and facility management integrations such as engineering, programming, project management, commissioning and ongoing maintenance. Alerton chose CSSI, in particular, because of their strong presence and quality reputation in the new construction and retrofit control industry. CSSI trains and certifies its staff on the Alerton Building Automation System conducted at Alerton's national training facilities.

As an authorized Alerton Contractor Partner, CSSI has consistently demonstrated a high degree of competence and technical expertise in the implementation and on-going support of Alerton Building Management Systems for over 23 years. They have a proven track record and are consistently one of our top performers. CSSI has complete and full access to Alerton's direct factory technical support as well as all warranties, upgrades and technical enhancements.

Alerton also has technical support as well as Alerton factory design engineers that are available to support CSSI and Volusia County. Denis Riordan, the Alerton Regional Manager will conduct periodic reviews with CSSI and Volusia County to ensure we are meeting or exceeding your expectations of Alerton as a manufacturer.

Additionally, in the unlikely event that CSSI fails to meet your requirements of the contract or your needs as a customer, Alerton will provide corporate support as necessary to coordinate the backup resources required to complete the project. This demonstrates Alerton's complete confidence in CSSI's ability to provide superior Alerton building management solutions to the satisfaction of Volusia County.

ALERTON

6670 185th Avenue NE Redmond Washington 98052 USA

Telephone: (425) 869-8400

Fax: (425) 869-8445

Web site: www.alerton.com

By selecting CSSI you will have one of our strongest integrators as a partner. If I can be of any assistance please do not hesitate to call me at 425-897-3916.

Best Regards,

A handwritten signature in blue ink, reading "Larry K. Haakenstad". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Larry K. Haakenstad
Alerton Director of Sales