ENERGY SERVICES CONTRACT

It is the Intent of both parties to enter into this Energy Services Contract (this "Contract") by and between Schneider Electric Buildings Americas, Inc. (herein referred to as "ESCO") and Webb County ("Customer"), dated August _____, 2017 (the "Date of Commencement") whereby ESCO agrees to provide and perform the energy conservation measures ("ECMs") set forth in the attached schedules and exhibit(s) which are listed below and incorporated fully herein, subject to the terms and conditions set forth herein:

Schedule A: Scope of Work
Schedule B: Performance Assurance Support Services Agreement
Schedule C: Performance Guarantee
Schedule D: Measurement & Verification ("M&V") Plan
Schedule E: Customer Responsibilities for Performance Guarantee
Exhibit A: Performance Assurance Support Services

THIS CONTRACT SHALL BE EXECUTED IN DUPLICATE ORIGINALS

	Webb County		**Schneider Electric Buildings Americas, Inc.**
By	_____ (Signature)	By	_____ (Signature)
Print Name	Tano E. Tijerina	Print Name	_____
Title	Webb County Judge	Title	_____
Date	_____	Date	_____

ATTESTED:

_____
Margie Ramirez-Ibarra
Webb County Clerk

APPROVED AS TO FORM:

_____
Marco A. Montemayor
Webb County Attorney
***By law, the county attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).**

Passed and approved by the Webb County Commissioners Court On August ____ 2017; Item No. _____.

Definitions

1. “Actual Savings” is defined as the sum of the total savings realized using the procedures defined in Schedule D plus all adjustments and non-measured savings.

2. “Annual Savings Guarantee” is the amount of energy savings guaranteed by ESCO for a twelve (12) month period beginning on the Savings Guarantee Commencement Date and any subsequent twelve (12) month anniversary thereafter. For the full 20 years as per the terms and conditions of the PASS agreement as set for herein in attached Exhibit “A”.

3. “Change Order” is defined as a written change in the plans and specifications and/or scope of the Project that has been approved by the Webb County Commissioners and signed by the Webb County Judge and an authorized ESCO representative.

4. "Contract Documents" consist of this Contract with the terms and conditions set forth herein, the Schedules identified above, other documents listed in the Contract and any mutually agreed upon written modification issued after execution of this Contract. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by ESCO. The Contract Documents are correlative and complimentary, and ESCO'S performance shall be required only to the extent consistent with the Contract Documents.

5. “Contract Time” means the number of days necessary to complete the contract measured from the date of commencement.

6. “Date of Commencement” means the date after which the contract is signed by both parties, attested to and filed with the Webb County Clerk’s Office, and/or a written notice to proceed has been issued and delivered by Webb County to ESCO.

7. "Day" as used herein shall mean calendar day unless otherwise specifically designated.

8. “Excess Savings” is the amount of Actual Savings in excess of the Performance Guarantee to date including any savings achieved during construction.

9. “Financing Agreement” means the financing arrangement that Customer will utilize to provide the funds to pay the Contract Sum. (See Article 2)

10. “Final Payment” means the last payment to ESCO; including retainage funds.

11. “Guarantee Year” is the twelve (12) month period beginning on the Savings Guarantee Commencement Date and each subsequent twelve (12) month anniversary thereafter.

12. “Implementation Contract” means those portions of this Contract that refer to the Project.

13. “Performance Guarantee” is the sum of the Annual Savings Guarantee for each year of the guarantee term as set forth in Schedule C or unless terminated earlier in accordance with the Contract Documents.

14. “Performance Period” is defined as the period beginning on the Savings Guarantee Commencement Date and extending through the time period as defined in the Performance Guarantee.

15. "Project" refers to scope of work, as set forth in Schedule A: Scope of Work, made to facilities of Customer.

16. “Retainage Funds” means 10% of the amount that ESCO invoices as part of the Schedule of Values will be retained by Customer until final completion of the Project.

17. “Savings Guarantee Commencement Date” means the first day of the first utility billing period following the month in which ESCO delivers to Customer the project warranty letter.

18. "Substantial Completion" refers to and shall mean the date the individual scopes of work, listed in Schedule A, are implemented in accordance with the Contract Documents that Customer may utilize the Project for the use for which it is intended, and is fully complete except for minor items, adjustments and/or corrections.

19. "Warranty Period" is as defined in Article 4.3, page 5;

20. "Extended Warranty Period" shall be for a term of Ten (10) years, commencing on date of substantial completion, as defined and/or set forth on page 25; and Section 1 (d), page 27.

21. "Work" means the services required by the Contract Documents, whether completed or partially completed and, includes all labor, materials, equipment and services provided or to be provided by ESCO to fulfill ESCO'S obligations. The Work may constitute the whole or a part of the Project.

22. "Weekly Meeting" means a meeting with Webb County that will allow the parties to exchange information in preparation of work to be performed the following week.

Terms and Conditions of Implementation Portion of Contract

Article 1 – Date of Commencement and Substantial Completion

1.1 ESCO projects it will achieve Substantial Completion of the Work within 540 days from Date of Commencement (the "Contract Time"), subject to adjustments of this Contract Time as provided in the Contract Documents.

Article 2 – Contract Sum and Payments

2.1 The total of all implementation contract payments shall not exceed the sum of **$7,773,809.00** (the "Contract Sum"), if the "Customer Controlled Contingency Fund" option amount in the sum of $350,000.00 set forth on page 28 is exercised at the sole discretion of the Customer. Construction progress payments shall be made to ESCO monthly based on Itemized Invoices and a request for payment for work performed for the previous month, see Webb County Phase I Cost Details, as shown on attached Exhibit "1". In the event that the "Customer Controlled Contingency Fund" option amount in the sum of $350,000.00 set forth on page 28 is not exercised at the sole discretion of the Customer, then in that event the contract payments shall not exceed the sum of **$7,423,809.00.**

2.2 In the event that Webb County exercises at its own discretion the option for ESCO to repair or replace defective and/or old, worn out piping while performing the work found in Schedule "A" Scope of Work, titled Customer Controlled Contingency Fund then the total contract payments may be increased by an additional amount not to exceed $350,000.00, for reference see page 28 "Customer Controlled Contingency Fund", then in that event the contract payments shall not exceed the sum of **$7,773,809.00** (the "Contract Sum").

2.3 Construction progress payments shall be made to Schneider Electric based on the percentage completion of items delineated **in an itemized invoice** in relation to the Schedule of Values completed during the prior month. The Schedule of Values will be developed by Schneider Electric and provided to Webb County at the beginning of the project implementation. Upon approval of this contract, Schneider Electric will invoice Webb County for work completed. Webb County shall hold a 10% retainage for each amount invoiced.

2.4 For the initial one (1) year beginning at the Savings Guarantee Commencement Date, Customer shall receive the services as described in the Performance Assurance Support Services Agreement ("PASS Agreement") at no additional cost. Thereafter, the PASS Agreement shall automatically renew for a period of one (1) year, subject to annual commissioners court approval, whereby Customer can maintain the current service or upgrade the level of service as provided for in Schedule B.

2.5 Payments may be withheld on account of (1) Defective Work not remedied, (2) claims filed by third parties, (3) failure of ESCO to make payments properly to the "Subcontractor(s)" or for labor, materials or equipment, or (4)

repeated failure to carry out the Work in accordance with the Contract Documents. A 10%, (Ten Percent) retainage on each progress payment due under the contract shall be held by Webb County until the final inspection by either the Webb County Engineer or Webb County Inspector verifies the completion and utilization of the Project.

2.6 Final payment shall not become due until final inspection by the Webb County Engineer or Webb County Inspector and ESCO has delivered to Customer a complete release of all liens arising out of this Contract covering all labor, materials, and equipment for which a lien could be filed, or a bond satisfactory to Customer to indemnify Customer against such lien. This paragraph is subject the final approval and inspection by the Webb County Engineer or Webb County Inspector/Agent.

2.7 The making of final payment shall not constitute a waiver of claims by Customer arising from (1) liens, claims, security interests or encumbrances arising out of the Contract and which are unsettled, (2) failure of the Work to comply with the requirements of the Contract Documents, or (3) terms of special warranties required by the Contract Documents.

Article 3 – Customer

3.1 Except for permits and fees, which are the responsibility of ESCO under the Contract Documents, Customer shall secure and pay for necessary approvals, easements, assessments and charges required for the use or occupancy of permanent structures or permanent changes in facilities.

3.2 If within the Warranty Period, ESCO fails to correct Work that is not in material accordance with the requirements of the Contract Documents ("Defective Work") or repeatedly fails to carry out the Work in accordance with the Contract Documents, Customer, upon seven (7) days prior written notice to ESCO, and if ESCO does not correct or diligently commence to correct such failure within such notice period, may order ESCO to stop the Work, or any portion thereof, until the cause for such order has been eliminated. However, the right of Customer to stop the Work shall not give rise to a duty on the part of Customer to exercise this right for the benefit of ESCO or any other person or entity.

3.3 ESCO agrees to repair or replace upon written request of customer, as necessary any defective existing equipment that is intended to be reused. See Existing and New Piping Diagrams as shown on attached Exhibits 2(a), Exhibit 2(b) and Exhibit 2(c). Customer may request at its own discretion for ESCO to repair or replace additional piping in the event that Webb County determines it is necessary to allow for the new replacement chillers and cooling system to function and operate properly. Webb County may exercise the option found in Schedule "A" Scope of Work, Customer Controlled Contingency Fund to fund customer requested repairs and replacements, see page 28 and is subject to the price quoted by ESCO in this Agreement.

3.4 Information under Customer's control shall be furnished by Customer with reasonable promptness as requested by ESCO, with regard to the work performed.

3.5 Customer shall notify ESCO in writing of any or all uses or restrictions in usage of all areas of Customer's facility. This information shall be provided at the weekly meeting by Customer that ESCO will request prior to performing work. Such meeting is meant to allow the county to collect information, mobilize and prepare as needed for the Project.

This contract will be subject to the Texas Government Code Section 552: Texas Public Information Act.

Primary Contact:
Name: Aaron Garcia
Title: Senior Account Executive
Phone Number: 956-534-7783
Email: aaron.garcia@schneider-electric.com

Alternate Contact(s)
Name: Kent Kirchstein

Title:	Sales Director
Phone Number:	972-323-4756
Email:	kent.kirchstein@schneider-electric.com

3.6 The foregoing are in addition to any other duties and responsibilities of Customer set forth herein or in this Contract Document, including those duties and responsibilities set forth in Schedule E.

3.7 Sovereign Immunity. This Contract is expressly made subject to Webb County's Sovereign Immunity, Title 5 of the Texas Civil Practices and Remedies Code, and all applicable federal and State laws. The parties expressly agree that no provision of this Contract is in any way intended to constitute a waiver of any immunities from suit or from liability, or a waiver of any tort limitation that the County has by operation of law or otherwise. Nothing in the Contract is intended to benefit any third party beneficiary.

Article 4 – ESCO's responsibilities and duties

4.1 ESCO shall supervise and direct the Work, using ESCO'S skill and attention. ESCO shall be solely responsible for and have control over means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless Contract Documents give other specific instructions concerning these matters. ESCO acknowledges and agrees that Webb County has the right to inspect and review Work performed on the Project.

4.2 Unless otherwise provided in the Contract Documents, ESCO shall provide and pay for labor, materials, tools, equipment and machinery necessary for the proper execution and completion of the Work.

4.3 ESCO warrants to Customer for a period of one (1) year from the date of Substantial Completion that the materials and equipment manufactured by ESCO will be of good quality and new unless the Contract Documents require or permit otherwise. ESCO further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects. Work, materials, or equipment not conforming to these requirements may be considered defective. ESCO'S warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by or for ESCO, improper or insufficient maintenance, improper operation, or normal wear and tear. ESCO shall repair or replace defective material or equipment and re-perform Work to correct any defect within the Warranty Period, at no cost to Customer. ESCO does not warrant products not manufactured by ESCO, but it will pass on to Customer any manufacturer's warranty to the extent permitted.

4.4 Unless otherwise provided in the Contract Documents, ESCO shall pay sales, consumer, use, and other similar taxes which are legally enacted when bids are received or negotiations concluded, whether or not effective or merely scheduled to go into effect, and shall secure and pay for the building permit and other permits, licenses and inspections necessary for proper execution and completion of the Work.

4.5 ESCO shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities bearing on performance of the Work to customer or anyone else as required by law.

4.6 ESCO shall keep the premises and surrounding areas free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, ESCO shall remove from and about Project waste materials, rubbish, ESCO'S tools, equipment, machinery. Surplus Material will be the sole property of Webb County and ESCO shall notify Customer in writing of any and all surplus material remaining.

4.7 ESCO shall provide Customer access to the Work in preparation and progress wherever located.

4.8 ESCO shall pay all royalties and license fees, shall defend suits or claims for infringement or patent rights, and shall hold Customer harmless from loss on account thereof. Customer has no duty and shall not pay anything to defend suits or claims regarding royalties, license fees, infringement or patent rights.

4.9 Except to the extent of the willful misconduct of Customer, or its agents, representatives, employees, officers, directors or assigns, ESCO shall indemnify and hold harmless Customer, and agents and employees thereof from and against all third party claims, damages, losses and expenses, including, but not limited to, reasonable

attorney's fees, arising out of or resulting from performance of the Work provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused in whole or in part by any intentional tort, and/or negligent acts or omissions of ESCO, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable.

Article 5 – Dispute resolution

5.1 To the extent allowed by Texas law, in the event of any suit, litigation, controversy or claim arising out of or relating to this Contract, or Contract Documents, or any breach thereof, Customer and ESCO shall first be required to attempt to resolve any such controversy, claim, litigation and/or dispute in good faith through mediation by the parties and any agreement may be entered in any court having jurisdiction thereof.

5.2 The mediation location shall be in Webb County, Texas.

Article 6 – Subcontracts

6.1 A Subcontractor is a person or entity who has a direct contract with ESCO to perform a portion of the Work at the site.

6.2 Unless otherwise stated in the Contract Documents or the bidding requirements ESCO, if requested in writing by Customer, shall furnish in writing to Customer the names and contact information of the Subcontractors to whom ESCO plans to award Work. Contracts between ESCO and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to ESCO by the terms of the Contract Documents, and to assume all the obligations and responsibilities which ESCO, by the Contract Documents, assumes toward Customer.

Article 7 – Changes in the Work

7.1 Customer may request Change Orders in Work consisting of additions, deletions or modifications, whereby, the Contract Sum and Contract Time shall be adjusted accordingly. Such changes in the Work shall only be authorized by written Change Order that shall be mutually agreed to and shall be required to be approved by a majority of a quorum of the Webb County Commissioners Court and signed by the Webb County Judge and ESCO. The parties shall negotiate in good faith and use their best efforts to execute any Change Order, and any Change Order must be fully executed in writing by the Webb County Judge and ESCO prior to any actual changes being implemented.

7.2 Notwithstanding anything to the contrary contained in the Contract Documents, changes to the Contract Sum and Contract Time shall be changed only by a mutually executed Change Order that has been previously approved by a majority of a quorum of the Webb County Commissioner's Court and signed by the County Judge.

7.3 The cost or credit to Customer from a change in the Work shall be determined by mutual agreement and, in the absence of a mutual agreement being reached within a reasonable amount of time, not to exceed thirty (30) days after the request for such Change Order was made, the cost or credit to Customer shall be decided by the dispute resolution process as provided above in Article 5 of the Contract Documents.

7.4 In the event of any suspension or delay due to the acts or omissions of Customer or Customer directives to stop Work for any reason, through no fault of ESCO, the Contract Time for Substantial Completion shall be extended to reflect such period of interruption and the Contract Sum shall be equitably adjusted to recover ESCO'S costs of demobilization, delay and remobilization related to such suspension or delay. ESCO agrees it will cooperate in good faith with Customer and mitigate such costs to the extent and efforts commercially reasonable. If such suspension or delay continues for more than ninety (90) consecutive days, through no act or fault of ESCO, ESCO may terminate this Contract and recover from Customer payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination. It is understood, acknowledged and agreed to by both parties that Customer will not be liable to ESCO for costs of demobilization, or remobilization due to: weather, acts of God, protest, tortuous interference by third parties or the criminal acts of third parties. In the event the contract is terminated, ESCO will provide Owner a detailed summary of costs for Owner approval to support reasonable

overhead, profit, and/or costs that were incurred by ESCO prior to and as a result of the termination of this agreement.

Article 8 – Time

8.1 The date of Substantial Completion is the date certified by ESCO and Webb County Engineer or Webb County Inspector in accordance with Article 9.3.

8.2 If ESCO is delayed at any time in progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties or any other causes which are beyond the control of ESCO, then the parties hereto agree to execute a Change Order allowing for a mutually agreeable extension of time for performance of ESCO'S Work to cover such delay.

Article 9 – Payments and Completion

9.1 Payments shall be made as provided in Article 2 of the Contract.

9.2 Payments may be withheld on account of (1) Defective Work not remedied, (2) claims filed by third parties, (3) failure of ESCO to make payments properly to the Subcontractors or for labor, materials or equipment, or (4) repeated failure to carry out the Work in accordance with the Contract Documents.

9.3 Upon Substantial Completion, ESCO will issue a certificate of Substantial Completion to Customer. Customer will have the right to inspect and verify substantial completion.

9.4 Final payment shall not become due until ESCO has delivered to Customer a complete release of all liens arising out of this Contract covering all labor, materials, and equipment for which a lien could be filed, or a bond satisfactory to Customer to indemnify Customer against such lien. Final payment of funds will be after Customer has inspected the Project and verified that the Project is functioning for its intended purpose and meets all Contract criteria.

9.5 The making of the final payment shall not constitute a waiver of claims by Customer including those arising from (1) liens, claims, security interests or encumbrances arising out of the Contract and which are unsettled, (2) failure of the Work to comply with the requirements of the Contract Documents, or (3) terms of special warranties required by the Contract Documents.

9.6 ESCO shall have the duty extinguish any liens regarding the Work performed to complete the Project. In the event ESCO fails to extinguish any lien(s), Customer may at its discretion exercise its rights reserved in Article 2, Sections 2.3 – 2.7, set forth on page 3.

Article 10 – Protection of Persons and Property

10.1 ESCO shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. ESCO shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to (1) employees engaged in the Work of the Project and other persons who may be affected thereby, (2) the Work, materials and equipment to be incorporated therein, and (3) other property at the site or adjacent thereto.

10.2 ESCO shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss.

10.3 The scope of work or services to be performed by ESCO pursuant to this Contract, and the compensation to be paid to ESCO hereunder for Work or services performed, expressly exclude any Work or service of any nature associated or connected with the identification, abatement, cleanup, control or removal of environmentally hazardous materials beyond what is specifically defined and identified in Schedule A of this Contract. "Hazardous Materials" to include, but not be limited to, asbestos and PCBs discovered in or on the premises. Customer agrees

that all duties and obligations in connection with any hazardous materials located in or on the premises, other than those defined in Schedule A, are strictly the responsibility of Customer. Customer warrants and represents to the best of Customer's knowledge there are no hazardous materials in or on the premises which will affect, be affected by, come in contact with, or otherwise impact upon or interfere with the Work to be performed by ESCO pursuant to this Contract.

10.4 Should ESCO become aware or suspect the presence of hazardous materials beyond those to be addressed in Schedule A during performance of its Work under this Contract, ESCO will be authorized to cease Work only in the affected area immediately, and will promptly notify Customer of the conditions discovered. Should ESCO stop Work because of the discovery or suspicion of hazardous materials, the time for performance of ESCO'S Work or service will be extended to cover the period required for abatement, cleanup, or removal of the hazardous materials. ESCO will not be held responsible for any claims, damages, costs, or expenses of any kind associated with the period during which ESCO has stopped Work as a result of hazardous materials.

10.5 Customer will be responsible for taking all necessary steps to correct, abate, clean up, or control hazardous materials not addressed by ESCO in Schedule A in accordance with all applicable statutes and regulations.

Article 11 – Insurance AND BONDS

11.1 ESCO shall maintain adequate levels and types of insurance coverage appropriate to its business and profession and as may be required by applicable law and the Contract Documents. Such insurance shall be in companies authorized to do business in the jurisdiction in which the Project is located with an A.M. Best's rating of at least A- VII and as a minimum shall include Workers' Compensation and Employer's Liability at statutory limits, Automobile Liability covering all owned, hired and other non-owned vehicles and Commercial General Liability covering public liability, property damage and completed operations with limits not less than $2,000,000 per occurrence. Certificates of such insurance shall be provided to Customer prior to commencement of the Work. Webb County will be named as an additional named insured party on any applicable Certificate of Insurance.

11.2 If required in the Contract Documents, and upon Customer's request, ESCO at their sole cost and expense shall provide payment and performance bonds issued from a company with an A.M. Best's rating of at least A- VII for 100% of the Contract Sum to secure the faithful performance of the Work, compliance with the terms of this Contract and to insure ESCO'S payment obligations to its Subcontractors and suppliers related to the Work. Notwithstanding any provision to the contrary herein, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of the Contract, and shall not be construed to guarantee the performance of: (1) any efficiency or energy savings guarantees, (2) any support or maintenance service agreement, or (3) any other guarantees or warranties with terms beyond one (1) year in duration from the completion of the installation portion of the Contract.

11.3 In conformance with Texas Local Government Code Sec. 302.003. PAYMENT AND PERFORMANCE BOND. The Contractor is required to execute to Webb County a good and sufficient bond:

a) in an amount equal to one hundred percent (100%) of the approximate total amount of the Contract or;
b) in the total amount specified in the appropriate amendment for each of the Phases identified in the agreement prior to the beginning of services for each phase, or
c) otherwise guaranteeing the full and faithful execution for the performance of the contract, and
d) in accordance with the Contract and Contract Documents, including any extensions thereof, for the protection for Webb County.
e) The Bond shall identify the Principal and the Surety with the Owner. The Principal and Surety shall be identified by their full legal names, addresses, full telephone numbers, and legal status of the parties (i.e. sole proprietorship, general partnership, joint venture, unincorporated association, limited partnership, corporations (general and professional), etc.). The identification of the Owner will be information purposes only. The contract shall describe the services to be provided, date, amount and by official name and identification of the Project. The amount of the Contract and the dollar amount of the performance bond shall be in both written and numerical form. The date of the performance bond shall not be earlier than the Effective Date of the Contract, which is adopted by reference. The bonds must be executed by a corporate surety authorized to do business in the State of Texas in accordance with Article 7.19-1 of the Texas Insurance Code. Each bond must be separately signed by the Principle and the Surety. The parties

executing (signing) the bond should indicate their companies, print their names and titles, and impress the corporate seals, if any.

f) Where appropriate, Contractor shall attach a copy of the resolution by law authorizing the individual to act on behalf of the firm or entity. Evidence of authority to sing on behalf of each party should be obtained. As to the Surety, this usually takes the form of a power of attorney issued by the Surety Company to the agent who signs on its behalf. The bonds must be payable to Webb County, Texas.

g) County will disburse no payment for goods, materials or services provided by Contractor unless a good and sufficient bond written to equal one hundred (100%) of the approximate Contract amount is on file with the County within thirty (30) calendar days after the execution of this Contract.

11.4 The performance bond must clearly and prominently display on the bond or an attachment to the bond the name, mailing address, physical address, and telephone number, including the area code, of the surety company to which any notice of claim should be sent, or the toll-free telephone number maintained by the Texas Department of Insurance under Article 1.35D of the Texas Insurance Code, and a statement that the address of the surety company to which any notice of claim should be sent may be obtained from the Texas Department of Insurance by calling the toll-free number.

11.5 Should the parties extend the Contract for any Subsequent Terms as provided for herein, it will be Contractor's Responsibility to have the Surety Company provide the County confirmation of the existing bond, if applicable.

11.6 Bonds shall be executed by a duly authorized Surety listed in Circular 570 "Surety Companies Acceptable on Federal Bonds published in the Federal Register, U.S. Department of the treasure."

11.7 No surety will be accepted by County who is now in default or delinquent on any bonds or who is interested any litigation against the County.

11.8 Each bond shall be executed by Contractor and Surety. Each Surety shall designate an agent resident in the State of Texas to whom service of process may be had in matters arising out of such surety.

11.9 Premature Termination by ESCO. In the event the Contract, or any part of the Contract, is prematurely terminated due to the non-performance or withdrawal by Contractor, or unilaterally prematurely terminated by Contractor, County reserves the right to seek monetary restitution from the contractor, which will include without limitation, acting on the performance bond, and/or withholding of monies owed to Contractor, to cover costs for interim services and/or to cover the difference between the cost with Contractor under this Contract and the new higher cost to County with other sources for completing the intended performance by Contractor under this Contract. In the event civil suit is filed to enforce this provision, County will seek its reasonable attorney fees and cost of suit from Contractor.

11.10 All bonds shall be delivered to the Webb County Purchasing Agent located at the Webb County Administration Building on 1110 Washington Street Suit 101, Laredo, Texas 78041 within thirty (30) calendar days after the execution of this Contract, or such non-delivery shall constitute a default of this Contract subject to immediate termination at County's sole discretion.

11.11 In the event ESCO does not secure and deliver a performance bond acceptable to County and in accordance with the provisions of this Section, County, at its sole discretion, may immediately terminate this Contract.

11.12 Notwithstanding any provision to the contrary, any payment and performance bonds associated with this Contract guarantee only the performance of the installation portion of the Contract, and shall not be construed to guarantee the performance of: (1) any efficiency or energy savings guarantees, (2) any support or maintenance service agreement, or (3) any other guarantees or warranties with terms beyond one (1) year in duration from the completion of the installation portion for the Contract.

Article 12 – Termination of the Contract

12.1 If Customer fails to make payments to ESCO as required in this Contract, through no fault of ESCO, ESCO may, upon providing Sixty (60) days written notice to Customer, terminate the Contract and recover from Customer

payment for all Work executed and for proven loss with respect to materials, equipment, tools, and machinery, including reasonable overhead, profit and damages applicable to the Project. In the event the contract is terminated, ESCO will provide Owner a detailed summary of costs for Owner approval to support reasonable overhead, profit, and/or costs that were incurred by ESCO prior to and as a result of the termination of this agreement.

12.2 If Customer (1) fails or neglects to maintain Customer responsibilities as set forth in Schedule E, or

12.3 Under the Contract Documents, ESCO may, after delivery of written notice and providing Customer Thirty (30) days to cure, terminate the Contract, including, but not limited to the termination of any obligation of ESCO to provide the Performance Guarantee.

12.4 If ESCO breaches a material provision of this Contract, Customer, after delivery of written notice and providing ESCO seven (7) days to cure such breach, may make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due ESCO.

12.5 Without Cause. This Contract may be terminated in whole or in part, without cause, by either party by providing prior written notice at least thirty (30) calendar days to the other party, or upon such other mutually agreed time period.

12.6 Any remedies provided for in this Article 12, shall not be exclusive of any additional remedies available to a party pursuant to this Contract, in equity or in the law.

Article 13 – Other Conditions or Provisions

13.1 If any provision of this Contract shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

13.2 The work to be performed by ESCO is strictly done as an independent contractor. Nothing herein shall be deemed to establish a relationship of principal and agent between ESCO and Customer, or any of their respective agents or employees, and this Contract and the Contract Documents may not be construed as creating any form of legal association or arrangement that would impose liability upon one party for the act or failure to act of the other party.

13.3 This Contract shall be governed by the laws of the State of Texas.

13.4 As between Customer and ESCO, any applicable statute of limitation shall commence to run and any alleged cause of action shall be deemed to have accrued (1) not later than the date of Substantial Completion for acts or failures to act occurring prior to the relevant date of Substantial Completion, or (2) not later than the date of the relevant act or failure to act by either party for acts or failures to act occurring after the date of Substantial Completion.

13.5 No oral representations, statements, amendments, change orders and/or any other matters relating to this contractual agreement shall be enforceable against Webb County, unless it has been reduced to writing and with prior approval by the Webb County Commissioner's Court. Any and all present, and/or future contractual amendments, revisions, notice to proceed, change orders, shall be required to be in writing with prior approval by a majority of a quorum of the Webb County Commissioner's Court and signed by the Webb County Judge and properly attested to be enforceable.

13.6 This Contract and/or any and all exhibits, schedules, agreements attached hereto, sets forth the entire understanding between the parties and supersedes all prior oral or written understandings relating to the subject matter herein. This Contract may not be altered or modified except by a written instrument signed by a duly authorized representative of each party.

13.7 Any and all energy rebates and/or manufacturing rebates associated with this contract shall be forwarded/paid to Webb County to be the sole property of Webb County.

Schedule A: Scope of Work

Customer hereby acknowledges and agrees that the scope of work shall be limited to, and ESCO shall only perform, the following:

Building Automation System (BAS) Scope of Work

A Schneider Electric Building Automation System (BAS) is to be installed at the facilities listed below. The system will to include control and monitoring parameters as outlined below for each facility. The BAS is to be controllable from a central workstation located on the customer's WAN/LAN (See Schedule E of contract). The central workstation is to be supplied by ESCO (owned by customer), which are to provide continuous access to the system with a user-friendly graphical Windows interface. BAS will have the ability to be accessed via an internet browser for up to 5 simultaneous connections. Web-Enabling will be based on the county's IT criteria. Facilities listed below, but not connected to the county's wide area network will be stand alone and not able to be accessed from the central workstation, local control only. Control zones are to be programmed for temperature setup and temperature setback (as stated in Section II-H of contract) monitoring to be used for enabling areas/units if conditions are outside of parameters during unoccupied periods. Permanent scheduling, daily scheduling, and temporary scheduling capabilities for each control area is provided.

ESCO will provide site-specific on-site training for BAS operation, for a period of one year commencing upon date of substantial completion certification. This includes, but is not limited to, system architecture, controller and override panel operation, service tool usage, control drawings, device replacement, product overview and demonstration, logging on and off, system passwords, screen layout, software toolbars and menus, graphic page navigation and use, scheduling (regular, temporary, and special), and basic troubleshooting.

Central Chilled Water Plant

A Schneider Electric BAS will be installed with direct digital control of the new central chilled water plant. Network thermostats will be installed on the split system units. The control parameters below are listed as requirements to the BAS system, and all existing BAS points not listed will be removed or included at the discretion of the ESCO. Communication to the central workstation will be provided through the county's wide area network. Control parameters are as follows:

Chilled Water System

Control Points	*Monitoring Points*
▪ Chiller # Enable/Disable (3) ▪ Chiller # Chilled Water Supply Setpoint (3) ▪ Chiller # Chilled Water Isolation Valve Command (3) ▪ Chilled Water Pump # Start/Stop (3) ▪ Chilled Water Pump # VFD Speed (3)	▪ Chiller # kW (3) ▪ Chiller # Alarm (3) ▪ Chiller # Chilled Water Differential Pressure (3) ▪ Chilled Water GPM Flow ▪ Chilled Water Supply Temperature ▪ Chilled Water Return Temperature ▪ Chiller # Chilled Water Supply Temperature (3) ▪ Chilled Water Differential Pressure ▪ Chilled Water Pump # VFD Speed Feedback (3)

Condenser Water System

Control Points	*Monitoring Points*
▪ Cooling Tower # Fan Start/Stop (2) ▪ Cooling Tower # Fan VFD Speed (2) ▪ Condenser Water Pump # Start/Stop (3) ▪ Condenser Water Pump # VFD Speed (3) ▪ Chiller # Condenser Water Isolation Valve Command (3) ▪ Cooling Tower Isolation Valve Command (2) ▪ Condenser Water Bypass Valve Position	▪ Cooling Tower # Fan VFD Speed Feedback (2) ▪ Condenser Water Pump # VFD Speed Feedback (3) ▪ Condenser Water Supply Temperature ▪ Condenser Water Return Temperature ▪ Chiller # Condenser Water Supply Temperature (3) ▪ Chiller # Condenser Water Differential Pressure (3) ▪ Condenser Water GPM Flow

Split System Units (Typical of 2)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (2) ▪ Cooling Enable/Disable (2) ▪ Heating Enable/Disable (2)	▪ Space Temperature (2) ▪ Space Temperature Setpoint Adjust (2) ▪ Unit Override (2)

Miscellaneous

Control Points	*Monitoring Points*
	▪ Outdoor Air Temperature ▪ Outdoor Air Humidity

Justice Center

A Schneider Electric BAS will be installed in place of the existing Johnson Controls System with direct digital control of the air handling units. New damper actuator, VFDs, and chilled water valves will be provided. The control parameters below are listed as requirements to the BAS system, and all existing BAS points not listed will be removed or included at the discretion of the ESCO. Communication to the central workstation will be provided

through the county's wide area network. Control parameters are as follows:

Multi-Zone Units (Typical of 17 Air Handlers)

Control Points	*Monitoring Points*
▪ Supply Fan Start/Stop (17) ▪ Supply Fan VFD Speed (17) ▪ Chilled Water Valve Position (17) ▪ Electric Zone Reheat Command (66) ▪ Minimum Outdoor Air Damper Command (17) ▪ Zone Volume Damper Position (66) ▪ Zone Damper Position (66)	▪ Supply Fan VFD Speed Feedback (17) ▪ Mixed Air Temperature (17) ▪ Cold Deck Temperature (17) ▪ Zone Supply Air Temperature (66) ▪ Unit Override (17) ▪ Zone Space Temperature (66) ▪ Zone Space Temperature Setpoint (66)

Fan Coil Units on 5th floor (Typical of 2 FCU)

Control Points	*Monitoring Points*
▪ Supply Fan Start/Stop (2) ▪ Cooling Control (2) ▪ Heating Control (2)	▪ Zone Space Temperature (2) ▪ Zone Space Temperature Setpoint (2)

Administration Building

A Schneider Electric BAS will be installed in place of the existing Johnson Controls System with direct digital control of the air handling units and VAV boxes. Existing chilled water valves, VFDs and damper actuators will be reused where applicable. The control parameters below are listed as requirements to the BAS system, and all existing BAS points not listed will be removed or included at the discretion of the ESCO. Communication to the central workstation will be provided through the county's wide area network. Control parameters are as follows:

VAV Units (Typical of 6 Air Handlers)

Control Points	*Monitoring Points*
▪ Supply Fan Start/Stop (6) ▪ Supply Fan VFD Speed (6) ▪ Chilled Water Valve Position (6) ▪ Minimum Outdoor Air Damper Command (6)	▪ Supply Fan VFD Speed Feedback (6) ▪ Mixed Air Temperature (6) ▪ Supply Air Temperature (6) ▪ Supply Air Static Pressure (6)

VAV Boxes (Typical of 65)

Control Points	*Monitoring Points*
▪ VAV Box Fan Start/Stop (65) ▪ Electric Reheat Command (65)	▪ Supply Air Temperature (65) ▪ Supply Air CFM (65) ▪ Space Temperature (65) ▪ Space Temperature Setpoint (65) ▪ Space Override (65)

Chilled Water Loop

Control Points	*Monitoring Points*
▪ Chilled Water Pump Start/Stop ▪ Chilled Water Pump VFD Speed	▪ Chilled Water Supply Temperature ▪ Chilled Water Return Temperature ▪ Chilled Water Differential Pressure

County Courthouse

A Schneider Electric BAS will be installed in place of the existing Johnson Controls System with direct digital control of the air handling units and hot water system. Existing chilled and hot water valves and damper actuators will be reused where applicable. The control parameters below are listed as requirements to the BAS system, and all existing BAS points not listed will be removed or included at the discretion of the ESCO. Communication to the central workstation will be provided through the county's wide area network. Control parameters are as follows:

Fan Coil Units (Typical of 21)

Control Points	*Monitoring Points*
▪ Supply Fan Start/Stop (21) ▪ Chilled Water Valve Position (21) ▪ Hot Water Valve Position (21) ▪ Minimum Outdoor Air Damper Command (21)	▪ Supply Air Temperature (21) ▪ Space Temperature (21) ▪ Space Temperature Setpoint (21) ▪ Space Override (21)

Chilled Water Loop

Control Points	*Monitoring Points*
▪ Chilled Water Pump Start/Stop (2)	▪ Chilled Water Supply Temperature ▪ Chilled Water Return Temperature ▪ Chilled Water Pump Status (2) ▪ District Chilled Water Differential Pressure

Hot Water System

Control Points	*Monitoring Points*
▪ Hot Water Pump Start/Stop (2) ▪ Boiler Enable/Disable ▪ Hot Water Bypass Valve Position	▪ Hot Water Supply Temperature ▪ Hot Water Return Temperature ▪ Boiler Supply Temperature ▪ Hot Water Pump Status (2)

County Jail

A Schneider Electric BAS will be installed in place of the existing Automated Logic System with direct digital control of the air handling units and chilled water system. Existing chilled water valves, VFDs and damper actuators will be reused where applicable; others will be replaced or added. The integration of the existing air cooled chillers thru the use of a network card will be included. The number of and types of points integrated will be at the discretion of the ESCO to facilitate the necessary amount of control. The control parameters below are listed as requirements to the BAS system, and all existing BAS points not listed will be removed or included at the discretion of the ESCO. Communication to the central workstation will be provided through the county's wide area network. Control parameters are as follows:

Fan Coil Units (Typical of 18)

Control Points	*Monitoring Points*
▪ Supply Fan Start/Stop (18) ▪ Chilled Water Valve Position (18) ▪ Electric Reheat Command (18) ▪ Minimum Outdoor Air Damper Command (18)	▪ Supply Air Temperature (18) ▪ Space Temperature (18) ▪ Supply Fan Status (18)

Multi-Zone Unit

Control Points	*Monitoring Points*
▪ Supply Fan Start/Stop ▪ Chilled Water Valve Position ▪ Electric Reheat Command ▪ Economizer Damper Position ▪ Zone Damper Position (10)	▪ Mixed Air Temperature ▪ Hot Deck Temperature ▪ Cold Deck Temperature ▪ Zone Supply Air Temperature (10) ▪ Supply Fan Status ▪ Zone Space Temperature (10)

Chilled Water Loop

Control Points	*Monitoring Points*
▪ Chilled Water Pump Start/Stop (3) ▪ Chilled Water Pump VFD Speed (3) ▪ Air Cooled Chiller Isolation Valve Command (4)	▪ District Chilled Water Supply Temperature ▪ District Chilled Water Return Temperature ▪ Air Cooled Loop Supply Water Temperature ▪ Air Cooled Loop Return Water Temperature ▪ Chilled Water Pump VFD Speed Feedback (30 ▪ District Chilled Water Differential Pressure

Bruni Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 4)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (4) ▪ Cooling Enable/Disable (4) ▪ Heating Enable/Disable (4)	▪ Space Temperature (4) ▪ Space Temperature Setpoint Adjust (4) ▪ Unit Override (4)

Casa Blanca Golf Course

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units.

Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 3)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (3)	▪ Space Temperature (3)
▪ Cooling Enable/Disable (3)	▪ Space Temperature Setpoint Adjust (3)
▪ Heating Enable/Disable (3)	▪ Unit Override (3)

Constable Precinct 2

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Constable Precinct 4

A Schneider Electric BAS is to be installed with communicating network thermostats on the roof top unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Roof Top Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

El Aguila Transportation

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Fred & Anita Bruni Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 4)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (4)	▪ Space Temperature (4)
▪ Cooling Enable/Disable (4)	▪ Space Temperature Setpoint Adjust (4)
▪ Heating Enable/Disable (4)	▪ Unit Override (4)

JJAEP

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 7)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (7)	▪ Space Temperature (7)
▪ Cooling Enable/Disable (7)	▪ Space Temperature Setpoint Adjust (7)
▪ Heating Enable/Disable (7)	▪ Unit Override (7)

Justice of the Peace Pct. 2

A Schneider Electric BAS is to be installed with communicating network thermostats on roof top units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Roof Top Units (Typical of 6)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (6)	▪ Space Temperature (6)
▪ Cooling Enable/Disable (6)	▪ Space Temperature Setpoint Adjust (6)
▪ Heating Enable/Disable (6)	▪ Unit Override (6)

Justice of the Peace Pct. 3

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 3)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (3) ▪ Cooling Enable/Disable (3) ▪ Heating Enable/Disable (3)	▪ Space Temperature (3) ▪ Space Temperature Setpoint Adjust (3) ▪ Unit Override (3)

Justice of the Peace Pct. 4

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 5)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (5) ▪ Cooling Enable/Disable (5) ▪ Heating Enable/Disable (5)	▪ Space Temperature (5) ▪ Space Temperature Setpoint Adjust (5) ▪ Unit Override (5)

La Ladrillera Mobile Unit

A Schneider Electric BAS is to be installed with communicating network thermostats on wall packaged units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Wall Packaged Units (Typical of 2)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (2) ▪ Cooling Enable/Disable (2) ▪ Heating Enable/Disable (2)	▪ Space Temperature (2) ▪ Space Temperature Setpoint Adjust (2) ▪ Unit Override (2)

La Presa Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 3)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (3) ▪ Cooling Enable/Disable (3) ▪ Heating Enable/Disable (3)	▪ Space Temperature (3) ▪ Space Temperature Setpoint Adjust (3) ▪ Unit Override (3)

Mirando City Activity Center

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit.

Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Mirando City Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 7)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (7)	▪ Space Temperature (7)
▪ Cooling Enable/Disable (7)	▪ Space Temperature Setpoint Adjust (7)
▪ Heating Enable/Disable (7)	▪ Unit Override (7)

Nutrition Center a/k/a self-help nutrition center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 2)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (2)	▪ Space Temperature (2)
▪ Cooling Enable/Disable (2)	▪ Space Temperature Setpoint Adjust (2)
▪ Heating Enable/Disable (2)	▪ Unit Override (2)

Parks & Wildlife

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Records Management

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 2)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (2)	▪ Space Temperature (2)
▪ Cooling Enable/Disable (2)	▪ Space Temperature Setpoint Adjust (2)
▪ Heating Enable/Disable (2)	▪ Unit Override (2)

Public Defender

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 3)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (3)	▪ Space Temperature (3)
▪ Cooling Enable/Disable (3)	▪ Space Temperature Setpoint Adjust (3)
▪ Heating Enable/Disable (3)	▪ Unit Override (3)

Road & Bridge

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 2)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (2)	▪ Space Temperature (2)
▪ Cooling Enable/Disable (2)	▪ Space Temperature Setpoint Adjust (2)
▪ Heating Enable/Disable (2)	▪ Unit Override (2)

Santa Teresita Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 2)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (2)	▪ Space Temperature (2)
▪ Cooling Enable/Disable (2)	▪ Space Temperature Setpoint Adjust (2)
▪ Heating Enable/Disable (2)	▪ Unit Override (2)

Self Help Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 4)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (4) ▪ Cooling Enable/Disable (4) ▪ Heating Enable/Disable (4)	▪ Space Temperature (4) ▪ Space Temperature Setpoint Adjust (4) ▪ Unit Override (4)

Sheriff's Office

A Schneider Electric BAS is to be installed with communicating network thermostats on roof top units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Roof Top Units (Typical of 8)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (8) ▪ Cooling Enable/Disable (8) ▪ Heating Enable/Disable (8)	▪ Space Temperature (8) ▪ Space Temperature Setpoint Adjust (8) ▪ Unit Override (8)

Villa Antigua Museum

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 5)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (5) ▪ Cooling Enable/Disable (5) ▪ Heating Enable/Disable (5)	▪ Space Temperature (5) ▪ Space Temperature Setpoint Adjust (5) ▪ Unit Override (5)

Webb Co Title & Abstract a/k/a Webb County Indigent Services and Engineering Dept. Bldg.

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 9)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (9) ▪ Cooling Enable/Disable (9) ▪ Heating Enable/Disable (9)	▪ Space Temperature (9) ▪ Space Temperature Setpoint Adjust (9) ▪ Unit Override (9)

Webb Co Treatment

A Schneider Electric BAS is to be installed with communicating network thermostats on roof top units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Roof Top Units (Typical of 10)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (10) ▪ Cooling Enable/Disable (10) ▪ Heating Enable/Disable (10)	▪ Space Temperature (10) ▪ Space Temperature Setpoint Adjust (10) ▪ Unit Override (10)

El Cenizo Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 3)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (3) ▪ Cooling Enable/Disable (3) ▪ Heating Enable/Disable (3)	▪ Space Temperature (3) ▪ Space Temperature Setpoint Adjust (3) ▪ Unit Override (3)

Larga Vista Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 10)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (10) ▪ Cooling Enable/Disable (10) ▪ Heating Enable/Disable (10)	▪ Space Temperature (10) ▪ Space Temperature Setpoint Adjust (10) ▪ Unit Override (10)

Restitution Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units.

Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 6)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (6)	▪ Space Temperature (6)
▪ Cooling Enable/Disable (6)	▪ Space Temperature Setpoint Adjust (6)
▪ Heating Enable/Disable (6)	▪ Unit Override (6)

Rio Bravo Water Treatment Plant

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 3)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (3)	▪ Space Temperature (3)
▪ Cooling Enable/Disable (3)	▪ Space Temperature Setpoint Adjust (3)
▪ Heating Enable/Disable (3)	▪ Unit Override (3)

Rio Bravo Wastewater Plant

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Rio Bravo Community Center

A Schneider Electric BAS is to be installed with communicating network thermostats on split system units. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Units (Typical of 7)

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable (7)	▪ Space Temperature (7)
▪ Cooling Enable/Disable (7)	▪ Space Temperature Setpoint Adjust (7)
▪ Heating Enable/Disable (7)	▪ Unit Override (7)

Rio Bravo South Activity Center

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Rio Bravo Water Utilities

A Schneider Electric BAS is to be installed with communicating network thermostats on the split system unit. Communication to the central workstation will be provided through the county's wide area network, where applicable. Control parameters are as follows:

Split System Unit

Control Points	*Monitoring Points*
▪ Supply Fan Enable/Disable	▪ Space Temperature
▪ Cooling Enable/Disable	▪ Space Temperature Setpoint Adjust
▪ Heating Enable/Disable	▪ Unit Override

Chiller Warranty:

Notwithstanding any other paragraph contained herein, as part of this comprehensive project, Schneider Electric includes a Ten (10) year extended warranty on parts, labor and refrigerant for both chillers, which Ten (10) year extended warranty term shall commence from date of substantial completion.

Exclusions / Clarifications

The following items are excluded from ESCO's scope of work:

1. To the best of Schneider Electric's knowledge, the points above represent all that are necessary to effectively operate the indicated systems. If additional points are required to operate the systems specifically indicated above per Schneider Electric's Sequences of Operation, they will be incorporated under this scope of work at no additional cost to Customer. If any of the points indicated above are unable to be included within the final system due to physical constraints, erroneous information (including reasonable assumptions proved false), or equipment that is incompatible due to existing design or condition, such points shall be excluded from this scope of work. Points associated with new mechanical equipment (if applicable) are subject to change based on those points available from the equipment ultimately furnished and the points deemed necessary for operation of the system.
2. Asbestos abatement of any kind.
3. Air flow testing and balancing on HVAC equipment will not be included as part of the controls work.
4. Repair of existing HVAC and control equipment beyond the Scope of Work is excluded. ESCO will reuse existing equipment for the execution of this contract, and assumes the equipment or devices are in good working order. Should the equipment or devices need repair or replacement, this will be the responsibility of the customer. ESCO will create an EDR (equipment deficiency report) to give customer written notification if such equipment or devices are found.
5. ESCO will not add or control any window units via the building automation system.

6. ESCO will not control any self-contained units (units with integral control, not for remote control) via the building automation system. i.e. window units and ductless HVAC systems.
7. ESCO will not control any stand-alone units dedicated for equipment cooling unless specified in the Scope of Work.
8. Exhaust fans controlled by occupancy sensors or local switches and exhaust fans that do not exhaust to the exterior of the building will not be integrated with the building automation system.
9. ESCO is not responsible for existing safeties on equipment or any life safety equipment. If ESCO is to replace a starter with a VFD, ESCO will tie-in existing safety circuit into the VFD safety circuit. ESCO will not be responsible for the functionality of the existing safety devices. Pre and post testing of these smoke, fire, and life safety systems will be the responsibility of the customer and the sequence will be provided to ESCO.
10. Where life safety equipment utilizes compressed air (pneumatics), the source of the air, logic, and actuators will not be removed or modified within the execution of the project.

Notwithstanding paragraphs 1-10 ESCO will:

11. ESCO will only control equipment and/or devices shown in the Scope of Work, unless devices are not suitable for automated control. Equipment and devices not in the Scope of Work are excluded.
12. If equipment/devices controlled by the existing BAS are not in the Scope of Work, ESCO is not responsible for their functionality.
13. Conduit will only be used from controller panels to the lower of a finished ceiling or 8’ for all low voltage wiring, and shall be in compliance with local codes and authorities having jurisdiction.
14. ESCO will make the final decision for controller selection, point configurations, and end devices selection based on current standards and engineering practices of ESCO.
15. ESCO will not be responsible for any modification or extension of the existing WAN/LAN for execution of this project.
16. ESCO will not be responsible for controlling the HVAC equipment located in buildings without WAN/LAN network communication. These buildings are excluded from the scope of work.
17. Costs of providing access, access control, or security escorts not specified in the Scope of Work are excluded. i.e. the county will bear the cost of any employee time to monitor ESCO while ESCO is performing Work in a secure area.
18. Matching of paint color or ceiling tile color and pattern shall be limited by current commercial availability. Variations in replacement paint color and ceiling tile color due to age, wear, and dirt shall be minimized where possible. Similar or complementary tiles shall be provided where exact matches are not available. Custom paint colors and custom tiles are excluded.
19. Any repair patching of existing walls, sheetrock, plaster, brick, wood, etc. due to the removal of existing thermostats (for retrofit with DDC Sensor or new thermostat) will be performed by the owner.
20. Unless specified in the controls scope or in the mechanical scope, the repair or replacement of non-functional actuators, dampers, and valves are the responsibility of the owner.
21. Demolition of the existing BAS will be performed as needed to implement the new DDC system (reuse of enclosures, wire, and end devices will be determined by ESCO); the total demolition will be the responsibility of the owner, unless otherwise stated.

Mechanical/Electrical Scope of Work

1. ***Replace Justice Center Plant*** - The existing Justice Center central chilled water plant will be replaced, relocated and expanded to serve the Justice Center, Administration Center, Jail and Courthouse.
    - ***a)*** Construct new central plant room on the first floor of the Justice Center garage. Provide new fire suppression, fire alarm, and security systems to new plant.
    - ***b)*** Demo existing ice storage system in the Justice Center garage.
    - ***c)*** Demo existing equipment on third floor of the Justice Center garage including two 291-ton chillers, four chilled water pumps, two cooling towers, two condenser water pumps, and related controls, services, and appurtenances.
    - ***d)*** Provide two 450-ton high efficiency chillers, two chilled water pumps, two condenser water pumps, controls, and accessories in new central plant. Included with the scope for the two 450-ton high efficiency chillers is a **ten (10) year extended warranty agreement on parts, labor and refrigerant for both chillers, with extended warranty term commencing on date of substantial completion of project.**
    - ***e)*** Provide two cooling towers on third floor of the Justice Center garage.
    - ***f)*** Provide new 2000-amp distribution panel and electrical service from building main switchboard in place of existing 1600-amp electrical service.
    - ***g)*** Provide new underground chilled water piping to first floor mechanical room in the Administration Center and connect to that building's chilled water system.
    - ***h)*** Replace existing twenty pneumatic 3-way chilled water valves with new electronic 2-way valves and controls for air handling units in the Justice Center.

2. ***Potential temporary cooling provision:***
    a) After the signature date of this contract and prior to completion of the scope of work, if the existing chiller system fails, the ESCO will assist the Customer in providing temporary cooling with a back-up chiller until the existing system is repaired.
    b) In the event of a failure, ESCO will be financially responsible for the deployment of temporary cooling for up to four (4) weeks.
    c) Any cost of repairing the existing equipment is the Customer's responsibility and any cooling beyond a four (4) week time frame is also at the Customer's expense.

3. ***Revise Jail Chilled Water System***
    - ***a)*** Remove and re-place chilled water piping in ground-level Jail mechanical yard. Reconnect central plant chilled water services 1st floor Jail and to Courthouse. Provide new 4" chilled water piping to roof of Jail and make new central plant chilled water connections to two chilled water loops for CH-2 and CH-3.
    - ***b)*** Provide three new chilled water pumps with variable frequency drives to serve the three existing 56-ton air-cooled chillers.
    - ***c)*** Remove existing 100-ton split-system chiller from service and leave in place in mechanical yard.

4. ***Replace Courthouse Valves***
    - ***a)*** Replace existing twenty-one pneumatic 3-way chilled water valves with new electronic 2 valves and controls for air handling units in the Courthouse.

5. ***Implement Variable Air Volume Operation for Justice Center.***
    - ***a)*** Provide sixty-six slip-in dampers for duct installation in the zones of seventeen air handling units within the Justice Center in coordination with the replacement of existing variable speed drives under the Controls scope.

b) Re-balance existing air handling units and zones to current air volumes.

Mechanical Exclusions

1. Night/holiday work unless otherwise specified in the Scope of Work.
2. Additional labor cost due to restriction of allowable work hours.
3. Costs incurred due to lack of access to required areas or due to access to storage areas to which materials are to be delivered.
4. Costs of providing access, access control, or security escorts not specified in the Scope of Work.
5. Hazardous materials testing and abatement not specified in the Scope of Work.
6. Materials and labor associated with modifications to existing systems and equipment not identified in these documents as included in the Scope of Work.
7. Testing, adjusting, and balancing of existing systems not identified in these documents as included in the Scope of Work.
8. Commissioning of existing systems not identified in these documents as included in the Scope of Work.
9. Upgrading existing mechanical systems to provide ventilation rates in compliance with current Codes and Standards unless indicated herein to be included.
10. Repair or replacement of ceiling beyond that required to accomplish the Scope of Work.
11. Painting of floors, walls or ceilings beyond that required to match existing surfaces in the immediate work area.
12. Waste disposal other than that required to accomplish the Scope of Work.
13. Demolition of equipment, piping and accessories indicated herein to be abandoned in-place unless indicated herein to be included.
14. The cost for utilities including natural or propane gas, fuel oil, electricity, potable or non-potable water during the construction period.
15. The cost for equipment and/or utilities to provide temporary heating or cooling of facilities during the construction period, subject to Mechanical/Electrical Scope of Work Paragraph 2 ***Potential temporary cooling provision***.
16. Cost escalation of materials as a result of a delay in the construction schedule caused by Customer action or inaction.
17. Inspection and permitting fees for agencies (state and/or federal) other than the local authority having jurisdiction.
18. Fees for third party engineers acting as Customer's agent.
19. As-built drawings will be provided. Hardcopy drawings will be provided in half size format as well as digital (pdf) format on disk.
20. Water treatment equipment not specified in the Scope of Work.
21. Structural modifications not specified in the Scope of Work.
22. Building envelope modifications not specified in the Scope of Work.
23. Replacement of ductwork and diffusers not specified in the Scope of Work.
24. Replacement of piping not specified in the Scope of Work.
25. Ductwork and piping insulation not specified in the Scope of Work.
26. Electrical systems not specified in the Scope of Work.
27. Equipment replacement and their components not specified in the Scope of Work

CUSTOMER CONTROLLED CONTINGENCY FUND

This scope item is for Customer controlled contingency fund of $350,000.
The scope of work previously defined in Schedule A includes new piping and piping replacements only as specifically defined. In addition to the piping being replaced, Customer has additional pipe lengths that are underground and are outside of the scope of this project. At Customer's written direction, some or all of this piping will be replaced by ESCO through the use of this contingency fund. If all or part of the contingency fund is not approved for piping replacements, the Customer has the option of using all or part of this fund to add other additional scope items during the construction period. See piping diagrams attached hereto as Exhibits 2(a), 2(b), and 2(c).

ESCO will obtain written request from Customer to approve the scope to be implemented and the amount of the contingency fund to be used. Any balance in contingency fund remaining at the end of the construction of this project shall be reduced from the Contract Sum as a net savings to the Customer.

Schedule B: Performance Assurance Support Services agreement

This Performance Assurance Support Services Agreement (this "PASS Agreement"), is by and between Schneider Electric Buildings Americas, Inc. ("ESCO"), and Webb County ("Customer"). To the extent that the terms and conditions in this PASS Agreement conflict with the terms and conditions in the Contract, the terms and conditions of this PASS Agreement shall control. Any capitalized terms used and not defined herein are as defined in the Contract.

	Webb County		**Schneider Electric Buildings Americas, Inc.**
By	_____ (Signature)	By	_____ (Signature)
Print Name	Tano E. Tijerina	Print Name	_____
Title	Webb County Judge	Title	_____
Date	_____	Date	_____

ATTESTED:

_____
Margie Ramirez-Ibarra
Webb County Clerk

APPROVED AS TO FORM:

_____
Marco A. Montemayor
Webb County Attorney
***By law, the county attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).**

Passed and approved by the Webb County Commissioners Court On August ____ 2017; Item No. _____.

A. Term

This PASS Agreement shall commence at the Savings Guarantee Commencement Date and continue for one (1) year (the "Initial Term") and shall automatically renew for additional one (1) year periods thereafter. After the Initial Term, Customer may terminate this PASS Agreement at any time prior to thirty (30) days to the end of the then current term.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OR IN ANY CONTRACT DOCUMENT, IN THE EVENT THAT THE PASS AGREEMENT IS CANCELED OR TERMINATED BY CUSTOMER FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN SCHEDULE C SHALL BE DEEMED TO HAVE BEEN MET AND FULFILLED NULL AND VOID AND OF NO FURTHER FORCE OR EFFECT AS OF THE EFFECTIVE TERMINATION DATE OF THE PASS AGREEMENT AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

B. Service Scope and Payment

ESCO shall provide the Performance Assurance Support Services (the "Services") to Customer as set forth in Exhibit A, Section 1 during the Initial Term.

After the end of Initial Term and each subsequent term thereafter, Customer may either (1) continue with the same level of Services as set forth in the previous term, (2) change the Services level by selecting one or more of the options as set forth in Exhibit A, Section 2 of this PASS Agreement, or (3) terminate this PASS Agreement and the Performance Guarantee in accordance with the termination provisions contained herein.

The available Services options may be amended from time to time at the sole discretion of ESCO.

1. After the Initial Term, the prices set forth in Exhibit A shall be adjusted upwards annually in accordance with the increase in Consumer Price Index ("CPI").

2. After the Initial Term, payment for each year's PASS Agreement is due within thirty (30) days of the start of that year's term. Customer acknowledges and understands that all charges are exclusive of any applicable federal, state, or local use, excise, sales taxes or similar fees whether charged to or against ESCO or Customer for the Services. Customer may utilize purchase orders for ease of administration and ordering purposes in implementation of this PASS Agreement (to include: specific products or services, scope of work, quantities, price and delivery terms only), however, no pre-printed, additional, inconsistent or different terms contained or referenced in such purchase order shall have any force or effect, it being the intent of the parties that the terms of this PASS Agreement shall apply.

C. Access

Services provided under this PASS Agreement will be performed during normal working hours (normal working hours shall mean 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding ESCO holidays) unless specifically stated otherwise in the PASS Agreement. However, ESCO may have the need to access Customer facilities during non-normal working hours and on holidays in order to identify and troubleshoot energy savings issues. Therefore, Customer will provide and permit ESCO reasonable access to Customer's facility and equipment to the extent necessary for ESCO'S personnel to perform the Services. Customer shall also provide access to key personnel to discuss facility operating requirements. ESCO will use commercially reasonable efforts to minimize any disturbance with Customer's operations while providing the Services.

D. Relationship

Customer and ESCO are independent contracting parties. Nothing in this PASS Agreement shall be construed to make either party or any of its employees, the partner, joint venturer, agent, or legal representative of the other for any purpose whatsoever, nor grants either party any authority to assume or create any obligation on behalf of or in the name of the other party. As an independent contractor, the mode, manner, method and means employed by

ESCO in the performance of the terms and conditions of this PASS Agreement shall be of ESCO'S selection and under the sole control and direction of ESCO. Under the terms of this PASS Agreement, neither Customer nor any company in which it owns a controlling interest shall be required to furnish ESCO or any of its employees with any benefits, including but not limited to severance benefits, unemployment compensation or worker's compensation.

E. Insurance

Customer and ESCO shall each maintain insurance coverage, including without limitation, Workers' Compensation and Employer's Liability at statutory limits, Automobile Liability covering all owned, hired and other non-owned vehicles, and Commercial General Liability covering public liability and property damage with limits generally required for its respective industry and operations with not less than $1,000,000 minimum coverage per occurrence. Such insurance shall be with reputable and financially responsible carriers authorized to transact business in the state in which the facility is located and the services are being performed with an A.M. Best's rating of at least A- VII.

F. Limitation of Liability

NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGE OF ANY KIND, INCLUDING WITHOUT LIMITATION, LOSS OF REVENUE OR PROFIT REGARDLESS OF THE FORM OF ACTION OR THEORY OF RECOVERY, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE TOTAL CUMULATIVE LIABILITY OF ESCO WITH RESPECT TO THIS AGREEMENT OR ANYTHING DONE IN CONNECTION THEREWITH, SUCH AS THE USE OF ANY DELIVERABLE FURNISHED HEREUNDER SHALL NOT EXCEED THE PRICE PAID FOR THE SERVICE PERFORMED THAT GIVES RISE TO THE CLAIM ON WHICH SUCH LIABILITY IS BASED.

G. Excusable Delay

Any delay or failure of either party to perform its obligations hereunder (with the exception of payment) shall be excused, and time to perform extended, and shall not be held liable if and to the extent that the delay or failure to perform is caused by an event or occurrence beyond the reasonable control of the party whose performance is interfered with, and without its fault or negligence and which by the exercise of due diligence, said party is unable to prevent.

H. Successors

Neither this PASS Agreement nor any rights arising hereunder may be assigned, pledged, transferred or hypothecated by ESCO without the consent of Customer; such consent cannot be unreasonably withheld. No Work performed pursuant to this PASS Agreement may be subcontracted in whole or in part by ESCO without the prior written consent of Customer; such consent cannot be unreasonably withheld.

I. Entire Agreement

This PASS Agreement sets forth the entire understanding between the parties and supersedes all prior oral or written understandings relating to the subject matter herein. This PASS Agreement may not be altered or modified in any way except by written instrument signed by a duly authorized representative of each party.

J. Severability

If any provision of this PASS Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

K. Governing Law

This PASS Agreement will be governed, interpreted and construed by, under and in accordance with the laws, statutes and decisions of the State of Texas in which the Services are to be performed, without regard to its choice of law provisions. Venue shall be in the, state or municipal courts serving the county in which the Services are

performed.

Schedule C: Performance guarantee

The Performance Guarantee provided by ESCO will be as follows:

Year	Measured Savings	Non-Measured Utility Savings	O&M Savings	Annual Guaranteed Savings	Cumulative Guaranteed Savings
1	$260,047	$27,045	$160,650	$447,742	$447,742
2	$260,047	$27,045	$164,666	$451,758	$899,500
3	$260,047	$27,045	$168,783	$455,875	$1,355,374
4	$260,047	$27,045	$173,002	$460,094	$1,815,468
5	$260,047	$27,045	$177,328	$464,419	$2,279,887
6	$260,047	$27,045	$181,761	$468,852	$2,748,740
7	$260,047	$27,045	$186,305	$473,396	$3,222,136
8	$260,047	$27,045	$190,962	$478,054	$3,700,190
9	$269,148	$27,992	$195,736	$492,876	$4,193,067
10	$278,568	$28,971	$200,630	$508,170	$4,701,236
11	$288,318	$29,985	$205,646	$523,949	$5,225,185
12	$298,410	$31,035	$210,787	$540,231	$5,765,416
13	$308,854	$32,121	$216,056	$557,031	$6,322,448
14	$319,664	$33,245	$221,458	$574,367	$6,896,814
15	$330,852	$34,409	$226,994	$592,255	$7,489,069
16	$342,432	$35,613	$232,669	$610,714	$8,099,783
17	$354,417	$36,860	$238,486	$629,762	$8,729,546
18	$366,821	$38,150	$244,448	$649,419	$9,378,965
19	$379,660	$39,485	$250,559	$669,704	$10,048,669
20	$392,948	$40,867	$256,823	$690,638	$10,739,307
Total	$6,010,466	$625,092	$4,103,749	$10,739,307	$10,739,307

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OR IN ANY CONTRACT DOCUMENT, IN THE EVENT THAT THE PASS AGREEMENT IS CANCELED OR TERMINATED BY CUSTOMER FOR ANY REASON, THE PERFORMANCE GUARANTEE SET FORTH IN SCHEDULE C SHALL BE DEEMED TO HAVE BEEN MET AND FULFILLED AS OF THE EFFECTIVE TERMINATION DATE OF THE PASS AGREEMENT AND ESCO SHALL HAVE NO FURTHER OBLIGATIONS OR LIABILITIES ASSOCIATED WITH SUCH PERFORMANCE GUARANTEE.

The procedure used to calculate savings is described in Schedule D.

GUARANTEED SAVINGS RECONCILIATION

Customer, if required, will send ESCO all necessary utility or energy data as set forth in Schedule E herein. Within sixty (60) days of receipt of such information for the previous Guarantee Year, ESCO will determine the Actual Savings for such Guarantee Year hereafter defined as “Savings Reconciliation”.

In the event the Actual Savings are less than the Guaranteed Savings for the corresponding twelve (12) months, ESCO will pay Customer the difference between the Annual Savings Guarantee and the Actual Savings for the corresponding twelve (12) months. ESCO will pay for any savings shortfall to Customer within thirty (30) days of that year's Savings Reconciliation. In the event that there are any Excess Savings, such Excess Savings shall be used to offset any payments made by ESCO with respect to any shortfall.

Schedule D: Measurement & Verification Plan

Projected Annual Savings

The Performance Guarantee as established in Schedule C shall consist of savings from multiple scopes of work. The projected savings from each scope of work is presented in the table below.

Facility	Annual Projected Savings		
	Consumption	Demand	Units
Administration Building	1,666,163	1,432	kWh, kW
County Courthouse	30,786	11	kWh, kW
Webb County Jail	407,350	752	kWh, kW
Webb County Justice Center	2,796,061	2,048	kWh, kW

The projected savings in the table above are provided for reference only and are not intended to construe a savings guarantee by meter, facility, or energy unit. The savings guarantee is fully defined in Schedule C.

Energy, Water, and Operations & Maintenance (O&M) Rate Data

The cost of energy in any period will be determined by applying the rates as defined below ("Baseline Energy Rates") with a 3.5% annual escalation after guarantee year eight, or the actual energy rates during the period, at the discretion of ESCO, to the energy used in a given period for each fuel type.

Utility Company:	Reliant Energy		
Rate Schedule:	SS > 10 kW		
Component	Charge	Unit	Description
Base Charge	$21.12	N/A	Applies each billing period
Energy Charge (kWh)	$0.05086	kWh	Applies to metered kWh in each billing period
EECR (kWh)	$0.000453	kWh	Applies to metered kWh in each billing period
DUOS (kW)	$3.314	Billed kW	Applies to billed kW in each billing period
Nuclear Decom. Fee (kW)	$0.003884	Billed kW	Applies to billed kW in each billing period
TC1 (kW)	$0.912719	Billed kW	Applies to billed kW in each billing period
TC2 (kW)	$2.158132	Billed kW	Applies to billed kW in each billing period
TC3 (kW)	$0.835943	Billed kW	Applies to billed kW in each billing period
TUOS	$1.286	kW	Applies to metered kW in each billing period
TCRF	$1.632775	kW	Applies to metered kW in each billing period
Taxes	1.623%	N/A	Applies to all charges above in each billing period
Determination of Billed kW:	Equals to the maximum of either the billing period's metered kW or 80% of the maximum metered kW in the preceding 11 months		

Utility Company:	Reliant Energy		
Rate Schedule:	Primary Voltage Service (PVS)		
Component	Charge	Unit	Description
Base Charge	$797.83	N/A	Applies each billing period

Consumption Price	$0.05086	kWh	Applies to metered kWh in each billing period
Nuc Decomm Fee	$0.006326	Dist kW	Applies to Dist kW in each billing period
Transition Charge	$3.992279	Dist kW	Applies to Dist kW in each billing period
PUC Assessment	$0.00012	kWh	Applies to metered kWh in each billing period
Transmission Charges	$7.857414	4CP kW	Applies to 4CP kW in each billing period
Determination of Billed kW:	Equal to the product of the billing period's metered kW and the quotient of 0.95 and the billing period's metered power factor if below 0.95, otherwise billed kW equals metered kW.		
Determination of Dist kW:	Equals to the maximum of either the billing period's Billed kW or 80% of the maximum Billed kW in the preceding 11 billing periods		
Determination of 4CP kW:	Equals to the average of metered demand between the months of June to September which coincide with the monthly peak demand in the same period on the ERCOT system.		

Common ECM Assumptions

Weather Data Source

Data for weather compensation adjustments will be actual climate data obtained from the National Weather Service Station at Laredo International Airport, TX (LRD). In the event the specified weather station is de-activated, weather data will be collected from the nearest weather station with suitable observations. If the data source becomes unavailable or a superior source is identified, ESCO may select an alternative data source with Customer's approval.

Building Occupancy Schedules

Provided below is a table summarizing the building occupancy schedules used within the calculations, unless otherwise specified. In the event that there are any changes or deviations to this occupancy schedule, an appropriate adjustment will be made in accordance with the Adjustment Schedule set forth in Schedule E.

Facility	Day Type	Daily Schedule
Justice Center	Weekday	7:00 AM – 6:00 PM
	Weekend/Holiday	Unoccupied
Administration Building	Weekday	7:00 AM – 6:00 PM
	Weekend/Holiday	Unoccupied
Courthouse	Weekday	7:00 AM – 6:00 PM
	Weekend/Holiday	Unoccupied
Bruni Community Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Casa Blanca Clubhouse	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Constable Precinct 2	Weekday	78:00 AM – 75:00 PM
	Weekend/Holiday	Unoccupied
El Cenizo Community Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Fred & Anita Bruni Community Center	Weekday	7:00 AM – 7:00 PM
	Summer Weekday	10:00 AM – 3:00 PM
	Weekend/Holiday	Unoccupied
Justice of the Peace Pct. 2	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Justice of the Peace Pct. 3	Weekday	7:00 AM – 7:00 PM

	Weekend/Holiday	Unoccupied
Justice of the Peace Pct. 4	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
La Presa Community Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Larga Vista Community Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Medical Examiner	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Mirando City Community Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Parks & Wildlife	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Quad City Fire Department	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Records Management	Weekday	8:00 AM – 8:00 PM
	Weekend/Holiday	8:00 AM – 8:00 PM
Rio Bravo Community Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Road and Bridge	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Self Help Center	Weekday	8:00 AM – 6:00 PM
	Weekend/Holiday	Unoccupied
Self Help Nutrition Center	Weekday	8:00 AM – 6:00 PM
	Weekend/Holiday	Unoccupied
Sheriff's Admin Building	Weekday	OPEN 24/7
	Weekend/Holiday	OPEN 24/7
Treatment Center	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Villa Antigua Museum	Weekday	8:00 AM – 6:00 PM
	Weekend/Holiday	8:00 AM – 6:00 PM
Webb County Fire Department	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Webb County Jail	Weekend/Holiday Weekday	Open 24/7
El Aguila Transportation Bldg.	Weekday	7:00 AM – 7:00 PM
	Weekend/Holiday	Unoccupied
Webb County Title & Abstract a/k/a Webb County Indigent Services and Engineering Bldg.	Weekday	Unoccupied
	Weekend/Holiday	7:00 AM – 7:00 PM

Standards of Service and Comfort

Provided below is a table summarizing the temperature setpoints used within the calculations, unless otherwise specified. Customer agrees to operate the conditioned spaces in the facilities within the temperature ranges scheduled in the table below. In the event that there are any changes or deviations to these standards of service and comfort, an appropriate adjustment will be made in accordance with the Adjustment Schedule set forth in Schedule E.

	Heating	Cooling
Occupied	68°F	73°F
Unoccupied	55°F	95°F

Option C – Whole Term

A. Overview of M&V Plan, and Savings Calculation
B. Energy Savings Calculations
C. Key Parameters Measurement Strategy
D. Parameter Estimates
E. Cost Savings Calculations

A. Overview of M&V Plan, and Savings Calculation

The method of determining energy savings described in this section uses "Option C – Whole Facility (Main Meter Measurement)" as described in the International Measurement and Verification Protocol (IPMVP Volume I, EVO 10000-1:2012). The remainder of this section provides the energy savings calculations, the key parameter measurements that will be conducted, the parameters that will be estimated and those values, and how cost savings will be calculated.

Guaranteed Meters

The following meters will be used to measure actual energy consumption for both the base year and guarantee periods.

Meter Name	Account	Utility Type	Utility Company	Rate	Units
Administration Building	5881720	Electric	Reliant Energy	SS > 10 kW	kWh, kW
County Courthouse	5882400	Electric	Reliant Energy	SS > 10 kW	kWh, kW
Webb County Jail	5882386	Electric	Reliant Energy	SS > 10 kW	kWh, kW
Webb County Justice Center	5882414	Electric	Reliant Energy	PVS	kWh, kW

Building Summary

The following table lists the buildings that were served by guarantee meters during the base year period.

Building Name	Area (ft2)	Comments
Administration Building	64,356	Administration Building
County Courthouse	12,392	County Courthouse
Webb County Jail	121,751	Webb County Jail
Webb County Justice Center	85,921	Webb County Justice Center

B. Energy Savings Calculations

Provided within this section is an explanation of the calculations that will be used to perform energy savings calculations for this particular ECM.

Overview of Savings Methodology

Energy savings will be measured by comparing the Performance Period's total energy consumption and demand to the total energy consumption and demand for the same area in the base year period by utilizing energy meter data. Base year energy and demand will be adjusted for differences in weather, facility operation and facility modifications to estimate how much energy would have been used in the guarantee period if the energy conservation measures had not been implemented. The energy saved is the difference between the adjusted base year

consumption and the Performance Period consumption. The demand saved is the difference between the adjusted base year demand and the Performance Period demand. This process will be followed for each fuel type involved in the guarantee.

Equations and Analysis of Energy Savings

Savings are calculated as the difference in energy usage from the baseline conditions after adjusting for all necessary changes, and the Performance Period conditions. This is shown in Equation 1 below:

Equation 1 – Energy Consumption Savings

$$E_{save} = E_{Baseline} - E_{Performance}$$

Where,

Esave = Energy savings
EBaseline = Adjusted energy usage of facility equipment pre-implementation
EPerformance = Energy usage of facility equipment post-implementation

The baseline is that set of parameters that describes both the energy consumed in the base year and the conditions that caused that consumption to occur. This set of parameters includes utility consumption, facility use information, weather data and other information as may be necessary to describe the base year conditions. In addition, the baseline includes certain mathematical values, calculated by a model, that are used to correlate the base year energy consumption with the factors that caused that consumption and is defined by Equation 2 below:

Equation 2 – Baseline Energy Use

$$E_{Baseline} = \sum_{i=1}^{n} C_D \times T_i + C_H \times HDD_i + C_c \times CDD_i + CO_i + CM_i$$

Where,

n = Number of billing periods in year.
EBaseline = Adjusted baseline period consumption
CD = A constant representing units of consumption per billing period day
Ti = Number of days in billing period
CH = A constant representing units of consumption per heating degree day
HDDi = Heating degree days in the current billing period
CC = A constant representing units of consumption per cooling degree day
CDDi = Cooling degree days in the current billing period
COi = Offset for the current billing period
CMi = Other adjustments for the current billing period

Customer agrees to accept modifications to this baseline that are necessary to account for changes in the facilities and their use which may have occurred prior to the execution of this agreement but come to the attention of ESCO after the execution of this agreement. Typical adjustments are provided in detail in Schedule E.

Demand savings are computed similarly to the consumption savings, as shown by Equation 3 below:

Equation 3 – Peak Demand Savings

$$D_{save} = D_{Baseline} - D_{Performance}$$

Where,

Dsave = Demand savings

DBaseline = Adjusted energy demand of facility equipment pre-implementation
DPerformance = Energy demand of facility equipment post-implementation

Adjusted base year demand is calculated as demonstrated in Equation 4 below:

Equation 4 – Baseline Peak Demand

$$D_{Baseline} = \sum_{i=1}^{n} D_D + D_H \times \frac{HDD_i}{T_i} + D_C \times \frac{CDD_i}{T_i} + DO_i + DM_i$$

Where,
DD = A constant representing units of demand per billing period
DH = A constant representing units of demand per heating degree day per day
DC = A constant representing units of demand per cooling degree day per day
DOi = Offset for the current billing period
DMi = Other adjustments for the current billing period

C. Key Parameters Measurement Strategy

Measurement and documentation strategies for each project phase are outline below.

Pre-Implementation Measurements and Documentation

Customer will provide ESCO with monthly utility bills and all delivery invoices for the accounts included in Paragraph A for a minimum of twenty-four (24) months' worth of historical utility data that is to represent a complete span of two years' worth of energy usage. Customer will also provide ESCO with monthly utility bills and all delivery invoices for the accounts included in Paragraph A from the end of that twenty-four (24) month data set through the Savings Guarantee Commencement Date within the timelines specified in Schedule E.

ESCO will collect daily high and low temperature data from the weather station defined in Schedule D, Common ECM Assumptions.

Post-Implementation Measurements and Documentation

No short term verification is performed using this method. All post-implementation measurements are conducting during the Performance Period.

Performance Period Measurements and Documentation

Throughout the Performance Period, Customer will provide ESCO with the monthly utility bills and all delivery invoices for the accounts included in Paragraph A within the timelines specified in Schedule E.

ESCO will collect daily high and low temperature data from the weather station defined in Schedule D, Common ECM Assumptions.

D. Parameter Estimates

The parameters defined in the equations outlined in Paragraph B that are estimated are determined through engineering analysis of at least twelve (12) months' worth of the pre-implementation measured utility data. This is done to establish the relationship between the weather, billing period length, any other independent factors, and the consumption and demand associated with a particular account. The end result of this analysis is the set of coefficients used in the equations defined in Paragraph B to fully define the baseline for each account. The values will be presented to Customer by ESCO before the Savings Guarantee Commencement Date and will be documented and agreed upon by both parties in the Meter Tuning Summary. Below are definitions of each of the estimated parameters included in Paragraph B;

- The values of CD and DD represent the base load consumption and demand of the utility usage of a particular meter and are equivalent to the weather independent energy usage and demand.
- The values of CH and DH represent the heating consumption and demand of the utility usage of a particular meter and are equivalent to the weather dependent energy usage and demand. They are associated with a consumption and demand heating balance point specific to that account.
- The values of CC and DC represent the cooling consumption and demand of the utility usage of a particular meter and are equivalent to the weather dependent energy usage and demand. They are associated with a consumption and demand cooling balance point specific to that account.
- The billing period values of COi and DOi represent the portion of the energy consumption and demand that cannot be accounted for with the weather independent and weather dependent consumption.

Each of these parameters will be determined based on the relationship of the baseline period energy and demand and the independent factors. During the Performance Period they will be used to estimate the energy use and demand that would have occurred if the project had not been performed. To accomplish this, COi and DOi will be pro-rated to the Performance Period billing periods for each account.

The terms CMi and DMi are included in the equations in Paragraph B to account for changes in the Performance Period energy use and demand from the baseline Period energy use and demand on the accounts in Paragraph A for any causes unrelated to the project as defined in Schedule E. The procedures for developing these estimates vary with the specific causes for the adjustments. The requirements for determining these values and any measurements necessary to support these estimates are defined in Schedule E.

E. Cost Savings Calculations

Provided below are the methods and equations used to determine the cost savings associated with this particular methodology.

Cost Savings are calculated as the difference between the baseline and Performance Period energy costs using the utility rates as defined in Schedule D, Energy, Water, and O&M Rate Data. The applicable utility rates will be applied to the baseline and Performance Period energy use for the accounts in Paragraph A. Equation 5 will be used to compute the total cost savings for each Guarantee Year.

Equation 5 – Total Cost Savings

$$\$_{save} = \sum_{i=1}^{n}\left[\sum_{k=1}^{q}\left(\$_{Baseline} - \$_{Performance}\right)_k\right]_i$$

Where,

$save = Guarantee year cost savings
$Baseline = Billing period k baseline utility cost for account i
$Performance = Billing period k performance period utility cost for account i
n = Total number of accounts
q = Total number of billing periods for account i

Non-Measured Savings

A. Overview of Non-Measured M&V Plan, and Savings Calculation
B. Annual Non-Measured Savings

A. Overview of Non-Measured M&V Plan, and Savings Calculation

The Actual Savings associated with this methodology will be agreed upon as outlined herein and will not be verified by measurements after implementation has occurred. Customer and ESCO agree to accept the annual savings values included in Section B with no additional verification. In the event that verification steps are performed by Customer or ESCO, the annual savings values included in Section B will still be the reported savings and values used for reconciling the guarantee in Schedule C. Section B details the agreed upon savings by measure and by category.

B. Annual Non-Measured Savings

Utility Cost Savings

Once the construction of each of the measures below has reached Substantial Completion, the annual savings in the table below will be prorated monthly for each measure until the Savings Guarantee Commencement Date. The annual savings in the table below, with 3.5% annual escalation after guarantee year eight, for each measure will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date.

Utility Cost Savings Measure	Cost Savings
County Wide - Building Automation System	$26,347
AHU VAV modifications & Courthouse Valves - Gas Savings	$698

Any savings accrued prior to the Savings Guarantee Commencement Date will be considered Excess Savings.

Operation and Maintenance Savings

The annual savings in the table below, with 2.5% annual escalation, for each measure will be claimed for each Guarantee Year after the Savings Guarantee Commencement Date.

Operation and Maintenance Savings Measure	Cost Savings
Chiller Plant Renovation (Downtown)	$18,900
Equipment repair & replacement savings related to equipment at end of useful life:	
Chiller Plant Renovation (Downtown)	$141,750

Schedule E: Customer Responsibilities For performance guarantee

General Responsibilities

Customer acknowledges and agrees that proper maintenance is essential to any energy conservation program. Therefore, Customer agrees to undertake the following responsibilities:

Customer agrees to: (1) provide, or cause its suppliers to provide, periodic utility invoices to ESCO within ten (10) days of receipt, (2) execute all Customer responsibilities as outlined herein, and (3) provide to ESCO reasonable access to all Customer facilities and information necessary for ESCO to perform its responsibilities. Access will include, but is not limited to, the following items:

- All buildings listed within this Contract
- All buildings served by the meters listed within this Contract
- All mechanical equipment rooms in the buildings listed within this Contract
- All temperature control and energy management systems which control part or all of any of the buildings listed within this Contract
- Personnel with responsibility for operating and/or managing any of the buildings listed within this Contract
- Monthly utility invoices and billing history for all of the meters listed within this Contract
- Construction documents, equipment inventories, and other documents that may be helpful in evaluating a cause for adjustment as listed within this Contract
- Any data from meters or sub-meters relevant to M&V associated with this Contract

Customer will solely be responsible for providing communications and/or network interface to all buildings for operation and PASS support.

Customer will perform daily facilities monitoring and promptly review any alarm summaries.

Customer will designate a "Primary Operator" of the system. The Primary Operator is defined as the individual who will be trained by ESCO during the installation period and will be responsible for daily operation and maintenance of the equipment and systems necessary to achieve the Performance Guarantee. Customer will notify ESCO within Ten working (10) days after the departure or termination of the Primary Operator. Within ten working (10) days of the departure of the current Primary Operator, Customer will designate a new Primary Operator and shall provide ESCO access to train the new Primary Operator. ESCO shall train a new Primary Operator at the sole expense of Customer on a time and materials basis.

Maintenance Responsibilities

Customer agrees to use its best efforts to maintain the ECMs (Energy Conservation Measures) in original operating condition ("Original Operating Condition") with allowance for normal wear and tear. If an ECM is operating at any state other than the Original Operating Condition as defined above ("Failed ECM"), Customer agrees to (1) repair or replace the ECM immediately, and (2) contact a PASS representative at 1-800-274-5551 option 4, within Ten (10) working days of such discovery of an event. ESCO reserves the right to adjust the amount of Performance Guarantee associated with the Failed ECM for the duration of the failure in the Annual Savings Guarantee.

Customer will agree to maintain all parts of the Project site(s) where the ECM(s) reside including but not limited to components, equipment, machinery, energy management systems, structure of the facility(s), computer hardware, network and IT systems, either existing or newly installed. Customer must comply with the general maintenance requirements specified by equipment manufacturers and the maintenance tasking guidelines included in the operating and maintenance manual. Customer will be responsible to provide to ESCO documentation that proper maintenance has been performed at ESCO'S request within fifteen (15) days of written request.

Notwithstanding anything to the contrary contained herein, all ECM(s) must be maintained in proper working condition in all cases where the performance of said ECM(s) affects or could affect the ability to achieve, measure or verify the Annual Savings Guarantee. Should Customer refuse to perform the required maintenance as required in

this Contract, ESCO and Customer shall agree to one of the following means of recourse: (1) ESCO will adjust the Performance Guarantee associated with that ECM pursuant to Schedule E, or (2) ESCO may terminate this Performance Guarantee and any and all obligations and liabilities of ESCO associated therewith upon fifteen (15) days written notice.

Adjustment Responsibilities

In addition to the responsibilities of Customer set forth in this Schedule, Customer also agrees to undertake the responsibilities set forth in the Adjustment Schedule as necessary.

Adjustment Schedule

Below is the procedure for accounting for non-routine adjustments for any of the utility meters included in Schedule D. A non-routine adjustment is required for any change outside of those explicitly defined in Schedule D that will impact the energy use or the verified savings under this Contract. It is Customer's responsibility to notify ESCO of any changes that may necessitate a non-routine baseline adjustment and to perform the required non-routine baseline adjustment steps identified below at Customer's sole expense.

Customer Required Non-Routine Baseline Adjustment Responsibilities

If the required non-routine baseline adjustment steps are not performed, and the change is greater than the threshold limit, savings will be determined with the Assumed Savings Procedure Adjustment, as defined below. Actual Savings will be determined using the Assumed Savings Procedure Adjustment for all billing periods until the required non-routine baseline adjustment steps have been completed, or until the change which necessitated the non-routine baseline adjustment is no longer in place. If Customer fails to notify ESCO of a change necessitating a non-routine baseline adjustment or fails to provide details of the change, savings will be determined with the Assumed Savings Procedure Adjustment.

If the required non-routine baseline adjustment steps are not performed, and the change is less than the threshold limit, savings will be determined with the "Estimated Savings Procedure Adjustment". Actual Savings will be determined using the Estimated Savings Procedure Adjustment for all billing periods until the required non-routine baseline adjustment steps have been completed, or until the change which necessitated the non-routine baseline adjustment is no longer in place.

1. **Addition of New Building or New Energy User**
   - All utility services to the building or energy user which affect the energy use of any meter included in Schedule D must be sub-metered at Customer's expense.
   - Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule D or 20,000 ft2.

2. **Addition to Existing Building**
   - All utility services to the addition which affect the energy use of any meter included in Schedule D must be sub-metered at Customer's expense.
   - Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule D or 20,000 ft2.

3. **Renovation / Modification to Existing Building or Utility Service**
   - All utility services for the affected portion of the building must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
   - Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule D or 20,000 ft2.

4. **Demolition / Abandonment of Existing Building or Utility Service**
   - All utility services for the affected buildings must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.

- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule D or 20,000 ft2.

5. Re-commissioning of Out of Service Building

- All utility services for the affected buildings must be sub-metered before and after the change until the effect on the energy consumption has been determined at Customer's expense.
- Threshold limit: the lesser of 10% of the area served by any affected meter, as defined in Schedule D or 20,000 ft2.

6. Change in Occupancy

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the "Assumed Savings Procedure" listed below will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 5% of the total occupant count in the base year.

7. Change in Schedule

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 5% of the total scheduled hours for the meter as defined in Schedule D.

8. Change in Set-points

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: An average of 0.5° from the set-points defined in Schedule D.

9. Change in Operational Calendar

- Customer must perform, or cause to be performed, at Customer's expense, a calibrated computer simulation to account for the change. If the impact computed by the simulation is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 5% of the total scheduled hours for the meter as defined in Schedule D.

10. Change in Plug Load

- Customer must perform, or cause to be performed, at Customer's expense, a simulation of energy impact to account for the change. If the computed impact is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 1% of the base year peak 15-minute average kW for the affected meter.

11. Customer Initiated ECMs

- Customer must develop and execute an M&V plan at Customer's expense, which has been reviewed and approved by ESCO, to evaluate the impact of the change. If the impact determined by the M&V plan is greater than 20% of the projected savings on the meter, the Assumed Savings Procedure will be followed. In no event will the adjusted savings be reported as less than the savings achieved in the preceding project year.
- Threshold limit: 2% of the projected savings on any affected meter.

12. Missing Bills

- Customer is required to provide ESCO with utility bills for meters defined in Schedule D within ten

working (10) days of receipt of each bill or provide ESCO direct access to retrieve the utility bills electronically. If utility bills are not received by ESCO within sixty (60) days of the end of the service date, the Assumed Savings Procedure will be used.

13. Failure to Operate ECMs According to Operational and Design Intent

- Customer agrees to operate the ECMs according to the Operational and Design Intent of the ECMs. Failure to do so will necessitate a baseline adjustment using the Assumed Savings Procedure.

14. Failure to Perform Project Specific Customer Responsibilities

- Customer agrees to perform the project specific Customer responsibilities as defined in Schedule E. Failure to do so will necessitate a baseline adjustment using the Assumed Savings Procedure.

15. Other Causes

- Any change that impacts the energy use on the meters defined in Schedule D that does not fit into any of the other categories may still require a non-routine baseline adjustment. Customer will notify ESCO before any change is made so that an agreeable adjustment strategy can be determined. If no agreeable adjustment method can be reached, the Assumed Savings Procedure will be used.

Assumed Savings Procedure Adjustment

- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are greater than or equal to the projected savings for the affected meter(s), the Actual Savings from the prior Guarantee Year will be reported while savings are assumed for the affected meter(s).
- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are less than the projected savings for the affected meter(s) and there have been less than twenty-four (24) months since the commencement of the Performance Period, Actual Savings will be reported at the projected savings level while savings are assumed for the affected meter(s).
- If the Actual Savings for the affected meter(s) in the prior Guarantee Year are less than the projected savings for the affected meter(s) and there have been twenty-four (24) months or more since the commencement of the Performance Period, Actual Savings will be reported as the average of the achieved savings over the two (2) most recent Guarantee Year plus half (1/2) of the difference between the projected savings and the average of the achieved savings over the two (2) most recent Guarantee Years.
    - If pursuant to the Assumed Savings Procedure, ESCO makes improvements to the Project beyond the original scope as defined in Schedule A., which results in an increase in the Actual Savings, an M&V plan accounting for those improvements will be executed and the resulting savings will be added to the Actual Savings.

Estimated Savings Procedure Adjustment

- At ESCO'S sole discretion, ESCO will estimate the impact of the change using computerized building simulations, manual calculations, or other generally accepted estimating procedures and may ignore any changes which fall below the threshold limit.

Exhibit A: Performance Assurance Support Services

Section 1 – Services during initial Term

ESCO shall provide the Performance Assurance Support Services (the "Services") defined below to Customer during the Initial Term as defined in Schedule B.

Contract Year 1 (At No Additional Cost To Customer)

Optimization

Schneider Electric will remotely access your energy management system 4 times each year to perform this service. During each session, the system will be inspected and variables will be compared to a pre-approved list to determine if the system is operating correctly. Any findings that contradict the pre-approved list will be corrected. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings, corrected or not corrected, will be reported and that report delivered to customer. Schneider Electric will notify Customer if remote access is not available Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if remote access is unavailable.

Remote System Monitoring & Reporting

Schneider Electric will remotely access your energy management system on a semi-monthly basis. During each session, the system will be inspected and variables will be compared to the contractual agreement. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported and that report delivered to customer electronically. Schneider Electric will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if remote access is unavailable.

Training

Schneider Electric will provide 24 hours of On Site training. Customer will schedule training sessions at least 14 days in advance. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit. Customer will be responsible for providing access to the training location and paying for any fees associated with that location. The training location must include internet and Customer EMS access. Schneider Electric does not impose any restrictions on the number of Customer employees attending training sessions so long as the location will accommodate that number.

Remote Energy Management, Training & Technical Support

Schneider Electric will provide 55 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated and it is the expectation of Schneider Electric that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the Schneider Electric representative documents as used for that task. No credit will be given towards future years if all of the 55 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10 hour blocks which will remain available for use until the end of the next project year.

Measurement & Verification with Savings Reporting Portal

Schneider Electric will perform the measurement & verification as outlined in the M&V plan and will update the

energy savings and performance portal as data is received. This website contains charts and graphs showing the energy savings by month and by meter for the project. Customer will be given web access to the Schneider Electric eSavings website for the contacts specified by Customer. Changes to that contact list can be made at any time. Data can only be updated on this website if utility bills and other necessary information are provided. If bills and other necessary information are not provided, Schneider Electric is not responsible for maintaining updated information in the energy savings and performance portal until the missing data is provided.

On-Site Visit

Schneider Electric will provide On-Site Energy Consulting consisting of 4 site visits per year, each averaging 8 hours per visit. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Each site visit will average 8 hours, but will vary depending upon the needs of that particular visit. Customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit.

Section 2 – Services After Initial Term

After the end of Initial Term and each subsequent term thereafter, Customer may either (1) renew the same level of Service as set forth in the Initial Term or previous term, (2) change the Service level by selecting one or more of the options defined below, or (3) terminate this PASS Agreement and the Savings Guarantee in accordance with the termination provisions contained herein. All prices will be calculated at the time of renewal.

Contract Year 2 (Cost $28,365)

Optimization

Schneider Electric will remotely access your energy management system 4 times each year to perform this service. During each session, the system will be inspected and variables will be compared to a pre-approved list to determine if the system is operating correctly. Any findings that contradict the pre-approved list will be corrected. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings, corrected or not corrected, will be reported and that report delivered to customer. Schneider Electric will notify Customer if remote access is not available Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if remote access is unavailable.

Training

Schneider Electric will provide 16 hours of On Site training. Customer will schedule training sessions at least 14 days in advance. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit. Customer will be responsible for providing access to the training location and paying for any fees associated with that location. The training location must include internet and Customer EMS access. Schneider Electric does not impose any restrictions on the number of Customer employees attending training sessions so long as the location will accommodate that number.

Remote System Monitoring & Reporting

Schneider Electric will remotely access your energy management system on a semi-monthly basis. During each session, the system will be inspected and variables will be compared to the contractual agreement. Additionally, Schneider Electric will inspect the system for other areas of malfunction or energy waste and report those findings for Customer review. All findings will be reported and that report delivered to customer electronically. Schneider Electric will notify Customer if remote access is not available. Customer is responsible for restoring remote access and notifying Schneider Electric. Schneider Electric is not responsible for providing the planned service session if

remote access is unavailable.

On-Site Visit

Schneider Electric will provide On-Site Energy Consulting consisting of 2 site visits per year, each averaging 8 hours per visit. This service will include a site assessment to determine current conditions and identify areas of improvement. Each site visit will be documented in a report indicating the findings and outlining a plan for further improvement. Each site visit will average 8 hours, but will vary depending upon the needs of that particular visit. Customer is responsible for providing access to all mechanical and electrical equipment and any supervision required by Customer. Site visits must be requested 14 days or more prior to the requested date. Schneider Electric and Customer will work to schedule a mutually acceptable date for each visit.

Remote Energy Management, Training & Technical Support

Schneider Electric will provide 55 hours of remote energy management support. This time can be used for any of the following activities including scheduling, system adjustment, on-demand remote energy management system training or technical support. All Remote Support is client initiated and it is the expectation of Schneider Electric that if a client does not remain on the phone for the duration of the time required to accomplish the task, the customer will accept the time, up to the limit of the hours already purchased and not used, that the Schneider Electric representative documents as used for that task. No credit will be given towards future years if all of the 55 hours are not used by the end of the project year. If all of the hours are exhausted at any time before the end of the year, additional hours can be purchased in 10 hour blocks which will remain available for use until the end of the next project year.

Measurement & Verification with Savings Reporting Portal

Schneider Electric will perform the measurement & verification as outlined in the M&V plan and will update the energy savings and performance portal as data is received. This website contains charts and graphs showing the energy savings by month and by meter for the project. Customer will be given web access to the Schneider Electric eSavings website for the contacts specified by Customer. Changes to that contact list can be made at any time. Data can only be updated on this website if utility bills and other necessary information are provided. If bills and other necessary information are not provided, Schneider Electric is not responsible for maintaining updated information in the energy savings and performance portal until the missing data is provided.