BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: August 16, 2006

Division: Public Works

Bulk Item: Yes X No ___

Department: Facilities Maintenance

Staff Contact Person: John W. King

AGENDA ITEM WORDING: Approval of a Consent to Assignment of the month-to-month maintenance agreement for the two centrifugal chillers at Jackson Square from York International to Johnson Controls

ITEM BACKGROUND: On April 30, 2005, the contract with York International expired and the contract was amended to a month-to-month basis. On December 9, 2005, Johnson Controls acquired York International.

PREVIOUS RELEVANT BOCC ACTION: On March 20, 2002, the BOCC approved a Preventative Maintenance Agreement with York International for the York Centrifugal Chiller and associated cooling tower at Jackson Square. On April 16, 2003, the BOCC approved a renewal agreement with an increase in price based on the terms of the agreement. On March 17, 2004, the BOCC approved a renewal agreement for one centrifugal chiller and cooling tower, and approval to add the second and newest centrifugal chiller to the agreement. On April 30, 2005, the contract was amended to a month-to-month status.

CONTRACT/AGREEMENT CHANGES: Assignment of contract dated April 20, 2005, from York International Corporation to Johnson Controls.

STAFF RECOMMENDATIONS: Approval.

TOTAL COST: $_____

BUDGETED: Yes X No ___

COST TO COUNTY: $_____

SOURCE OF FUNDS: Ad Valorem

REVENUE PRODUCING: Yes ___ No x **AMOUNT PER MONTH**____ **Year** ____

APPROVED BY: County Atty ____ OMB/Purchasing ____ Risk Management _____

DIVISION DIRECTOR APPROVAL: *Dent Pierce*

DOCUMENTATION: Included x Not Required_____

DISPOSITION:_____ **AGENDA ITEM #**_____

Revised 2/05

M E M O R A N D U M

DATE: July 26, 2006

TO: Dent Pierce, Division Director
Public Works

FROM: John W. King, Sr. Director
Lower Keys Operations

RE: Agenda Item – August 16, 2006 BOCC Meeting
Key Largo – York/Johnson

On March 20, 2002, the BOCC approved to enter into a Preventative Maintenance Agreement with York International for the York Centrifugal Chiller and associated cooling tower at Jackson Square. On April 16, 2003, the BOCC approved a renewal of the agreement with an increase in price based on the terms of the agreement. On March 17, 2004, the BOCC approved to renew the Agreement for one centrifugal chiller and cooling tower, and approval to add the second and newest centrifugal chiller to the agreement. On April 30, 2005, the contract was amended to a month-to-month status.

On April 30, 2005, the contract with York International expired and the contract was amended to a month-to-month basis. We were recently notified that Johnson Controls had acquired York International on December 9, 2005, and now owns 100% of the stock of York International.

I hereby request approval of the Consent to Assignment of the full maintenance agreement with York International, on a month to month basis, for the two centrifugal chillers at Jackson Square.

JWK/jbw

Enclosures

JOHNSON CONTROLS

Shared Service Center
Building Efficiency
507 East Michigan Street
Milwaukee, WI 53201

July 1, 2006

Dear Johnson Controls/York International Customer,

Johnson Controls acquired York International on December 9, 2005 and now owns 100% of the stock of York International. York International is an operating entity with billions of dollars of assets and will continue to have operations for years into the future. However, Johnson Controls is in the process of a reorganization of its Building Efficiency business – part of which involved the distribution of the York International Service business to Johnson Controls. The York International Service business (including York International Service employees) and the Johnson Controls Service business are now one in the Johnson Controls legal entity. There has been no name change of any entity.

Customers who purchase services will do so from Johnson Controls going forward and will receive invoices from Johnson Controls. Customers who purchase equipment and parts will continue to do so from York International and will receive invoices from York International.

As appropriate, please make payment to the entity and lockbox address on your invoices:

Johnson Controls:	Federal ID # 39-030010 DUNS # 00-609-2860
York International:	Federal ID # 13-347-3472 DUNS # 19-656-1252

If you have any questions regarding billing or payment issues please contact the JCI Shared Service Center at 1-800-382-2804 and choose the appropriate selection for your needs.

If you have any questions regarding sales or job/work progress issues please contact your local JCI/York location.

We truly appreciate your business and look forward to continuing to provide you the very best in services, products and parts.

Sincerely,

JOHNSON CONTROLS, INC.

John P. Murphy
VP & GM of North America Service & Solutions

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: York International

Contract #_____

Effective Date: _____

Expiration Date: _____

Contract Purpose/Description:
Consent of assignment of contract with York International Corporation to Johnson Controls for a full maintenance agreement for Jackson Square centrifugal chiller and cooling tower

Contract Manager: Jo B. Walters (Name) 4549 (Ext.) Facilities Maint/Stop #4 (Department/Stop #)

for BOCC meeting on 08/16/06 Agenda Deadline: 08/01/06

CONTRACT COSTS

Total Dollar Value of Contract: $ Just assigning contract to new owner! Current Year Portion: $ _____

Budgeted? Yes☐ No ☐ Account Codes: _____-_____-_____-_____-_____

Grant: $ _____ _____-_____-_____-_____-_____

County Match: $ _____ _____-_____-_____-_____-_____

_____-_____-_____-_____-_____

ADDITIONAL COSTS

Estimated Ongoing Costs: $_____/yr (Not included in dollar value above) For: _____ (eg. maintenance, utilities, janitorial, salaries, etc.)

CONTRACT REVIEW

	Date In	Changes Needed	Reviewer	Date Out
Division Director	_____	Yes☐ No☐	[signature]	8/1/06
Risk Management	7/26/06	Yes☐ No☑	[signature]	7/26/06
O.M.B./Purchasing	_____	Yes☐ No☐	[signature]	7/26/06
County Attorney	7/24/06	Yes☐ No☑	[signature]	7/25/06

CV 7/27/06

Comments: _____

OMB Form Revised 2/27/01 MCP #2

CONSENT TO ASSIGNMENT

This Consent to Assignment is entered into this _____ day of _____, 2006, by and between Monroe County, a political subdivision of the State of Florida, hereafter County, YORK INTERNATIONAL CORPORATION, Assignor, and JOHNSON CONTROLS, INC., Assignee, the parties agreeing as follows:

1. By a change of ownership effective December 9, 2005 from Assignor to Assignee, the Assignor assigned to Assignee all the Assignor's rights, title and interest in the original agreement dated April 20, 2005.

2. In consideration for such consent, the Assignee agrees to be bound by all the terms and conditions of the original agreement, as amended above to provide for payment to be made to the assignee.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

_____
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:_____
Mayor/Chairman

Witnesses:

_____

_____

JOHNSON CONTROLS, INC., ASSIGNEE

By:_____

Witnesses:

_____

_____

YORK INTERNATIONAL CORPORATION,
ASSIGNOR

By:_____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Natileene W. Cassel
NATILEENE W. CASSEL
ASSISTANT COUNTY ATTORNEY
Date 7/25/06

CONTRACT

THIS AGREEMENT, made and entered into this 20th day of April, 2005, A.D., by and between MONROE COUNTY, FLORIDA , (hereinafter sometimes call the "owner"), and York International Corporation (hereinafter called the "Contractor").

That the parties hereto, for the consideration hereinafter set forth, mutually agree as follow:

1. **THE CONTRACT**
   The contract between the owner and the contractor, of which this agreement is a part, consists of the contract documents, as specified in paragraph 2.

2. **THE CONTRACT DOCUMENTS**
   The contract documents consist of this agreement, the specifications, all change orders, and any addenda issued hereafter, any other amendments hereto executed by the parties hereafter, and all required insurance documentation.

3. **SCOPE OF THE WORK**
   The Contractor shall provide a full maintenance program as described in Exhibit A, entitled "York Maintenance Agreement" for Jackson Square – Monroe County and dated March 3, 2005, incorporated herein by reference. The specifications contained therein shall serve as minimum contract standards, and shall be the basis of inspection and acceptance of all of the work under this agreement.

4. **THE CONTRACT SUM**
   The County shall pay to the Contractor for the faithful performance of said service on a per month basis in each of twelve months.
   The Contractor shall invoice the County monthly for preventive maintenance services performed under the specifications contained herein. The Contract amount shall be as stated by the contractors proposal as follows: $17,376.00 per year, $1,448.00 per month.

5. **CONTRACTOR'S ACCEPTANCE OF CONDITIONS**

A. The Contractor hereby agrees that he has carefully examined the site and has made investigations to fully satisfy himself that such site is correct and a suitable one for this work and he assumes full responsibility therefore. The provisions of the Contract shall control any inconsistent provisions contained in the specifications. All specifications have been read and carefully considered by the Contractor, who understands the same and agrees to their sufficiency for the work to be done. Under no circumstances, conditions, or situations shall this Contract be more strongly construed against the Owner than against the Contractor.

B. The passing, approval, and/or acceptance by the Owner of any of the maintenance services furnished by the Contractor shall not operate as a waiver by the Owner of

strict compliance with the terms of this Contract, and specifications covering the services. Failure on the part of the Contractor, immediately after Notice to Correct shall entitle the Owner, if it sees fit, to correct the same and recover the reasonable cost of such replacement and/or repair from the Contractor, who shall in any event be jointly and severally liable to the Owner for all damage, loss, and expense caused to the Owner by reason of the Contractor's breach of this Contract and/or his failure to comply strictly and in all things with this Contract and with the specifications.

6. TERM OF CONTRACT/RENEWAL

A. This contract shall be on a month to month basis commencing May 1, 2005.

7. HOLD HARMLESS

The Contractor covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of services provided by the Contractor or any of its Subcontractor(s) in any tier, occasioned by the negligence, errors, or other wrongful act of omission of the Contractor or its Subcontractors in any tier, their employees, or agents.

In the event the completion of the project (to include the work of others) is delayed or suspended as a result of the Contractor's failure to purchase or maintain the required insurance, the Contractor shall indemnify the County from any and all increased expenses resulting from such delay.

The first ten dollars ($10.00) of remuneration paid to the Contractor is for the indemnification provided for above.

The extent of liability is in no way limited to, reduced, or lessened by the insurance requirements contained elsewhere within this agreement.

8. INDEPENDENT CONTRACTOR

At all times and for all purposes under this agreement the Contractor is an independent contractor and not an employee of the Board of County Commissioners for Monroe County. No statement contained in this agreement shall be construed so as to find the contractor or any of his/her employees, contractors, servants, or agents to be employees of the Board of County Commissioners for Monroe County.

9. ASSURANCE AGAINST DISCRIMINATION

The Contractor shall not discriminate against any person on the basis of race, creed, color, national origin, sex, age, or any other characteristic or aspect which is not job related, in its recruiting, hiring, promoting, terminating, or any other area affecting employment under this agreement or with the provision of services or goods under this agreement.

10. ASSIGNMENT/SUBCONTRACT

The Contractor shall not assign or subcontract its obligations under this agreement, except in writing and with the prior written approval of the Board of County Commissioners for Monroe County and Contractor, which approval shall be subject to such conditions and provisions as the Board may deem necessary. This paragraph shall be incorporated by reference into any assignment or subcontract and any assignee or subcontractor shall comply with all of the provisions of this agreement. Unless expressly provided for therein, such approval shall in no manner or event be deemed to impose any obligation upon the board in addition to the total agreed-upon price of the services/goods of the contractor.

11. COMPLIANCE WITH LAW

In providing all services/goods pursuant to this agreement, the contractor shall abide by all statutes, ordinances, rules and regulation pertaining to, or regulating the provisions of, such services, including those now in effect and hereinafter adopted. Any violation of said statutes, ordinances, rules and regulations shall constitute a material breach of this agreement and shall entitle the Board to terminate this contract immediately upon delivery of written notice of termination to the contractor. The contractor shall possess proper licenses to perform work in accordance with these specifications throughout the term of this contract.

12. INSURANCE

Prior to execution of this agreement, and maintained throughout the life of the contract, the contractor shall furnish to the Owner Certificates of Insurance indicating the minimum coverage limitation as listed below:

A. General Liability – include as a minimum:
- Premises Operations
- Products and Completed Operations
- Blanket Contractual Liability
- Personal Injury Liability
- Expanded Definition of Property Damage

The minimum limits acceptable shall be $300,000 Combined Single Limit

If split limits are provided, the minimum limits acceptable shall be: $100,000 per person; $300,000 per Occurrence; and $50,000 Property Damage.

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made Policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve months following the acceptance of work by the County.

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS MUST BE NAMED AS ADDITIONAL INSURED.

B. Vehicle Liability – include as a minimum:

- Owned, Non-Owned, and Hired Vehicles

The minimum limits acceptable shall be $100,000 Combined Single Limit

If split limits are provided, the minimum limits acceptable shall be: $50,000 per Person; $100,000 per Occurrence; and $25,000 Property Damage.

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS MUST BE NAMED AS ADDITIONAL INSURED.

C. Workers Compensation – limits sufficient to respond to Florida Statute 440.

In addition, the Contractor shall obtain Employers' Liability Insurance with limits of not less than:

$100,000 Bodily Injury by Accident
$500,000 Bodily Injury by Disease, policy limits
$100,000 Bodily Injury by Disease, each employee

Coverage shall be provided by a company or companies authorized to transact business in the State of Florida and the company or companies must maintain a minimum rating of A-VI, as assigned by the A.M. Best Company.

If the Contractor has been approved by Florida's Department of Labor, as an authorized self-insurer, the County shall recognize and honor the Contractor's status. The Contractor may be required to submit a Letter of Authorization issued by the Department of Labor and Certificate of Insurance, providing details on the Contractor's Excess Insurance Program.

If the Contractor participates in a self-insurance fund, a Certificate of Insurance will be required. In addition, the contractor may be required to submit updated financial statements from the fund upon request from the County.

13. FUNDING AVAILABILITY

In the event that funds from Facilities Maintenance Contractual Services are partially reduced or cannot be obtained or cannot be continued at level sufficient to allow for the purchase of the services/goods specified herein, this agreement may then be terminated immediately at the option of the Board of County Commissioners by written notice of termination delivered in person or be mail to the contractor. The Board shall not be obligated to pay for any services provided by the contractor after the contractor has received written notice of termination.

14. PROFESSIONAL RESPONSIBILITY

The Contractor warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described, subject to the terms and conditions set forth in these contract documents The provider shall at all times exercise independent, professional judgment and shall assume professional responsibility for the services to be provided. Continued funding by the Owner is contingent upon retention of appropriate local, state, and/or federal certification and/or licensure of contractor.

15. NOTICE REQUIREMENT

Any notice required or permitted under this agreement shall be in writing and hand delivered or mailed, postage prepaid, to the other party by certified mail, returned receipt requested, to the following:

FOR COUNTY
Monroe County Facilities Maintenance
3583 S. Roosevelt Blvd.
Key West, FL 33040

FOR CONTRACTOR
York International Coporation
15712 SW 41st Street STE. 10
Davie, FL 33331

16. CANCELLATION

A) In the event that the contractor shall be found to be negligent in any aspect of plant operation maintenance, repair, or service, the County shall have the right to terminate this agreement after five days written notification to the Contractor.

B) Either of the parties hereto may cancel this agreement without cause by giving the other party sixty (60) days written notice of its intention to do so.

17. GOVERNING LAWS

Governing Law, Venue, Interpretation, Costs, and Fees: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State.

In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of the agreement, the County and contractor agree that venue will lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

The County and Contractor agree that, in the event of conflicting interpretation of the terms or a term of this agreement by or between any of them the issue shall be submitted to mediation prior to the institution of any other administrative or legal proceeding.

18. RECORDKEEPING

Contractor shall maintain all books, records, and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. Each party to this Agreement or their authorized representatives shall have reasonable and timely access to such records of each other party to this Agreement for public records purposes during the term of the Agreement and for four years following the termination of this Agreement. If an auditor employed by the County or Clerk determines that monies paid to Contractor pursuant to this Agreement were spent for purposes not authorized by this Agreement, the Contractor shall repay the monies together with interest calculated pursuant to Sec. 55.03, FS, running from the date the monies were paid to Contractor.

19. SEVERABILITY

If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and Contractor agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

20. ATTORNEY'S FEES AND COSTS

The County and Contractor agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include

attorney's fees, court costs, investigative, and out-of-pocket expenses in appellate proceedings. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

21. BINDING EFFECT

The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Contractor and their respective legal representatives, successors, and assigns.

22. AUTHORITY

Each party represents and warrants to the other that the execution, delivery and performance of this Agreement have been duly authorized by all necessary County and corporate action, as required by law.

23. CLAIMS FOR FEDERAL OR STATE AID

Contractor and County agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

24. ADJUDICATION OF DISPUTES OR DISAGREEMENTS

County and Contractor agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be discussed at public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

25. COOPERATION

In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, County and Contractor agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and Contractor specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

26. NONDISCRIMINATION

County and Contractor agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Contractor agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patent records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.) as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note0, as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement. Monroe County Code Ch. 13, Art. VI, prohibiting discrimination on the basis of race, color, sex, religion, disability, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age.

27. COVENANT OF NO INTEREST

County and Contractor covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

28. CODE OF ETHICS

County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statues, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

29. NO SOLICITATION/PAYMENT

The County and Contractor warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the Contractor agrees that the County shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

30. PUBLIC ACCESS

The County and Contractor shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statues, and made or received by the County and Contractor in conjunction with this Agreement; and the County shall have the right to unilaterally cancel this Agreement upon violation of this provision by Contractor.

31. NON-WAIVER OF IMMUNITY

Notwithstanding the provisions of Sec. 286.28, Florida Statues, the participation of the County and the Contractor in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

32. PRIVILEGES AND IMMUNITIES

All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers agents or employees of any of any public agents or employees of the County, when performing their respective functions under this Agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers agents, volunteers, or employees outside the territorial limits of the County.

33. LEGAL OBLIGATIONS AND RESPONSIBILITIES

Non-Delegation of Constitutional or Statutory Duties. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the

extent of actual and timely performance thereof by and participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the County, except to the extent permitted by the Florida constitution, state statute, and case law.

34. NON-RELIANCE BY NON-PARTIES

No person or entity shall be entitled to rely upon the terms, or any of them, of the Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Contractor agree that neither the County nor the Contractor or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

35. ATTESTATIONS

Contractor agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, An Ethics Statement, and a Drug-Free Workplace Statement.

36. NO PERSONAL LIABILITY

No covenant or agreement contained herein shall be deemed to be a covenant or agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

37. EXECUTION ON COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument any of the parties hereto may execute this Agreement by signing any such counterpart.

38. SECTION HEADINGS

Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

39. CONTINGENCY STATEMENT

Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Monroe county Board of County Commissioners.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first written above in four (4) counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original contract.

(SEAL)
COMMISSIONERS
Attest: DANNY L. KOLHAGE, CLERK

By: _____
Deputy Clerk

Date: April 20, 2005

BOARD OF COUNTY
OF MONROE COUNTY, FLOIDA

By: _____
Mayor/Chairman

(SEAL)
Attest:

By: _____
WITNESS

Title: DISTRICT SUPERVISOR

By: _____
WITNESS

Title: AREA SERVICE MANAGER

CONTRACTOR
YORK INTERNATIONAL CORP.

By: _____

Title: ACCOUNT MANAGER

FILED FOR RECORD
05 MAY 24 PM 4:34
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date 3/09/05

11

EXHIBIT A

YORK®

Maintenance Agreement

Customer Name:	**Jackson Square-Monroe County**
Customer Address:	**500 Whitehead Road** **Key West, FL**
	FULL- MAINTENANCE CONTRACT **Entire Chiller Plant**
Equipment Address:	***Same as Above***
	York International Representative
Name:	Ben Bigio
Title:	Area Supervisor
Date:	March 3, 2005

FULL-MAINTENANCE PROGRAM

YORK will provide a complete program of preventive maintenance on the systems and equipment listed in "Schedule A ". To maintain the equipment in good working order, factory-trained technicians will perform all preventive maintenance tasks in accordance with the guidelines issued by YORK engineering or other manufacturers.

This maintenance program meets the manufacturer's requirements to properly maintain and service your equipment. All work will be performed during normal YORK working hours unless otherwise indicated in the supplemental service section of this Agreement.

The *Annual Preventive Maintenance program* includes Five **Operating inspections** and ONE **annual shut-down** preventive maintenance to evaluate equipment status and brush clean condenser tubes. We will also perform oil change, and other functions, as per YORK guidelines, preparing the units for the next cooling season. Also, YORK will provide a written report of findings, corrective actions, and recommendations following each visit. A list of recommended spare parts will be provided.

SUPPLEMENTAL SERVICES

	Included	Not Included
A. Total Service Coverage-provides **all parts and labor** required to keep the equipment listed in "Schedule A " in proper operating condition. This level of service offers the maximum protection against unpredictable repair expenditures, as well as ensures reliability and efficiency.	X	
B. Around-the-Clock Emergency Service, 7 Days/Week-YORK technicians will respond to ensure proper and reliable operation of items as listed and designated in "Schedule A ". 24 hours a day- 7 days a week (including holidays).	X	
C. Inspections-In the preventive maintenance program described above, YORK will perform Five inspections/year and ONE annual shutdown inspection on the equipment covered by this agreement.	X	
D. Refrigerant Conservation Services- YORK Certified Technicians will perform additional leak detection activities and other services, including the use of storage and recycling equipment, in order to ensure compliance with the Clean Air Act and other state and local regulations on all items containing CFC and HCFC refrigerants listed in "Schedule A ". York will cover up to 10% of the refrigerant charge annually on each piece of equipment listed.	X	

PRICING AND PAYMENT

The annual price of this Agreement for the Jackson Square Chiller Plant shall be as follows:

Year 1: $ 17,376.00 and is payable monthly at $ 1,448.00 upon receipt of the invoice.
Year 2: $ 18,444.00 and is payable monthly at $ 1,537.00 upon receipt of the invoice.
Year 3: $ 19,188.00 and is payable monthly at $ 1,599.00 upon receipt of the invoice.

SPECIAL CONDITIONS

1. A discount of 10% off standard rates will be applied for all work performed outside of this agreement.
2. Eddy Current Testing is *not part of this agreement* but is recommended every (2) years for Condensers and every (3) years for the Evaporators.
3. 10% of the refrigerant charge is included on an annual basis

TERMS AND CONDITIONS

This Agreement is subject to the terms and conditions on the back of this page.

X

Customer Name: Jackson Square

Address: Key West, FL

Offered by YORK International, Representative
Name: Benjamin Bigio
Title: Area Supervisor
Date: March 3, 2005

X

Accepted By
Name:
Title:
Date:

SCHEDULE A

EQUIPMENT INCLUDED IN THIS AGREEMENT

EQUIPMENT TYPE	QTY.	MANUFACTURER	MODEL #	NOTES
COOLING TOWERS	2			
CONDERSER WATER PUMPS	2			15 HP
CHILLED WATER PUMPS	2			15 HP
FRESH AIR AHU	1			15 TON
CENTRIFUGAL CHILLER	2	YORK	YTG1A3B2	217 TONS

Annual Preventive Maintenance
& Inspection Program for Chillers

The following tasks are performed once a year during a shutdown period in order to properly evaluate your equipment status and prepare your unit for the next cooling season:

1. Checking the Compressor—Motor Assembly for the following items and performing PM tasks as indicated:

- Recording Voltages and Amperes
- Meging and recording motor winding resistance
- Lubricating open motor
- Checking the alignment on open motor drive units
- Checking the coupling
- Checking seals
- Checking inlet vane operator and linkage; Lubricating where required

2. Checking the Compressor Oil System for the following items:

- Conducting analysis on oil at an independent laboratory
- Changing oil on Centrifugal units based on oil analysis results, oil filter and dryer on all units.
- Checking oil pump, seal and motor
- Checking heater and thermostat
- Checking all other oil system components including cooler, strainer and solenoid valve where applicable.

3. Checking Motor Starter and performing the following tasks:

- Running diagnostic check
- Cleaning contacts or recommending replacement
- Checking linkage
- Meging motor
- Checking all terminals and tightening connections
- Checking overloads, and calibrating
- Cleaning or replacing air filter where required
- Dry running starter (or before start-up); checking status lights

4. Review the New Graphic Control Panel for the following items:

- Running diagnostic check of Micro Control Panel
- Checking safety shutdown operation
- Checking all terminals and tightening connections
- Checking Display Data accuracy and set points

5. For Centrifugal Chillers: Reviewing the Purge Unit for the following items:

- Inspecting the operation of the unit
- Changing oil
- Cleaning the sight glasses
- Cleaning orifice in the liquid feedline to coil
- Cleaning the foul gas strainer
- Cleaning solenoid valves
- Cleaning purge drum, checking and cleaning float valves; replacing gaskets as necessary
- Checking heater operation
- Checking all other components for proper condition and operation; recording pressure control set point

6. Checking the Condenser for the following items:

- Checking the water flow
- Checking flow switch operation
- Removing condenser head and inspecting end sheets
- Mechanically brush cleaning condenser water tubes to be performed by YORK personnel.

7. Checking the Cooler for the following items:

- Checking water flow
- Checking flow switch operation
- Checking refrigerant level

8. Checking the System for the following items:

- Conducting a leak check and identifying leak sources
- Adding refrigerant is not included
- Recording condition of sight glasses
- Checking the refrigerant cycle to verify the proper operating balance
- Checking condenser water and chilled water heat transfer

9. General items included:

- Repairing insulation removed for inspection and maintenance procedures
- Cleaning equipment and surrounding area upon completion of work
- Consulting with the operator
- Reporting deficiencies and repairs required

OPERATING SEASON INSPECTIONS (Performed During Routine Inspection)

The following inspection items ensure your unit is operating reliably and efficiently through the cooling season.

1. Inspecting chiller and adjusting safety controls
2. Checking purge operation
3. Checking operation of controls
4. Checking oil and refrigerant levels
5. Checking operation of lube system
6. Checking the oil return system
7. Checking operation of motor and starter
8. Recording operating conditions
9. Checking log and reviewing chiller and system operation with operator
10. Conducting routine maintenance as recommended and required
11. Logging and reporting repairs and parts that are required

Annual Preventive Maintenance & Inspection Program for Cooling Towers

A. The Annual Equipment Shutdown Inspection and PM

The following tasks are performed once each year during a shutdown period in order to properly evaluate your equipment status and prepare you unit for the next cooling season:

1. Inspecting the general condition of unit
2. Cleaning debris from unit
3. Cleaning and flushing sump
4. Cleaning sump strainer
5. Checking and adjusting sump water level
6. Inspecting heat transfer section and reporting on condition
7. Inspecting spray nozzles or water distribution pans
8. Checking and adjusting fan belt tension (if applicable)
9. Checking unit for unusual noise or vibration
10. Checking fan bearing locking collars
11. Checking motor voltage and current
12. Lubricating fan shaft bearings (if applicable)
13. Lubricating motor base adjusting screw
14. Checking fan for rotation without obstruction
15. Checking fan and pump motor for proper rotation
16. Inspecting gear box oil for water and other foreign materials

B. Operating Season Inspections (Performed During Routine Inspection)

The following inspection items ensure your unit is operating reliably and efficiently through the cooling season.

1. Inspecting the general condition of unit
2. Cleaning debris from unit
3. Cleaning sump strainer
4. Checking and adjusting sump water level
5. Inspecting heat transfer section and reporting on condition
6. Inspecting spray nozzles or water distribution pans
7. Checking and adjusting fan belt tension
8. Checking unit for unusual noise or vibration
9. Observing oil level in gear box and adding when necessary (if applicable)
10. Lubricating fan shaft bearings (if applicable)

Annual Preventive Maintenance & Inspection Program for HVAC System Water Pumps

A. **Operating Inspection** (Performed During Routine Inspection)

1. Starting pumps and verifying proper operation
2. Measuring pressure drops with the system to verify proper operation, if gauges are available
3. Inspecting motor – pump coupling connections

B. **Annual Shutdown Inspection**

1. Checking and cleaning pump strainers if isolation valves are installed and working properly
2. Greasing motor bearings
3. Inspecting coupling connections for condition and proper operation

ANNUAL PREVENTIVE MAINTENANCE & INSPECTION
FOR AIR HANDLING EQUIPMENT

A. Season Start-Up Preparation and Annual Inspection

The following tasks prepare your equipment for cooling duty with reliability, safety and efficiency:

1. Verifying the integrity of all flexible duct connections to the unit
2. Checking amps and volts of the fan motor
3. Checking the operation of motor starters
4. Inspection the cabinet for air/water leaks
5. Observing the integrity of insulation
6. Verifying damper operation
7. Inspect the coil area including coil fans, clean coils during regular working hours.
8. In heating applications, checking the operation of heating mechanisms and safety
9. Verifying the overall operation of the unit and discussing operating experience with customer personnel

B. Operating Season Inspections

The following inspection items ensure your unit is operating reliably and efficiently:

1. Inspecting the spring isolators for proper tension and unit float
2. Verifying that flexible duct connections are intact
3. Checking fans for excessive vibration
4. Checking magnetic starter operation (if applicable)
5. Inspecting belts and pulleys during operation
6. Verifying the tightness of motor mounts
7. Inspecting cabinets for air and water leaks
8. Inspecting the condition of air filters
9. Checking water or steam coils for cleanliness (if applicable)
10. Checking the operation of electric or gas-fired heating units
11. Checking the inlet screens for cleanliness and blockages