

COUNTY OF MONTEREY STANDARD AGREEMENT

This **Agreement** is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:
Johnson Controls, Inc.
_____,
(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1.0 GENERAL DESCRIPTION:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

Provide:

Repair and maintenance services on Heating, Ventilation, and Air Conditioning (HVAC) systems for the Monterey County Health Department.

2.0 PAYMENT PROVISIONS:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of: \$ 39,720.00

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from July 16, 2021 to July 15, 2024, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS:

The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions
Exhibit B Other:

Johnson Controls, Inc.
2021-2024

5.0 PERFORMANCE STANDARDS:

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6.0 PAYMENT CONDITIONS:

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided in this paragraph. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

7.0 TERMINATION:

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

8.0 INDEMNIFICATION:

~~CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.~~

9.0 INSURANCE REQUIREMENTS:

9.01 **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

9.02 **Qualifying Insurers:** All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to

Johnson Controls, Inc.

DS
MT

Contractor

County

the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

9.03 **Insurance Coverage Requirements:** Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial General Liability Insurance: including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

Agreement Over \$100,000 Business Automobile Liability Insurance: covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Workers' Compensation Insurance: if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

Professional Liability Insurance: if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or

errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)

9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR’S work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR’S insurance.** The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County’s contract administrator and County’s Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall always during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10.0 **RECORDS AND CONFIDENTIALITY:**

- 10.1 **Confidentiality:** CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.
- 10.2 **County Records:** When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.3 **Maintenance of Records:** CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.4 **Access to and Audit of Records:** The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.5 **Royalties and Inventions:** County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

11.0 NON-DISCRIMINATION:

11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS:

If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13.0 INDEPENDENT CONTRACTOR:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

14.0 NOTICES:

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Chris Le Venton Operations Manager	Matthew Thomas Bay Area Market Director
Name and Title	Name and Title
1270 Natividad Road Salinas, CA 93906	matthew.2.thomas@jci.com email address
Address	Address
831-755-4513	650-224-8801
Phone:	Phone:

15.0 MISCELLANEOUS PROVISIONS.

- 15.01 **Conflict of Interest:** CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 **Amendment:** This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.
- 15.03 **Waiver:** Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 **Contractor:** The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 **Disputes:** CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 **Assignment and Subcontracting:** The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

- 15.07 **Successors and Assigns:** This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 **Compliance with Applicable Law:** The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 **Headings:** The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 **Time is of the Essence:** Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 **Governing Law:** This Agreement shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.
- 15.12 **Non-exclusive Agreement:** This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 **Construction of Agreement:** The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.
- 15.15 **Authority:** Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 **Integration:** This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 **Interpretation of Conflicting Provisions:** In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

16.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: _____
Contracts/Purchasing Officer

Date: _____

By: _____
Department Head (if applicable)

Date: _____

By: _____
Board of Supervisors (if applicable)

Date: _____

Approved as to Fiscal Provisions¹
By: Stacy Saetta
COECE1B99F444A9...

Date: 7/20/2021 | 9:23 AM PDT
County Counsel

Approved as to Fiscal Provisions²
By: Gary Giboney
D3834BFEC1D8449...

Date: 7/20/2021 | 9:27 AM PDT
Auditor/Controller

Approved as to Liability Provisions³
By: _____

Date: _____
Risk Management

Johnson Controls, Inc.

Contractor's Business Name*

By: Matthew Thomas
E520B4DA3A5A463...

(Signature of Chair, President, or Vice-President) *
Matthew Thomas MKT Director

Date: 7/19/2021 | 12:27 PM PDT
Name and Title

By: Andrew Krynen
5A727C4BDB644A6...

(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasure) *
Andrew Krynen AGM

Date: 7/19/2021 | 1:21 PM PDT
Name and Title

County Board of Supervisors' Agreement Number: _____, approved on (date): _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

¹Approval by County Counsel is required

²Approval by Auditor-Controller is required

³Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

ADDENDUM NO. 1

TO AGREEMENT BY AND BETWEEN COUNTY OF MONTEREY AND JOHNSON CONTROLS, INC.

This Addendum No. 1 amends, modifies, and supplements the County of Monterey Agreement by and between the **COUNTY OF MONTEREY**, a political subdivision of the State of California (hereinafter “County”) and **JOHNSON CONTROLS, INC.** (hereinafter “CONTRACTOR”). This Addendum No. 1 has the full force and effect as if set forth within the Agreement and is incorporated by reference and made a part of the Agreement. Notwithstanding the provision of Section 15.17 of the Agreement, to the extent that any of the terms or conditions contained in this Addendum No. 1 may contradict or conflict with any of the terms and conditions of the Agreement, it is expressly understood and agreed that the terms and conditions of this Addendum No. 1 shall take precedence and supersede the Agreement.

NOW, THEREFORE, County and CONTRACTOR agree that the Agreement terms and conditions shall be amended, modified, and supplemented as follows:

1. Section 8.0 of the Agreement, INDEMNIFICATION, shall be deleted and restated in its entirety to read as follows:

8.0 INDEMNIFICATION:

Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter “County”), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys’ fees, expenses and liabilities incurred with respect to any litigation in which the CONTRACTOR is obligated to indemnify, defend and hold harmless the County under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum No. 1, by the authority as follows:

CONTRACTOR – Johnson Controls, Inc.

Approved:

DocuSigned by:
By: Matthew Thomas
E526B4DA3A5A465...
Matthew Thomas
MKT Director

Name and Title

Date: 7/19/2021 | 12:27 PM PDT

Approved:

DocuSigned by:
By: Andrew Krynen
5A727C4BDB644A6...
Andrew Krynen
AGM

Name and Title

Date: 7/19/2021 | 1:21 PM PDT

COUNTY OF MONTEREY

Approved as to Form:

DocuSigned by:
By: Stacy Saetta
C0E0CE1B99F444A9...
Deputy County Counsel

Date: 7/20/2021 | 9:23 AM PDT

Approved:

DocuSigned by:
By: Gary Giboney
B3834BFEC1D8449...
Chief Deputy Auditor-Com

Date: 7/20/2021 | 9:27 AM PDT

Approved:

By: _____
Director of Health

EXHIBIT-A

To Agreement by and between
County of Monterey, hereinafter referred to as “County”
AND
Johnson Controls, hereinafter referred to as “CONTRACTOR”

Scope of Services / Payment Provisions

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Maintenance and repair of BMS (Building Maintenance System) including but not limited to software patching/upgrades, database backup, reporting, system up-keep/cleaning, customer-directed tasks, alarm management, on-call/emergency services at 1270 Natividad Rd, Salinas, CA.

Contractor will perform routine checks of the equipment for common issues caused by normal wear and tear on the equipment. Additional tests will be run to confirm the equipment’s performance. Routine maintenance, such as lubrication, cleaning and tightening connections, will be performed.

Covered Equipment:

1 – Metasys BAS Control System – Health Department Administration Building, 1270 Natividad Road, Salinas

Only the equipment listed in the Equipment List will be covered as part of this Agreement. Any changes to the Equipment List must be agreed upon in writing by both Parties. See equipment list below:

- Metasys ADS (Application Data Server)
- NAE (JCI Network Automation Engine)
- All associated field devices

- **Software Upgrades:**
 - Contractor will perform software upgrades to optimize performance and will inform County of any upgrades to be performed as well as any interruptions to service expected.
 - A dedicated building management system (BMS) controls technician will perform system optimizations and software upgrades/updates/patching.

- **Preventative Maintenance:**

- Contractor will work at 1270 Natividad Road on a quarterly basis (one visit, an 8-hour day) to maintain functionality and provide service for the BMS (beginning October 2021 through to end of the contract agreement).
- Contractor will have one (1) visit, an 8-hour day, per quarter.
- During this visit, the unified BMS software will be revised to the most current software, as upgrades become available.
- Upon arrival at 1270 Natividad Rd., the dedicated Technician will check in with Health Facilities staff to cover any outstanding or urgent tasks.
- Preventative Maintenance items to be addressed include but are not limited to:
 - General Maintenance of ADS Workstation
 - Check overall operating and stability of Operator Workstation
 - Backup and archive database
 - Assess Communication performance
 - Monitor NAE load and available memory
 - Back up security database
 - Review operating sequences
 - Review any outstanding hardware issues
 - Check any problematic sensors for calibration
 - Check Event and Audit log for abnormalities
 - Clear alarm summaries
 - Check batteries
 - Maintain equipment enclosures
 - Setup/Monitor Trends as necessary
 - Inspect wire terminations on devices in Metasys panels
 - Evaluate opportunities for additional automation and energy savings
 - Discount on out-of-scope repairs and JCI parts
 - Priority Dispatch for service calls
 - Training of system while maintenance is being performed
- At the conclusion of a Preventative Maintenance visit, the dedicated Technician will check out with the Health Facilities staff to ensure the BMS is left in a satisfactory state and CONTRACTOR will generate a post visit report.
- **Services Reports:**
 - Contractor technician will provide a completed tasking list as evidence of services performed. This comprehensive report is to be provided to County within one (1) week of the onsite visit. The report will include but is limited to the following summaries and touchpoints:
 - Next scheduled visit date
 - Summary of items covered and the party Contractor technician checked-in with
 - New items to be addressed and the date they were added
 - Follow-up items to be addressed from previous visits and the date they were added
 - Database report summaries

- Report of references (unbounded)
 - General system info
- **Pre-Extended Architecture:**
 - Sync databases between Operator Workstations
 - Review GPL* processes, refining for system stability
 - Review Critical, Offline and Alarm history
 - Monitor NCM/NAE load
- **On Call Service Location:**
 - County has provided access to the County network through virtual private network VPN. As such, Contractor will access the County network remotely to diagnose, troubleshoot, and resolve issues that arise. If on-premises technical support is needed after Contractor reviews the system remotely, Contractor will schedule a site visit mutually convenient for both parties.
- **On Call Service Allowance:**
 - Contractor has identified an allowance for County to direct maintenance, repair and training of the installed systems. This allowance is included in the total 'not to exceed' value of this Agreement, though allowance expenditures are not guaranteed. Whether to request services which are to be covered by the allowance is in the sole discretion of County.
- **Labor Rate:**
 - Upon execution of the Agreement, County will receive a 10% discount off the labor rate for all mechanical services. Contractor will comply with provisions of the California Labor Code (sections 1720 et seq.) governing public works, including payment of prevailing wages. Contractor will honor the discounted rate for the duration of the Agreement on service and repair calls during normal business hours.
 - There is a four (4) hour minimum for owner-directed onsite service. In addition, a truck charge of \$150 per visit will be charged for applicable owner directed onsite service. Contractor will access the County network remotely through VPN in the event that an issue arises to diagnose, troubleshoot, and resolve. If Contractor determines that services to resolve the issue is in excess of One (1) hour, a written proposal through email or formal quote will be provided to the County for review/approval.
- **New Equipment Promotion:**
 - Under this Agreement, if Contractor installs any equipment pursuant to the terms of this Agreement that is not otherwise specifically provided for herein, that equipment will be maintained at no cost for one year.
- **Parts Discount:**
 - Upon execution of this Agreement, County qualifies to receive a 50% discount on the list price of Johnson Controls parts. Contractor will honor the discounted rate for the duration of this Agreement on service and repair calls during normal business hours.
- **Quality Assurance:**

- A progress meeting or conference call will be held at a minimum of once every quarter (three months), to ensure performance is meeting expectations. At the end of each year, progress will be evaluated, and the scope of work will be adjusted to meet County requirements.

A.2 CONTRACTOR shall produce the following deliverables (written reports, installed products, etc.) by the dates indicated below:

	Year 1 July 16, 2021 – July 15, 2022	Year 2 July 16, 2022 – July 15, 2023	Year 3 July 16, 2023 – July 15, 2024
1. Quarterly Preventative Maintenance Health Administration Office 1270 Natividad Road Salinas, CA	\$8,000	\$8,240	\$8,480
Quarterly Service as listed on “Preventative Maintenance Items” below. This Quarterly scope is scheduled to begin October 2021.			
2. On Call Services – Total allowance.	\$5,000 Allowance	\$5,000 Allowance	\$5,000 Allowance
On call Services funds are included in the ‘not to exceed’ limit of the Agreement, and are for owner directed maintenance and repair, as needed. Contractor will invoice for labor at the agreed discounted street labor rate, there is a four (4) hour minimum and truck charge, if applicable. County does not guarantee any services will be requested under these allowances and there is no minimum payment obligation under this section.			
Total:	\$13,000	\$13,240	\$13,480

Right of Refusal:

- County has the right to decline the services of a technician at any time without cause and, Contractor shall replace the technician in question upon receiving an oral request from the County within a reasonable amount of time without delay to work.
- CONTRACTOR agrees that the replacement technician shall complete the unfinished assignment shift of the original assigned technician at no additional cost to County.

Special Additions and Exceptions:

Inclusions for *Basic Controls Preventative Maintenance*:

- Basic Preventative Maintenance of the controls system monthly along with monthly system training.
- One-time due diligence of controls system and report of any necessary repairs or recommendations to bring the system up to optimal operating condition.

Emergency Services:

Emergency service will be provided 7 days a week, 24 hours a day, 365 days a year. During normal business hours, emergency service will be coordinated by the County or Health Facilities Manager. After hours, weekends and holidays, the emergency service number transfers to the Contractor after-hours call center and on-call technicians are dispatched as needed. The Contractor will be reached at 866-819-0234 (24-hour emergency service line). Contractor will dispatch a technician within four (4) hours of receiving call. A CONTRACTOR work order will be e-mailed for your records.

County may call Contractor at any time for emergency or off schedule maintenance. Contractor will invoice as directed against the On-Call Service Allowance.

Response Time:

County is to receive a four (4) hour or less response time on emergency service calls. If Contractor is unable to respond in four (4) hours or less, CONTRACTOR will notify County with an estimate on response time.

All written reports required under this Agreement must be delivered to Chris LeVenton, Program Manager, in accordance with the schedule above.

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed **\$39,720** for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Prevailing labor fees on service:

Prevailing wages: CONTRACTOR shall comply with provisions of the California Labor Code (sections 1720, et seq.) governing public works, including payment of prevailing wages, payroll records and employment of apprentices. Copies of the determination of the general prevailing rate of per diem wages are available to interested parties at: <http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm>.

DIR Registration: During the entire term of this Agreement CONTRACTOR shall be registered with the California Department of Industrial Relations as a Public Works Contractor pursuant to Division 2, Part 7, Chapter 1, commencing with section 1720 of the California Labor Code. CONTRACTOR shall also fully comply with all SB 854 requirements.

Posting of Prevailing Wages at Job Site: CONTRACTOR shall be responsible for posting a copy of the determination of the prevailing wage rate of per diem wages at each job site for which CONTRACTOR provides services under this agreement to remain compliant with California Labor Code 1773.2.

ALL TAXABLE ITEMS SHOULD BE CLEARLY IDENTIFIED. It is preferable to state the tax rate applied in parenthesis and all taxes should be listed as a separate line item.

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

B.2 CONTRACTORS BILLING PROCEDURES

NOTE: Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

*A term for LCT programs (Metasys network automation engine-based processes) which include schedules, interlocks, lead-lags, setpoint spanning, global share items, among many other programming objects/processes that improve efficiency, save energy, share data between controllers, or perform an automated process for the field equipment controls of some kind.