

AN ORDINANCE 2008-02-07-0096

AUTHORIZING A CONTRACT WITH JOHNSON CONTROLS, INC., IN AN AMOUNT NOT TO EXCEED \$1,800,002.00, TO PROVIDE UPGRADES TO THE ALAMODOME FACILITY/LIFE SAFETY MANAGEMENT SYSTEM, LIGHTING CONTROLLER, AND VARIABLE FREQUENCY DRIVES, INCLUDING LABOR, MATERIALS, AND EQUIPMENT; AND TO BE COMPLETED BY APRIL 2008 AND REIMBURSED BY STATE FUNDS.

* * * * *

WHEREAS, the Alamodome's Facility/Life Safety Management System ("FMS") is a Johnson Controls Metasys Integrated Direct Digital Control/Fire/Lighting System which was installed in May 1992 and many of the software components that drive the system are proprietary to Johnson Controls ("JCI") and, as such, JCI has maintained the system from the original installation; and

WHEREAS, the Alamodome's FMS incorporates life safety sequences of events for evacuation and fire protection which operate the HVAC systems for smoke purge and voice evacuation through the public address system; and

WHEREAS, the current network control modules are not UL listed for smoke evacuation and are aged and in need of replacement; and

WHEREAS, additionally, many of the variable frequency drives are inoperable due to the age of the equipment and lack of replacement parts, many of the lighting controllers are no longer in production and when failure occurs the current lighting controls system will not operate fully; and

WHEREAS, replacing the network control modules, variable frequency drives and lighting controllers will ensure continuous operation of the FMS for the Alamodome; and

WHEREAS, the work proposed by this Ordinance is intended to be funded by a reimbursement from the Final Four Trust Fund provided under Article 5190.14 Section 5A (Vernon's Texas Civil Statutes) and, therefore, the work must be completed prior to the NCAA Division I Men's Final Four Basketball Tournament ("Final Four") to be held in the Alamodome beginning on April 5, 2008; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. A contract with Johnson Controls, Inc., in an amount not to exceed \$1,800,002.00, to provide for upgrades to the Alamodome Facility/Life Safety Management System, lighting controller, and variable frequency drives, including labor, materials, and equipment, is authorized and approved.

SECTION 2. The City Manager or her designee is authorized to execute a contract with Johnson Controls for upgrades to the Metasystem Facility Management System at the Alamodome. A copy of the contract, previously executed by Johnson Controls, Inc., is attached to this Ordinance as Exhibit I.

SECTION 3. The funding for the contract awarded by this Ordinance, in an amount not to exceed \$1,800,002.00, is available from previously appropriated funding in Ordinance Number 2007-04-19-0415, dated April 19, 2007.

SECTION 4. The amount of \$1,800,002.00 is appropriated in SAP Fund 47099000, Convention Center Capital Projects, SAP Project Definition 45-00010, Alamodome Capital Improvements, SAP WBS Element 45-00010-05-02-01, entitled City Construction, SAP GL account 5201140, and is authorized to be encumbered and made payable Johnson Controls, Inc., for upgrades to the Alamodome Facility/Life Safety Management System, lighting controller, and variable frequency drives, including labor, materials, and equipment.

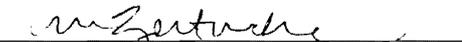
SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance may, subject to concurrence by the City Manager, or the City Manager's designee, correct allocation to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers, and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 6. This Ordinance shall be effective immediately upon the passage of eight (8) affirmative votes. If it is not passed by (8) affirmative votes, this Ordinance shall be effective on and after the tenth day after passage.

PASSED AND APPROVED this 7th day of February, 2008.

ATTEST: 
City Clerk


M A Y O R
PHIL HARDBERGER

APPROVED AS TO FORM: 
for City Attorney

Agenda Item:	8						
Date:	02/07/2008						
Time:	09:19:36 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing a contract with Johnson Controls, Inc., in an amount not to exceed \$1,800,002.00, to provide upgrades to the Alamodome Facility/Life Safety Management System, Lighting Controller, and Variable Frequency Drives, including labor, materials, and equipment; and to be completed by April 2008 and reimbursed by State funds. [Penny Postoak Ferguson, Assistant City Manager; Michael J. Sawaya, Director, Convention, Sports and Entertainment Facilities]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1				x		
Sheila D. McNeil	District 2		x				x
Jennifer V. Ramos	District 3	x					
Philip A. Cortez	District 4		x				
Lourdes Galvan	District 5		x				
Delicia Herrera	District 6		x				
Justin Rodriguez	District 7		x				
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x			x	
John G. Clamp	District 10		x				



CMS or Ordinance Number: CN4600006964

TSLGRS File Code:1000-25

Document Title:
CONT - Metasys Integrated Direct Digital
Control/Fire Lighting System

Commencement Date:

2/7/2008

Expiration Date:

6/30/2008

Exhibit
I

**CONTRACT FOR UPGRADES TO
METASYS FACILITY MANAGEMENT SYSTEM AT ALAMODOME**

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This Contract is entered into by and between the City of San Antonio, a Texas Municipal Corporation (“City”), acting by and through its Director of Convention Sports and Entertainment Facilities (“Director”), pursuant to Ordinance No. 2008 - 02 - 07 - 0016 passed and approved on the 7th day of February, 2008, and Johnson Controls, Inc. (“JCI” or “Contractor”), by and through its HVAC BRANCH MANAGER, both of which may be referred to herein collectively as the “Parties”.

WHEREAS, the Parties previously entered into a contract for the purchase and installation of a Metasys Facility Management system (the “System”) for the Alamodome, which includes both hardware and proprietary software developed by JCI ; and

WHEREAS, the System monitors and controls major mechanical systems at the Alamodome; and

WHEREAS, maintaining the System has becoming difficult and costly due to the obsolescence of certain parts; and

WHEREAS, the City wishes to upgrade the System to enhance functionality and performance;

NOW THEREFORE, the Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

I. DEFINITIONS

As used in this Contract, the following terms shall have meanings as set out below:

1.1 “City” is defined in the preamble of this Contract and includes its successors and assigns.

1.2 “City Facilities” or “Facilities” includes the following buildings and locations, as applicable:

- (A.) Alamodome, 100 Montana Street, San Antonio, Texas 78203.
- (B.) Boiler Plant Building, 100 Montana Street, San Antonio, Texas 78203.
- (C.) Generator Building, 100 Montana Street, San Antonio, Texas 78203.

1.3 “Contractor” is defined in the preamble of this Contract and includes its successors.

1.4 “JCI” is defined in the preamble of this Contract and includes its successors and any authorized assigns.

1.5 “System” or “Metasys Facilities System” is that software and hardware that monitors and controls major mechanical systems at City Facilities, including the Facility Management Systems, Automatic Temperature Controls, Fire Detection Management Systems, and Electrical Switchgear, and also including any upgrades or enhancements, installed by Contractor in City Facilities.

II. TERM

2.1 Unless sooner terminated in accordance with the provisions of this Contract, the term of this Contract shall commence on February 7, 2008 and terminate on June 30, 2008, or upon completion of all of the services described in Article III, whichever shall occur later.

2.2 Funds have been appropriated for the Scope of Services outlined in Attachment A by the passage of Ordinance No. ~~2008 02 07 1096~~.

III. SCOPE OF SERVICES

3.1 Contractor agrees to provide the services described in this Article III entitled Scope of Services in exchange for the compensation described in Article IV. Compensation.

3.2 All work performed by Contractor hereunder shall be performed to the satisfaction of Director. The determination made by Director shall be final, binding and conclusive on all Parties hereto. City shall be under no obligation to pay for any work performed by Contractor, which is not satisfactory to Director. The Director's determination shall be reasonable and based upon a good faith review of Attachment A.

3.3 Contractor shall provide such goods and materials and perform those services as described in its proposal, which is attached hereto and incorporated herein for all purposes as Attachment A. Contractor shall complete all services by April 4, 2008. If there is a conflict between the terms and conditions of this Contract and Attachment A, this Contract shall control.

3.4 Warranty. Contractor warrants that the equipment manufactured by it shall be free from defects in material and workmanship arising from normal usage for a period of one year from acceptance of said equipment. Contractor warrants that for equipment furnished and/or installed, but not manufactured by Contractor, Contractor will extend the same warranty terms and conditions which Contractor receives from the manufacturer of said equipment. For equipment installed by Contractor, if City provides written notice to Contractor of any such defect within thirty days after the appearance or discovery of such defect, Contractor shall, at its option, repair or replace the defective equipment. For equipment not installed by Contractor, if City returns the defective equipment to Contractor within thirty days after appearance or discover of such defect, Contractor shall, at its option, repair or replace the defective equipment and return said equipment to City. All transportation charges incurred in connection with the warranty for equipment not installed by Contractor shall be borne by City. These warranties do not extend to any equipment which has been repaired by others, abused, altered or misused, or which has not been properly and reasonably maintained, unless the maintenance obligations belonged to Contractor pursuant to warranty or a maintenance agreement.

3.5 Plastering, patching and painting are excluded from Contractor's proposal.

3.6 "In-line" duct and piping devices, including but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Contractor shall be distributed and installed by others under Contractor's supervision, but at no additional cost to Contractor. City agrees to provide Contractor with required field utilities (electricity, toilets, drinking water, project hoist, elevator services, etc.) without charge. Contractor agrees to keep the job site clean of debris arising out of its own operations. City shall not back charge Contractor for any costs or expenses without Contractor's written consent. Unless specifically noted in the proposal, Contractor's obligations under this contract expressly exclude any work or service of any nature associated or connected with the

identification, abatements, clean up, control, removal, or disposal of hazardous or dangerous materials, to include, but not be limited to asbestos or PCBs, discovered on the premises.

IV. COMPENSATION TO CONTRACTOR

4.1 In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by Director, of all services and activities set forth in this Contract, City agrees to pay Contractor an amount not to exceed one million, eight hundred thousand, two dollars (\$1,800,002.00) as total compensation. Contractor shall invoice City upon completion of all services required herein. City shall have 30 days to inspect the goods and services tendered by Contractor. City shall pay Contractor within 30 calendar days of acceptance.

4.2 No additional fees or expenses of Contractor shall be charged by Contractor nor be payable by City. The parties hereby agree that all compensable expenses of Contractor have been provided for in the total payment to Contractor as specified in section 4.1 above. Total payments to Contractor cannot exceed that amount set forth in section 4.1 above, without prior approval and agreement of all parties, evidenced in writing and approved by the Director.

4.3 Final acceptance of work products and services require written approval by City. The approval official shall be Director. Payment will be made to Contractor following written approval of the final work products and services by Director. City shall not be obligated or liable under this Contract to any party, other than Contractor, for the payment of any monies or the provision of any goods or services.

V. OWNERSHIP OF DOCUMENTS

5.1 Any and all writings, documents or information in whatsoever form and character produced by Contractor pursuant to the provisions of this Contract is the exclusive property of Contractor; and such writing, document or information shall be the subject of any copyright or proprietary claim by City.

5.2, City has a license to use all such writings, documents and information as City desires, without restriction.

VI. RECORDS RETENTION

6.1 Contractor and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered hereunder (hereafter referred to as "documents"), and shall make such materials available to the City at their respective offices, at all reasonable times and as often as City may deem necessary during the Contract period, including any extension or renewal hereof, and the record retention period established herein, for purposes of audit, inspection, examination, and making excerpts or copies of same by City and any of its authorized representatives.

6.2 Contractor shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years (hereafter referred to as "retention period") from the date of termination of the Contract. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided hereunder, Contractor shall retain the records until the resolution of such litigation or other such questions. Contractor acknowledges and agrees that City shall have access to any and all such documents at any and all times,

as deemed necessary by City, during said retention period. City may, at its election, require Contractor to return said documents to City prior to or at the conclusion of said retention.

6.3 Contractor shall notify City, immediately, in the event Contractor receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Contractor understands and agrees that City will process and handle all such requests.

VII. TERMINATION

7.1 For purposes of this Contract, "termination" of this Contract shall mean termination by expiration of the Contract term as stated in Article II. Term, or earlier termination pursuant to any of the provisions hereof.

7.2 Termination Without Cause. This Contract may be terminated by City upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Should Contractor fail to fulfill in a timely and proper manner, as determined solely by Director, its material obligations under this contract, or violate any of the material terms of this contract, the City shall have the right to immediately terminate the contract. Notice of termination shall be provided in writing to Contractor, effective upon the date set forth in the notice. Such termination shall not relieve Contractor of any liability to the City for damages sustained by virtue of any breach by Contractor. Should the City fail to fulfill its material obligations under this contract, or violate any of the material terms of this Contract, Contractor shall have a right to terminate the Contract after notice and time to cure. Such termination shall not relieve the City of any liability to the Contractor for damages sustained by virtue of any breach by the City.

7.4 Defaults With Opportunity for Cure. Should Contractor default in the performance of this Contract in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have fifteen (15) calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If Contractor fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Contract in whole or in part as City deems appropriate, and to contract with another Contractor to complete the work required in this Contract. City shall also have the right to offset the cost of said new Contract with a new Contractor against Contractor's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

7.4.1 Filing for bankruptcy or selling substantially all of company's assets; or

7.4.2 Performing unsatisfactorily or failing to comply with any covenant herein required.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Contract shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Contract is terminated, Contractor shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Contractor, or provided to Contractor, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by

Contractor in accordance with Article VI. Records Retention. Any record transfer shall be completed within thirty (30) calendar days of a written request by City. Payment of compensation due or to become due to Contractor is conditioned upon delivery of all such documents, if requested.

7.7 Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Contract, Contractor shall submit to City its claims, in detail, for the monies owed by City for services performed under this Contract through the effective date of termination. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Contract.

7.8 Upon the effective date of expiration or termination of this Contract, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Contract.

7.9 Termination not sole remedy. In no event shall terminating this Contract, whether for cause or otherwise, be deemed an election of remedies, nor shall such termination limit, in any way, at law or at equity, the terminating party's right to seek damages from or otherwise pursue the other party for any default hereunder or other action.

VIII. NOTICE

8.1 Except where the terms of this Contract expressly provide otherwise, any election, notice or communication required or permitted to be given under this Contract shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Jim Mery
Convention Sports & Entertainment Facilities
100 Montana Street
San Antonio, Texas 78232

City of San Antonio
Attn: Jim Mery
Convention, Sports & Entertainment Facilities
P.O. Box 839966
San Antonio, Texas 78283-3966

If intended for Contractor, to:

Johnson Controls, Inc.,
Attn: MELVIN PIPES
Address
326 W. NAKOMA
SAN ANTONIO, TX 78210

IX. [Reserved]

X. INSURANCE

10.1 Prior to the commencement of any work under this Contract, Contractor shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's Convention Sports & Entertainment Facilities Department (the "Department"), which shall be clearly labeled "2008 Metasys Facilities Management System Upgrade" in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Contract until such certificate and endorsements have been received and approved by the Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

10.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this contract and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. In no instance will City allow modification whereupon City may incur increased risk.

10.3 A Contractor's financial integrity is of interest to the City; therefore, Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and approved to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000/\$1,000,000/\$1,000,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises operations b. Independent Contractors c. Products/completed operations d. Personal Injury e. Contractual Liability f. Sudden and Accidental Pollution Liability. g. Broad form property damage, to include fire legal liability *	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
4. Business Automobile Liability a. Owned/leased vehicles b. Non-owned vehicles	<u>Combined Single Limit</u> for <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence

c. Hired Vehicles	
* If applicable	

10.4 Contractor agrees to obtain all insurance coverages with minimum limits of not less than those limits delineated in Section 10.3 (Insurance table) from each vendor subcontracted by Contractor and provide a Certificate of Insurance and Endorsement that names the Contractor and the City as an additional insured

10.5 City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the City. Contractor shall be required to comply with any such requests and shall submit the certificate of insurance to City at the address provided below.

City of San Antonio
 Attn: Convention, Sports and Entertainment Facilities
 P.O. Box 839966
 San Antonio, Texas 78283-3966

10.6 Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name the City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, with respect to liability arising from operations and activities of, or on behalf of, the named insured performed under contract with the City, under the Commercial General and Automobile liability policies;
- Commercial General Liability shall provide for an endorsement that the “other insurance” clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;
- Workers’ compensation and employers’ liability policies will provide a waiver of subrogation in favor of the City; and
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage which adversely affects the interests of The City, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

10.7 Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage which adversely affects the interests of The City, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor’s performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Contract.

10.8 In addition to any other remedies the City may have upon Contractor’s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements

hereof.

10.9 Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Contract

10.10 It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of San Antonio for liability arising out of operations under this Contract.

10.11 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Contract.

XI. INDEMNIFICATION

11.1 **CONTRACTOR covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY directly or indirectly arising out of, resulting from or related to Contractor's activities under this Contract, including any acts or omissions of CONTRACTOR, any agent, officer, director, representative, employee, consultant or subcontractor of CONTRACTOR, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this CONTRACT, all without however, waiving any governmental immunity available to the CITY under Texas Law and without waiving any defenses of the parties under Texas Law. IT IS FURTHER COVENANTED AND AGREED THAT SUCH INDEMNITY SHALL APPLY EVEN WHERE SUCH COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND/OR SUITS ARISE IN ANY PART FROM THE NEGLIGENCE OF CITY, THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES OF CITY, UNDER THIS CONTRACT. The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. CONTRACTOR shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or CONTRACTOR known to CONTRACTOR related to or arising out of CONTRACTOR's activities under this CONTRACT and shall see to the investigation and defense of such claim or demand at CONTRACTOR's cost. The CITY shall have the right, at its option and at its own expense, to participate in such defense without relieving CONTRACTOR of any of its obligations under this paragraph. [A&Y 01/31/08]**

11.2 It is the **EXPRESS INTENT** of the parties to this **CONTRACT**, that the **INDEMNITY** provided for in this section, is an **INDEMNITY** extended by **CONTRACTOR** to **INDEMNIFY, PROTECT and HOLD HARMLESS**, the **CITY** from the consequences of the **CITY'S OWN NEGLIGENCE**, provided however, that the **INDEMNITY** provided for in this section **SHALL APPLY** only when the **NEGLIGENT ACT** of the City is a **CONTRIBUTORY CAUSE** of the resultant injury, death, or damage, and shall have no application when the negligent act of the City is the sole cause of the resultant injury, death, or damage. **CONTRACTOR** further **AGREES TO DEFEND, AT ITS OWN EXPENSE and ON BEHALF OF THE CITY AND IN THE NAME OF THE CITY**, any claim or litigation brought against the **CITY** and its elected officials, employees,

officers, directors, volunteers and representatives, in connection with any such injury, death, or damage for which this INDEMNITY shall apply, as set forth above.

11.3 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Contractor in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Contractor shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Contract. If Contractor fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Contractor shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.4 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Contractor shall supply qualified personnel as may be necessary to complete the work to be performed under this Contract. Persons retained to perform work pursuant to this Contract shall be the employees or subcontractors of Contractor. Contractor, its employees or its subcontractors shall perform all necessary work.

12.2 Contractor shall provide City with a list of proposed subcontractors for approval prior to the provision of services of any of said Contractors. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by Director prior to the provision of any services by said subcontractor.

12.3 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Contract. Compliance by subcontractors with this Contract shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees. Any references in this Contract to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by Director.

12.4 Except as otherwise stated herein, Contractor may not sell, assign, pledge, transfer or convey any interest in this Contract, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the Director. As a condition of such consent, if such consent is granted, Contractor shall remain liable for completion of the services outlined in this Contract in the event of default by the successor Contractor, assignee, transferee or subcontractor.

12.5 Any attempt to transfer, pledge or otherwise assign this Contract without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Contract, City may, at its option, cancel this Contract and all rights, titles and interest of Contractor shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to City under this Contract. The violation of this provision by

Contractor shall in no event release Contractor from any obligation under the terms of this Contract, nor shall it relieve or release Contractor from the payment of any damages to City, which City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Contractor covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and contractors; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Contract and that the Contractor has no authority to bind the City.

XIV. CONFLICT OF INTEREST

14.1 Contractor acknowledges that it is informed that the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in Part B, Section 10 of the Ethics Code, from having a financial interest in any contract with the City or any City agency such as city owned utilities. An officer or employee has a “prohibited financial interest” in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale: a City officer or employee; his parent, child or spouse; a business entity in which the officer or employee, or his parent, child or spouse owns ten (10) percent or more of the voting stock or shares of the business entity, or ten (10) percent or more of the fair market value of the business entity; a business entity in which any individual or entity above listed is a subcontractor on a City contract, a partner or a parent or subsidiary business entity.

14.2 Pursuant to the subsection above, Contractor warrants and certifies, and this Contract is made in reliance thereon, that it, its officers, employees and agents are neither officers nor employees of the City. Contractor further warrants and certifies that it has tendered to the City a Discretionary Contracts Disclosure Statement in compliance with the City’s Ethics Code.

XV. AMENDMENTS

15.1 Except where the terms of this Contract expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both Director and Contractor. Additional City Council approval shall not be required, so long as funds have been appropriated for any increases in costs that result from said amendment.

XVI. SEVERABILITY

16.1 If any clause or provision of this Contract is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and

that the remainder of this Contract shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained herein; it is also the intention of the parties hereto that in lieu of each clause or provision of this Contract that is invalid, illegal, or unenforceable, there be added as a part of the Contract a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVII. LICENSES/CERTIFICATIONS

17.1 Contractor warrants and certifies that Contractor and any other person designated to provide services hereunder has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided herein.

XVIII. COMPLIANCE

18.1 Contractor shall provide and perform all services required under this Contract in compliance with all applicable federal, state and local laws, rules and regulations. Contractor shall obtain, at Contractor's sole cost, all licenses and permits required for the prosecution of the work required hereunder.

18.2 Occupational Health & Safety. The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety & Health Act relating in any way to the project or project site, to the extent permitted by law.

XIX. NONWAIVER OF PERFORMANCE

19.1 Unless otherwise specifically provided for in this Contract, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Contract shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Contract, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Contract shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by Director, as described in Article XV. Amendments. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

XX. LAW APPLICABLE

20.1 THIS CONTRACT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

20.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Contract shall be heard and determined in the City of San Antonio, Bexar County, Texas.

XXI. LEGAL AUTHORITY

21.1 The signer of this Contract for Contractor represents, warrants, assures and guarantees that he has full legal authority to execute this Contract on behalf of Contractor and to bind Contractor to all of the terms, conditions, provisions and obligations herein contained.

XXII. PARTIES BOUND

22.1 This Contract shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for herein.

XXIII. CAPTIONS

23.1 The captions contained in this Contract are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Contract.

XXIV. INCORPORATION OF ATTACHMENTS

24.1 Each of the Attachments listed below is an essential part of the Contract, which governs the rights and duties of the parties, and shall be interpreted in the order of priority as appears below, with this Contract document taking precedence over all Attachments:

Attachment A – JCI Proposal dated January 18, 2008

Attachment B – Prevailing Wage Rates

XXV. ENTIRE AGREEMENT

25.1 This Contract, together with its attachments, if any, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties, in accordance with Article XV. Amendments.

XXVI. PERFORMANCE BOND

26.1 Contractor shall provide a performance bond made payable to the City of San Antonio, executed by a corporate surety acceptable to City who is licensed pursuant to the Texas Insurance Code in the full amount of the contract price. Said bond must be in a form acceptable to City. Said bond shall further provide that the surety shall indemnify the obligee for all damages or losses resulting from the principal's default. Said bond shall further guarantee the principal's performance of all terms and obligations under this contract. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253. This bond must be executed and delivered to City prior to commencement of work under this Contract.

XXVII. PAYMENT BOND

27.1 Contractor shall provide a payment bond as security for all persons supplying labor and material in the performance of this contract. Said bond shall be executed by a corporate surety acceptable to City, licensed pursuant to the Texas Insurance Code in the full amount of the contract price. Said bond

must be in a form acceptable to City. Said bond must have attached thereto a Power of Attorney as evidence of the authority of the person executing the bond to bind the surety. This bond must be furnished in compliance with the statutory requirements of the Texas Government Code, chapter 2253 and the Texas Property Code, chapter 53. This bond must be executed and delivered to City prior to commencement of work under this Contract.

XXVIII. PREVAILING WAGE RATE

28.1 Definitions:

28.1.1 Prevailing Wage Rate – that rate which has been determined by City to be the applicable prevailing wage rate, including the per diem rate and the rate for legal holiday and overtime pay, as set forth in Attachment B, attached hereto and fully incorporated herein, for each category of worker.

28.1.2 Worker - person employed by Contractor or a Subcontractor in the execution of this contract. A worker includes, but is not limited to, laborers and mechanics.

28.2 Payment of Prevailing Wage Rate - Contractor shall pay to its workers not less than the prevailing wage rate for that class of worker as described in said Attachment B. Further, Contractor shall stipulate in all contracts with subcontractors engaged by Contractor in furtherance of the execution of this agreement that said subcontractors pay not less than the prevailing wage rate for its workers, and shall attach as an attachment to said contracts a copy of Attachment B.

28.3 Penalty for Non-payment

28.3.1 A Contractor or Subcontractor who pays less than the prevailing wage rate to its workers, shall pay to City Sixty Dollars (\$60.00) for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in this contract. Contractor shall stipulate in all contracts with subcontractors engaged by Contractor in furtherance of the execution of this agreement that Subcontractor is subject to this \$60.00 penalty if Subcontractor fails to pay said prevailing wage rates to its workers.

28.3.2 In accordance with Chapter 2258, TEX. GOV'T CODE, City shall be entitled to withhold payment from Contractor under the contract to satisfy this penalty, even if the party incurring the penalty is a Subcontractor of Contractor. If City withholds payment from Contractor as a result of a Subcontractor's violation, Contractor may withhold payment from said Subcontractor in accordance with said Chapter 2258. Further, release or disbursement of funds withheld as a penalty hereunder shall be governed by said Chapter 2258.

28.4 Records - Contractor and Subcontractor shall keep a record showing: (1) the name and occupation of each worker employed by the Contractor or Subcontractor; and (2) the actual per diem wages, including legal holiday and overtime wages, paid to each worker. These records shall be open at all reasonable hours to inspection by the officers and agents of City. Contractor shall stipulate in all contracts with subcontractors engaged by Contractor in furtherance of the execution of this agreement that Subcontractors must maintain and make available for inspection the records as described in this article.

XXIX. WORKERS' COMPENSATION INSURANCE COVERAGE

29.1 Definitions:

29.1.1 Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

29.1.2 Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

29.1.3 Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

29.2 The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Contractor providing services on the project, for the duration of the project.

29.3 The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the Contract.

29.4 If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

29.5 The Contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

29.5.1 a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

29.5.2 no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

29.6 The Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

29.7 The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

29.8 The Contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services

on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

29.9 The Contractor shall contractually require each person with whom it contracts to provide services on a project, to:

29.9.1 provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

29.9.2 provide to the Contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

29.9.3 provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

29.9.4 obtain from each other person with whom it contracts, and provide to the Contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

29.9.5 retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

29.9.6 notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

29.9.7 contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

29.10 By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

29.11 Contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

XXX. HAZARDOUS MATERIALS

30.1 Asbestos-Containing Substances: Neither City nor Contractor desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing Substances ("ACM"). Consistent with applicable laws, City shall supply Contractor with any information in its possession relating to the presence of ACM at any of its facilities where Contractor undertakes any Work or Services that may result in the disturbance of ACM. It is Contractor's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and City shall provide such certification for buildings it owns, or aid Contractor in receiving such certification from facility owners in the case of buildings that it does not own, if Contractor will undertake Work or Services in the facility that could disturb ACM. If either City or Contractor becomes aware of or suspects the presence of ACM that may be disturbed by Contractor's Work or Services, it shall immediately stop the Work or Services in the affected area and notify the other's contacts. As between City and Contractor, City shall be responsible at its sole expense for addressing the potential for or the presence of ACM in conformance with all applicable laws and addressing the impact of its disturbance before Contractor continues with its Work or Services, unless Contractor had actual knowledge that ACM was present and acted in disregard of that knowledge, in which case (i) Contractor shall be responsible at its sole expense for remediating areas impacted by the disturbance of the ACM, and (ii) City shall resume its responsibilities for the ACM after Contractor's remediation has been completed.

30.2 Other Hazardous Substances: For other Hazardous Substances that may be otherwise present at its facilities ("Non-Subcontractor Hazardous Substances"), City shall supply Contractor with any information in its possession relating to the presence of such Substances if their presence may affect Contractor's performance of the Work or Services. If either City or Contractor becomes aware of or suspects the presence of Non-Subcontractor Hazardous Substances that may interfere with Contractor's Work or Services, it shall immediately stop the Work or Services in the affected area and notify the other's contacts. As between City and Contractor, City shall be responsible at its sole expense for removing and disposing of Non-Subcontractor Hazardous Substances from its facilities and the remediation of any areas impacted by the release of the Non-Subcontractor Hazardous Substances, unless Contractor had actual knowledge that Non-Subcontractor Hazardous Substances were present and acted in disregard of that knowledge, in which case (i) Contractor shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Substances, and (ii) City shall remain responsible at its sole expense for the removal of Hazardous Substances that have not been released and for releases not resulting from Contractor's performance of the Work or Services."

XXXI. FORCE MAJUERE

31.1 In the event that the performance by either party of any of its obligations or undertakings hereunder shall be interrupted or delayed by any occurrence and not occasioned by the conduct of either party hereto, whether such occurrence be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party or privy hereto, then such party shall be excused from performance for a period of time as is reasonably necessary

after such occurrence to remedy the effects thereof, and each party shall bear the cost of any expense it may incur due to the occurrence.

CITY OF SAN ANTONIO

PPFum

Sheryl Sculley
City Manager

ATTEST: *Leticia M. Wood*, City Clerk

Date: February 11, 2008

JOHNSON CONTROLS, INC.

Melvin Pipes

Name: MELVIN PIPES

Title: HVAC BRANCH MANAGER

Date: FEBRUARY 06, 2008

Approved as to Form:

Russ Bradner for

City Attorney



PROPOSAL

City of San Antonio
Alamo Dome
San Antonio, TX

January 18, 2008

RE: Alamodome Metasys FMS Supervisory Network, Lighting Controller and Variable Frequency Drive Upgrades

SCOPE OF WORK

The following scope of work is to be completed by April 4th 2008 predicated on receipt of executable contract on or before February 7th, 2008

- Furnish and install (8) new NAE controllers on the Mechanical Mezzanine level of the facility, (8) new NAE controllers on the Field level of the facility and (1) new NAE controller to be located in the existing boiler room.
- Furnish and install 10BaseFL, plastic, multimode, multi-strand fiber cabling to provide connectivity to the new NAE controllers and to establish a new Supervisory fiber optic LAN network for the new Metasys Extended Architecture. The new fiber optic Extended Architecture network and new NAE controllers will reside alongside the existing NCU controllers.
- Furnish and install (1) new ADX Extended Architecture Data Server in Alamodome JCI office and connect to new fiber optic network.
- JCI will provide standard graphics package for lighting applications.
- **This proposals include any and all overtime cost incurred by JCI provided JCI has 24/7 access to facility**
- Furnish and install all switches, Hubs, Routers, terminations and other required accessories to provide a fully functional network for control of all lighting equipment currently on the existing Metasys FMS.
- Provide 120-volt power to each of (17) JCI NAE Panels. Install JCI provide surge suppressor at each panel.
- Install conduit to allow for interconnecting (17) JCI NAE panels with new fiber optic cabling. Field level includes conduits from each NAE to the closest existing cable tray or accessible ceiling area. Mechanical mezzanine level includes complete conduit system for interconnection of the NAE's. All other conduit will be EMT. All fiber optic cable will be installed using a plastic inner-duct as a protective means.
- Install new 3/4" conduit from new JCI NAE panels to (47) new Variable frequency drives. Provide N2 cable from NAE to each VFD.
- Remove (22) existing Variable Frequency Drives and replace with new drives to be furnished by Johnson Controls. Provide modifications to existing conduits and wiring to accommodate the placement and connections to the new drives. Stockpile old VFD's in a central location to be determined by the owner.

- Furnish and install (72) new lighting controls panels and approximately (10) lighting controls slave panels to replace existing lighting control panels. Provide N2 trunk cabling to the nearest NAE controller for network connectivity.
- This proposal includes a 5-day technical training class on-site for up to 10 users of the Metasys Extended Architecture system highlighting new Extended Architecture system features and focusing on the navigation and operation of the new Web-based user interface.

QUALIFICATIONS

- In order to successfully complete the work indicated in this proposal, JCI will require 24 hour 7-days per week access to the facility for all sub-contractors and JCI personnel.
- Any work that may be required in order to facilitate ongoing operations, events or other items on the facilities agenda is not included in this proposal. In the event that JCI is requested to provide services to manually control or manipulate any of these systems, A written proposal will be provided to the owner for approval before proceeding with the requested services.
- In order to complete the proposed scope of work by April 4th 2008 JCI will need to receive signed acceptance of this proposal and be given the go ahead to begin work no later then January 21, 2008.
- Submittals will consist of product data sheets only an as builds will be delivered at the end of the project

EXCLUSIONS

- Sales Tax

ADDITIONAL ITEMS INCLUDED

- Permit Fees for electrical and controls scope of work
- Haul off of trash and construction material
- Fire caulking and core drilling
- X-ray of concrete slabs prior to core drilling
-

Project Cost

Installation of Metasys Extended Architecture	\$1,053,120
VFD'S/Lighting Project	\$746,882
TOTAL TURN KEY PROJECT COST	\$1,800,002

Attachment B

General Decision Number: TX070043 02/09/2007 TX43

Superseded General Decision Number: TX20030043

State: Texas

Construction Types: Heavy and Highway

Counties: Bell, Bexar, Brazos, Comal, Coryell, Guadalupe, Hays, McLennan, Travis and Williamson Counties in Texas.

Heavy (excluding tunnels and dams) and Highway Construction Projects (does not include building structures in rest area projects). *NOT TO BE USED FOR WORK ON SEWAGE OR WATER TREATMENT PLANTS OR LIFT/PUMP STATIONS IN BELL, CORYELL, McLENNAN AND WILLIAMSON COUNTIES.

Modification Number	Publication Date
0	02/09/2007

Effective 02/09/2007

SUTX2005-001 01/03/2005

	Rates	Fringes
Air Tool Operator.....	\$ 16.00	0.00
Asphalt Distributor Operator...	\$ 12.09	0.00
Asphalt paving machine operator	\$ 11.82	0.00
Asphalt Raker.....	\$ 9.96	0.00
Asphalt Shoveler.....	\$ 10.56	0.00
Broom or Sweeper Operator.....	\$ 9.74	0.00
Bulldozer operator	\$ 11.04	0.00
Carpenter.....	\$ 12.25	0.00
Concrete Finisher, Paving.....	\$ 10.53	0.00
Concrete Finisher, Structures..	\$ 10.95	0.00
Concrete Paving Curbing Machine Operator.....	\$ 14.00	0.00
Concrete Paving Finishing Machine Operator.....	\$ 12.00	0.00
Concrete Rubber.....	\$ 10.88	0.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel Operator.....	\$ 13.66	0.00
Electrician.....	\$ 24.11	0.00
Flagger.....	\$ 9.49	0.00
Form Builder/Setter, Structures	\$ 10.88	0.00
Form Setter, Paving & Curb.....	\$ 9.89	0.00
Foundation Drill Operator, Truck Mounted.....	\$ 15.00	0.00
Front End Loader Operator.....	\$ 11.36	0.00
Laborer, common.....	\$ 9.34	0.00
Laborer, Utility.....	\$ 10.12	0.00
Mechanic.....	\$ 14.74	0.00
Mixer operator, Concrete Paving	\$ 15.25	0.00
Mixer operator.....	\$ 10.83	0.00
Motor Grader Operator, Fine Grade.....	\$ 15.26	0.00
Motor Grader Operator, Rough...	\$ 12.96	0.00
Oiler.....	\$ 14.71	0.00
Painter, Structures.....	\$ 11.00	0.00
Pavement Marking Machine Operator.....	\$ 11.52	0.00
Pipelayer.....	\$ 10.49	0.00
Planer Operator.....	\$ 17.45	0.00
Reinforcing Steel Setter, Paving.....	\$ 15.50	0.00
Reinforcing Steel Setter, Structure.....	\$ 14.00	0.00
Roller Operator, Pneumatic, Self-Propelled.....	\$ 9.34	0.00
Roller Operator, Steel Wheel, Flat Wheel/Tamping.....	\$ 9.60	0.00
Roller Operator, Steel Wheel, Plant Mix Pavement.....	\$ 10.24	0.00
Scraper Operator.....	\$ 9.93	0.00
Servicer.....	\$ 11.41	0.00
Sign Installer (PGM).....	\$ 14.85	0.00

Slip Form Machine Operator.....	\$ 15.17	0.00
Spreader Box operator.....	\$ 10.39	0.00
Structural Steel Worker.....	\$ 13.41	0.00
Tractor operator, Crawler Type..	\$ 11.10	0.00
Traveling Mixer Operator.....	\$ 10.04	0.00
Trenching machine operator, Heavy.....	\$ 14.22	0.00
Truck Driver Tandem Axle Semi- Trailer.....	\$ 10.95	0.00
Truck driver, lowboy-Float.....	\$ 15.30	0.00
Truck driver, Single Axle, Heavy.....	\$ 11.88	0.00
Truck driver, Single Axle, Light.....	\$ 9.98	0.00
Wagon Drill, Boring Machine, Post Hole Driller Operator.....	\$ 14.65	0.00
Welder.....	\$ 14.26	0.00
Work Zone Barricade Servicer...	\$ 11.15	0.00

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal

process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

Attachment B

General Decision Number: TX070003 01/25/2008 TX3

Superseded General Decision Number: TX20030003

State: Texas

Construction Type: Building

County: Bexar County in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

Modification Number	Publication Date
0	02/09/2007
1	05/11/2007
2	07/20/2007
3	08/31/2007
4	01/25/2008

Effective 01/25/2008

ASBE0087-001 01/01/2006

	Rates	Fringes
Asbestos/Insulator Worker (Includes application of all insulating materials, protective coverings, coatings, and finishings to all types of mechanical systems.).....	\$ 19.67	6.37

BRTX0001-004 05/01/2007

	Rates	Fringes
BRICKLAYER.....	\$ 23.50	1.50

ELEC0060-001 12/04/2006

	Rates	Fringes
Cable splicer.....	\$ 21.85	7.60
ELECTRICIAN (Including pulling and installing cable through conduit for low voltage).....	\$ 21.60	7.60

ELEV0081-001 01/01/2005

	Rates	Fringes
Elevator Constructor MECHANIC.....	\$ 26.885	12.115+A

FOOTNOTE; A = UNDER 5 YEARS EMPLOYMENT, 6% BHR; OVER 5 YEARS
EMPLOYMENT, 8% BHR. PAID HOLIDAYS : New Year's Day,
Memorial Day, Independence Day, Labor Day, Thanksgiving
Day, Friday after Thanksgiving Day and Christmas Day.

ENGI0450-001 04/01/1994

	Rates	Fringes
Power equipment operators: Cranes.....	\$ 12.95	3.30

IRON0066-001 06/01/2007

	Rates	Fringes
IRONWORKER (Excluding metal building erectors) Structural.....	\$ 17.40	5.00

MARB0002-001 07/01/2005

	Rates	Fringes
TILE SETTER.....	\$ 18.50	6.10

* PLUM0142-001 10/10/2007

	Rates	Fringes
Plumbers and Pipefitters (Including HVAC WORK).....	\$ 28.30	8.02

SFTX0669-001 01/01/2005

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 22.62	10.50

SHEEC067-001 04/01/2007

	Rates	Fringes
Sheet metal worker (Including HVAC Duct Work).....	\$ 23.70	9.74

SUTX1988-002 11/01/1988

	Rates	Fringes
Acoustical Ceiling Installer.....	\$ 12.26	
CARPENTER (Excluding Acoustical Ceiling Installer & Drywall Hanger).....	\$ 10.64	
CEMENT MASON/CONCRETE FINISHER...	\$ 11.46	
DRYWALL HANGER.....	\$ 11.88	
GLAZIER.....	\$ 10.78	1.40
IRONWORKER (Excluding Metal Building Assemblers) Reinforcing.....	\$ 10.19	3.57
Laborers:		
Mason Tenders.....	\$ 8.36	1.78
Mortar Mixers.....	\$ 8.99	
PLASTERER'S TENDERS.....	\$ 8.68	
Unskilled.....	\$ 7.06	
LATHER.....	\$ 15.25	
PAINTER (Excluding Tapers/Finishers).....	\$ 8.01	

PLASTERER.....\$ 15.25

Power equipment operators:

Front End Loader.....\$ 7.36

Roofers:

Kettlemen.....\$ 8.85

Roofers.....\$ 8.14

Waterproofers.....\$ 6.88

Sheet Metal Worker

Other Work.....\$ 11.62

Taper/Finisher.....\$ 7.99

TRUCK DRIVER.....\$ 7.10

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.
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Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates
listed under the identifier do not reflect collectively
bargained wage and fringe benefit rates. Other designations
indicate unions whose rates have been determined to be
prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can
be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on
a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests
for summaries of surveys, should be with the Wage and Hour
Regional Office for the area in which the survey was conducted
because those Regional Offices have responsibility for the
Davis-Bacon survey program. If the response from this initial
contact is not satisfactory, then the process described in 2.)
and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

CW



CMS or Ordinance Number: OR00000200802070096

TSLGRS File Code: 1000-05

Document Title:
ORD - Metasys Integrated Direct Digital
Control/Fire Lighting System

Ordinance Date:
2/7/2008