

RESOLUTION 2011 - 319

**RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AND ENTER INTO A GUARANTEED ENERGY PERFORMANCE SAVINGS CONTRACT WITH TRANE U.S. INC. AND PURSUE THIRD-PARTY FINANCING IN ORDER TO FUND THE ENERGY-SAVINGS IMPROVEMENTS IDENTIFIED WITHIN THE INVESTMENT GRADE ENERGY AUDIT.**

**WHEREAS**, Florida Statute 489.145 entitled "Guaranteed Energy, Water, and Wastewater Performance Savings Contracting" provides language related to the pursuit of Guaranteed Energy Performance Savings Contracts to achieve energy conservation cost savings; and

**WHEREAS**, pursuant to Florida Statute 489.145, on March 16, 2010 The Board of County Commissioners of St. Johns County (the Board) entered into contract with the number one ranked firm, Trane U. S. Inc (Trane), in response to County RFQ 09-63 which solicited firms to analyze energy performance savings projects; and

**WHEREAS**, on October 19, 2010 the Board authorized Trane, a guaranteed performance savings contractor, to proceed with an investment grade energy audit on County/County-maintained properties; and

**WHEREAS**, Trane's investment grade energy audit has identified eighteen County/County-maintained properties for energy-savings improvements that meet the energy savings requirements of Florida Statute 489.145 to qualify for Guaranteed Energy Performance Savings Contracting; and

**WHEREAS**, the Board authorized Resolution 98-205 on November 10, 1998 supporting improvements related to a lease agreement on the Ketterlinus Gym building (the single facility identified by Trane's investment grade energy audit that is not owned by the County but is County-maintained) dated January 11, 1994 between the Board and the St. Johns County School District (the School District) for a period of twenty years; and

**WHEREAS**, it is the intent of the County to renew the lease agreement with the School District on the Ketterlinus Gym building for a term of at least 15 years, the financing term proposed for the Energy Performance Savings Contracting; and

**WHEREAS**, the Board authorized Resolution 2010-272 on December 7, 2010 receiving a Florida Energy and Climate Commission Clean Energy Grant in the amount of \$394,000 which will supplement the total cost of the energy savings improvements; and

**WHEREAS**, it is the recommendation of staff to negotiate and enter into a guaranteed energy performance savings contract with Trane in an amount not to exceed \$4.1 million for energy savings improvements at the eighteen County/County-maintained properties; and

**WHEREAS**, upon recommendation of the Board to negotiate and enter into a guaranteed energy performance savings contract, staff will pursue third party financing to fund energy-savings improvements per Florida Statute 489.145.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1. Incorporation of Recitals.**

The above Recitals are hereby incorporated into the body of this Resolution, and are adopted as Findings of Fact.

**Section 2. Authority to Approve.**

The Board of County Commissioners hereby authorizes the County Administrator or his designee to negotiate and enter into a guaranteed energy performance savings contract with Trane U.S. Inc in an amount not to exceed \$4.1 million and pursue third party financing in order to fund the energy-savings improvements in an amount not to exceed \$3.6 million per Florida Statute 489.145.

**Section 3. Correction of Errors.**

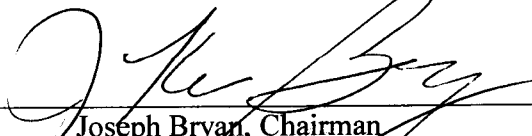
To the extent that there are typographical, administrative or scrivener's errors that do not change the tone, tenor or concept of this Resolution, then this Resolution may be revised without further action by the Board of County Commissioners.

**Section 4. Effective Date.**

This Resolution shall be effective upon its execution.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, State of Florida, and this 1<sup>st</sup> day of November 2011.

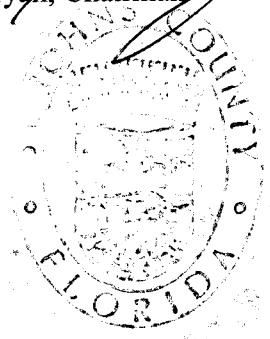
**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

By:   
Joseph Bryan, Chairman

**ATTEST: CHERYL STRICKLAND, CLERK**

By:   
Deputy Clerk

RENDITION DATE 11/3/11

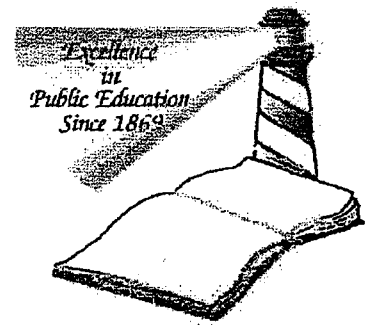


### Energy Performance Projects

Bldg Designation	Building or Facility	Total Cost	<i>minus</i> Utility Rebate	<i>minus</i> State Grant	Resulting Borrowing
Animal Control	Animal Control	34,340	0	1,692	32,648
COA	Council on Aging	110,606	842	14,680	95,084
County Complex	County Admin Building	52,453	1,929	24,149	26,375
County Complex	Courthouse Annex (Pub Def)	133,796	2,565	12,988	118,243
County Complex	Supr of Elect / Old EOC	289,182	19,350	40,702	229,130
Jail	Jail Complex	1,342,370	81,600	159,191	1,101,579
Jail	Sheriff's Admin Complex (Old Jail)	320,827	7,147	30,245	283,435
Jail	New Jail Bldg.	279,987	0	15,643	264,344
Ketterlinus	Ketterlinus Gym	452,095	10,282	45,496	396,318
Library	Anastasia Library	37,863	0	1,608	36,255
Library	Bartram Library	111,817	590	5,430	105,797
Library	Main Library	89,290	191	10,877	78,222
Library	Ponte Vedra Library	204,396	0	31,299	173,097
PV Utility	Sawgrass WWTP	228,606	0	0	228,606
SJC Golf	Cart Barn	4,573	0	0	4,573
SJC Golf	Club House	23,806	402	0	23,404
SJC Golf	Maint. Bldg	13,742	227	0	13,515
Utilities	Anastasia WWTP	322,051	315	0	321,736
		<b>4,051,800</b>	<b>125,439</b>	<b>394,000</b>	<b>3,532,361</b>

**St. Johns County School District**  
40 Orange Street  
St. Augustine, Florida 32084  
(904) 547-7500  
www.stjohns.k12.fl.us

Joseph G. Joyner, Ed.D.  
Superintendent



October 14, 2011

Ms. April Groover  
Office of Energy  
Florida Department of Agriculture and Consumer Services  
600 South Calhoun Street, Suite 251  
Tallahassee, FL 32399-0001

RE: Interlocal Agreement regarding Ketterlinus Gym

Dear Ms. Groover:

The Ketterlinus Gym facility is an integral part of the St. Johns County Recreation and Parks program. After the demolition of the former Recreation and Parks building located on Castillo Drive, numerous youth service organizations were displaced. About the same time, the St. Johns County School District converted Ketterlinus Middle School into an elementary school and a gymnasium was no longer a requirement. The opportunity for the County to operate and maintain this building was a good fit for both St. Johns County and the St. Johns County School District. This building is used for youth recreation activities and overall community use within the County, as well as for the students at Ketterlinus Elementary School.

While the St. Johns County School District owns the building, St. Johns County has operated the gymnasium under a 20 year renewable agreement since January 11, 1994. While the agreement is set to end in 2014, Section 4 of the agreement allows for further extension of the agreement. The County Recreation and Parks Department and the St. Johns County School District have already begun discussions to extend this agreement at a recent staff meeting. Please accept this letter as our intent to renew the agreement and continue the long established partnership for St. Johns County operation of the Ketterlinus Gym.

Sincerely,

Tim Forson  
Deputy Superintendent for Operations

Cc: Dr. Joseph G. Joyner  
Nicole Cubbedge  
Tony Cubbedge  
Wil Smith

*The St. Johns County School District will inspire in all students a passion for lifelong learning, creating educated and caring contributors to the world.*

School Board	Beverly Slough District 1	Tommy Allen District 2	Bill Mignon District 3	Bill Fehling District 4	Carla Wright District 5
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GUARANTEED ENERGY PERFORMANCE SAVINGS CONTRACT

By and Between

Trane U.S. Inc.

And

St. Johns County, FL  
Board of County Commissioners

11-14-11

DRAFT

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## GUARANTEED ENERGY PERFORMANCE SAVINGS CONTRACT

This Guaranteed Energy Performance Savings Contract (the "Contract") is made and entered into as of the day last executed below in the County of St. Johns, State of Florida, by and between guaranteed energy performance savings Company, Trane U.S. Inc. ("Company"), having offices located at 8929 Western Way, Jacksonville, FL and the St. Johns County, FL Board of County Commissioners ("Agency") with its principal offices at 400 San Sebastian View, St. Augustine, Florida 32084 for the purpose of installing certain energy saving equipment, and providing other services designed to save energy for the Agency's property and buildings.

### RECITALS

WHEREAS, Agency owns and operates the Facilities, and is in need of energy saving equipment and services designed to save energy and associated energy costs at its property and buildings ("Facilities") and requires that the operating cost savings of such energy saving equipment and services will meet or exceed the costs of energy conservation measures; and

WHEREAS, Company has developed or become knowledgeable about certain procedures for controlling energy consumption through the use of technical energy audits and engineering analyses and devices, installed and maintained at the Facilities, and has stated it will guarantee to Agency that it will install energy saving equipment for an annual calculated and stipulated savings that will meet or exceed total annual contract payments, and

WHEREAS, Company has made an assessment of the energy consumption characteristics of the Facilities and existing Equipment described in Schedule B,

WHEREAS, Agency desires to retain Company to purchase, install and service certain energy efficiency equipment of the type or class described in Schedule A, attached hereto and made part hereof, and to provide other services for the purpose of achieving energy cost reductions within its Facilities, as more fully set forth herein; and

WHEREAS, Agency is authorized under the laws of the State of Florida to enter into this Contract for the purposes set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, Agency and Company hereto covenant and agree as follows:

#### SECTION 1. DEFINITIONS.

Section 1.1. Definitions. The following terms have the meanings specified below unless the context clearly requires otherwise:

"Agency" means the St. Johns County, FL Board of County Commissioners.

"Annual Reconciliation" means a determination pursuant to Section 4, as to whether a shortfall in annual energy cost savings or an excess in annual energy cost savings exists based on the provisions of Company's written energy savings guarantee reflected in Schedule C (Energy Savings Guarantee) with savings calculated according to Schedule F (Savings Calculation Formula).

"Annual Excess Savings" means, pursuant to Sec. 489.145 (3)(d)(2), Florida Statutes, the amount of any actual annual savings that exceed total annual contract payments made by the Agency for the Contract for such calendar year.

"Baseline Energy Consumption" means the Agency's Baseline Energy Consumption reflected on Schedule E, which shall include energy consumption for each month of the calendar year proceeding the initial contract year.

"Company" means Trane U.S. Inc.

"Commencement Date" means date of receipt by Company of Agency's Certificate of Acceptance to Company under this Contract.

"Energy Conservation Measure" or "ECM" means the measures actually being undertaken by the Company under this Contract, more specifically delineated in Exhibits A, I and/or K, and can include, but is not limited to any other items listed in Sec. 489.145 (3) (b), Florida Statutes.

"Energy Cost Savings" means a measured reduction in the cost of fuel, and energy consumption, and stipulated operation and maintenance costs, if applicable, created from the implementation of the Energy Conservation Measures when compared with an established baseline for the previous cost of fuel, and energy consumption, and stipulated operation and maintenance costs, pursuant to Sec. 489.145 (3) (c), Florida Statutes.

"Equipment" means all items of property described in the Schedule of Equipment to be Installed (Schedule A) and any other items of property pursuant to Sec. 489.145 (3) (b), Florida Statutes.

"Facilities" means the Facilities as described in the first paragraph of this Contract and reflected on Schedule B.

"Fiscal Year" means the financial accounting period beginning on (Insert Beginning Date of Agency Fiscal Year) of the current calendar year and ending on (Insert Ending Date of Agency Fiscal Year) of the following calendar year.

"Guarantee" means the Company's Energy Use Savings Guarantee reflected on Schedule C, whereby the Company guarantees that the calculated value of Energy Cost Savings will meet or exceed the costs of the Energy Conservation Measures.



"Interim Period" means the period from contract execution until the Commencement Date. (See Sec. 3.1)

"Legally Available Funds" means funds duly appropriated or otherwise legally available for the purpose of making payments under this Contract.

"Non-Appropriation" means the failure of an appropriation or availability of the Governing body of Agency or the Legislature to appropriate money for any Fiscal Year sufficient for the continued performance by Agency of all of Agency's obligations under this Contract as evidenced by the passage of a final budget which does not include funding sufficient to pay all payments due.

"Parties" means both the Agency and the Company collectively.

"Savings Calculation Formula" means the Company's Savings Calculation Formula reflected on Schedule F.

"Technical Energy Audit" means, pursuant to Section 489.145(4)(b), Florida Statutes, and a report attached as Appendix C hereto, that summarizes the costs associated with of the Energy Conservation Measures and provides an estimate of the amount of the Energy Cost Savings.

"Term": The term of this Contract shall be as defined in Section 3.2.

## SECTION 2. INCORPORATION

Section 2.1. Schedules, Exhibits and Appendices. Company has prepared and Agency has approved and accepted the Schedules as set forth below, copies of which are attached hereto and made a part of this Contract by reference.

### Schedules

Schedule A	Equipment to be Installed by Company
Schedule B	Description of Facilities; Pre-Existing Equipment Inventory
Schedule C	Energy Savings Guarantee
Schedule D	Compensation to Company (Payment Schedule)
Schedule E	Baseline Energy Consumption
Schedule F	Savings Calculation Formula; Methodology to Adjust Baseline
Schedule G	Construction and Installation Schedule
Schedule H	Standards of Comfort
Schedule I	Company's Maintenance Responsibilities
Schedule J	Agency's Maintenance Responsibilities
Schedule K	Company's Training Responsibilities

### Exhibits

Exhibit I	Performance Bond/Construction Bond
Exhibit II (i)	Certificate of Substantial Completion

Exhibit II (ii) Certificate of Final Completion

SECTION 3. COMMENCEMENT DATE AND TERMS; INTERIM PERIOD

Section 3.1. Commencement Date. Commencement Date shall be the first day of the month after the month in which Company shall have delivered a notice to Agency that it has installed and commenced operating all of the Equipment; and Agency has inspected and accepted said installation and operation as evidenced by the Certificate of Final Completion as set forth in Exhibit II (ii). Agency's obligation begins to accrue for service and maintenance under this Contract as set forth in Schedule D (Compensation to Company) on the Commencement Date pursuant to Schedule D.

Section 3.2. Term of Contract; Interim Period. Subject to the following sentence, the term of this Contract shall be one year, automatically renewable yearly for 15 years measured beginning with the Commencement Date (Term). Nonetheless, the Contract shall be effective and binding upon the parties immediately upon its execution, and the period from contract execution until the Commencement Date shall be known as the "Interim Period". Savings calculations begin upon Agency acceptance, as evidenced by delivery of Exhibit II(ii). Savings during the Interim Period will be included in the initial savings calculations under Schedule F.

SECTION 4. PAYMENTS TO COMPANY

Section 4.1. Energy Savings Guarantee. Company has formulated and provided a written Guarantee that the Energy Cost Savings will meet or exceed the costs of the Energy Conservation Measures pursuant to Section 489.145(4)(c), Florida Statutes, and that the amount of the Energy Cost Savings meet or exceed total annual contract payments made by the Agency for the contract pursuant to Section 489.145(3)(d)(2), Florida Statutes. The Guarantee is attached as Schedule C, providing the annual level of Energy Cost Savings to be achieved as a result of the Energy Conservation Measures provided for in this Contract and in accordance with the Savings Calculation Formula as set forth in Schedule F, which is calculated in compliance with Florida law.

Section 4.2. Review and Reimbursement/Reconciliation.

Section 4.2.1 Review and Reimbursement/Reconciliation. Pursuant to Sec. 489.145(5)(e), Florida Statutes, the Company is required to provide to the Agency an annual reconciliation of the guaranteed energy cost savings. Within ninety (90) days after the end of each Guarantee Year, Company will deliver to the Agency's Contract Manager, identified in Section 22.9, a reconciliation report for such year, reflecting the amount guaranteed and the amount of actual Energy Cost Savings achieved. Upon delivery of the report and all supporting documentation, Agency will have thirty (30) days to accept or reject this yearly reconciliation. Agency shall provide written notice of such rejection, within the stated acceptance period, specifying the basis of the deficiency. Company shall have twenty (20) business days to cure such deficiency and deliver to the Agency a corrected yearly

reconciliation. A Monitoring and Verification plan shall be jointly constructed using the Federal Energy Management Program's (FEMP) *M&V Guidelines: Measurement and Verification for Federal Energy Management Projects version 2.2*. This plan shall be to determine whether annual savings have been recognized. If the Agency fails to reject any yearly reconciliation (including corrected reconciliations) within 30 business days of receipt of all required documentation, Agency shall be deemed to have accepted the reconciliation as of the final day of the 30th business days unless a longer acceptance period is mutually agreed upon in writing.

Section 4.2.2 Annual Reconciliation. If the Annual Reconciliation reveals a shortfall in annual Energy Cost Savings, the Company is liable for such shortfall, and shall pay to the Agency the amount by which the Agency's actual energy costs exceeded guaranteed savings set forth in Schedule C. The Company shall remit such payments to the Agency within sixty (60) days of written notice by the Agency of such monies due.

Section 4.3. Company Compensation and Fees. As payment for Equipment to be installed by Company under this Contract, the Agency shall pay or cause to be paid to Company the sum of Four Million Fifty-One Thousand Eight Hundred Dollars (\$4,051,800) in the increments as set forth in Schedule D (Deliverables and Compensation to Company), if applicable ("Payments"). This sum does not include the cost to Agency of Maintenance (monitoring and verification) to be furnished by Company pursuant to Schedule D.

Section 4.4. Annual Excess Savings. Annual Excess Savings shall be applied 100% to the account of the Agency.

Section 4.5. Agency Payments. Agency agrees to payments as set forth in Schedule D (Compensation to Company). In the event Agency fails to make payment within forty (40) days of the applicable due date, Agency shall pay any interest at a rate of one percent (1%) per month.

Section 4.6 Financing and Notice To Proceed. The Agency will have a separate Financing Agreement with a third party, which constitutes the Agency's source of funding for its obligations under the Contract. Company shall not perform, nor be required to perform, any of the Equipment installation until and unless Agency has closed on its financing of this Agreement (the "Financing Closing"), as evidenced by fully executed contract documents for financing of the Project and funding of any escrow account provided for by the financing documents. Agency will achieve Financing Closing on or ~~before~~ ~~or such~~ later date agreed to in writing by Company. Within five calendar days of the Financing Closing, Agency shall execute and issue a written Notice to Proceed to Trane, upon which event Trane will commence performance of the Equipment installation hereunder. In the event Agency does not achieve Financing Closing on or before the date specified in the preceding sentence, or such later date agreed to in writing by Company, Company may terminate this Agreement upon fourteen (14) calendar days prior written notice to Agency. Upon a termination of this Agreement, neither party shall have any further obligations to the other party hereunder; provided, however, that, Agency shall be obligated to immediately compensate Company for the amount set forth in any

Letter of Commitment, Detailed Audit Agreement, project development agreement, or comparable agreement between Agency and Company.

Section 4.7 Acceptance of Installed Equipment. When the Company considers the Equipment to be installed complete including all contractual requirements, the Company shall notify the Agency in writing and submit to the Agency a Certificate of Acceptance. Within ten (10) business days from receipt of the Company's written notification, the Agency will make an inspection to determine whether the Equipment to be installed is complete. If the Agency determines the Equipment Group to be installed is not complete, the Agency will provide the Company with a specific list of all items that must be corrected or completed before the Agency would consider the Equipment to be installed complete. An executed Certificate of Acceptance or deficiency list will be provided to the Company within fifteen (15) business days from receipt of the Company's written notification. If the Company receives a deficiency list and once the Company has completed all items on the deficiency list, the Company can request a second inspection by the Agency to verify the Equipment to be Installed is complete. Again the re-inspection shall occur within ten (10) business days and a written response within fifteen (15) business days. When the Equipment to be installed is considered completed, the Agency will provide the Company a Certificate of Acceptance, which shall establish the Commencement Date.

The Parties intend that a Certificate of Substantial Completion will be executed as soon as the Equipment installation is complete and beneficial use is provided. It is anticipated and agreed, that the Agency may require use of some installed and completed equipment, prior to the date of completion. In such situations, the parties will conduct acceptance inspections and Certificates of Substantial Completion as described above, for that portion of the Equipment to be installed which is being operated and the Agency is receiving beneficial use. When so used and accepted, the maintenance and repair due to ordinary wear and tear caused by such used will be made at the expense of the Agency.

Section 4.8 Current Expense. Agency's obligation to make Payments hereunder constitutes a current obligation payable exclusively from Legally Available Funds and shall not be construed to be an indebtedness within the meaning of any applicable constitutional or statutory limitation or requirement. Neither Agency nor the State nor any political subdivision or agency thereof has pledged any of its full faith and credit or its taxing power to make any Payments under this Contract.

Section 4.9 Baseline Costs. Actual savings are measured against baseline costs, the expenses that the Agency would have incurred had this Contract not been implemented. Baseline costs are established as part of the measurement and verification methodology, which shall be based on the International Performance Measurement & Verification Protocol, published by the U.S Department of Energy and as revised March 2002. Details of the Monitoring and Verification plan are as agreed upon by the Company and Agency and documented in the Technical Energy Audit and/or Schedule F.

## SECTION 5. FISCAL FUNDING

Section 5.1. Termination.

(a) Termination.

(i) In the event of Non-Appropriation, this Agreement shall terminate. Company may effect such termination by giving the Agency a written notice of termination at which time Agency shall pay to Company any payments ("Payments") and other amounts that are due and have not been paid at or before the end of its then current Fiscal Year with respect to this Agreement. Agency shall endeavor to give reasonable notice of such termination prior to the end of the Fiscal Year for which appropriations were made, and shall notify Company of any anticipated termination upon its determination thereof. In the event of termination of this Agreement as provided in this Section, Agency shall comply with Section 5.1(b).

(ii) This Agreement is subject to termination upon the occurrence of an event of default, as provided in Section 17 hereof.

(b) Intent To Continue Term; Appropriations.

(i) Agency intends to continue the Agreement hereunder for its entire Term and to pay all Payments relating thereto. The Agency agrees to direct the person within such Agency in charge of preparing the Agency's budget to include in the budget request for each Fiscal Year the Payments becoming due in such Fiscal Year. The parties acknowledge that appropriation for Payment is a governmental function that the Agency cannot contractually commit the governing body of Agency to perform and this Agreement does not constitute such a commitment. However, the Agency reasonably believes that money in an amount sufficient to make all Payments can and will lawfully be appropriated and made available to permit continued utilization of the Equipment in the performance of its essential functions during the applicable Terms.

(ii) Agency is an agency of the State and Agency's performance and obligation to pay under this Agreement is contingent upon an annual appropriation. Agency, as an agency of the State, is subject to the appropriation of funds by the governing body of the Agency in an amount sufficient to allow continuation of its performance in accordance with the terms and conditions of this Agreement for each and every Fiscal Year following the Fiscal Year in which the Agreement is in effect. Agency shall, upon receipt of notice that sufficient funds are not available to continue its full and faithful performance under this Agreement, provide prompt written notice to Company of such event and upon the expiration of the period of time for which funds were appropriated be thereafter released of all further obligations in any way related to such Equipment. Agency agrees to include in its appropriation request each year of the Agreement a request for an appropriation to fund the Agreement and any applicable Equipment Schedule D.

(iii) In the event that the appropriations has not been adopted by the governing

body of the Agency prior to the expiration of a Fiscal Year, and no declaration of an intent not to appropriate has been made by the Agency, the Term of this Agreement will be deemed renewed pending the enactment of such appropriations act. If any Payments are due under this Agreement during such period, such Terms will be so extended only if: (a) an interim or emergency budget implemented by the governing body of the Agency pending enactment of a final budget makes available to the Agency money that may legally be used to make Payments during such period; or (b) sums are otherwise available to make such Payments.

(c) Effect of Termination for Non-Appropriation. Upon termination of this Agreement for Non-Appropriation as provided in this Section, Agency shall not be responsible for the payment of any additional Payments coming due in succeeding Fiscal Years, but if Agency has not complied with the instructions received from Company in accordance with Section 5.1(e), the termination shall nevertheless be effective, and Agency shall pay, on demand to Company, from Legally Available Funds, the unpaid balance of the Agreement which is stipulated to be the aggregate of the Principal Balances as shown on Schedule D as of the last day of the Fiscal Year for which funds were appropriated.

(d) No Waiver of Sovereign Immunity. Nothing herein shall be construed as waiving the sovereign immunity of the State of Florida or any agency or instrumentality thereof.

(e) In the event of termination of this Contract as provided in this Section, Agency shall comply with the following:

(i) Company may by written notice to Agency, and, if Agency is a State Agency, also to the Chief Financial Officer (CFO), request that Agency, within thirty (30) days of such written notice, cause all Equipment that is subject to the defaulted Contract, such Equipment (together with all documents necessary to transfer legal and beneficial title thereto to Company) to be delivered to Company or Company's designee at a place in the State designated by Company. If Agency fails or refuses to voluntarily transfer such Equipment to Company as herein provided, to the extent permitted by law, Company shall have the right to obtain a judgment against Agency from Legally Available Funds for compensatory damages in the amount of the then applicable Principal Balances as shown on the applicable Schedule D. If the Equipment or any portion of it has been destroyed or damaged beyond repair, Agency shall pay the applicable Principal Balance of the damaged or destroyed Equipment as set forth in the Equipment Schedule relating thereto to Company only to the extent not covered by insurance to be obtained by Agency.

(ii) Upon failure of Agency to voluntarily comply with Section 5.1(e)(i), Company shall have whatever rights and remedies are available at law, if any, against Agency's Legally Available Funds. Company and Agency agree that there is no intention to create under this Contract a right in Company to dispossess Agency involuntarily of the legal title to or the use of the Equipment. Company hereby irrevocably waives any right to specific performance of Agency's covenant to transfer legal title to and return possession of the Equipment to Company.

## SECTION 6. SCOPE OF WORK

### Section 6.1 Construction and Equipment

(a) Company shall install certain Equipment in Agency's Facilities. Construction and equipment installation shall proceed in accordance with the Construction Schedule attached hereto as Schedule G.

(b) Title and risk of loss or damage to all items shall be the responsibility of the Company until accepted by the Agency, unless loss or damage results from negligence by the Agency.

(c) Upon substantial completion, the Agency shall promptly execute a Certificate of Acceptance (Exhibit II), along with a punch-list of items necessary for final acceptance.

Section 6.2 Maintenance. Company shall be responsible for maintaining certain energy saving Equipment pursuant to Schedule I, Company's Maintenance Responsibilities.

### Section 6.3 Records and Data

(a) Agency has furnished or shall furnish (or cause its energy suppliers to furnish) to Company, upon its request, all of its records and complete data concerning energy usage and energy-related maintenance for the Facilities described in Schedule B. During the Term of the Contract, Agency will provide Company copies of all energy bills each month. Company shall calculate the amount of actual Energy Cost Savings achieved for use in determining the Annual Reconciliation pursuant to Section 4.2.2.

(b) Reports to be issued by Company to the Agency are more particularly delineated in Schedule D, Deliverables. At a minimum, following reports shall be provided on an annual basis:

(i) by Company: the Energy Cost Savings calculated in accordance with Schedule F, the Savings Calculation Formula

(ii) by Agency: copies of all energy bills showing Agency energy usage

(c) Work in Progress. In the event this Contract is terminated for any reason, all finished or unfinished documents, data, studies, correspondence, reports and any other products prepared for the purpose of performing this Contract, shall be made available to, or delivered to, Agency for its use upon payment to Company of all amounts due hereunder.

## SECTION 7. WARRANTIES AND LIABILITIES

Section 7.1 Workmanship and Equipment Warranty: Company covenants and agrees that all Equipment installed shall be new and in good and proper working condition. Company warrants that, for a period of one year from the date of Final Completion (the "Warranty Period"), Trane-manufactured equipment installed hereunder and the installation work included within the Services (i) shall be free from defects in material, manufacture, and workmanship and (ii) shall have

the capacities and ratings set forth in Trane's catalogs and bulletins. Notwithstanding the foregoing, with respect to selected equipment to be identified in Exhibit B.1 (Certificate of Substantial Completion and Acceptance), Company shall have the option of commencing the warranty period upon the later of (a) the date of initial startup of such selected equipment and (b) the initially scheduled date of Substantial Completion set forth in Section 1.02. For Trane-manufactured equipment not installed by Company the Warranty Period is the lesser of 12 months from initial start-up or 18 months from the date of shipment. Equipment and/or parts that are not manufactured by Trane are not warranted by Company and have such warranties as may be extended by the respective manufacturer. If such defect in Trane-manufactured equipment or the installation work is discovered within the Warranty Period, Company will correct the defect or furnish replacement equipment (or, at its option, parts therefor) and, if said Trane-manufactured equipment was installed pursuant hereto, labor associated with the replacement of parts or equipment not conforming to this warranty. No liability whatever shall attach to Company until said equipment and Services have been paid for in full and then said liability shall be limited to Company's cost to correct the defective equipment or work and/or the purchase price of the equipment shown to be defective. Company's warranties expressly exclude any remedy for damage or defect caused by corrosion, erosion, or deterioration, abuse, modifications or repairs not performed by Company, improper operation, or normal wear and tear under normal usage. Company shall not be obligated to pay for the cost of lost refrigerant.

The foregoing does not apply to Maintenance and the warranties for Maintenance are separately stated on Schedule I of this Agreement.

The warranty and liability set forth in this section are in lieu of all other warranties and liabilities, whether in contract or in negligence, express or implied, in law or in fact, including implied warranties of merchantability and fitness for a particular use or fitness for a particular purpose. In no event shall Company be liable for any incidental, consequential (including without limitation lost profits), or punitive damages. No representation or warranty of merchantability or fitness of purpose is made regarding prevention by the scope of services, or any component thereof, of mold, fungus, bacteria, microbial growth, or any other contaminants. Company specifically disclaims any liability if the Scope of services or any Equipment installed component thereof is used to prevent or inhibit the growth of such materials.

Section 7.2 Liability: Company shall defend and indemnify the Agency, the State of Florida, its officers, agents, and employees (the "Agency Parties") against claims and damages, including personal injury and property damage, to the extent caused by Company's negligent acts or omissions. Company also agrees to indemnify and hold the Agency Parties harmless should any goods or services provided by Company infringe upon the United States patent, copyright or trade secret of another.

Section 7.3 Liability: Both parties recognize that the Agency, as an agency of the State of Florida, is prohibited from entering into indemnification agreements. Company shall not be responsible for damages resulting from Agency's negligence.

Section 7.4. Limitation of Liability: Neither party shall be liable to the other for



special, indirect, consequential or punitive damages, even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. In no event shall Company be liable for any damages (whether direct or indirect) resulting from mold, fungus, bacteria, microbial growth, or other contaminants or airborne biological agents. Notwithstanding the foregoing, nothing in this section will be construed to impose any limitation prohibited by rule 6A-1.006(3), Florida Administrative Code.

#### SECTION 8. TRAINING BY COMPANY

The Company shall conduct the training program described in Schedule K hereto. The training specified in Schedule K must be completed prior to acceptance of the Equipment installation. The Company shall provide ongoing training incorporated into the Monitoring and Verification services with respect to Equipment updated or altered after final completion of the project. Such training shall be provided by Company at no additional cost or expense to Agency.

#### SECTION 9. PERMITS AND APPROVALS

Agency shall cooperate with Company in obtaining all necessary permits and approvals for installation of the Equipment. In no event shall Agency, however, be responsible for payment of any permit fees. The equipment and the operation of the equipment by Company shall at all times conform to all federal, state and local code requirements.

#### SECTION 10. PERFORMANCE BY COMPANY

Company warrants that all work performed complies with customary, reasonable and prudent standards of care in accordance with standards in the industry, and shall be performed in a professional manner consistent with Agency supplied specifications and standards. Company shall perform all tasks/phases under the Contract, including construction, and install the Equipment in such a manner so as not to harm the structural integrity of the buildings or their operating systems. Company shall repair and restore to its original condition any area of damage caused by Company's performance under this Contract. The Agency reserves the right to review the work performed by Company and to direct Company to take certain corrective action if the structural integrity of the Facilities or its operating system is or will be harmed. The opinion of the Agency with respect to the structural integrity shall be a good faith belief based upon the written analysis of a professional engineer. All costs associated with such corrective action to damage caused by Company's performance of the work shall be borne by Company.

#### SECTION 11. OWNERSHIP

Section 11.1. Ownership of Certain Proprietary Property Rights. Agency shall not, by virtue of this Contract, acquire any interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or similar items of property which are or may be used in connection with the Equipment. The Company shall grant

to the Agency all rights for the duration of this Contract for any and all software or other intellectual property rights necessary for the Agency to continue to operate, maintain, and repair the Equipment in a manner that will yield maximal energy consumption reductions.

Section 11.2. Ownership of Existing Equipment. Ownership of the equipment and materials presently existing at the Facilities at the time of execution of this Contract shall remain the property of the Agency even if it is replaced or its operation made unnecessary by work performed by Company pursuant to this Contract. The Company shall be responsible for the disposal of all equipment and materials designated by the Agency as disposable off-site in accordance with all applicable laws and regulations regarding such disposal.

Section 11.3 Ownership of Installed Equipment. After the Commencement Date and during the term of any Third Party Financing Agreement pursuant to Schedule L or financing of the Equipment pursuant to Schedule D (Deliverables and Compensation to Company), legal title to and ownership of all Equipment and any and all repairs, replacements, substitutions and modifications thereto shall be in Agency and the Company shall take all actions within its control necessary to vest such title and ownership in Agency.

Section 11.4 Patent and Copyright. Company, without exception, shall indemnify and save harmless the Agency and its employees from liability of any nature or kind, including cost and expenses for or on account of any United States copyrighted, patented, or unpatented invention, process or article supplied by the Company. Company has no liability when such claim is solely and exclusively due to the combination, operation or use of any article supplied hereunder with equipment or data not supplied by Company or is based solely and exclusively upon the Agency's alteration of the article. The Agency will provide prompt written notification of a claim of copyright or patent infringement and will afford Company full opportunity to defend the action and control the defense. Further, if such a claim is made or is pending the Company may, at its options and expenses procure for the Agency the right to continue use of, replace or modify the article to render it noninfringing. (If none of the alternatives are reasonably available, the Agency agrees to return the article on request to the Company and receive reimbursement, if any, as may be determined by a court of competent jurisdiction.) If Company uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the negotiated prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

## SECTION 12. FACILITIES MAINTENANCE

Agency agrees that it shall adhere to, follow and implement the energy conservation procedures and methods of operation to be set forth on Schedule J (Agency's Maintenance Responsibilities), to be attached hereto and made a part hereof after Agency's approval.

## SECTION 13. EQUIPMENT SERVICE

Section 13.1. Actions by Company. Company shall provide service, repairs, and adjustments to the Equipment installed under terms of this Contract, if any, pursuant to Schedule

I, Company's Maintenance Responsibilities. Company will not provide maintenance outside those services set forth in Schedule I without prior written approval and authorization of the Agency.

Section 13.2. Actions by Agency. Agency shall not move, remove, modify, alter, or change in any way the Equipment or any part thereof without the prior written approval of Company except as set forth in Schedule J (Agency's Maintenance Responsibilities). Notwithstanding the foregoing, Agency may take reasonable steps to protect the Equipment if, due to an emergency, it is not possible or reasonable to notify Company before taking any such actions. In the event of such an emergency, Agency shall take reasonable steps to protect the Equipment from damage or injury and shall follow instructions for emergency action provided in advance by Company. Agency agrees to maintain the Facilities in good repair and to protect and preserve all portions thereof that may in any way affect the operation or maintenance of the Equipment. If Company becomes aware that Agency is not performing maintenance responsibilities in accordance with Schedule J, or that Agency has made any other material changes, including a change in manner of use, hours of operation for the equipment, permanent changes in the comfort and service parameters, occupancy or structure of the premises, types and quantities of equipment at the Premises, then Company shall submit such baseline adjustment in its annual reconciliation report to the Agency and the parties shall determine and agree what, if any, adjustments to baseline will be made in accordance with measurement and verification methodology set forth in Schedule F. Agency's Maintenance Responsibilities may be provided by Agency or Agency's contractors, at Agency's sole discretion.

#### SECTION 14. UPGRADING OR ALTERING THE EQUIPMENT

Company shall at all times have the right, subject to Agency's prior written approval, which approval shall not be unreasonably withheld, to change the Equipment, revise any procedures for the operation of the equipment or implement other energy saving actions in the Facilities, provided that (i) such modifications or additions to, or replacement of the Equipment, and any operational changes, or new procedures are necessary to enable the Company to achieve the energy savings at the Facilities and; (ii) any cost incurred relative to such modifications, additions or replacement of the Equipment, or operational changes or new procedures shall be the responsibility of the Company. All modifications, additions or replacements of the Equipment or revisions to operating or other procedures shall be made by written amendment to the Contract.

#### SECTION 15. PROPERTY/CASUALTY/INSURANCE

Section 15.1. Insurance. At all times during the term of this Contract, Company shall maintain in full force and effect, at its expense: (1) Workmen's Compensation Insurance sufficient to cover all of the employees of Company working to fulfill this Contract, and (2) Casualty and Liability Insurance on the Equipment and Liability Insurance for its employees and the possession, operation, and service of the Equipment. The limits of such insurance shall be not less than \$2,000,000 for injury to or death of one person in a single occurrence and \$2,000,000 for injury to or death of more than one person in a single occurrence and \$2,000,000

for a single occurrence of property damage. Such policies shall name the Agency as an additional insured to the extent of Company's negligence hereunder.

Prior to commencement of work under this Contract, Company will be required to provide Agency with current certificates of insurance specified above. These certificates shall contain a provision that coverages afforded under the policies will not be canceled or changed until at least thirty (30) days' prior written notice has been given to Agency.

The policies for Bodily Injury and Property Damage Liability Insurance shall be written to include Contractual Liability Insurance to protect Company against claims from the operations of subcontractors. Certificates of Company's insurance shall be provided to Agency prior to beginning construction.

Section 15.2. Damage. Company shall be responsible for (i) any damage to the Equipment or other property on the Facilities and (ii) any personal injury where such damage or injury occurs as a result of Company's performance under this Contract, but only to the extent caused by the acts or omissions of the Company.

## SECTION 16. BOND

Section 16.1. Bonds. within 30 days of the Effective Date :

Company shall furnish the Agency with a Payment Bond and a Performance Bond each in an amount of \$(Total Retrofit Cost). The Payment and Performance bond shall remain in effect until the Equipment is accepted by the Agency as provided in Exhibit II. In no event shall such bond cover any energy savings guarantees. Additionally, the bond shall not cover any warranties beyond one year from completion of the installation.

Section 16.2 Bond Provisions. The following provisions shall apply to the bonds in this Section:

- (a) The Agency shall be named as the beneficiary of the bonds.
- (b) The Company shall ensure they follow Section 255.05 "Bond of contractor constructing public buildings; form; action by materialmen" of the Florida Statutes.
- (c) No payments shall be made to Company until the bond is in place as per Section 255.05 Florida Statutes.
- (d) To be acceptable to the Agency as surety for performance bonds, the Surety Company shall:
  - (i) Have a currently valid Certificate of Authority, issued by the State of Florida, Department of Insurance, authorizing it to write surety bonds in the State of Florida

(ii) Have a currently valid Certificate of Authority issued by the United States Department of Treasury under Sections 9304 to 9308 of Title 31 of the United States Code.

(iii) Be in full compliance with the provisions of the Florida Insurance Code

(iv) Have a minimum Best's Policyholder Rating of A- or Performance Index Rating of VI from Best's Key Rating Guide.

## SECTION 17. EVENTS OF DEFAULT

Section 17.1 The following are Events of Default under this Contract:

(a) Any failure by either party to pay any payment required to be paid when due and the continuation of said failure for a period of forty (40) days after such due date (other than by reason of non-appropriation), provided that Company is not in default in its performance under the terms of this Contract. A State Agency's failure to pay for reason of non-appropriation shall not constitute an event of default, and shall be governed by Section 5.1 of this Contract.

(b) Failure by either party to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder or under this Contract, other than as referred to in Clause (a) of this Section, for a period of forty (40) days after written notice specifying such failure and requesting that it be remedied has been given to the party.

(c) Company initiates a proceeding in any court, seeking liquidation, reorganization, debt arrangement, dissolution, winding up, appointment of trustee, receiver, custodian, or the like for substantially all of its assets, and such case or proceeding shall continue undismissed, unstayed and in effect for a period of 60 consecutive days; or an order for relief shall be entered in an involuntary case under the federal bankruptcy laws or other similar laws now or hereafter in effect.

## SECTION 18. REMEDIES UPON DEFAULT

Section 18.1. Remedies upon Default by Agency. If an Event of Default by Agency occurs, Company may, without a waiver or election of other remedies which exist in law or equity, exercise all remedies available at law or in equity or other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and unpaid by Agency, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy.

Section 18.2. Remedies Upon Default by Company. If an Event of Default by Company occurs, Agency may, without a waiver of other remedies which exist in law or equity, elect to exercise any and all remedies at law or equity, or institute other proceedings, including, without limitation, bringing an action or actions from time to time for specific performance, and/or for the recovery of amounts due and unpaid and/or for damages, which shall include all costs and expenses reasonably incurred.

## SECTION 19. ASSIGNMENT

Section 19.1. Assignment by Company. The Company acknowledges that the Agency is induced to enter into this Contract by, among other things, the professional qualifications of the Company. The Company agrees that neither this Contract nor any right or obligations hereunder may be assigned in whole or in part to another firm, without the prior written approval of the Agency; provided the Company can without prior approval from the Agency assign this Contract to its parent or affiliate companies.

The Company may, with prior written approval of the Agency, which consent shall not be unreasonably withheld, delegate its duties and performance under this Contract, and/or utilize subcontractors, provided that any assignee(s), delegee(s), or subcontractor(s) shall fully comply with the terms of this Contract. Notwithstanding the provisions of this paragraph, the Company shall remain jointly and severally liable with its assignees(s), or transferee(s) to the Agency for all of its obligations under this Contract.

Section 19.2. Assignment by Agency. Agency may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Facilities or an interest therein subject to the prior written approval of Company. If Company rejects new assignee the Agency will continue to make the payments associated with the facility or the Agency can pay the remaining principal on the loan for the equipment installed in that facility. Notwithstanding the foregoing, the Agency's rights and responsibilities may be transferred in the event that the agency/department that originally executed this Contract is transferred, moved or absorbed by another State of Florida entity to such succeeding entity.

## SECTION 20. HAZARDOUS MATERIALS

Section 20.1 Asbestos and Hazardous Materials. Except as expressly stated in Exhibit B, Company's Scope expressly excludes any work connected or associated with Hazardous Materials. Hazardous Material means any pollutant, contaminant, toxic or hazardous substance, material or waste, any dangerous, potentially dangerous, noxious, flammable, explosive, reactive or radioactive substance, material or waste, urea formaldehyde, asbestos, asbestos-containing materials ("ACM's"), polychlorinated biphenyl ("PCB"), and any other substance, the manufacture, preparation, production, generation, use, maintenance, treatment, storage, transport, disposal, handling, or ownership of which is regulated, restricted, or prohibited, by any federal, state, or local statute, law, ordinance, code, rule or regulation now or at any time hereafter in effect, and as may be amended from time to time, including but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. §§ 2601 et seq.), and the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.).

Company shall not use, store, dispose of or otherwise handle any Hazardous Material in or on the Facilities except in a lawful manner and so as not to cause Agency any cost, loss, obligation

or liability or expose Agency to any claim or suit with respect to same. Company shall not perform any identification, abatement, cleanup, removal, transport, treatment, storage or disposal of Hazardous Materials on Agency's premises. Company's responsibility, if any, for any Hazardous Materials, shall be limited to and as expressly set forth in Schedule A and Agency shall, at all times, be and remain the owner and generator of any and all Hazardous Materials on the Agency's premises and responsible for compliance with all laws and regulations applicable to such Hazardous Materials.

Should Company become aware of or suspect the presence of Hazardous Materials in the course of performing the Services that are not disclosed in Schedule B, or which present or may present a hazard to or endanger health welfare or safety, Company shall have the right to immediately stop work in the affected area and shall notify Agency. Agency will be responsible for taking any and all action necessary to remove or render harmless the Hazardous Materials in accordance with all applicable laws and regulations. Company shall be required to resume performance of the Scope in the affected area only in the absence of Hazardous Materials or when the affected area has been rendered harmless; if the Company has not or cannot resume performance of the Scope in the affected area within 120 days of discovery of the Hazardous Material, Company may terminate this Agreement with respect to the affected area and Agency shall be liable to Company for the Scope completed to date of termination, together with the price of any specially manufactured items, whether in production or delivered. In such event, the Energy Savings Guarantee shall be adjusted as appropriate. Agency shall further compensate Company for any additional reasonable costs incurred by Company as a result of work stoppage, including demobilization and remobilization, but in no event more than \$50,000. In addition to any other indemnity obligation of Agency to Company, and to the extent provided under Section 768.28 of the Florida Statutes, Agency assumes all risks attributable to or arising out of or in any way connected with or related to: (1) any leak, deposit, spill, discharge, or release or disposal of Hazardous Materials in connection with the performance of this Agreement, except to the extent such Hazardous Materials were brought onto the Premises by Company or released due to the negligence or willful misconduct of Company; and/or (2) Agency's failure to identify and disclose Hazardous Materials and to fully comply with all federal, state, and local statutes, laws ordinances, codes, rules and regulation now or at any time hereafter in effect regarding Hazardous Materials.

## SECTION 21. REPRESENTATIONS AND WARRANTIES

Section 21.1 Each party warrants and represents to the other that:

- (a) it has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Contract and perform its obligations hereunder;
- (b) its execution, delivery, and performance of this Contract have been duly authorized by, or are in accordance with, its organic instruments, and this Contract has been duly executed and delivered for it by the signatories so authorized, and it constitutes its legal, valid, and binding obligation;

(c) its execution, delivery, and performance of this Contract will not breach or violate, or constitute a default under any Contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected; or

(d) it has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially and adversely affect its ability to perform hereunder.

Section 21.2 Agency Representations. Agency hereby warrants, represents and promises that:

(a) it has provided or shall provide timely to Company, all records relating to energy usage and energy-related maintenance of Facilities requested by Company and the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Contract will not be knowingly untrue or inaccurate in any material respect; and

(b) it has not entered into any contracts with other persons or entities for the provision of energy management services for the Facilities except as disclosed to Company.

Section 21.3 Company Representations. Company hereby warrants, represents and promises that:

(a) before commencing performance of this Contract:

(i) it shall have become licensed or otherwise permitted to do business in the State of Florida;

(ii) it shall have provided proof and documentation of required insurance pursuant to Section 15 it shall make available, upon reasonable request, all documents relating to its performance under this Contract, including all contracts and subcontracts entered into;

(b) it shall use qualified subcontractors and delegees, licensed and bonded in this state to perform the work so subcontracted or delegated pursuant to the terms hereof;

(c) that it is financially solvent, able to pay its debts as they mature and possessed of sufficient working capital to perform its obligations under this Contract.

## SECTION 22. MISCELLANEOUS

Section 22.1 Waiver of Liens. Company will obtain and furnish to Agency a Waiver of Liens from each subcontractor and each permanent material supplier that supply materials or services hereunder. Should liens or claims be filed against the Facilities by reason of Company's acts or omissions, Company shall cause same to be discharged by bond or otherwise within ten (10) days after filing.

Section 22.2. Compliance with Law and Standard Practices. Company shall perform its



obligations hereunder in compliance with any and all applicable federal, state, and local laws, rules, and regulations, in accordance with sound engineering and safety practices, and in compliance with any and all reasonable rules of Agency relative to the Facilities. Company shall be responsible for obtaining all governmental permits, consents, and authorizations as may be required to perform its obligations hereunder.

Section 22.3. Independent Capacity of the Company. The parties hereto agree that Company, and any agents and employees of Company, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of the Agency.

Section 22.4. No Waiver. The failure of Company or Agency to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either party's right to thereafter enforce the same in accordance with this Contract in the event of a continuing or subsequent default on the part of Company or Agency.

Section 22.5. Severability. In the event that any clause or provision of this Contract or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Contract unless the result would be manifestly inequitable or unconscionable.

Section 22.6. Complete Contract. This Contract, including all Schedules, Exhibits and Appendices attached hereto, when executed, shall constitute the entire Contract between both parties and this Contract may not be amended, modified, or terminated except by a written Contract signed by the parties hereto.

Section 22.7. Further Documents. The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Contract.

Section 22.8. Applicable Law. This Contract and the construction and enforceability thereof shall be interpreted under the laws of the State of Florida. In the event any provision of this Contract is in conflict with Section 489.145, Florida Statutes, the provisions of Section 489.145 shall control.

Section 22.9. Notice. Any notice required or permitted hereunder shall be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, or delivered to a nationally recognized express mail service, postage prepaid to the address shown below or to such other persons or addresses as are specified by similar notice. The Agency's Contract Manager for this project will serve as liaison for the ongoing administration of the Contract and the resolution of any problems related thereto.

TO COMPANY: *Trane U.S. Inc.*  
*Attention: Mr. Lou Zaccone*  
*District Manager - Florida*  
*Trane Commercial Systems*

2884 Corporate Way  
Miramar, FL 33025

With Copy to:  
Legal Department  
Trane U.S Inc.  
4833 White Bear Parkway  
St. Paul, Minnesota 55110

TO AGENCY: St. Johns County, FL  
Attention: Gene Burns  
2416 Dobbs Rd.  
St. Augustine, FL 32086

Section 22.10. Statutory Notices and Requirements. The Agency shall consider the employment by any Company of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. Such violation shall be cause for unilateral cancellation of this Contract. An entity or affiliate who has been placed on the public entity crimes list or the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a Company, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity pursuant to limitations under Chapter 287, Florida Statutes.

Wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto will be adjusted to exclude any significant sums by which the Agency determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within 1 year following the end of the contract.

The Company warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Company to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Company any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract. For the breach or violation of this provision, the Agency shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

Section 22.11. Cancellation. The Agency shall have the right of unilateral cancellation for refusal by the Company to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by the Company in conjunction with the contract.

Section 22.12. Force Majeure. Neither party will be liable for any default or delay in the performance of its obligations under this Contract to the extent such default or delay is caused by fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in the United States; injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party ("Force Majeure Events"); provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. Performance times shall be considered extended for a period of time equivalent to the time lost because of any such delay, provided that in the event Company is delayed in its performance by reason of such cause, no such extension shall be made unless notice thereof is presented by Company to Agency in writing within ten (10) business days after the start of the occurrence of such delay, no payment shall be made by Agency for any fees or expenses incurred by Company by reason of such delay, and Company shall use best efforts to perform its obligations during such period of delay, and notify the Agency of its abatement or cessation.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto subscribe their names to this Contract by their duly authorized officers on the date last executed below.

TRANE U.S. INC.

ST JOHNS COUNTY, FL

By: \_\_\_\_\_  
[Signature]

By: \_\_\_\_\_  
[Signature]

Title: \_\_\_\_\_  
(Corporate Seal)

Title: \_\_\_\_\_

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

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

## INDEX OF SCHEDULES, EXHIBITS, APPENDICES

Schedule A	Scope of Work / Equipment to Be Installed
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### EXHIBITS

Exhibit I	Performance Bond
Exhibit II (i)	Certificate of Substantial Completion
Exhibit II (ii)	Certificate of Final Completion

Schedule A  
Scope of Work / Equipment to Be Installed

Jail & Sherriff's Complex

ECM 6 - Install Occupancy Sensors.

**Project Description**

The interior lights in all occupied administration spaces are controlled with manual on/off switches. Lights are left on when occupants leave the room throughout the day and are left on overnight, which uses unnecessary energy.

There are energy saving opportunities with the installation of occupancy sensors in certain rooms to control the lighting system. These sensors offer a dual technology of Passive Infrared Radiation (PIR) and also ultrasonic sensing for both motion and sound. These second generation sensors are superior to first generation sensors that utilized a single technology, by accurately controlling the space lighting system based on the occupancy status. Occupancy sensors will keep light energy usage to a minimum when occupants leave the room.

**Project Scope**

Retrofit existing rooms in the Old Jail and Sheriff's Administration Building in the following areas: Offices, Storage Rooms, Mechanical/Electrical Rooms, restrooms.

ECM 7 - Install High Efficiency Chillers

**Project Description**

Currently the two (2) 60-ton Carrier air-cooled chillers and the one (1) 55-ton Carrier air-cooled chiller supplies chilled water to the Old Jail. One (1) 50-ton, Carrier air-cooled chiller supplies chilled water to the Sheriff's Administration Building. All chillers are standard efficiency.

The total peak load of these two buildings together is approximately 130 tons. There exists some energy savings opportunities to combine both buildings into one chiller plant and reduce the current total cooling capacity of both plants from 200 tons to 180 tons.

**Project Scope**

- Remove the existing chillers and pumps at both buildings and properly dispose of them or, at the owner's discretion, store the chiller at an on-site location specified by the owner. If the removal of the chiller involves temporary relocation of other mechanical equipment, it will be stored, environmentally protected and restored to proper operation after the new chillers are installed. Extract and store the refrigerant from the displaced chillers in secure vessels on site and properly dispose.
- Route new 2-1/2" CHS/R piping underground from the Old Jail chiller plant to the Sheriff's Administration Building and reconnect to existing chilled water piping at Sheriff's Administration Building. Total distance of underground pipe routing between both buildings is estimated to be 350 feet.
- Provide two (2) new 60-nominal ton electric air-cooled scroll chillers at the location of the removed chillers for the Old Jail. The new chillers shall be air-cooled, scroll chillers with minimum efficiency of 1 kW/ton at the same design criteria as the existing chillers, 44°F and 58°F leaving and entering CHW.

- Because the Sheriff's AHUs will now receive 14° delta-T chilled water instead of 10° delta-T, provide new chilled water valve packages for the HVAC-11 and HVAC-12 chilled water AHUs serving the Sheriff's Administration Building due to the new flow rates.
- Provide three (3) new CHW pumps at the Old Jail chiller plant properly sized to handle to entire building water flow and head for both the Old Jail and Sheriff's Administration Building. Provide all necessary electrical services and modification to facilitate the installation.
- All work shall be phased in a manner to minimize chilled water downtime to both buildings as much as possible.
- Provide CHW piping, pipe fittings, isolation and control valves, insulation and other components necessary to connect the new chillers to integrate them into existing CHW plant operation. Provide all necessary electrical services and modification to facilitate the installation.

#### ***ECM 14 - Install Cooling Thermal Energy Storage System***

##### **Project Description**

Currently the two (2) 60-ton, Carrier air cooled chillers, one (1) 55-ton, Carrier air cooled chiller, and one (1) 50-ton Carrier air-cooled chiller supply chilled water to the Old Jail and Sheriff's Administration Building. All chillers are standard efficiency.

The chillers operate year around. The electricity usage for this building is billed under a general demand service<sup>1</sup>. The electricity consumption rate is about 0.068 \$/kWh. Under this rate schedule, there is also a demand charge of \$8.99/kW per month<sup>2</sup>. A cooling thermal storage system stores cooling energy during the off-peak period when electricity rates are lower and releases the cooling energy during the on-peak period when the electricity rates are higher. Installing a cooling thermal storage system would allow the Old Jail and Sheriff's Administration Building to reduce the cost of electricity consumed by the chillers by shifting the operation of the chillers from the on-peak period to the off-peak period. A rate schedule change would be required for this meter from the GSLD-1 (General Service Large Demand) schedule to the GSLDT-1 (General Service Large Demand - Time of Use) schedule to take advantage of the off-peak rates.

##### ***Project Description:***

- This ECM utilizes the three (3) new 60-ton high-efficiency air-cooled chillers installed under ECM 13 - High Efficiency Chillers.
- Install a cooling thermal storage system on site next to the Old Jail chiller plant. The system shall consist of cooling thermal storage tanks, thermal storage system pump for charging and discharging the tanks, and a heat exchanger for transferring cooling energy from the glycol loop of the cooling thermal storage system to the existing CHW system.
- The new heat exchanger and the new thermal storage system pump shall be located next to the existing chiller plant at the Old Jail.
- On peak hours during the summer months are from 12pm to 9pm. Assuming a peak cooling load of 130 tons and the equivalent full load hours (EFLH) during the 9 hours of the on-peak period is 8.9 EFLH. As such, the total cooling storage capacity required in order to meet the cooling load during the on-peak period needs to be about 1160 ton-hours.
- However, due to the arrangement and capacity of the chillers used for this ECM, partial storage will be implemented instead of full storage. The new cooling thermal storage tanks shall have a total capacity of 568 ton-hours. This would require four (4) Calmac 1190C tank systems. The footprint dimension of one Calmac 1190C tank system is about 7' diameter.

<sup>1</sup> Florida Power and Light Utilities General Service Demand - Time of Use (GSD-1) rate.

<sup>2</sup> The consumption rates and the peak demand rate include 1.01% Gross Receipts Tax and 3.02% Franchise Charge.

- This thermal energy storage scheme utilizes two (2) 60-ton chillers to make ice. The third 60-ton chiller shall provide chilled water cooling for the base nighttime and daytime load and shall not be used to make ice.
- Provide and install all the piping, valves and accessories to connect the existing two (2) scroll chillers, the new heat exchanger, the new thermal storage system pump, and the Calmac ice storage tanks such that the new cooling thermal storage system can store cooling energy during off peak hours and discharge the system to meet the CHW plant cooling load during on peak hours.
- Provide and install all the piping, valves and accessories to connect the CHW supply and return piping from the new heat exchanger to the existing CHW piping system such that the heat exchanger is in parallel with the existing chillers.
- Install electrical service, conduit and electrical wiring to provide power to the new chiller and the new thermal storage system pump.

### **ECM 15 - Install Variable Frequency Drives on Chilled Water Pumps**

#### **Project Description**

Currently all CHW is circulated throughout both the Old Jail and Sheriff's Administration Building through constant volume pumps with 3-way valves installed at each AHU.

By providing bypass piping and adding VFD's to all CHW pumps, optimal leaving water temps can be reached. Pumps can then run at a variable rate instead of a constant energy draw. This will provide plant energy consumption savings.

#### **Project Scope**

1. This ECM utilizes the three (3) new 60-ton high-efficiency air-cooled chillers and new chilled water pumps installed under ECM 13 - High Efficiency Chillers.
2. Provide chiller plant optimization control to include pipe bypass adjustments.
3. Remove the motor starter disconnects at each CHW pump.
4. Add VFD's to each CHW pump.
5. Install one differential pressure sensor in each primary loop. Program the VFD control system to vary the CHW pump speeds to maintain differential pressure setpoints. The sensors shall be installed at the locations and with optimum setpoints to ensure adequate supply of CHW to all of the AHU's on the CHW loop while minimizing pumping energy.
6. Replace the 3-way CHW coil control valves of the AHU's listed in the sketches with 2-way control valves.

### **ECM 17 - Remove Existing Rooftop Unit and Install New Rooftop Unit**

#### **Project Description**

One (1) Trane, 20-ton, standard efficiency DX, constant volume, packaged rooftop unit and VAV boxes serve the Addition to the Original Sheriff's Administration Building. This project involves the replacement of this unit with a Trane high efficiency DX packaged VAV rooftop unit with the Demand Control Ventilation option.

#### **Project Scope**

1. Remove the existing DX, packaged roof top unit and properly dispose of it or, at the owner's discretion, store the system at an on-site location specified by the owner. If the removal of the system involves temporary relocation of other mechanical equipment, it will be stored, environmentally protected and restored to proper operation after the new system is installed. Extract and store the refrigerant from the displaced systems in secure vessels on site and properly dispose.
2. Provide and install a new Trane 20 ton electric high efficiency DX packaged rooftop unit with electric strip heat at the location of the removed system. The new system shall have a minimum efficiency of 11.3 EER at the same design criteria as the existing systems. The new unit is also to have the Demand Control Ventilation option with a fully modulating damper at the OA intake.
3. Install a CO<sub>2</sub> sensor in the RTU's return air path to monitor the return air CO<sub>2</sub> level. Install at least two additional sensors for any AHU's that serve spaces with multiple functions which may require different OA ventilation needs.
4. Install control wiring, relays, and other necessary control accessories needed to achieve the intent of this ECM. Control points include:
  - o CO<sub>2</sub> analog input
  - o Damper position analog output
5. Program the building control system so that the OA damper modulates to maintain CO<sub>2</sub> levels of return air. The outside air dampers would also modulate to maintain CO<sub>2</sub> sensors that are pre-set at a user-programmable setpoint, initially 700 ppm.
6. Provide any structural tie-downs, as required by local codes and regulations. Provide any electrical modifications needed to properly install this unit.

### **ECM 27 - Retrofit Domestic Hot Water System with AirTap**

#### **Project Description**

Once connected to your existing water heater, the AirTap™ unit acts as a conventional heat pump, using a compressor (powered by a low-wattage electric current) to extract heat from the surrounding air, and then sending this heat through long copper tubes into an adaptor where it is dispersed in your water tank. This, in turn, heats the water to the same degree as would a gas burner or electric heating component, distributing the hot water throughout your building safely and efficiently.

If it takes four units of energy to heat water, AirTap™ utilizes one unit from an electric outlet, and three units from the surrounding air, reducing your energy consumption by about 2.5 times that of your current water heater. AirTap™ uses less power than an 8-cup coffee machine on for a day.

#### **Project Scope**

Retrofit the existing domestic water heater within the building per the Water Auditor's report. Refer to Appendix.

### **ECM 28- Install Maximicer on Ice Machines**

#### **Project Description**



By utilizing a unique two-stage counter-flow exchange technology, the Maximicer ICE model pre-cools the incoming water to an ice machine by recovering the energy from the purged ice water exiting the ice machine. Reducing the incoming water temperature directly lowers the cooling load of the icemaker's refrigeration system and improves performance. This allows for the following:

- Lowers incoming water temperature
- Shortens ice making cycle times which produces more ice
- Optimizes ice availability in the bin
- Potentially eliminates the need to buy additional bags of ice
- Saves electricity by filling the bin faster and allowing the ice machine to shut off
- Extends the life of the ice machine by lowering compressor head pressure
- Reduces air conditioning costs (for air-cooled ice machines)
- 99% Maintenance free utilizing patented anti-mineralization technology

#### **Project Scope**

Retrofit existing ice machines with the Maximicer per the Water Auditor's report. Refer to Appendix.

#### ***ECM 29 - Install VendMiser on Vending Machines***

##### **Project Description**

Utilizing a custom passive infrared sensor, VendMiser powers down a vending machine when the area surrounding it is unoccupied and automatically repowers the vending machine when the area is reoccupied. Vending Miser's intelligent controller uses fuzzy logic to learn from the habits of the building occupants, and modifies the time-out period accordingly.

##### **Project Scope**

Retrofit the existing vending machines within the building with the VendMiser equipment per the Water Auditor's report. Refer to Appendix.

## **Main Library**

#### ***ECM 1 - Remove Existing Lamp and Ballast and Install New T8 Lamps and Electronic Ballast***

##### **Project Description**

Retrofit of existing lighting components (lamps and ballasts). Since the lumen output on a T8 lamp is significantly larger than the existing T12 lamps, lamp reduction is also possible. The ECM will reduce building energy usage while maintaining current Florida Building Code lighting levels.

##### **Project Scope**

1. Retrofit existing 2'x4', troffer, 4-lamp, T12, magnetic ballast fixture with 2-T8 lamps, electronic ballast, and reflector.
2. Retrofit existing 4' industrial, 2-lamp, T12, magnetic ballast fixture with 2-T8 lamps, and electronic ballast.

3. Retrofit existing 4' strip, 2-lamp, T12, magnetic ballast fixture with 1-T8 lamp, and electronic ballast.
4. Retrofit existing circline fixture with 1-FC12 with 1-FC8 lamp.

**ECM 2 - Remove Existing Incandescent Lamps and Install New Compact Fluorescent / High Incandescent Lamps**

**Project Description**

Retrofit of existing incandescent lamp lighting components. The ECM will reduce building energy usage while maintaining current Florida Building Code lighting levels.

**Project Scope**

1. Retrofit existing incandescent, 65w fixtures with PL13 floodlight screw-in adapter.
2. Retrofit existing incandescent, 65w fixtures with PL13 floodlight screw-in adapter, dimmable.

**ECM 4 - Replace Existing Lighting Fixture with New High Efficiency Fixture**

**Project Description**

Replacement of existing high intensity discharge (HID) lighting fixtures. The ECM will reduce building energy usage while maintaining current Florida Building Code lighting levels.

**Project Scope**

1. Replace existing metal halide 175w fixtures with 4' 2-lamp, T8, electronic ballast, fixtures.
2. Replace existing metal halide 250w fixtures with 4' 4-lamp, T8, electronic ballast, fixtures.

**ECM 6 - Install Occupancy Sensors.**

**Project Description**

The interior lights in all occupied administration spaces are controlled with manual on/off switches. Lights are left on when occupants leave the room throughout the day and are left on overnight, which uses unnecessary energy.

There are energy saving opportunities with the installation of occupancy sensors in certain rooms to control the lighting system. These sensors offer a dual technology of Passive Infrared Radiation (PIR) and also ultrasonic sensing for both motion and sound. These second generation sensors are superior to first generation sensors that utilized a single technology, by accurately controlling the space lighting system based on the occupancy status. Occupancy sensors will keep light energy usage to a minimum when occupants leave the room.

**Project Scope**

Retrofit existing rooms in the Main Library in the following areas: Offices, Storage Rooms, Mechanical/Electrical Rooms, restrooms.

**ECM 8 - Install New Direct Digital Control System**

## Project Description

Current occupied heating and cooling indoor temperature set points for the majority of the AHU's in this building are 68° F for heating and 71° F for cooling. Temperature set points that are too close together cause the mechanical systems to have extended run hours and consume additional energy. Additionally, not all current systems utilize an unoccupied temperature setback mode, causing the mechanical system to maintain occupied conditions 24 hours per day, regardless of the occupancy status of the facility.

Operating the air-conditioning (AC) systems 24 hours per day, 365 days a year at the temperature set points listed above wastes energy. Setting all temperature setpoints to a wider operating range of temperatures, between heating and cooling, during occupied and unoccupied modes, can save heating, cooling, and fan energy.

## Project Scope

Implementation of this ECM involves the installation of a centralized DDC system with computer console, control programs, control devices, space temperature sensors, thermostats and dampers such that the air systems listed in Appendix can be operated in occupied mode during the day time and unoccupied mode at night and when the building is closed. Also, re-commission and air balance entire HVAC system components to verify proper operation.

1. Install new DDC system - Convert control systems of the AHU's and their associated exhaust fans listed in Appendix to a new DDC system.
2. Interlock exhaust fans and AHU's - Interlock exhaust fans with individual AHU's serving the same area. When the AHU is scheduled off, the associated exhaust fans are scheduled off to prevent the infiltration of untreated outdoor air into the building during unoccupied mode.
3. Inspect existing OA dampers and install damper actuators - Inspect the OA dampers of the AHU's listed in Appendix. Provide necessary repair or replacement of existing OA dampers. Install new damper actuators for the OA dampers so that they function properly and can be commanded to close and reopen accordingly from the building's new DDC system.
4. Install occupied mode and unoccupied mode operations for the air systems listed in Appendix.
  - a. Unoccupied Mode: Turn off AHU supply air (SA) fans, exhaust air (EA) fans, and close the OA dampers of the air systems listed in the Existing Equipment Inventory.
  - b. Setback Control Mode: Same as Unoccupied Mode operation except the air systems cycle on to maintain unoccupied mode space setpoints, initially set at 60°F for space heating and 80°F for space cooling. The EA fans turned off during Unoccupied Mode operation shall remain off. The outside air (OA) dampers closed during Unoccupied Mode operation shall remain closed.
  - c. Morning Warm-up/Cool-down Mode: Same as Setback Control Mode except the air systems operate continuously. This mode of operation starts approximately two hours prior to building Occupied Mode starts so that the HVAC systems have sufficient time to gradually reach the Occupied Mode space temperature setpoints.
  - d. Occupied Mode: All of the air systems shown shall revert back to their current normal operation with SA fan and EA fans operating continuously to maintain Occupied Mode space setpoints. All of the OA dampers shall remain open.
  - e. Override Time Switch: Each AHU listed shall have an override switch installed to temporarily override space unoccupied mode as programmed in the new building DDC system. The override switch shall have a multiple override time period selector. Once the override time period is expired, the HVAC system shall revert back to being controlled by the building control system. Override switches should be located near the main entrance to the area served by each AHU.
5. Document and test system performance.

6. Analyze collected data and generate final performance report.

### **ECM 16 - Remove Existing HVAC DX systems and Install New DX Systems**

#### **Project Description**

Implementation of this ECM involves the replacement of the standard efficiency, DX split and DX packaged rooftop systems with high-efficiency DX equipment.

#### **Project Scope**

1. Remove the existing DX split systems, including air handler(s) and roof mounted and/or grade-mounted condensing units and properly dispose of them or, at the owner's discretion, store the systems at an on-site location specified by the owner. If the removal of the systems involves temporary relocation of other equipment, it will be stored, environmentally protected and restored to proper operation after the new system is installed. Extract and store the refrigerant from the displaced systems in secure vessels on site and properly dispose.
2. Remove the existing DX packaged roof top units and properly dispose of them or, at the owner's discretion, store the systems at an on-site location specified by the owner. If the removal of the systems involves temporary relocation of other mechanical equipment, it will be stored, environmentally protected and restored to proper operation after the new system is installed. Extract and store the refrigerant from the displaced systems in secure vessels on site and properly dispose.
3. Provide and install a new electric, high efficiency DX split systems or heat pumps with electric strip heat at the location of the removed systems. The new systems shall have a minimum efficiency of 11.2 EER at the same design criteria as the existing systems.
4. Provide and install a new electric, high efficiency DX packaged rooftop units or heat pump with electric strip heat, at the location of the removed systems. The new systems shall have a minimum efficiency of 11.3 EER at the same design criteria as the existing systems.
5. Inspect existing refrigerant lines and repair or replace as necessary. Provide all necessary electrical services and modification to facilitate the installation. Provide any structural tie-downs, as required by local codes and regulations.

Refer to Appendix for all equipment to be replaced as part of this ECM.

### **ECM 22 - Retrofit Existing Flush Valves With Low Flow Flush Valves**

#### **Project Description**

Retrofit of existing water closet and urinal flush valves to low-flow flush valves. The ECM will reduce water consumption while maintaining minimum required flows.

#### **Project Scope**

1. Retrofit existing 3.5 GPF and 1.6 GPF water closet flush valves with low-flow 1.28 GPF flush valves.
2. Retrofit existing 1.0 GPF urinal flush valves with low-flow 0.13 GPF flush valves.

***ECM 24 - Retrofit Existing Aerators With Low Flow Aerators***

**Project Description**

Retrofit of existing faucet aerators to low-flow faucet aerators. The ECM will reduce water consumption while maintaining minimum required flows.

**Project Scope**

1. Retrofit existing 1-2 GPM faucet aerators for lavatories and sinks with low-flow 0.5 GPM faucet aerators.

***ECM 26 - Schedule Domestic Hot Water Heaters***

**Project Description**

Existing electric domestic water heaters are energized 24 hours per day / 7 days per week. Although the demand for hot water does not exist overnight, the heating elements within the tanks always fire on and off to maintain a constant water temperature within the tank. There is an opportunity for energy savings if the electric water heaters are turned off during unoccupied hours

**Project Scope**

1. Provide a relay to each domestic water heater within the building and connect the DDC control system. If contractor chooses to go with programmable thermostats, provide a timeclock for each water heater and locate on the wall next to each water heater.
2. Schedule for water heater use shall be as follows (either through the DDC system or timeclock):  
Workdays: ON from 7 am - 8 pm. OFF from 8 pm - 7 am. Non-workdays: OFF from 8 pm to 7 am of next workday.

Schedule B

Description of Facilities; Pre-existing Equipment Inventory

St. John's County, located in northeast Florida. The facilities included in the project include the following:

BUILDING NAME	STREET ADDRESS	City	Zip
Jail & Sherriff's Complex	4015 Lewis Speed Way	St. Augustine	32084
Supervisor of Elections/EOC Building	4455 Avenue A	St. Augustine	32095
Main Library	1960 Ponce DeLeon Blvd.	St. Augustine	32084
Anastasia Library	124 Seagrove Main Street	St. Augustine Beach	32080
Bartram Library	60 Davis Pond Blvd	Fruit Cove	32259
Ponte Vedra Library	101 Library Blvd.	Ponte Vedra Beach	32082
County Administration Building	400 San Sebastian View	St. Augustine	32084
Council on Aging	180 Marine Street	St. Augustine	32084
Ketterlinus Gym	60 Orange Street, 32084	St. Augustine	32084
Animal Control Center	130 N Stratton Rd, 32095	St Augustine	32095
County Courthouse (single Story section)	4010 Lewis Speedway # B	St. Augustine	32095
SJC Golf Club	4900 Cypress Links Blvd.	Elkton	32033
AI Waste Water Treatment Plant	860 W. 16th St.	St. Augustine Beach	32080
Sawgrass Waste Water Treatment Plant	10047 Sawgrass Dr. West	Ponte Vedra Beach	32082

For Pre-Existing Equipment Inventory and Pre-Existing Facility Conditions for each of the facilities included in this project, please refer to the Trane Detailed Energy Audit provided to Gene Burns, Manager – Facilities Maintenance, on July 27, 2011, as a result of a contract between Trane and St. Johns County Board of County Commissioners approved by the BOCC on October 19,2010.

Schedule C  
Energy Saving Guarantee

Company has formulated and, hereby guarantees the following annual levels of energy and operational savings to be achieved as a result of the installation and acceptance of the Equipment in the amounts guaranteed and for the Guarantee Periods stated below.

The Energy Savings Guarantee is set forth in annual increments for the term of the Contract, pursuant to Section 4.1, as follows and are calculated in accordance with, and detailed at Schedule F hereto:

Guarantee Year	Calculated Value of Guaranteed Energy Savings	Plus Stipulated Operational Cost Savings per Year	Equals Total Value of Guaranteed Energy Savings and Stipulated Operational Savings	Total Agency Cost per Year* (Lease Payments + Maintenance Cost)
Const. & Yr 1	\$ 261,482	\$ 57,107	\$ 318,589	\$ 318,589
2	\$ 261,482	\$ 57,880	\$ 319,362	\$ 319,362
3	\$ 261,482	\$ 58,684	\$ 320,166	\$ 320,166
4	\$ 261,482	\$ 59,521	\$ 321,003	\$ 321,003
5	\$ 261,482	\$ 60,391	\$ 321,873	\$ 321,873
6	\$ 261,482	\$ 61,295	\$ 322,777	\$ 322,777
7	\$ 261,482	\$ 62,236	\$ 323,718	\$ 323,718
8	\$ 261,482	\$ 63,215	\$ 324,697	\$ 324,697
9	\$ 261,482	\$ 64,232	\$ 325,714	\$ 325,714
10	\$ 261,482	\$ 65,291	\$ 326,773	\$ 326,773
11	\$ 261,482	\$ 66,391	\$ 327,873	\$ 327,873
12	\$ 261,482	\$ 67,536	\$ 329,018	\$ 329,018
13	\$ 261,482	\$ 68,727	\$ 330,209	\$ 330,209
14	\$ 261,482	\$ 69,965	\$ 331,447	\$ 331,447
15	\$ 261,482	\$ 71,252	\$ 332,734	\$ 332,734
Total	\$ 3,922,230	\$ 953,723	\$ 4,875,953	\$ 4,875,953

\*Total Agency Cost per Year will be adjusted based upon the actual Lease Payments procured by St. Johns County.

**Schedule D**  
Compensation to Company (Deliverables and Payment Schedule)

**Project Cost and Draw Payment Schedule to Company**

Draw Number	Draw Date	Draw Percentage	Draw Amount	Cumulative Amount
1	Upon Execution	10%	\$ 405,180	\$ 4,051,800
2	Month 2	7%	\$ 283,626	\$ 3,646,620
3	Month 3	12%	\$ 486,216	\$ 3,362,994
4	Month 4	13%	\$ 526,734	\$ 2,876,778
5	Month 5	25%	\$ 1,012,950	\$ 2,350,044
6	Month 6	18%	\$ 729,324	\$ 1,337,094
7	Month 7	8%	\$ 324,144	\$ 607,770
8	Substantial Completion	5%	\$ 202,590	\$ 283,626
9	Final Completion	2%	\$ 81,036	\$ 81,036
<b>Total:</b>			<b>\$ 4,051,800</b>	<b>\$ 00</b>

[\*Draw amounts are preliminary for planning purposes. Company shall provide an application for payment to Agency monthly on a completed work and stored material basis]

\$ 4,051,800  
 \$ 3,532,361

**Total Project Cost**  
**Amount Financed**

**Maintenance Service Cost and Payment Schedule to Company**

Year	Services	Annual Total
1	Monitoring and Verification	\$19,333
2	Monitoring and Verification	\$20,107
3	Monitoring and Verification	\$20,911
4	Monitoring and Verification	\$21,747
5	Monitoring and Verification	\$22,617
6	Monitoring and Verification	\$23,522
7	Monitoring and Verification	\$24,463
8	Monitoring and Verification	\$25,441
9	Monitoring and Verification	\$26,459
10	Monitoring and Verification	\$27,517
11	Monitoring and Verification	\$28,618
12	Monitoring and Verification	\$29,763
13	Monitoring and Verification	\$30,953
14	Monitoring and Verification	\$32,191
15	Monitoring and Verification	\$33,479

\*Note: Retainage, if any, is as follows: Zero Dollars. The above deliverables and payment schedule are in compliance with Contract Sections 3 and 4, and any other applicable Contract provisions. Operating costs will not be financed and must be stated separately, if applicable.



Schedule E  
Baseline Energy Consumption

Savings projections for all conservation measures (ECM) were calculated using industry accepted calculation methodologies to evaluate the specific energy performance of each ECM included in the St. John's County project located in northeast Florida.

Trane - TRACE® 700 building simulation software was used to model the energy consumption at the following buildings: Jail & Sherriff's Complex, EOC building, Main Library, Ponte Vedra Library, Council on Aging, and Ketterlinus Gymnasium. located in St. John's County, Florida. Known runtime parameters such as local weather data, internal building loads (people and equipment), occupancy data, etc., were all utilized in the modeling of the base case. The accuracy of the pre-retrofit energy model was validated by its correlation to the actual utility data for St. John's County. The model baseline is stipulated and agreed to by the Agency and the Company. This data will be used as the baseline for energy savings calculations as specified in Schedule F.

**Baseline – Old Jail / Sheriffs Admin.**

	Base Case		
	kWh	kW	Therms
January	146,687	301	3,864
February	132,068	316	3,492
March	160,731	423	3,469
April	179,747	450	1,931
May	207,443	468	1,874
June	223,497	501	1,702
July	223,907	489	1,816
August	228,735	490	1,762
September	212,730	481	1,744
October	178,891	442	2,037
November	156,599	432	3,268
December	152,015	414	3,531
<b>Total</b>	<b>2,292,051</b>	<b>5,206</b>	<b>30,490</b>

**Baseline – New Jail**

	Base Case		Therms
	kWh	kW	
January	81,547	171	2,927
February	73,979	191	2,579
March	99,597	234	2,561
April	114,392	269	1,238
May	133,378	293	1,260
June	154,008	348	1,209
July	151,493	342	1,289
August	157,543	347	1,245
September	137,917	323	1,238
October	110,561	263	1,260
November	98,718	247	2,420
December	89,994	223	2,482
<b>Total</b>	<b>1,403,427</b>	<b>3,249</b>	<b>21,707</b>

**Baseline – Ponte Vedra**

	Base Case		Therms
	kWh	kW	
January	28,799	92	
February	25,546	94	
March	28,651	110	
April	30,878	130	
May	36,887	142	
June	44,548	167	
July	42,333	164	
August	45,165	164	
September	38,122	153	
October	29,261	122	
November	26,445	113	
December	26,501	100	
<b>Total</b>	<b>403,136</b>	<b>1,551</b>	<b>0</b>

**Baseline - Main Library**

	Base Case		Therms
	kWh	kW	
January	20,131	71	
February	17,966	72	
March	20,867	82	
April	23,007	89	
May	26,768	94	
June	30,824	102	
July	29,568	98	
August	30,558	99	
September	26,877	95	
October	21,591	87	
November	19,161	82	
December	18,813	75	
<b>Total</b>	<b>286,130</b>	<b>1,048</b>	<b>0</b>

**Baseline – Ketterlinus Gym**

	Base Case		Therms
	kWh	kW	
January	18,816	46	
February	17,672	51	
March	10,889	50	
April	13,518	50	
May	18,654	57	
June	24,245	69	
July	22,680	66	
August	24,097	67	
September	20,253	62	
October	11,441	48	
November	9,786	44	
December	14,394	49	
<b>Total</b>	<b>206,446</b>	<b>660</b>	<b>0</b>

**Baseline – EOC Building**

	Base Case		Therms
	kWh	kW	
January	72,005	230	
February	59,975	165	
March	65,242	155	
April	74,564	175	
May	85,552	193	
June	93,859	209	
July	95,518	206	
August	95,173	207	
September	88,363	201	
October	109,579	233	
November	100,670	226	
December	101,232	206	
<b>Total</b>	<b>1,022,737</b>	<b>2,404</b>	<b>0</b>

**Baseline – Council on Aging**

	Base Case		Therms
	kWh	kW	
January	23,326	84	
February	20,201	84	
March	21,907	91	
April	22,538	95	
May	25,803	98	
June	28,524	108	
July	27,815	102	
August	28,806	103	
September	26,159	102	
October	22,269	95	
November	20,707	92	
December	21,972	87	
<b>Total</b>	<b>290,027</b>	<b>1,241</b>	<b>0</b>

Schedule F

Savings Calculation Approach; Methodology to Measure, Verify and Adjust Baseline

Savings projections for all lighting and cooling tower energy conservation measures (ECM) were calculated using industry accepted calculation methodologies to evaluate the specific energy performance of each ECM at the St. Johns County, FL as per the [Type of Analysis] Analysis presented in Exhibit III and [Type of Analysis 2] Analysis presented in Exhibit IV.

The dollar savings reflected in Schedule C Guarantee Savings Guarantee resulting from the Services Company shall furnish hereunder are calculated based on total guaranteed energy savings of Wh, and kW (the "Guarantee") in each of the consecutive twelve-month periods following the Commencement Date (each such twelve-month period being hereafter referred to as a "Guarantee Year") for the Term. The aggregate dollar amount of the Guarantee, when Guaranteed Energy Savings are calculated using the Base Incremental Utility Rates specified in this Schedule F, Section B hereof, will meet or exceed the amortized Contract Price, using an interest rate of no more than % per annum for the Guarantee Term.

Information Not Complete!! This Schedule

Total Guaranteed Savings				
Section	Section Title	Type Guarantee	Annual Electrical Energy Savings kWh	Annual Electrical Demand Savings kW
Section D				
Section E				
Section F				
Total Guaranteed Savings				

**B. Energy Rates**

[Description of energy source] For the purposes of this agreement Base Incremental Utility Rates are used as follows:

**B.1 Base Incremental Utility Rates**

Electrical On-Peak (\$/kWh)	Electrical Off-Peak (\$/kWh)	Electrical Peak Demand (\$/kW)

Note: Base incremental rates include both gross receipt tax of \_\_\_\_\_ % and franchise fee.

Notwithstanding any provision or thing to the contrary, savings will be determined by multiplying energy unit savings by the applicable utility rate in effect for the subject Guarantee Year.

**C. Measurement and Verification Plan**

Company will utilize the methods as described in the International Performance Measurement and Verification Protocol (IPMVP) in effect at the time of execution of this Agreement. There are two components to our M & V plan:

- Verify the ECMs potential to perform and generate savings by confirming that (a) the baseline conditions are accurately defined and (b) the appropriate equipment components or systems were properly installed, are performing per specification, and have the potential to generate the predicted savings.
- Verify the ECMs performance (i.e., savings) by determining the actual energy savings achieved by the installed ECM.

**C.1 Verifying ECM Potential to Perform**

**Baseline Verification:** Baseline physical conditions such as equipment counts, nameplate data, and control strategies typically will be determined through surveys, inspections, and/or spot or short-term metering activities as described in the following sections. Baseline energy consumption will be defined by engineering calculations.

**Post-Installation Verification:** In a post-installation M&V verification, Company and the Agency will determine that the proper equipment components or systems were installed, are operating correctly and have the potential to generate the predicted savings. Verification methods may include surveys and inspections.

## **C.2 Verifying ECM Performance**

At defined intervals during the term of the contract, Company and the Agency will verify that the installed equipment components or systems have been properly maintained, continue to operate correctly, and continue to generate savings. After the ECM is installed, Company and the Agency will determine energy savings (either continuously or at regular intervals) in accordance with an agreed upon M&V method utilizing verification techniques that are defined in the site-specific M&V plan.

Various verification techniques will be employed. Baseline energy use, post-installation energy use, and energy (and cost) savings will be determined using one or more of the following M&V techniques: Engineering calculations, metering and monitoring, utility meter billing analysis (possibly not feasible due to lack of sub metering data), and stipulations between the Agency and Company.

## **C.3 Adjustments for Variables Affecting Savings**

The Agency is advised that Energy Cost Savings realized will be affected by, among other things, the following variables and that Company shall have the right to make adjustments, subject to contract Sec. 13.2 to account for the following:

- C.3.a Building Utilization: The total number of building occupants is a variable which may be adjusted for if the number of occupants differs from the Baseline quantity;
- C.3.b Building Occupancy Hours: The hours the building(s) is/are occupied and/or equipment and/or lighting is utilized is a variable which may be adjusted for if the hours (quantity or time-of-day) differs from the hours identified in Schedule C, Detailed Energy Analysis. Trane energy management equipment will monitor by verify hours of equipment operation.
- C.3.c Weather: Utility bills will be adjusted for weather;
- C.3.d Building Changes: The Baseline may be adjusted to account for any building square footage changes, remodeling, and addition of equipment or change in usage. The Agency agrees to contact Company within seven (7) calendar days of commencement of any changes or additions of equipment or environments;
- C.3.e Any adjustment in the baseline model of the building created as part of the engineering study appropriate to represent operation of the building if it had been designed, constructed, and/or operated in accordance with local and national codes in place as of the date of the Agreement. Such adjustments can include, but are not limited to, increased ventilation rates for code compliance and the addition of heating and/or air-conditioning to areas that previously had no environment conditioning.

C.4.f Latent conditions at the time the Baseline was prepared, may have a material effect on energy consumption.

**C.4 Method for Estimating Savings**

The energy consumption calculated from using industry accepted calculation methodologies uses the appropriate electric rate structure (most current) and calculates the operating cost of the central plant building.

Specific to this Agreement the following methodologies will be used to determine the Energy Cost Savings for each retrofit proposed at St. Johns County, FL.

**D. Energy Efficient Lighting**

**D.1 Agreed Upon Parameters**

The following are mutually agreed upon parameters that form the basis of the performance guarantee. The following agreed upon parameters are hereby stipulated for the purposes of this Agreement as fact and will not be measured, monitored or adjusted. However for the purpose of this guarantee pre-retrofit wattage measurements have been taken to validate the actual fixture wattage as represented in Table 1. In addition post-retrofit fixture wattage measurements will be taken to validate proposed fixture wattage as represented in Table 2.

**D.2 Applicability**

This performance guarantee applies to the high efficiency lighting retrofit energy conservation measures installed by Company at the Agency facilities at the St. Johns County, FL as follows:

Building Code	Building Name
A	
B	
C	
D	
E	
F	
G	
H	
I	
J	
K	
L	
M	

**D.3 Pre-Retrofit Consumption Data**

The following describes the methodology for proving actual per-fixture wattage and per-fixture

type and quantity of each existing lighting fixture prior to the installation of energy efficient lighting equipment.

Measurement Methodology:

Company will either install new fixtures, or retrofit existing fixtures with energy efficient products. The purpose of this section is to validate the wattage assumed in these estimates through actual measurement.

Several different types of existing fixtures were encountered during the detailed survey. Below Table 1 lists the fixture types by building, a brief description of each, the measured wattage of existing fixtures, and the quantity of each fixture and estimated hours of operation of each fixture type per building.

In order to validate the wattage estimates of the existing fixtures, Company has measured the actual wattage consumed. The measurements were taken utilizing an accurate, properly calibrated wattmeter. A qualified electrician has taken the measurements and incorporated them into the results in the appropriate columns in the table below. A sufficient number of fixtures, not to exceed three (3) of each fixture type (per building), were measured for wattage so that an accurate representation (average of the (3) measurements) has been established. The cost of this measurement and the responsibility for the provision of a qualified electrician was borne entirely by Company.

Pre-Retrofit Fixture Table:

For the purposes of this Agreement, the lighting fixture pre-retrofit quantities were surveyed by Company and its consultant, and these quantities are collaboratively agreed upon by the Agency and Company and are stipulated in Table 1 of this Schedule F.

For the purposes of this Agreement, the annual hours of operation of the lighting fixtures are as represented in Table 1 below. The assumptions and results were collaboratively agreed upon by Customer and Company throughout the analysis and are hereby stipulated.

For the purposes of this Agreement, the combined list of pre-retrofit (existing) fixture types are as represented in Table 1 below. The assumptions and results were collaboratively agreed upon by Customer and Company throughout the analysis and are hereby stipulated.

Company reserves the right to adjust the Baseline for the pre- and post-retrofit quantities to reflect actual quantities and types of fixtures encountered during the retrofit; however, the Energy Cost Savings expected to be achieved will not be less than the Energy Cost Savings represented by the difference in consumption between the fixtures and quantities represented in the pre-retrofit table in Table 1 of this Schedule F and the post-retrofit table in Table 2 of Schedule F.

Table 1



PRE-RETROFIT FIXTURE TABLE				
Blade/Fixture Code	Fixture Description	Pre-Retrofit kW / Fixture	Quantity of Fixtures	Annual Hours of Operation
[Location 1 Description]				
A1				
A2				
A3				
A4				
A5				
A6				
A7				
A8				
A9				
A10				
[Location 2 Description]				
B1				
B2				
B3				
B4				
B5				
B6				
B7				
B8				
B9				
B10				
B11				
B12				
[Location 3 Description]				
C1				
C2				
C3				
C4				
C5				
C6				
C7				
C8				
C9				
C10				
C11				
C12				
C13				
C14				
[Location 4 Description]				
D1				

D2				
D3				
D4				
D5				
D6				
D7				

**D.4 Post-Retrofit Measurements**

The following describes the methodology for proving post-fixture wattage reductions as a result of the installation of energy efficient lighting equipment.

Measurement Methodology:

Company will either install new fixtures, or retrofit existing fixtures with energy efficient products. The detailed survey/scope of work incorporated herein, illustrates the types of retrofits installed, and *estimates* the wattage of the retrofits as represented in Table 2. The purpose of this section is to validate these estimates through actual wattage measurement as represented in the lighting audits and analyses performed to date.

Several different types of retrofit strategies are employed in the applicable areas. Table 2 in this Section of this Schedule F lists the retrofit types by building/fixture code name, provides a brief description of the fixture retrofit, the estimated fixture wattage, a space for measured fixture wattage and the quantity of fixtures.

In order to validate the wattage estimates of the lighting retrofits, Company will measure the actual wattage consumed by each of the different retrofits. This measurement will occur annually during the term of this agreement. The initial post- retrofit measurement shall follow installation of the lighting retrofit and a reasonable "burn-in" time of not less than ~100 hours. Appropriate representatives of the Agency should be present to witness the measurement. The measurements will be taken utilizing an accurate, properly calibrated wattmeter. A qualified electrician will take the measurements, witnessed by the Agency (at its option) and Company, and will record the results in the appropriate columns on the table below. A sufficient number of fixtures, not to exceed three (3) of each retrofit fixture type (per building), will be measured for wattage so that an accurate representation (average of the (3) measurements) has been established. The cost of this measurement and the responsibility for the provision of a qualified electrician will be borne entirely by Company. It is anticipated that a sufficient representative sample of each retrofit type will be measured and documented within 60 days of completion of the lighting retrofit.

Post-Retrofit Fixture Table:

The following Table 2 illustrates the combined list of post-retrofit fixtures for the St. Johns County, FL included in this Agreement:

**Table 2**

Bldg/Fix Code	Fixture Description	Post-Retrofit (estimated) kW/Fixture	Post-Retrofit (measured) kW/Fixture	Quantity of Fixtures
[Location 1 Description]				
A1				
A2				
A3				
A4				
A5				
A6				
A7				
A8				
A9				
A10				
[Location 2 Description]				
B1				
B2				
B3				
B4				
B5				
B6				
B7				
B8				
B9				
B10				
B11				
B12				
[Location 3 Description]				
C1				
C2				
C3				
C4				
C5				
C6				
C7				
C8				
C9				
C10				
C11				
C12				
C13				
C14				

**D.5 Computation of Savings**

*The following describes the methodology for computing Energy Cost Savings based on validated wattage and presents the calculated and guaranteed Energy Cost Savings.*

**Computation and Presentation of Energy Cost Savings:**

Once the true post-retrofit, per fixture wattage have been established and documented in Table 2, the values will be inserted into the appropriate columns of the detailed audit/scope of work spreadsheets. These actual post-retrofit values will supersede the estimated values currently represented in the spreadsheet. Hence, the resulting spreadsheets will represent the "as-built" conditions.

$$\text{Density Reduction (watts)} = (\text{Pre-Retrofit wattage}) - (\text{Post-Retrofit wattage})$$

$$\text{Energy Reduction (watts/hr)} = (\text{Density Reduction}) \times (\text{Annual Hours of Operation})$$

$$\text{Increased Gas Consumption (therm)} = (\text{Watt Density Reduction kW}) \times (\text{Btu/kW} / \text{Btu/therm}) \times (\text{heating loss to space} - \text{heating efficiency})$$

**Presentation of Savings:**

The energy conservation measure described herein will result in the following effect on energy usage:

Total Annual Guaranteed Electrical Energy Use Savings: 488,374 kWh

Total Annual Guaranteed Electrical Demand Savings: 1,418 kW

**E. Cooling Tower Retrofit**

**E.1 Agreed Upon Parameters**

The following are mutually agreed upon parameters that form the basis of this performance guarantee. These parameters are hereby stipulated for the purposes of this Agreement as fact and will not be measured, monitored or adjusted.

**E.2 Applicability**

This performance guarantee applies to the energy conservation measure involving [Description]

**E.3 Input Assumptions**

[Identification of assumptions source]

Existing Condition:

- [List]

Post Retrofit Condition:

- [List]

#### **E.4 Pre-Retrofit Consumption Data**

The pre-retrofit consumption data was established utilizing the base case simulation model which is mutually agreed and stipulated to by Customer and Trane.

#### **E.5 Measurement Methodology**

The bases of the energy analysis utilizes the bin-hour method in which the chiller plant cooling load profile is assumed to be a function of the outside air dry-bulb temperature (OADB). The cooling load profile can be a linear function, polynomial function, or in a tabular form. The analysis uses a weather file representing the average temperature profiles for Homestead AFB, Florida.

The analysis allows definitions of the following chiller plant components:

- [List]

Chiller energy calculation:

- [List]

CHW pumps energy calculation:

- [List]

Cooling tower fan energy calculation:

- [List]

Its assumptions and results were collaboratively agreed upon by Agency and Company as stated and are hereby stipulated.

#### **E.6 Computation of Savings:**

*The following describes the methodology for computing Energy Cost Savings based and presents the calculated and guaranteed Energy Cost Savings.*

#### **Computation and Presentation of Energy Cost Savings**

[Description]

Its assumptions and results were collaboratively agreed upon by Customer and Company as stated and are hereby stipulated.

#### **Presentation of Savings**

For the purposes of this guarantee the savings are hereby stipulated and will not be measured or adjusted throughout the life of the contract. The energy conservation measure described herein will result in the following effect on energy usage:

<u><i>Simulation Model Results</i></u>	<u><i>Energy Use kWh</i></u>	<u><i>Electrical Demand kW</i></u>
--	------------------------------	------------------------------------

*Base Case Model:*

ECM #1 Model ( )

ECM #2 Model ( )

Total Annual Guaranteed Electrical Energy Use Savings: kWh

Total Annual Guaranteed Electrical Demand Savings: kW

**F. Chiller #3 Retube**

**F.1 Agreed Upon Parameters**

The following are mutually agreed upon parameters that form the basis of this performance guarantee. These parameters are hereby stipulated for the purposes of this Agreement as fact and will not be measured, monitored or adjusted.

**F.2 Applicability**

This performance guarantee applies to the energy conservation measure involving

**F.3 Input Assumptions**

Accurate HVAC system descriptions at the facility were obtained from

Existing Condition:

- [List]

Post Retrofit Condition:

- [List]

**F.4 Pre-Retrofit Consumption Data**

The pre-retrofit consumption data was established utilizing the base case simulation model which is mutually agreed and stipulated to by Customer and Trane.

**F.5 Measurement Methodology**

The bases of the energy analysis utilizes the [describe]

The analysis allows definitions of the following chiller plant components:

- [List]

Chiller energy calculation:

- [List]

CHW pumps energy calculation:

- [List]

Cooling tower fan energy calculation:

- [List]

Its assumptions and results were collaboratively agreed upon by Agency and Company as stated and are hereby stipulated.

**F.6 Computation of Savings:**

*The following describes the methodology for computing Energy Cost Savings based and presents the calculated and guaranteed Energy Cost Savings.*

**Computation and Presentation of Energy Cost Savings**

Essentially, the bulk of energy savings due to this conservation measure is related to [describe]

Its assumptions and results were collaboratively agreed upon by Customer and Company as stated and are hereby stipulated.

**Presentation of Savings**

For the purposes of this guarantee the savings are hereby stipulated and will not be measured or adjusted throughout the life of the contract. The energy conservation measure described herein will result in the following effect on energy usage:

**Simulation Model Results                      Energy Use kWh      Electrical Demand kW**

*ECM #2 Model (      )*

*ECM #3 Model (      )*

Total Annual Guaranteed Electrical Energy Use Savings:      kWh

Total Annual Guaranteed Electrical Demand Savings:      kW

Schedule G  
Construction and Installation Schedule

If Company is delayed in the commencement or completion of any part of the Equipment installation due to an Event of Force Majeure, or due to Agency's action(s) or failure to perform its obligations under this Agreement or to cooperate with Company in the timely performance of the Equipment installation, then Company will notify Agency in writing of the existence, extent of, and reason(s) for such delay(s). Company and Agency shall extend the Substantial Completion time for such reasonable period as they shall agree and, if Company's cost for furnishing the Equipment installation is increased as a result, at the option of Agency, either (i) the Contract Price shall be increased by change order by the amount of Company's additional costs or (ii) the Agreement shall be terminated.

**Information in This Schedule  
Is Not Complete !!**



Schedule H  
Standards of Comfort

The Equipment will be maintained and operated by Agency in a manner that will provide the Standards of Comfort for heating, cooling, hot water, and lighting as described below:

The operating standards for the facilities included in the project are not changed by the scope of work included in this agreement. In addition, the savings estimates and guarantee do not anticipate any changes to the existing schedules, temperature setpoints, or operating standards. The Agency will maintain existing Standards of Comfort in effect at the time of contract execution.

Table of Operating Standards

Building Name	Weekdays	Weekends	Occupied Room Temperatures (within $\pm 2^{\circ}$ F)	Unoccupied Room Temperatures (within $\pm 2^{\circ}$ F)

Information In This Schedule  
 Is Not Complete !!

Schedule I  
Company's Maintenance Responsibilities

Beginning on the Commencement Date, Company will perform the Maintenance described in this Schedule with respect to the Covered Equipment (identified below) upon the terms and conditions contained in this Schedule. In the event of any inconsistency or conflict between the terms and conditions of this Schedule and the terms and conditions of the balance of this Agreement, the terms and conditions of this Schedule shall control with respect to the Maintenance described in this Schedule I.

**ENERGY SAVINGS GUARANTEE  
MONITORING AND VERIFICATION SERVICES**

<i>Included if Checked</i>	<i>Times Per Year</i>	<i>Maintenance Description</i>
✓	4	<ul style="list-style-type: none"> <li>• Monitoring and Verification Services</li> </ul>
		<ul style="list-style-type: none"> <li>• Annual Lighting M&amp;V: Post Retrofit Measurements</li> </ul>
		<ul style="list-style-type: none"> <li>• Building Walkthroughs and Monthly Inspection Reporting</li> </ul>
	4	<ul style="list-style-type: none"> <li>• Quarterly Savings reports</li> </ul>
	1	<ul style="list-style-type: none"> <li>• Annual Reconciliation Report</li> </ul>

Schedule J  
Agency's Maintenance Responsibilities

Agency Responsibilities: Agency acknowledges that it has an integral role in energy use achieving savings and agrees its responsibilities set forth below:

Schedule K  
Company's Training Responsibilities

Initial Training

Annual Training

**Information In This Schedule  
Is Not Complete !!**

Exhibit I  
Construction Bond

**EXHIBIT II (i)**  
**Certificate of Substantial Completion**

**{Customer & project name}**  
**Trane Project No.:**  
**Date Certificate Submitted to Customer:**

The Services performed pursuant to the Guaranteed Energy Performance Savings Contract, by and between the St. Johns County, FL Board of County Commissioners ("Agency") and Trane U.S. Inc., dated as of \_\_\_\_\_, have been inspected by the undersigned Agency, have been determined to be substantially complete, and Agency accepts the same.

The Date(s) of Substantial Completion for the Services noted below is/are hereby established as the date Agency executes this Certificate. If Agency does not consider the specified Services substantially complete, it will notify Company in writing, giving the reasons therefore within twenty one (21) days of the date Certificate submitted to Agency. If Agency has not executed this Certificate, nor notified Company of in writing giving its reason(s) why it does not consider the services substantially complete within such 21 days, then the date of Substantial Completion shall be 21 days after the date noted above as the date this Certificate is submitted to Agency.

The Warranty Period commences as of the Warranty Commencement Date stated below with respect to the following corresponding equipment or work:

Services: Description of Equipment or Work	Warranty Commencement Date

Agency, by and through the undersigned duly authorized representative, accepts the above listed Services as substantially complete and assumes full possession thereof as of the Date of Substantial Completion.

St. Johns County, FL Board of County Commissioners  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Date of Customer's Signature: \_\_\_\_\_

**EXHIBIT II (ii)**  
**Certificate of Final Completion**

(Customer & project name)  
Trane Project No.:  
Date Certificate Submitted to Customer:

The Services performed pursuant to the Guaranteed Energy Performance Savings Contract, by and between the St. Johns County, FL Board of County Commissioners ("Agency") and Trane U.S. Inc., dated as of \_\_\_\_\_, have been inspected by the undersigned Agency, have been determined to be finally complete, and Agency accepts the same.

The Date of Final Completion is hereby established as the date Agency executes this Certificate. If Agency does not consider the specified Services finally complete, it will notify Company in writing, giving the reasons therefore within twenty one (21) days of the date Certificate submitted to Agency. If Agency has not executed this Certificate, nor notified Company of in writing giving its reason(s) why it does not consider the services finally complete within such 21 days, then the date of Final Completion shall be 21 days after the date noted above as the date this Certificate is submitted to Agency.

The Warranty Period commences as of the Warranty Commencement Date stated below with respect to the following corresponding equipment or work:

Services: Description of Equipment or Work	Warranty Commencement Date

Agency, by and through the undersigned duly authorized representative, accepts the above listed Services as substantially complete and assumes full possession thereof as of the Date of Final Completion.

St. Johns County, FL Board of County Commissioners

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date of Customer's Signature: \_\_\_\_\_

*EXHIBIT III (iii)*

**(ATTACHMENT F) - FEDERAL FUNDING GRANTEE, SUBGRANTEE AND  
CONTRACTOR PROVISIONS**

**FLORIDA ENERGY AND CLIMATE COMMISSION  
GRANT AGREEMENT NO.  
STATE OF FLORIDA  
GRANT ASSISTANCE  
PURSUANT TO  
AMERICAN RECOVERY AND REINVESTMENT ACT  
UNITED STATES DEPARTMENT OF ENERGY AWARDS**

All subgrants and contracts awarded by the Grantee, including small purchases, shall contain the following provisions as applicable:

1. **Equal Employment Opportunity** - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
2. **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)** - All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
3. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)** - When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.
4. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)** - Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. **Rights to Inventions Made Under a Contract or Agreement** - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 10 CFR part 600.325, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
6. **Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended** - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
7. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.
8. **Debarment and Suspension (E.O.s 12549 and 12689)** - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.
9. **Section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1368) and Section 1424(e) of the Safe Drinking Water Act, (42 U.S.C. 300h-3(e))** - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1368) and Section 1424(e) of the Safe Drinking Water Act, (42 U.S.C. 300h-3(e)). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
10. **Compliance with all Federal statutes relating to nondiscrimination.** These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of sex; (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 795), which prohibits discrimination on the basis of handicaps; (c) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (d) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (e) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (f) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (g) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (h) any other nondiscrimination provisions in the specific statute(s) made; and, (i) the requirements of any other nondiscrimination statute(s) which may apply.
11. **Compliance with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646)** which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.



12. **Compliance with the provision of the Hatch Act (5 U.S.C. 1501 – 1508 and 7324 – 7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.**
13. **Comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.**
14. **Compliance with environmental standards which may be prescribed to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EP 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplain in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).**
15. **Compliance with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.**
16. **Compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)**
17. **Compliance with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.**
18. **Compliance with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this Agreement.**
19. **Compliance with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.**
20. **Compliance with the mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in accordance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).**
21. **Assist the Commission in complying with the State Energy Conservation Program as described in the Code of Federal Regulations, Title 10, Parts 420 and 450 and guidance issued by the U.S. Department of Energy and subsequent guidance issued by the U.S. Department of Energy; the Financial Assistance Rules described in Title 10, Part 600, as well as those regulations concerning the use of oil overcharge recovery funds.**
22. **The Commission reserves the right to transfer equipment acquired under this grant as provided in Title 10, Part 600.117. The Recipient can obtain a release of this right upon application containing certain commitments.**
23. **Compliance with the Buy American Act (41 U.S.C. 10a-10c) By accepting funds under this Agreement, the Grantee agrees to comply with sections 2 through 4 of the Act of March 3, 1933, popularly known as the "Buy American Act." The Grantee should review the provisions of the Act to ensure that expenditures made under this Agreement are in accordance with it. It is the sense of the Congress that, to the greatest extent practicable,**

all equipment and products purchased with funds made available under this Agreement should be American-made.

**24. Preservation of open and competition and government neutrality towards contractors' labor relations on federally funded construction projects**

a. Unless in conflict with State or local laws, you must ensure that bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this agreement, or pursuant to a subaward to this agreement, do not:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or

2. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

b. The term "construction contract" as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

c. Nothing in this provision prohibits bidders, offerors, contractors, or subcontractors from voluntarily entering into agreements with labor organizations.

**25. Compliance with the provision included in Title XV and Title XVI of Public Law 111-5, the American Recovery and Reinvestment Act of 2009.**

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

**27. False Claims Act** – Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principle, employee, agent, contractor, sub-grantee, subcontractor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.