



City of Grand Island

Tuesday, July 24, 2012

Council Session

Item G12

#2012-186 - Approving Bid Award for HVAC Renovation at City Hall

Staff Contact: Craig Lewis

Council Agenda Memo

From: Craig A. Lewis, Building Department Director
Meeting: July 24, 2012
Subject: Request for Proposals for the Renovations of the Heating and Air Conditioning Systems at City Hall.
Item #'s: G-13
Presenter(s): Craig Lewis

Background

On June 8, 2012 the City of Grand Island issued a request for proposal for renovations to the heating and air conditioning system at City Hall. The heating and air conditioning system is in need of renovations to the control system, replacement of the controls on variable air volume boxes, modifications to heat devices on the first floor, installation of variable speed controls for selected fan motors, and temperature control sequencing and automation compatible with existing systems.

Six proposal were received on June 28, 2012 ranging in cost from \$120,132.59 to \$174,950.00

Discussion

The proposals received were:

Johnson Controls Omaha, NE. -- \$124,915.00	Control Services, Inc. Omaha, NE. -- \$162,133.00
Honeywell Bld. Sol. Omaha, NE. -- \$120,132.59	Engineered Controls Lincoln, NE. -- \$174,950.00
Integrated Controls Lincoln, BE. -- \$129,100.00	Aidin Electric, LLC. Grand Island, NE. -- \$163,125.00

Honeywell Building Solutions of Omaha submitted the lowest responsive proposal and additionally identified alternatives to installing reheat devices on the first floor and provided for the based quote of \$105,620.52 with an option of \$14,512.07 for the reheats,

bringing the total to \$120,132.59. The alternative proposal has merit and I would suggest we approve the base proposal of \$105,620.52.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the proposal from Honeywell Building Solutions.
2. Disapprove or /Deny all of the submitted proposals.
3. Modify the proposals to meet the wishes of the Council
4. Table the issue

Recommendation

City Staff recommends that the Council approve the request for proposal submitted by Honeywell Building Solutions for \$105,620.52.

Sample Motion

Move to approve the proposal submitted by Honeywell Building Solutions for the amount of \$105,620.52 and authorize the Mayor to sign the proposal.



Jason Eley, Purchasing Agent

*Working Together for a
Better Tomorrow, Today*

**REQUEST FOR PROPOSAL
FOR
HVAC RENOVATION CITY HALL**

RFP DUE DATE: June 28, 2012 at 4:00 p.m.

DEPARTMENT: Building

PUBLICATION DATE: June 8, 2012

NO. POTENTIAL BIDDERS: 3

SUMMARY OF PROPOSALS RECEIVED

Johnson Controls
Omaha, NE

Control Services, Inc.
Omaha, NE

Honeywell
Omaha, NE

Engineered Controls
Lincoln, NE

Integrated Controls
Lincoln, NE

Aidin Electric, LLC
Grand Island, NE

cc: Craig Lewis, Building Department Director
Jason Eley, Purchasing Agent

Brian Henke, Bldg. Maintenance
Jaye Monter, Finance Director

P1565

Honeywell Proposal

Honeywell Building Solutions

Building Systems Agreement

(Rev.07/06)

Proposal Number: 932-12062802

Agreement Number: <AgreementNumber>

Proposal Name: Modifications to City Hall HVAC Systems

Date: June 27, 2012

Provider:

Honeywell Building Solutions
6602 S 118th Street
Omaha, Nebraska 68137

Customer:

City of Grand Island
100 East First Street
Grand Island, Nebraska 68801

Scope of Work

Honeywell shall provide the following equipment and services ("the Work") in accordance with the attached work scope documents and terms and conditions, which form a part of this Agreement.

Provide and install a new temperature control system for the Grand Island City Hall building. This includes the replacement of all existing controllers for 127 VAV boxes, 3 air handling units, the hot water heating system, chilled water system, and emergency generator/CU-1 exhaust. All sensors associated with these systems will also be replaced under this scope.

Provide and install new Honeywell variable frequency drives for RF-1, SF-2, RF-2, SF-3, and RF-3. The existing VFD for SF-1 is compatible with the system and fully functional. These VFD's will fully communicate with the temperature control system. Factory startup of drives is included.

Remove static control vanes on the existing air handling units to reduce air flow restrictions.

Provide graphics for all each system connected to the system. All points shall be capable of trending, alarm notification as required for proper monitoring and control.

Provide user training for the control system

Provide a fully commissioned system for validation of all inputs and outputs to the system.

All work to be performed in accordance with code and OSHA compliance.

Period of Performance

The Work shall commence on **Summer/Fall 2012** ("Effective Date") and shall be completed by **Fall 2012** ("Completion Date")

Inclusions

- Use Tax
- 1 year warranty on parts and labor furnished by Honeywell
- Proposal is valid for 90 days

Modifications to City Hall HVAC Systems

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- Checkout, testing and commissioning
- BMS graphics
- Variable Frequency Drives

Exclusions

- Use of owner's network

Clarifications, Assumptions and Exceptions

- Static IP, Subnet Mask & Gateway Provided by Customers IT Department.
- **Scope of work limited to work described above. Option price adds the installation of seven reheats to VAV boxes on the north side of the first floor. These reheats include installation in the ductwork, connection to VAV box controls, and electrical service to the reheats to provide a complete installed solution.**

Price

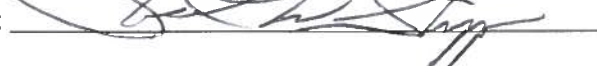
Base Price (Temperature Controls and VFD Drives): One Hundred Five Thousand Six Hundred Twenty and 52/100 (\$105,620.52) U.S. Dollars

Option Price (Seven Reheats on First Floor): Fourteen Thousand Five Hundred Twelve and 07/100 (\$14,512.07) US Dollars

Sales Tax will be invoiced separately Use Tax is included in the Price This sale is tax exempt

Payment: Upon Customer acceptance of this proposal or contract execution, whichever occurs first, the Customer shall pay Honeywell ~~\$21,124.10~~ **or twenty percent 20%** of the Price. Such payment shall be used for engineering, drafting, and other mobilization costs reasonably incurred prior to on-site installation.

This proposal is valid for 90 days.

Proposal Submitted By: 
 (Signature)
 Name: **Paul Stigge**
 Title: **Account Representative**
 Date: **June 28, 2012**
Honeywell Building Solutions

Acceptance

This proposal and the pages attached shall become an Agreement in accordance with Article 13 of the General Terms and Conditions below and only upon signature below by an authorized representative of Honeywell and Customer, subject to credit approval by Honeywell.

Accepted by:
HONEYWELL BUILDING SOLUTIONS CUSTOMER: City of Grand Island

Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Honeywell Terms and Conditions

Rev. 08/09

1. WORKING HOURS

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

2. TAXES

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

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

3. PROPRIETARY INFORMATION

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

3.2 Customer agrees that Honeywell may use nonproprietary information pertaining to the Agreement, and the work performed under the Agreement, for press releases, case studies, data analysis, promotional purposes, and other similar documents or statements to be publicly released, as long as Honeywell submits any such document or statement to Customer for its approval, which shall not be unreasonably withheld.

4. INSURANCE OBLIGATIONS

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

- (a) Commercial General Liability Insurance to include contractual liability, products/completed operations liability with a combined single limit of USD \$2,000,000 per occurrence. Such policy will be written on an occurrence form basis;
- (b) If automobiles are used in the execution of the Contract, Automobile Liability Insurance with a minimum combined single limit of USD \$2,000,000 per occurrence. Coverage will include all owned, leased, non-owned and hired vehicles.
- (c) Where applicable, "All Risk" Property Insurance, including Builder's Risk insurance, for physical damage to property which is assumed in the Contract.
- (d) Workers' Compensation Insurance Coverage A - Statutory limits and Coverage B-Employer's Liability Insurance with limits of USD \$1,000,000 for bodily injury each accident or disease.

Honeywell will not issue coverage on a per project basis.

4.2 Prior to the commencement of the Contract, Honeywell will furnish evidence of said insurance coverage in the form of a Memorandum of Insurance which is accessible at: <http://www51.honeywell.com/moi/liability-n2/ds-united.html>. All insurance required in this Article will be written by companies with a rating of no less than "A-, XII" by A.M. Best or equivalent rating agency. Honeywell will endeavor to provide a thirty (30) day notice of cancellation or non-renewal to the Customer. In the event that a self-insured program is implemented, Honeywell will provide adequate proof of financial responsibility.

5. HAZARDOUS SUBSTANCES, MOLD AND UNSAFE WORKING CONDITIONS

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

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

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

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

5.5 TO THE FULLEST EXTENT ALLOWED BY LAW, CUSTOMER SHALL INDEMNIFY AND HOLD HONEYWELL HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND COSTS OF WHATEVER NATURE, INCLUDING BUT NOT LIMITED TO, CONSULTANTS' AND ATTORNEYS' FEES, DAMAGES FOR BODILY INJURY AND PROPERTY DAMAGE, FINES, PENALTIES, CLEANUP COSTS AND COSTS ASSOCIATED WITH DELAY OR WORK STOPPAGE, THAT IN ANY WAY RESULTS FROM OR ARISES UNDER THE BREACH OF THE REPRESENTATIONS AND WARRANTIES IN THIS SECTION, THE EXISTENCE OF MOLD OR A HAZARDOUS SUBSTANCE AT A SITE, OR THE OCCURRENCE OR EXISTENCE OF THE SITUATIONS OR CONDITIONS DESCRIBED IN THIS SECTION, WHETHER OR NOT CUSTOMER PROVIDES HONEYWELL ADVANCE NOTICE OF THE EXISTENCE OR OCCURRENCE AND REGARDLESS OF WHEN THE HAZARDOUS SUBSTANCE OR OCCURRENCE IS DISCOVERED OR OCCURS. THIS INDEMNIFICATION SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.

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6. WARRANTY AND LIMITATION OF LIABILITY

6.1 Honeywell will replace or repair any product Honeywell provides under this Agreement that fails within the warranty period (one) 1 year because of defective workmanship or materials, except to the extent the failure results from Customer negligence, or from fire, lightning, water damage, or any other cause beyond the control of Honeywell. This warranty applies to all products Honeywell provides under this Agreement, whether or not manufactured by Honeywell. The warranty is effective as of the date of Customer acceptance of the product or the date Customer begins beneficial use of the product, whichever occurs first.

6.2 THE WARRANTIES SET FORTH HEREIN ARE EXCLUSIVE, AND HONEYWELL EXPRESSLY DISCLAIMS AND CUSTOMER EXPRESSLY WAIVES ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF WORKMANSHIP, CONSTRUCTION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES, EQUIPMENT, AND MATERIALS PROVIDED HEREUNDER. Honeywell SHALL NOT BE LIABLE FOR ANY PROPERTY DAMAGE, PERSONAL INJURY, LOSS OF INCOME, EMOTIONAL DISTRESS, DEATH, LOSS OF USE, LOSS OF VALUE, ADVERSE HEALTH EFFECT OR ANY SPECIAL, INCIDENTAL, INDIRECT, SPECULATIVE, REMOTE, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, ARISING FROM, OR RELATING TO, THIS LIMITED WARRANTY OR ITS BREACH.

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

7. INDEMNITY

Honeywell agrees to indemnify and hold Customer and its agents and employees harmless from all claims for bodily injury and property damages to the extent such claims result from or arise under Honeywell's negligent actions or willful misconduct in its performance of the Work required under this Agreement, provided that such indemnity obligation is valid only to the extent (i) Customer gives Honeywell immediate notice in writing of any such claims and permits Honeywell, through counsel of its choice and Honeywell's sole cost and expense, to answer the claims and defend any related suit and (ii) Customer gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit. Honeywell shall not be responsible for any settlement without its written consent. Honeywell shall not be liable for loss or damage caused by the negligence of Customer or any other party or such party's employees or agents. This obligation shall survive termination of this Agreement. Notwithstanding the foregoing, Customer agrees that Honeywell will not be responsible for any damages caused by Mold or any other fungus or biological material or agent, including but not limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, adverse health effect or any special, consequential, punitive, exemplary or other damages, regardless of whether such damages may be caused by or otherwise associated with defects in the Services.

8. LIMITATION OF LIABILITY

8.1 IN NO EVENT SHALL HONEYWELL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, SPECULATIVE, REMOTE, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, WHETHER ARISING OUT OF OR AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, MOLD, MOISTURE, INDOOR AIR QUALITY, OR OTHERWISE, ARISING FROM, RELATING TO, OR CONNECTED WITH THE SERVICES, EQUIPMENT, MATERIALS, OR ANY GOODS PROVIDED HEREUNDER.

8.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, IF A PORTION OF THE SERVICES INVOLVES THE INSTALLATION AND/OR MAINTENANCE OF SYSTEMS ASSOCIATED WITH SECURITY AND/OR THE DETECTION OF AND/OR REDUCTION OF RISK OF LOSS ASSOCIATED WITH FIRE, HONEYWELL'S TOTAL LIABILITY ARISING OUT OF OR AS A RESULT OF ITS PERFORMANCE UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF THIS AGREEMENT.

9. EXCUSABLE DELAYS

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

10. PATENT INDEMNITY

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

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

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

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

11. SOFTWARE LICENSE

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

12. DISPUTE RESOLUTION

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

13. ACCEPTANCE OF THE CONTRACT

This proposal and the pages attached shall become an Agreement upon signature above by Honeywell and Customer. The terms and conditions are expressly limited to the provisions hereof, including Honeywell's General Terms and Conditions attached hereto, notwithstanding receipt of, or acknowledgment by, Honeywell of any purchase order,

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specification, or other document issued by Customer. Any additional or different terms set forth or referenced in Customer's purchase order are hereby objected to by Honeywell and shall be deemed a material alteration of these terms and shall not be a part of any resulting order.

14. MISCELLANEOUS

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

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

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

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

14.5 Customer may not assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of Honeywell. Honeywell may assign its right to receive payment to a third party.

15. TERMS OF PAYMENT

Subject to Honeywell's approval of Customer's credit, payment terms are as follows:

Progress Payments - Honeywell will invoice at least monthly for all materials delivered to the job site or to an off-site storage facility and for all installation, labor, and services performed, both on and off the job site. Customer agrees to pay the full amounts invoiced, less retainage, upon receipt of the invoice at the address specified by the Customer. Invoices not paid within thirty (30) days of the invoice date are past due and accrue interest from the invoice date to the date of payment at the rate of one percent (1%) per month, compounded monthly, or the highest legal rate then allowed.

Retainage - Customer shall not withhold, as retainage, a greater percentage than is withheld from Customer under a prime contract, if applicable. Customer shall pay all retainage to Honeywell within 30 days after Honeywell's work is substantially complete.

Suspension of work - If Honeywell, having performed work per Agreement requirements, does not receive payment within thirty (30) days after submission of a Honeywell invoice, Honeywell may suspend work until Customer provides remedy.

16. WORK BY OTHERS

16.1 Unless otherwise indicated, the following items are to be furnished and installed by others: electric wiring and accessories, all in-line devices (including but not limited to flow tubes, hand valves, orifice plates, orifice flanges, etc.), pipe and pipe penetrations including flanges for mounting pressure and level transmitters, temperature sensors, vacuum breakers, gauge glasses, water columns, equipment foundations, riggings, steam tracings, and all other items and work of like nature. Automatic valve bodies and dampers furnished by Honeywell are to be installed by others.

16.2 Services Honeywell will provide under this Agreement specifically exclude professional services which constitute the practice of architecture or engineering unless specifically set forth in the Scope of Work. Customer or Owner will specify all performance and design criteria that Honeywell will follow in performing Work under this Agreement. If professional design services or certifications by a design professional related to systems, materials, or equipment is required, such services and certifications are the responsibility of others. To the fullest extent permitted by law, Customer shall indemnify and hold harmless Honeywell and its agents and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, that in any way result from or arise under breach of the representations in this Section 16. This indemnification shall survive termination of this Agreement for whatever reason. Nothing in this Section 16 shall be construed to require that Customer indemnify and hold harmless Honeywell from claims and costs resulting from Honeywell's negligent actions or willful misconduct.

17. DELIVERY

Delivery of equipment not agreed on the face hereof to be installed by or with the assistance of Honeywell shall be F.O.B. at Honeywell's factory, warehouse, or office selected by Honeywell. Delivery of equipment agreed on the face hereof to be installed by or with the assistance of Honeywell shall be C.I.F. at site of installation.

18. DAMAGE OR LOSS

Honeywell shall not be liable for damage to or loss of equipment and software after delivery to destination determined by this Agreement or any applicable prime contract. If thereafter, and prior to payment in full to Honeywell by Customer, any such equipment or software is damaged or destroyed by any cause whatsoever, other than by the fault of Honeywell, the Customer agrees promptly to pay or reimburse Honeywell for such loss.

19. TERMINATION

19.1 By Customer. Customer may terminate this Agreement for cause if Honeywell defaults in the performance of any material term of this Agreement, or fails or neglects to carry forward the Work in accordance with this Agreement, after giving Honeywell written notice of its intent to terminate. If Honeywell has not, within seven (7) business days after receipt of such notice, acted to remedy and make good such deficiencies, Customer may terminate this Agreement and take possession of the site together with all materials thereon, and move to complete the Work itself expeditiously. Upon request of Honeywell, Customer will furnish to Honeywell a detailed accounting of the costs incurred by Customer in finishing the Work. If the unpaid balance of the contract price exceeds the expense of finishing the Work, the excess shall be paid to Honeywell, but if the expense exceeds the unpaid balance, Honeywell shall pay the difference to Customer.

19.2 By Honeywell. Honeywell may terminate this Agreement for cause (including, but not limited to, Customer's failure to make payments as agreed herein) after giving Customer written notice of its intent to terminate. If, within seven (7) days following receipt of such notice, Customer fails to make the payments then due, or otherwise fails to cure or perform its obligations, Honeywell may, by written notice to Customer, terminate this Agreement and recover from Customer payment for Work executed and for losses sustained for materials, tools, construction equipment and machinery, including but not limited to, reasonable overhead, profit and applicable damages.

20. CHANGES IN THE WORK

20.1 A Change Order is a written order signed by Customer and Honeywell authorizing a change in the Work or adjustment in the price or a change to the schedule.

20.2 Customer may request Honeywell to submit proposals for changes in the Work, subject to acceptance by Honeywell. If Customer chooses to proceed, such changes in the Work will be authorized by a Change Order. Unless otherwise specifically agreed to in writing by both parties, if Honeywell submits a proposal pursuant to such request but Customer chooses not to proceed, Customer shall issue a Change Order to reimburse Honeywell for any and all costs incurred in preparing the proposal.

20.3 Honeywell may make a written request to Customer to modify this Agreement based on the receipt of, or the discovery of, information that that Honeywell believes will cause a change to the scope, price, schedule, level of performance, or other facet of the Agreement. Honeywell will submit its request to Customer within a reasonable time after receipt of, or the discovery of, information that Honeywell believes will cause a change to the scope, price, schedule, level of performance, or other facet of the Agreement. This request shall be submitted by Honeywell before proceeding to execute the Work, except in an emergency endangering life or property, in which case Honeywell shall have the authority to act, in its discretion, to prevent threatened damage, injury or loss. Honeywell's request will include information necessary to substantiate the effect of the change and any impacts to the Work, including any change in schedule or contract price. If Honeywell's request is acceptable to Customer, Customer will issue a Change Order consistent therewith. If Customer and Honeywell cannot agree on the amount of the adjustment in the Price, or the Schedule, it shall be determined pursuant to the Dispute Resolution article of this Agreement. Any change in the Price or the Schedule resulting from such claim shall be authorized by Change Order.

21. ACCEPTANCE OF THE WORK

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Upon receipt of notice by Honeywell that the Work is ready for final inspection and acceptance, Customer will make such final inspection and issue acceptance within three (3) business days. Acceptance will be in a form provided by Honeywell, stating that to the best of Customer's knowledge, information and belief, and on the basis of Customer's on-site visits and inspections, the Work has been fully completed in accordance with the terms and conditions of this Agreement. If Customer finds the Work unacceptable due to non-compliance with a material element of this Agreement, which non-compliance is due solely to the fault of Honeywell, Customer will notify Honeywell in writing within the three (3) business days setting forth the specific reasons for non-acceptance. Customer agrees that failure to inspect and/or failure to issue proper notice of non-acceptance within three (3) business days shall constitute final acceptance of the Work under this Agreement. Customer further agrees that partial or beneficial use of the Work by Customer or Owner prior to final inspection and acceptance will constitute acceptance of the Work under this Agreement. To the fullest extent permitted by law, Customer shall indemnify and hold harmless Honeywell and its agents and employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, that in any way result from or arise under breach of the representations in this Section 21. This indemnification shall survive termination of this Agreement for whatever reason. Nothing in this Section 21 shall be construed to require that Customer indemnify and hold harmless Honeywell from claims and costs resulting from Honeywell's negligent actions or willful misconduct.

22. DEFINITIONS

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

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

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

RESOLUTION 2012-186

WHEREAS, The City Of Grand Island published a request for proposal for the renovation of the heating and air conditioning system in City Hall , and

WHEREAS, Six proposals were received and evaluated, and

WHEREAS, The City has determined the most beneficial proposal for the renovations and replacement of components was submitted by Honeywell Building Solutions of Omaha, Nebraska ,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor be authorized to sign the proposal with Honeywell Building Solutions in the amount of \$105,620.52 for the renovations of the heating and air conditioning system in City Hall at 100 E. 1st Street Grand Island, Nebraska.

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Adopted by the City Council of the City of Grand Island, Nebraska, July 24, 2012.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☒ _____
July 23, 2012	☒ City Attorney