

AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this 10th day of December, 2019 ("Effective Date"), by and between the COUNTY OF FRESNO, a political subdivision of the state of California ("COUNTY"), and Johnson Controls International, Inc., a Wisconsin corporation, whose address is 5757 North Green Bay Avenue, Milwaukee, WI 53201 ("CONTRACTOR").

WITNESSETH:

WHEREAS, COUNTY previously purchased Metasys hardware ("Metasys"), a building automation system, and Application and Data Server software ("ADS"), a component of Metasys that collects trend and system configuration data, event messages, and operator transactions, to automate climate control, monitor system performance device failures, and provide notifications to building engineering staff;

WHEREAS, COUNTY is able to obtain preferential pricing through contract buying group Sourcewell's Contract No. 030817-JHN, which was competitively bid and awarded to CONTRACTOR, attached as Exhibit B and incorporated by this reference;

WHEREAS, CONTRACTOR is willing to provide troubleshooting, maintenance, support, and upgrades for Metasys and ADS, as well as Heating, Ventilation, and Air Conditioning (HVAC) systems, installation, and service with related products and supplies, including but not limited to smart building systems, chillers, boilers, controls, and building automation systems as listed in Sourcewell's Contract No. 030817-JHN;

WHEREAS, COUNTY and CONTRACTOR desire to execute this Agreement for HVAC systems, installation, and service with related products and supplies, as well as maintenance and support of Metasys and ADS, which is currently used by the COUNTY's Internal Services Department – Facility Services Division (ISD – Facilities).

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein
contained, the parties hereto agree as follows:

1. DEFINITIONS:

The following terms used throughout this Agreement shall be defined as follows:

Acceptance Criteria:

1 The performance and operating specifications which the System must meet at a minimum, as set
2 out or referred to in this Agreement.

3 Acceptance Test:

4 The process of testing a specific function or functions to determine if the operation or operations
5 are as stated in this Agreement.

6 Change Control Process:

7 Process used by the Information Services Division of COUNTY's Internal Services Department
8 (ISD) to inform staff of new or updated production use systems.

9 County System Hardware:

10 The central processing units owned or leased by COUNTY, which are described in this
11 Agreement, on which COUNTY is licensed to use the System Software, any back-up equipment
12 for such central processing units, and any peripheral hardware such as terminals, printers, and
13 Personal Computers as described in this Agreement.

14 COUNTY System Software:

15 The operating system and database software installed on the COUNTY System Hardware.

16 Final System Acceptance:

17 When it is determined by COUNTY that all necessary deliverables have been delivered, the data
18 has been converted, the base Metasys and ADS software has been successfully installed and
19 tested, and the Metasys and ADS performs all functions in accordance with its specifications.

20 First Production Use:

21 Date of first use of the system in a production environment.

22 License:

23 The meaning assigned to the term "License," as defined in Section 2(A) of this Agreement, and
24 the rights and obligations that it creates under the laws of the United States of America and the
25 State of California, including without limitation, copyright and intellectual property law.

26 Monies:

27 The terms "Monies", "Charges", "Price", and "Fees" will be considered to be equivalent.

28 Public Records:

Public Records includes any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics.

Supplier:

The terms "Supplier", "Vendor", and "Johnson Controls International, Inc." all refer to CONTRACTOR, and are considered to be equivalent throughout this Agreement.

System:

The System Software and System Documentation, collectively. Reference to the "System" shall include any component thereof. All modifications and enhancements to the System shall be deemed to be part of the System as defined herein, and shall be subject to all terms and conditions set forth herein. The System consists of Metasys and ADS, which supports ISD – Facilities, all interfaces, and third-party software required for the system to function.

System Documentation:

The documentation relating to the System Software, and all manuals, reports, brochures, sample runs, specifications and other materials comprising such documentation provided by CONTRACTOR in connection with the System Software pursuant to this Agreement.

System Operation:

The general operation of COUNTY's hardware and all software including, but not limited to, system restarts, configuration and operation of system peripherals (such as printers, modems, and terminals), installation of new software releases, and other related activities.

System Installation:

All software has been delivered, has been physically loaded on a Computer, and COUNTY has successfully executed program sessions.

System Software:

Metasys and ADS, that certain computer software described in this Agreement provided by CONTRACTOR, and all interfaces, coding, tapes, disks, modules and similar materials comprising such software or on which it is stored. System Software shall not include operating system software, or any other Third-Party Software.

1 User:

2 The terms "User", "Customer" and "Licensee" all refer to COUNTY, and are considered to be
3 equivalent throughout this Agreement.

4 2. **OBLIGATIONS OF THE CONTRACTOR**

5 A. **SOFTWARE LICENSE**

6 I. **GRANT OF LICENSE**

7 CONTRACTOR grants to COUNTY, and COUNTY accepts a non-exclusive, non-transferable,
8 perpetual license to use Metasys and ADS, which are subject to the terms and conditions set forth in
9 this Agreement. This perpetual license shall expressly survive termination of this Agreement.

10 II. **SCOPE OF LICENSE**

11 The license granted herein shall consist solely of the non-exclusive, non-transferable right of
12 COUNTY to operate the System Software in support of various COUNTY departments, including
13 COUNTY's ISD.

14 III. **OWNERSHIP**

15 The parties acknowledge and agree that, as between CONTRACTOR and COUNTY, title and
16 full ownership of all rights in and to the System Software, System Documentation, and all other materials
17 provided to COUNTY by CONTRACTOR under the terms of this Agreement shall remain with
18 CONTRACTOR. COUNTY will take reasonable steps to protect trade secrets of the System Software
19 and System Documentation. Ownership of all copies is retained by CONTRACTOR. COUNTY may not
20 disclose or make available to third parties the System Software or System Documentation or any portion
21 thereof. CONTRACTOR shall own all right, title and interest in and to all corrections, modifications,
22 enhancements, programs, and work product conceived, created or developed, alone or with COUNTY
23 or others, as a result of or related to the performance of this Agreement, including all proprietary rights
24 therein and based thereon. Except and to the extent expressly provided herein, CONTRACTOR does
25 not grant to COUNTY any right or license, express or implied, in or to the System Software and System
26 Documentation or any of the foregoing. The parties acknowledge and agree that, as between
27 CONTRACTOR and COUNTY, full ownership of all rights in and to all COUNTY data, whether in
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1 magnetic or paper form, including without limitation printed output from the System, are the exclusive
2 property of COUNTY.

3 IV. TRANSFER OF SOFTWARE

4 COUNTY shall not rent, lease, license, distribute, sell, transfer, or assign this License, the
5 System Software, or the System Documentation, or any of the information contained therein other than
6 COUNTY data, to any other person or entity, whether on a permanent or temporary basis, and any
7 attempt to do so will constitute a breach of this Agreement. No right or license is granted under this
8 Agreement for the use or other utilization of the licensed programs, directly or indirectly, for the benefit
9 of any other person or entity, except as provided in this Agreement.

10 V. POSSESSION AND USE OF SOURCE CODE

11 Source code and other material that results from custom programming by CONTRACTOR
12 released to COUNTY under this License shall be deemed CONTRACTOR software, subject to all of the
13 terms and conditions of the software License set forth in this Agreement. The scope of COUNTY's
14 permitted use of the custom source code under this License shall be limited to maintenance and support
15 of the System Software. For purposes of this Section, the term "maintenance and support" means
16 correction of System Software errors and preparation of System Software modifications and
17 enhancements. If COUNTY creates computer code in the process of enhancing the System Software,
18 that specific new code shall be owned by COUNTY and may be used by COUNTY's employees,
19 officers, or agents for COUNTY's own internal business operations. However, if COUNTY's
20 enhancement results in the creation of a derivative work from the System Software, the copyright to
21 such derivative work shall be owned by CONTRACTOR, and COUNTY's rights to use such derivative
22 work shall be limited to those granted with respect to the System Software in this Agreement.

23 VI. RESTRICTIONS ON USE

24 COUNTY shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise
25 commercially exploit or make available to any third party the System Software or the System
26 Documentation in any way; (ii) modify or make derivative works based upon the System Software or the
27 System Documentation; (iii) create Internet "links" to the System Software or "frame" or "mirror" any
28 System Documentation on any other server or wireless or Internet-based device; (iv) send spam or

1 otherwise duplicative or unsolicited messages in violation of applicable law; (v) send or store infringing,
2 obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to
3 children or violative of third party privacy rights; (iv) send or store material containing software viruses,
4 worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (vii) interfere
5 with or disrupt the integrity or performance of the System Software or the data contained therein,
6 including but not limited to COUNTY Data; (viii) attempt to gain unauthorized access to the System
7 Software or its related systems or networks; (ix) reverse engineer or access the System Software in
8 order to (a) build a competitive product or service, (b) build a product using similar ideas, features,
9 functions or graphics of the System Software, or (c) copy any ideas, features, functions or graphics of
10 the System Software.

11 VII. INTELLECTUAL PROPERTY, TRADEMARK, AND COPYRIGHT

12 CONTRACTOR retains ownership of the System Software, any portions or copies thereof, and
13 all rights therein. CONTRACTOR reserves all rights not expressly granted to COUNTY. This License
14 does not grant COUNTY any rights in connection with any trademarks or service marks of
15 CONTRACTOR, its suppliers or licensors. All right, title, interest and copyrights in and to the System
16 Software and the accompanying System Software Documentation and any copies of the System
17 Software are owned by CONTRACTOR, its suppliers or licensors. All title and intellectual property rights
18 in and to the content which may be accessed through use of the System Software are the property of
19 the respective content owner, and may be protected by applicable copyright or other intellectual property
20 laws and treaties. This License grants COUNTY no rights to use such content.

21 B. SERVICES TO BE PROVIDED BY CONTRACTOR TO COUNTY

22 I. DOCUMENTATION

23 CONTRACTOR shall provide to COUNTY Metasys and ADS System Documentation, which
24 shall consist of electronic media files. The electronic media files must be printable using PC software
25 normally available at COUNTY. CONTRACTOR shall provide new System Documentation
26 corresponding to all new Software Upgrades. COUNTY may print additional copies of all documentation.
27 All System Documentation is to be used by COUNTY only for the purposes identified within this
28 Agreement.

1 C. SYSTEM MAINTENANCE AND SUPPORT BY CONTRACTOR

2 System maintenance and support includes System Updates as they are released by
3 CONTRACTOR, including updates as required as a result of Federal Regulatory Changes. The first day
4 of production use will be identified by COUNTY and communicated to CONTRACTOR. CONTRACTOR
5 will support day-to-day operation of the System as follows:

6 I. SUPPORT HOURS/SCOPE:

7 Provide unlimited technical assistance by phone during normal coverage hours
8 (7:30 a.m. to 4:30 p.m. Pacific Standard Time (PST), Monday through Friday, except
9 CONTRACTOR and COUNTY holidays), toll-free telephone assistance to keep the
10 System in, or restored to, normal operating condition. The object of this support will be to
11 answer specific questions related to the System Software and the application thereof. If
12 CONTRACTOR's technical phone assistance does not solve COUNTY's issue within
13 thirty (30) minutes, CONTRACTOR may, upon COUNTY's approval, provide on-site
14 support, which shall be billable at CONTRACTOR's pre-determined rates as listed in
15 Section 6 of this Agreement. Support provided under this Agreement does not include
16 training of new personnel (after initial staff is trained), operation of hardware, or solving
17 other hardware/software problems unrelated to the System Software.

18 II. SUPPORT RESPONSE:

19 During the term of this Agreement, CONTRACTOR will (a) correct any error or
20 malfunctions in the System that prevent the System from operating in conformance with
21 the specifications set forth in this Agreement, or (b) provide a commercially reasonable
22 alternative that will conform to the specifications set forth in this Agreement.

23 If analysis by CONTRACTOR indicates a reported problem is caused by a
24 reproducible error or malfunction in the then-current release of the System Software as
25 supplied and maintained by CONTRACTOR, that significantly impacts effective use of the
26 System by COUNTY, CONTRACTOR will, if the System is inoperable, as reported by
27 COUNTY, provide continuous effort to correct the error or to resolve the problem by
28 providing a circumvention.

1 In such cases, CONTRACTOR will provide COUNTY with corrective information,
2 such as corrective documentation and/or program code. CONTRACTOR will endeavor to
3 respond to COUNTY's service request no later than four (4) business hours from the time
4 a call has been received by CONTRACTOR. In the event that a person with the
5 necessary expertise is not available when the call is received, CONTRACTOR will
6 endeavor to respond to the service request no later than within one (1) business day.

7 III. REMOTE VIRTUAL PRIVATE NETWORK (VPN) DIAGNOSTICS

8 Remote VPN Diagnostics Support includes:

- 9 a. Diagnostic or corrective actions necessary to restore proper Metasys
10 and ADS operation;
- 11 b. Diagnostic actions which attempt to identify the cause of system
12 problem;
- 13 c. Correction of data file problem; and
- 14 d. Product modifications

15 CONTRACTOR product specialists will provide diagnostics via VPN on Metasys
16 and ADS. COUNTY will provide any required hardware and equipment necessary at
17 COUNTY for CONTRACTOR VPN support.

18 IV. ERROR CORRECTION PROCESS

19 If during the term of this Agreement COUNTY determines that software error(s) exist, COUNTY
20 will first follow the error procedures specified in the System Documentation. If following the error
21 procedures does not correct the software error, COUNTY shall immediately notify CONTRACTOR,
22 setting forth the defects noted with specificity. Upon notification of a reported software error,
23 CONTRACTOR shall have five (5) days to determine if any actual software error exists and, if so,
24 endeavor to correct such software errors. At CONTRACTOR's request, additional time to solve difficult
25 problems will not be unreasonably withheld. Within fifteen (15) days of correction, COUNTY shall retest
26 the System Software, and report any other software errors.

27 V. TECHNICAL INFORMATION

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1 CONTRACTOR will provide technical information to COUNTY from time to time. Such
2 information may cover areas such as Metasys and ADS usage, third-party software, and other matters
3 considered relevant to COUNTY by CONTRACTOR. Technical information will be provided at the
4 discretion of CONTRACTOR, but will not be unreasonably withheld.

5 D. ADDITIONAL SYSTEM MAINTENANCE SERVICES BY CONTRACTOR

6 CONTRACTOR may provide additional maintenance services ("Additional Maintenance and
7 Support Services" or "Additional Maintenance Services") at an additional charge. Charges will be as
8 identified in Section 6 of this Agreement; or, if not included in this Agreement, charges will be at current
9 prices in effect at the time goods or services are provided. Any Additional Maintenance and Support
10 Services requested by COUNTY and determined by CONTRACTOR to be billable by CONTRACTOR
11 must be identified as a chargeable service prior to the service being performed, and must be approved
12 in writing in advance by COUNTY's Contract Administrator. Additional Maintenance Services include,
13 but are not limited to, the following:

14 I. ADDITIONAL TRAINING

15 CONTRACTOR shall provide quarterly training to COUNTY's ISD-Facilities staff
16 as follows:

- 17 i. Eight (8) hours of quarterly on-site training for ISD-Facilities staff assigned to
18 specific COUNTY locations, with trainings for each location rotated on a quarterly
19 basis (e.g. Quarter 1 shall be reserved for ISD-Facilities staff assigned to the
20 Juvenile Justice Center (JJC), Quarter 2 shall be reserved for ISD-Facilities staff
21 assigned to the COUNTY Jail location, Quarter 3 shall be reserved for ISD-
22 Facilities staff assigned to the COUNTY's Plaza location, etc.);
- 23 ii. Four (4) hours of quarterly on-site training for COUNTY's Facility Services
24 Manager, Facility Services Supervisor, and Maintenance Services Supervisors.
25 Trainings shall be conducted in front of a computer and/or the Metasys and/or
26 ADS Equipment. Additional training at a COUNTY facility is available upon
27 request by COUNTY at an additional charge under the terms of this Agreement.
28 Requests for additional training will be reviewed by CONTRACTOR, and must be

requested in writing in advance by COUNTY's Contract Administrator. Charges will be at rates identified in this Agreement.

II. DATA AND SYSTEM CORRECTIONS

Data and System Corrections include any corrective actions accomplished by CONTRACTOR on-site or via VPN which are necessary due to COUNTY errors or unauthorized source code or data access by COUNTY. Unauthorized access to the data is defined as any COUNTY editing of data through other than normal system usage, as defined in System Documentation. Unauthorized access to source code is defined as any COUNTY access whatsoever to system source code. Services provided by CONTRACTOR are not billable when they result from errors caused by Metasys and ADS or instruction provided by CONTRACTOR.

III. CUSTOMER SITE VISITS

Site visits to COUNTY sites, as may be requested in writing by COUNTY and that are within the scope of the project services, are available for reasons such as, but not limited to, (1) additional system training on hardware or software usage; (2) resolution of system difficulties not resulting from actions by, or otherwise the responsibility of CONTRACTOR (as determined by mutual agreement between CONTRACTOR and COUNTY); (3) installation of Software Releases; and (4) assistance in equipment maintenance, movement or diagnosis. Site visits outside of the scope of project services will be reviewed by the CONTRACTOR and must be requested in writing in advance by COUNTY's Contract Administrator. Charges will be at rates identified in this Agreement.

IV. CUSTOM PROGRAMMING

Requests for supplemental programming or customization of system features not covered under this Agreement are available to COUNTY. Such requests will be reviewed by CONTRACTOR, and must be requested in writing in advance by the COUNTY's Contract Administrator. Charges will be at rates identified in this Agreement.

E. CONTRACTOR PROJECT COORDINATOR

1 Upon execution of this Agreement, CONTRACTOR shall appoint a Project Coordinator who will
2 act as the primary contact person to interface with COUNTY for implementation, maintenance and
3 support of Metasys and ADS. All immediate service needs will funnel through CONTRACTOR's twenty-
4 four (24) hour support line and CONTRACTOR will direct calls to the technician who will be able to
5 respond within COUNTY's requested timeframe.

6 F. SYSTEM UPDATES AND NEW PRODUCTS

7 I. SYSTEM UPDATES

8 a. POSSESSION, USE, AND UPDATE OF SOFTWARE

9 COUNTY agrees that only COUNTY will use the System Software for its own
10 internal purposes. CONTRACTOR may, at reasonable times, inspect COUNTY's
11 premises and equipment to verify that all of the terms and conditions of this license are
12 being observed. CONTRACTOR may create, from time to time, updated versions of the
13 System Software and System Documentation and CONTRACTOR shall make such
14 System Updates available to COUNTY. All System Updates shall be licensed under the
15 terms of this Agreement. COUNTY agrees to follow the prescribed instructions for
16 updating System Software and System Documentation provided to COUNTY by
17 CONTRACTOR, included but not limited to the following:

18 CONTRACTOR shall perform all System Updates after receiving COUNTY's
19 written approval. CONTRACTOR shall provide a list of upgradeable hardware upon
20 execution of this Agreement. System Updates shall include major software revisions (e.g.
21 10.0 to 11.0), not minor software revisions (e.g. 10.0 to 10.1).

22 If any hardware is updated during the term of this Agreement, the new hardware
23 shall be installed with the COUNTY's current revision of software; however, it will not be
24 included under the annual software upgrades listed in this Agreement.

25 COUNTY must authorize all System Updates in writing.

26 b. From time to time, CONTRACTOR will develop and provide System Updates to
27 COUNTY for the COUNTY'S licensed CONTRACTOR software. System Updates shall
28 be subject to the terms and conditions of this Agreement and shall be deemed licensed

1 System Software hereunder and will be made available to COUNTY at no additional
2 charge to COUNTY. System Updates will be made available to COUNTY at the discretion
3 of CONTRACTOR, but will not be unreasonably withheld.

4 II. NEW PRODUCTS

5 CONTRACTOR may from time to time release new software with capabilities
6 substantially different from or greater than the System Software ("New Products") and
7 which therefore do not constitute System Updates. These New Products will be made
8 available to COUNTY at a cost not to exceed CONTRACTOR's then standard rates for
9 customers similarly situated.

10 G. OPERATING SYSTEM UPDATES

11 The application must run on an operating system (O/S) that is consistently and currently
12 supported by the operating system vendor. Applications under maintenance are expected to always be
13 within 1 (one) year of current in regards to the O/S. Outdated or unsupported O/S will not be
14 implemented on the production network.

15 COUNTY will notify CONTRACTOR when a critical security patch is released. CONTRACTOR
16 will have thirty (30) days to ensure application can perform in the updated environment. With approval
17 from CONTRACTOR, COUNTY will apply patches to both the operating system, and non-critical
18 security subsystems as releases are available from operating system vendors. The application is
19 expected to perform in this environment. CONTRACTOR is expected to keep their software within one
20 (1) year of current in order to operate in this environment. These patches include critical O/S updates
21 and security patches.

22 H. ANTI-VIRUS MANAGEMENT

23 COUNTY will actively run anti-virus management, where appropriate, on all application servers
24 and PCs. The application is expected to perform adequately while anti-virus management is active.

25 I. ADHERE TO CHANGE CONTROL PROCESS

26 CONTRACTOR must adhere to COUNTY's Change Control Process, which shall be provided to
27 CONTRACTOR in writing. COUNTY employs a procedure to implement updates, upgrades, and version
28 releases to a system that is in production use. This forum allows ISD to inform staff (Help Desk,

1 Network, Server, Database, Security, and Analysts) of upcoming changes to a production system.
2 CONTRACTOR must inform ISD a minimum of 1 week prior to any planned, non-emergency changes
3 so that the Change Control Process may be followed.

4 J. OTHER

5 Unless otherwise specified, for third-party software, CONTRACTOR shall provide standard
6 documentation in electronic form (via the Internet or File Transfer Protocol (FTP)).

7 The system being provided runs in a Local Area Network and Web environment. As such, the
8 performance of the system is directly related to, among other things: available network bandwidth, and
9 the performance of other applications. For this reason, CONTRACTOR makes no guarantees as to
10 system response time.

11 3. OBLIGATIONS OF COUNTY

12 A. COUNTY CONTRACT ADMINISTRATOR

13 COUNTY appoints its Chief Information Officer (CIO) or his or her designee as COUNTY's
14 Contract Administrator, with full authority to deal with CONTRACTOR in all matters concerning this
15 Agreement.

16 B. CONTRACTOR RESPONSE COMMITMENT

17 COUNTY will follow its present practices to safeguard System Software delivered to COUNTY by
18 CONTRACTOR. A copy of COUNTY'S "Information Technology (IT) Standards and Preferences" will be
19 made available upon request.

20 C. SAFEGUARDING SYSTEM SOFTWARE/BACKUP AND RECOVERY
21 MANAGEMENT

22 COUNTY will follow its present practices to safeguard System Software delivered to COUNTY by
23 CONTRACTOR. A copy of COUNTY'S "Information Technology (IT) Standards and Preferred Practices"
24 will be made available upon request.

- 25 1) COUNTY utilizes a backup and recovery system written and maintained
26 by Commvault Systems. This application requires a backup agent to run
27 on the server.
28

- 1 2) COUNTY will provide the vendor with an account with appropriate
2 administrative rights to administer the application. The account password
3 shall to periodically expire.
- 4 3) In order for the application to run on COUNTY-supported servers, the
5 application must not require the users to have administrative rights on the
6 servers.
- 7 4) COUNTY, at all times, during and after the performance of the installation
8 of the System Software, is responsible for maintaining adequate data
9 backups to protect against loss of data.

10 D. ACCEPTANCE TESTING

11 COUNTY shall approve Final System Acceptance when Metasys and ADS have been
12 successfully tested, and satisfactorily perform all functions necessary pursuant to this Agreement, and
13 all deliverables identified in this Agreement as required for acceptance have been received by
14 COUNTY.

15 E. ACCEPTANCE TESTING PROCESS

16 Following delivery and installation, CONTRACTOR shall test Metasys and ADS, along with
17 COUNTY personnel.

18 F. FACILITIES AND PREPARATION

19 COUNTY, will at its own expense, provide all necessary labor and materials for site preparation,
20 electrical services, and cabling required for System Installation. COUNTY shall receive the System
21 Software and will follow instructions provided by CONTRACTOR to load it on COUNTY's System
22 Hardware to prepare the System for processing.

23 G. SYSTEM HARDWARE AND SYSTEM SOFTWARE

24 COUNTY will at its own expense provide and properly maintain and update on an on-going basis
25 all necessary COUNTY System Software and County System Hardware required to operate Metasys
26 and ADS. Said COUNTY System Software and County System Hardware shall meet or exceed
27 CONTRACTOR's recommendations.

1 As part of COUNTY's responsibility for computer infrastructure, COUNTY is responsible for
2 ensuring that data is secure and protected at all times. CONTRACTOR is not responsible for, and
3 cannot be held liable for, inadvertent data disclosure or theft from COUNTY facilities.

4 H. COUNTY PROJECT MANAGER

5 Upon execution of this Agreement, COUNTY's Contract Administrator shall designate one
6 individual from ISD who will function as Project Manager, with responsibility for day-to-day management
7 of the project for implementation of Metasys and ADS. The Project Manager and COUNTY personnel
8 shall have the necessary and appropriate training and experience to implement the terms of this
9 Agreement. COUNTY acknowledges CONTRACTOR'S reliance on same.

10 I. OTHER COUNTY OBLIGATIONS

11 1) Technical assistance from COUNTY's ISD staff will be provided during the
12 performance of the installation of the System Software. In particular, COUNTY will
13 provide:

- 14 a. Network connectivity and troubleshooting assistance.
- 15 b. Ability to monitor network traffic and isolate bottlenecks.
- 16 c. Technical assistance concerning the integration with existing COUNTY
17 systems (if applicable).
- 18 d. Expertise to handle issues with PCs, printers, and cabling before,
19 during, and after rollout.

20 4. TERM

21 The term of this Agreement shall be for a period of three (3) years, commencing on Effective Date
22 through and including December 9, 2022. This Agreement may be extended for two (2) additional
23 consecutive twelve (12) month periods upon written approval of both parties no later than thirty (30) days
24 prior to the first day of the next twelve (12) month extension period. The Director of Internal Services/Chief
25 Information Officer (CIO) or his or her designee is authorized to execute such written approval on behalf of
26 COUNTY based on CONTRACTOR'S satisfactory performance.

27 5. TERMINATION

28 A. Non-Allocation of Funds - The terms of this Agreement, and the services to be

provided hereunder, are contingent on the approval of funds by the appropriating government agency. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated, at any time without penalty by giving the CONTRACTOR thirty (30) days advance written notice.

B. Breach of Contract - The COUNTY may immediately suspend or terminate this Agreement in whole or in part, where in the determination of the COUNTY there is:

- 1) An illegal or improper use of funds;
- 2) A failure to comply with any term of this Agreement;
- 3) A substantially incorrect or incomplete report submitted to the COUNTY;
- 4) Improperly performed service.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the CONTRACTOR the repayment to the COUNTY of any funds disbursed to the CONTRACTOR under this Agreement, which in the judgment of the COUNTY, were not expended in accordance with the terms of this Agreement. The CONTRACTOR shall promptly refund any such funds upon demand.

C. Without Cause - Under circumstances other than those set forth above, this Agreement may be terminated by COUNTY by giving thirty (30) days' advance written notice of an intention to terminate to CONTRACTOR.

6. COMPENSATION/INVOICING: COUNTY agrees to pay CONTRACTOR, and CONTRACTOR agrees to receive, compensation as follows:

A. ANNUAL MAINTENANCE AND SUPPORT FEES FOR METASYS AND ADS (INCLUDING TRAINING AND UPGRADES)

LINE ITEM	COST
1. YEAR 1	\$73,504.00
2. YEAR 2	\$75,710.00

3. YEAR 3	\$77,982.00
4. YEAR 4	\$80,322.00
5. YEAR 5	\$82,732.00

In no event shall Annual Maintenance and Support Fees exceed \$390,250.00 during the entire potential five-year term of this Agreement.

B. ADDITIONAL METASYS HARDWARE, TROUBLESHOOTING, MAINTENANCE, AND SUPPORT FEES

LINE ITEM	COST
1. Hourly Rate, normal working hours (Monday through Friday, 7:30am – 4:30pm)	\$135.00
2. Hourly Rate, overtime working hours (all other times)	\$202.50
3. Material Discounts	As listed in Exhibit C
4. Engine Replacements (58 engines total)	Not to exceed \$300,000.00

In no event shall services for Additional Metasys Hardware, Troubleshooting, Maintenance, and Support Fees exceed \$1,109,750.00 for the entire potential five-year term of this Agreement.

CONTRACTOR shall submit monthly invoices referencing the provided contract number, either electronically or via mail, in triplicate to the County of Fresno, Internal Services Department, Attention: Business Office, 333 W. Pontiac Way, Clovis, CA 93612, (isdbusinessoffice@fresnocountyca.gov).

In no event shall compensation paid for services performed under this Agreement exceed \$1,500,000.00 during the entire potential five-year term of this Agreement. It is understood that all expenses incidental to CONTRACTOR'S performance of services under this Agreement shall be borne by CONTRACTOR. COUNTY shall pay CONTRACTOR within forty-five (45) days of receipt of an approved invoice.

7. **INDEPENDENT CONTRACTOR:** In performance of the work, duties and obligations assumed by CONTRACTOR under this Agreement, it is mutually understood and agreed that CONTRACTOR, including any and all of the CONTRACTOR'S officers, agents, and employees will at all times be acting and performing as an independent contractor, and shall act in an independent capacity and

1 not as an officer, agent, servant, employee, joint venturer, partner, or associate of the COUNTY.

2 Furthermore, COUNTY shall have no right to control or supervise or direct the manner or method by which
3 CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer
4 this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the
5 terms and conditions thereof.

6 CONTRACTOR and COUNTY shall comply with all applicable provisions of law and the rules and
7 regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

8 Because of its status as an independent contractor, CONTRACTOR shall have absolutely no right
9 to employment rights and benefits available to COUNTY employees. CONTRACTOR shall be solely liable
10 and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In
11 addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating
12 to payment of CONTRACTOR'S employees, including compliance with Social Security withholding and all
13 other regulations governing such matters. It is acknowledged that during the term of this Agreement,
14 CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

15 8. **MODIFICATION:** Any matters of this Agreement may be modified from time to time by the
16 written consent of all the parties without, in any way, affecting the remainder.

17 9. **NON-ASSIGNMENT:** Neither party shall assign, transfer or sub-contract this Agreement nor
18 their rights or duties under this Agreement without the prior written consent of the other party.

19 10. **HOLD HARMLESS:** CONTRACTOR agrees to indemnify, save, hold harmless, and at
20 COUNTY'S request, defend the COUNTY, its officers, agents, and employees from any and all costs and
21 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses, and any and all
22 claims, damages, costs, fees, regulatory fines and penalties, and forms of legal action involving Cyber
23 Risks, occurring or resulting to COUNTY in connection with the performance, or failure to perform, by
24 CONTRACTOR, its officers, agents, or employees under this Agreement, and from any and all costs and
25 expenses (including attorney's fees and costs), damages, liabilities, claims, and losses, and any and all
26 claims, damages, costs, fees, regulatory fines and penalties, and forms of legal action involving Cyber
27 Risks, occurring or resulting to any person, firm, or corporation who may be injured or damaged by the
28 performance, or failure to perform, of CONTRACTOR, its officers, agents, or employees under this

1 Agreement.

2 COUNTY agrees to indemnify, save, hold harmless, and at CONTRACTOR'S request, defend the
3 CONTRACTOR, its officers, agents, and employees from any and all costs and expenses (including
4 attorney's fees and costs), damages, liabilities, claims, and losses occurring or resulting to CONTRACTOR
5 in connection with the performance, or failure to perform, by COUNTY, its officers, agents, or employees
6 under this Agreement, and from any and all costs and expenses (including attorney's fees and costs),
7 damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may
8 be injured or damaged by the performance, or failure to perform, of COUNTY, its officers, agents, or
9 employees under this Agreement.

10 In the event of a claim of alleged infringement of patent rights, copyright, trade secret rights, or
11 intellectual property rights, to the fullest extent permitted by law, CONTRACTOR agrees to and shall
12 indemnify, save, hold harmless, and at COUNTY's request, defend COUNTY, including its officers, officials,
13 agents, and employees from any and all demands, costs and expenses, penalties, attorney's fees and
14 court costs, damages of any nature whatsoever (including, without limitation, injury or damage to or loss or
15 destruction of property), judgments (including, without limitation, amounts paid in settlement and amounts
16 paid to discharge judgments), liabilities, claims and losses, suits, actions or proceedings of every name,
17 kind and description occurring or resulting to COUNTY, out of or in connection with any claim that is based
18 on the infringement (or assertions of infringement) of any of patent rights, copyright, trade secret rights, or
19 intellectual property rights with respect to services, software, or any Equipment provided by
20 CONTRACTOR as part of this Agreement, including, but not limited to, their materials, designs, techniques,
21 processes and information supplied or used by CONTRACTOR or any of CONTRACTOR's subcontractor
22 of any tier in performing or providing any portion of CONTRACTOR's obligations as outlined in this
23 Agreement. If, in any suit, action, proceeding or claim relating to the foregoing, a temporary restraining
24 order or preliminary injunction is granted, CONTRACTOR shall make every reasonable effort to secure the
25 suspension of the injunction or restraining order. If, in any such suit, action, proceeding or claim, the
26 services, software or any Equipment provided by CONTRACTOR or any part, combination or process
27 thereof, is held to constitute an infringement and its use is enjoined, CONTRACTOR shall immediately (a)
28 pay the reasonable direct out-of-pocket costs and expenses to secure a license to use such infringing work,

1 replace the infringing work or modify the same so that it becomes non-infringing, and (b) make every
2 reasonable effort to secure for the COUNTY a license, at no cost to COUNTY, authorizing COUNTY's
3 continued use of the infringing work. If CONTRACTOR is unable to secure such license within a reasonable
4 time, CONTRACTOR, at its own expense and without impairing performance requirements of the services,
5 software, or any Equipment provided by CONTRACTOR as part of this Agreement, shall either replace the
6 affected services, software, or any Equipment provided by CONTRACTOR as part of this Agreement,
7 combination or process thereof, with non-infringing services, software, or other equipment, or modify the
8 same so that they become non-infringing.

9 The provisions of this Section 10 shall survive the termination of this Agreement.

10 11. **INSURANCE**

11 Without limiting the COUNTY's right to obtain indemnification from CONTRACTOR or any third
12 parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect, the following insurance
13 policies or a program of self-insurance, including but not limited to, an insurance pooling arrangement or
14 Joint Powers Agreement (JPA) throughout the term of the Agreement:

15 A. **Commercial General Liability**

16 Commercial General Liability Insurance with limits of not less than Two Million Dollars
17 (\$2,000,000.00) per occurrence and an annual aggregate of Four Million Dollars (\$4,000,000.00). This
18 policy shall be issued on a per occurrence basis. COUNTY may require specific coverages including
19 completed operations, products liability, contractual liability, Explosion-Collapse-Underground, fire legal
20 liability or any other liability insurance deemed necessary because of the nature of this contract.

21 B. **Automobile Liability**

22 Comprehensive Automobile Liability Insurance with limits of not less than One Million Dollars
23 (\$1,000,000.00) per accident for bodily injury and for property damages. Coverage should include any auto
24 used in connection with this Agreement.

25 C. **Technology Professional Liability (Errors and Omissions)**

26 Technology Professional Liability (Errors and Omissions) Insurance appropriate to
27 CONTRACTOR's profession, with limits not less than Two Million Dollars (\$2,000,000) per occurrence
28 or claim, Two Million Dollars (\$2,000,000) aggregate. Coverage shall be sufficiently broad to respond to

1 the duties and obligations as is undertaken by CONTRACTOR in this Agreement and may include, but
2 not be limited to infringement of copyright, trademark, trade dress, invasion of privacy violations,
3 information theft, damage to or destruction of electronic information, release of private information,
4 alteration of electronic information, extortion and network security. The policy may provide coverage for
5 breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses
6 with limits sufficient to respond to these obligations.

7 D. Cyber Liability

8 CONTRACTOR shall obtain cyber liability insurance with limits not less than Two Million Dollars
9 (\$2,000,000) per occurrence. Coverage shall include, but not be limited to, claims involving Cyber Risks.
10 The cyber liability policy shall be endorsed to cover the full replacement value of damage to, alteration
11 of, loss of, or destruction of intangible property (including but not limited to information or data) that is in
12 the care, custody, or control of the CONTRACTOR.

13 For purposes of the technology professional liability insurance and the cyber liability insurance
14 required under this Agreement, Cyber Risks include, but are not limited to, (i) security breaches, which
15 include disclosure of, whether intentional or unintentional, information provided by COUNTY, information
16 provided by or obtained from any inmate, or personal-identifying information relating to any inmate, to an
17 unauthorized third party; (ii) breach of any of CONTRACTOR's obligations under this Agreement relating
18 to data security, protection, preservation, usage, storage, transmission, and the like; (iii) infringement of
19 intellectual property including, but not limited to, infringement of copyright, trademark, and trade dress;
20 (iv) invasion of privacy, including any release of private information; (v) information theft by any person
21 or entity, whatsoever; (vi) damage to or destruction or alteration of electronic information; (vii) extortion
22 related to CONTRACTOR's obligations under this Agreement regarding electronic information, including
23 information provided by COUNTY, information provided by or obtained from any inmate, or personal-
24 identifying information relating to any inmate; (viii) network security; (ix) data breach response costs,
25 including security breach response costs; (x) regulatory fines and penalties related to CONTRACTOR's
26 obligations under this Agreement regarding electronic information, including information provided by
27 COUNTY, information provided by or obtained from an inmate, or personal-identifying information
28 relating to any inmate; and (xi) credit monitoring expenses.

1 E. Professional Liability

2 If CONTRACTOR employs licensed professional staff, (e.g., Ph.D., R.N., L.C.S.W., M.F.C.C.) in
3 providing services, Professional Liability Insurance with limits of not less than One Million Dollars
4 (\$1,000,000.00) per occurrence, Three Million Dollars (\$3,000,000.00) annual aggregate.

5 F. Worker's Compensation

6 A policy of Worker's Compensation insurance as may be required by the California Labor
7 Code.

8 Additional Requirements Relating to Insurance

9 CONTRACTOR shall obtain endorsements to the Commercial General Liability insurance naming
10 the County of Fresno, its officers, agents, and employees, individually and collectively, as additional
11 insured, but only insofar as the operations under this Agreement are concerned. Such coverage for
12 additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained
13 by COUNTY, its officers, agents and employees shall be excess only and not contributing with insurance
14 provided under CONTRACTOR's policies herein. This insurance shall not be cancelled or changed without
15 a minimum of thirty (30) days advance written notice given to COUNTY.

16 CONTRACTOR hereby waives its right to recover from COUNTY, its officers, agents, and
17 employees any amounts paid by the policy of worker's compensation insurance required by this
18 Agreement. CONTRACTOR is solely responsible to obtain any endorsement to such policy that may be
19 necessary to accomplish such waiver of subrogation, but CONTRACTOR's waiver of subrogation under
20 this paragraph is effective whether or not CONTRACTOR obtains such an endorsement.

21 Within Thirty (30) days from the date CONTRACTOR signs and executes this Agreement,
22 CONTRACTOR shall provide certificates of insurance and endorsement as stated above for all of the
23 foregoing policies, as required herein, to the County of Fresno, Internal Services Department, Attention:
24 Director of Internal Services/Chief Information Officer, 333 W. Pontiac Way, Clovis, CA 93612, stating that
25 such insurance coverage have been obtained and are in full force; that the County of Fresno, its officers,
26 agents and employees will not be responsible for any premiums on the policies; that for such worker's
27 compensation insurance the CONTRACTOR has waived its right to recover from the COUNTY, its officers,
28 agents, and employees any amounts paid under the insurance policy and that waiver does not invalidate

1 the insurance policy; that such Commercial General Liability insurance names the County of Fresno, its
2 officers, agents and employees, individually and collectively, as additional insured, but only insofar as the
3 operations under this Agreement are concerned; that such coverage for additional insured shall apply as
4 primary insurance and any other insurance, or self-insurance, maintained by COUNTY, its officers, agents
5 and employees, shall be excess only and not contributing with insurance provided under CONTRACTOR's
6 policies herein; and that this insurance shall not be cancelled or changed without a minimum of thirty (30)
7 days advance, written notice given to COUNTY.

8 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein
9 provided, the COUNTY may, in addition to other remedies it may have, suspend or terminate this
10 Agreement upon the occurrence of such event.

11 All policies shall be issued by admitted insurers licensed to do business in the State of California,
12 and such insurance shall be purchased from companies possessing a current A.M. Best, Inc. rating of A
13 FSC VII or better.

14 12. **AUDITS AND INSPECTIONS:** The CONTRACTOR shall at any time during business
15 hours, and as often as the COUNTY may deem necessary, make available to the COUNTY for examination
16 all of its records and data with respect to the matters covered by this Agreement. The CONTRACTOR
17 shall, upon request by the COUNTY, permit the COUNTY to audit and inspect all of such records and data
18 necessary to ensure CONTRACTOR'S compliance with the terms of this Agreement.

19 If this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to
20 the examination and audit of the California State Auditor for a period of three (3) years after final payment
21 under contract (Government Code Section 8546.7).

22 13. **NOTICES:** The persons and their addresses having authority to give and receive notices
23 under this Agreement include the following:

24 COUNTY
25 COUNTY OF FRESNO
26 Director of Internal Services/CIO
333 W. Pontiac Way
Clovis, CA 93612

CONTRACTOR
Johnson Controls International, Inc.
3451 W Ashlan Avenue
Fresno, CA 93702

27 All notices between the COUNTY and CONTRACTOR provided for or permitted under this
28 Agreement must be in writing and delivered either by personal service, by first-class United States mail, by

1 an overnight commercial courier service, or by telephonic facsimile transmission. A notice delivered by
2 personal service is effective upon service to the recipient. A notice delivered by first-class United States
3 mail is effective three COUNTY business days after deposit in the United States mail, postage prepaid,
4 addressed to the recipient. A notice delivered by an overnight commercial courier service is effective one
5 COUNTY business day after deposit with the overnight commercial courier service, delivery fees prepaid,
6 with delivery instructions given for next day delivery, addressed to the recipient. A notice delivered by
7 telephonic facsimile is effective when transmission to the recipient is completed (but, if such transmission is
8 completed outside of COUNTY business hours, then such delivery shall be deemed to be effective at the
9 next beginning of a COUNTY business day), provided that the sender maintains a machine record of the
10 completed transmission. For all claims arising out of or related to this Agreement, nothing in this section
11 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,
12 including but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code,
13 beginning with section 810).

14 14. **GOVERNING LAW:** Venue for any action arising out of or related to this Agreement shall
15 only be in Fresno County, California.

16 The rights and obligations of the parties and all interpretation and performance of this Agreement
17 shall be governed in all respects by the laws of the State of California.

18 15. **DISCLOSURE OF SELF-DEALING TRANSACTIONS**

19 This provision is only applicable if the CONTRACTOR is operating as a corporation (a for-profit
20 or non-profit corporation) or if during the term of the agreement, the CONTRACTOR changes its status
21 to operate as a corporation.

22 Members of the CONTRACTOR's Board of Directors shall disclose any self-dealing transactions
23 that they are a party to while CONTRACTOR is providing goods or performing services under this
24 agreement. A self-dealing transaction shall mean a transaction to which the CONTRACTOR is a party
25 and in which one or more of its directors has a material financial interest. Members of the Board of
26 Directors shall disclose any self-dealing transactions that they are a party to by completing and signing a
27 Self-Dealing Transaction Disclosure Form, attached hereto as Exhibit A and incorporated herein by
28 reference, and submitting it to the COUNTY prior to commencing with the self-dealing transaction or

1 immediately thereafter.

2 16. **ENTIRE AGREEMENT**: This Agreement constitutes the entire agreement between the
3 CONTRACTOR and COUNTY with respect to the subject matter hereof and supersedes all previous
4 Agreement negotiations, proposals, commitments, writings, advertisements, publications, and
5 understanding of any nature whatsoever unless expressly included in this Agreement.

6 ///

7 ///

8 ///

9 ///

1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first
2 hereinabove written.

3
4 **CONTRACTOR**

5 Sal Salgado

6 (Authorized Signature)

7 Sal Salgado

8 Print Name & Title

9 Service Manager

10 3451 W. Ashland Ave

11 Mailing Address

12 Fresno CA 93722

COUNTY OF FRESNO

[Signature]

Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

ATTEST:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

13
14
15 By: [Signature]

Deputy

16 **FOR ACCOUNTING USE ONLY:**

17 Fund: 1045

18 Subclass: 10000

19 ORG: 8935

20 Account: 7205
21
22
23
24
25
26
27
28

SELF-DEALING TRANSACTION DISCLOSURE FORM

In order to conduct business with the County of Fresno (hereinafter referred to as "County"), members of a contractor's board of directors (hereinafter referred to as "County Contractor"), must disclose any self-dealing transactions that they are a party to while providing goods, performing services, or both for the County. A self-dealing transaction is defined below:

"A self-dealing transaction means a transaction to which the corporation is a party and in which one or more of its directors has a material financial interest"

The definition above will be utilized for purposes of completing this disclosure form.

INSTRUCTIONS

- (1) Enter board member's name, job title (if applicable), and date this disclosure is being made.
- (2) Enter the board member's company/agency name and address.
- (3) Describe in detail the nature of the self-dealing transaction that is being disclosed to the County. At a minimum, include a description of the following:
 - a. The name of the agency/company with which the corporation has the transaction; and
 - b. The nature of the material financial interest in the Corporation's transaction that the board member has.
- (4) Describe in detail why the self-dealing transaction is appropriate based on applicable provisions of the Corporations Code.
- (5) Form must be signed by the board member that is involved in the self-dealing transaction described in Sections (3) and (4).

Exhibit A

(1) Company Board Member Information:			
Name:		Date:	
Job Title:			
(2) Company/Agency Name and Address:			
(3) Disclosure (Please describe the nature of the self-dealing transaction you are a party to):			
(4) Explain why this self-dealing transaction is consistent with the requirements of Corporations Code 5233 (a):			
(5) Authorized Signature			
Signature:		Date:	

Exhibit B

Form C

EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS, AND SOLUTIONS REQUEST



Company Name: Johnson Controls, Inc.

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS
8.20, pg 29	Asbestos Containing Materials and Other Hazardous Materials.	See explanation on following page	See below
N/A	Waiver of Consequential Damages and Limitation of Liability	See explanation on following page	See below

Proposer's Signature: _____

Date: 03/02/2017

NJPA's clarification on exceptions listed above:

The proposed exceptions are not accepted. They are site specific and addressed specifically in Member's purchase orders.



State of Wisconsin, County of Milwaukee
on this 2nd day of March, 2017
Signed by Danya Foster, Notary Public
my certification expires May 30, 2020
Danya Foster



Exhibit B

Asbestos Containing-Materials and Other Hazardous Materials.

(a) Asbestos-Containing Materials: Neither Party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials ("ACM"). Consistent with applicable laws, Owner shall supply JCI with any information in its possession relating to the presence of ACM in areas where JCI undertakes any Work or Services that may result in the disturbance of ACM. If either Owner or JCI becomes aware of or suspects the presence of ACM that may be disturbed by JCI's Work or Services, it shall immediately stop the Work or Services in the affected area and notify the other's contacts. As between Owner and JCI, Owner shall be responsible at its sole expense for addressing the potential for or the presence of ACM in conformance with all applicable laws and addressing the impact of its disturbance before JCI continues with its Work or Services, unless JCI had actual knowledge that ACM was present and acted with intentional disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for remediating areas impacted by the disturbance of the ACM, and (ii) Owner shall resume its responsibilities for the ACM after JCI's remediation has been completed.

(b) Other Hazardous Materials: "Hazardous Materials" means any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant or contaminant under any local, state or federal law, regulation or ordinance, relating to or addressing public and employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product or polychlorinated biphenyls. "Hazardous Materials" specifically includes mold and lead-based paints and specifically excludes ACM. JCI shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold, regardless of the cause of the mold. JCI shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing Work or Services ("JCI Hazardous Materials") and for the remediation of any areas impacted by the release of JCI Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities ("Non-JCI Hazardous Materials"), Owner shall supply JCI with any information in its possession relating to the presence of such materials if their presence may affect JCI's performance of the Work or Services. If either Owner or JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may interfere with JCI's Work or Services, it shall immediately stop the Work or Services in the affected area and notify the other's contacts. As between Owner and JCI, Owner shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and the remediation of any areas impacted by the release of the Non-JCI Hazardous Materials, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted with intentional disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Materials, and (ii) Owner shall remain responsible at its sole expense for the removal of Hazardous Materials that have not been released and for releases not resulting from JCI's performance of the Work or Services.

(c) Environmental Indemnity: Notwithstanding any other provision of the Contract, and to the fullest extent permitted by law, Owner shall indemnify and hold harmless JCI and its subcontractors, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Owner's use, or the storage, release, discharge, handling or presence of ACM, mold (actual or alleged and regardless of the cause of such condition) or Non-JCI Hazardous Materials on, under or about the facility, or the noncompliance with this section titled, "Asbestos Containing-Materials and Other Hazardous Materials."

Waiver of Consequential Damages and Limitation of Liability

In no event, whether in contract, tort or otherwise (including breach of warranty, negligence and strict liability in tort), will a party be liable for indirect or consequential (including loss of business, loss of profits, and the like), exemplary, punitive or special damages, even if such party has been advised of the possibility of such damages in advance and even if a remedy set forth herein is found to have failed of its essential purpose. In no event shall JCI be liable for any damages in excess of the Contract Amount.

Exhibit B

Contract Award
RFP #030817

FORM D



Formal Offering of Proposal (To be completed only by the Proposer)

[HVAC SYSTEMS, INSTALLATION, AND SERVICE WITH RELATED PRODUCTS AND SUPPLIES]

In compliance with the Request for Proposal (RFP) for [HVAC SYSTEMS, INSTALLATION, AND SERVICE WITH RELATED PRODUCTS AND SUPPLIES], the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: Johnson Controls, Inc. Date: 03/02/2017

Company Address: 5757 North Green Bay Avenue, P.O. Box 591

City: Milwaukee State: WI Zip: 53201

Contact Person: Andrew Pergande Title: Andrew.Pergande@jci.com

Authorized Signature: [Signature] Brandon Jackson
(Name printed or typed)

State of Wisconsin, County of Milwaukee
on this 2nd day of March, 2017
Signed by Danyla Foster, Notary Public.
my certification expires May 30, 2020
Danyla Foster

Exhibit B

FORM E CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by NJPA if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

NJPA Contract #: 030817-JHN

Proposer's full legal name: Johnson Controls, Inc.

Based on NJPA's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by NJPA.

The effective date of the Contract will be May 8, 2017 and will expire on May 8, 2021 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the NJPA Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at NJPA's discretion.

NJPA Authorized Signatures:



NJPA DIRECTOR OF COOPERATIVE CONTRACTS
AND PROCUREMENT/CPO SIGNATURE

Jeremy Schwartz
(NAME PRINTED OR TYPED)



NJPA EXECUTIVE DIRECTOR/CEO SIGNATURE

Chad Coquette
(NAME PRINTED OR TYPED)

Awarded on May 8, 2017

NJPA Contract # 030817-JHN

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Johnson Controls

Authorized Signatory's Title GPO / Cooperative Manager



VENDOR AUTHORIZED SIGNATURE

Andrew Pergande

(NAME PRINTED OR TYPED)

Executed on 5/8, 2017

NJPA Contract # 030817-JHN

Exhibit B

Form F

PROPOSER ASSURANCE OF COMPLIANCE



Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.
4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.
6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

Exhibit B

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: Johnson Controls, Inc.

Address: 5757 North Green Bay Avenue, P.O. Box 591

City/State/Zip: Milwaukee, WI 53201

Telephone Number: 414 524 4708

E-mail Address: Brandon.L.Jackson@jci.com

Authorized Signature: _____

Authorized Name (printed): Brandon Jackson

Title: Vice President of Branch Sales

Date: 03/02/2017

Notarized

Subscribed and sworn to before me this 2nd day of March, 2017

Notary Public in and for the County of Milwaukee State of WI

My commission expires: May 30, 2020

Signature: Danica Foster

Exhibit B

Form P



PROPOSER QUESTIONNAIRE

Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

Proposer Name: Johnson Controls

Questionnaire completed by: Andrew Pergande

Payment Terms and Financing Options

1) What are your payment terms (e.g., net 10, net 30)?

Johnson Controls uses Net 30 payment terms.

2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

Our approach to financing is to assist in identifying a lender through competitive procurement from a group of qualified lenders, and work closely with our clients to provide the most favorable financing package for the project. Johnson Controls receives no commissions or finder's fees for bringing financing institutions to our clients.

Most public entities that we've worked with have selected a tax-exempt capital lease structure. This structure has the least amount of transaction costs and is offered at rates comparable to other forms of public sector financing.

Johnson Controls will help NJPA members:

- Obtain the lowest interest rate
- Obtain the lowest cost of financing
- Protect against interest rate fluctuations
- Minimize your time devoted to financing issues
- Explore available alternative funding sources

The following table shows some of the financing options used by our customers.

Financing Option	Description*
Installment Purchase (Buy)	No down payment required. The customer makes even payments monthly over a number of years (typically 5 years). Customers own their equipment. Typically used with projects \$25,000 and up. Flexible payment schedules are available. This is a full term obligation at taxable rates, but financing is done directly through Johnson Controls on a light document package.
Tax Exempt Lease Purchase	Similar to installment purchase, but customer doesn't take title to purchase until the end of the term. Lease terms range from 2 to 10 years depending upon the size of the project and the credit status of the individual customer. Payment frequencies can be matched to fit the Customer need from monthly to annually, in arrears or in advance - again depending upon the Customer criteria.
Operating Lease	Zero money down and low monthly payments. At the end of the term the customer must purchase for Fair Market Value, return, or release the equipment. This type of financing is most often used when an entity has restrictions on ownership or title transfer of equipment.

* Terms subject to credit approval. Descriptions are for information purposes and should not be construed as financial advice.



- 3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.

Systems and Services North America has a wholly owned branch network that provides proposals directly to customers for requested product or service purchases. Each proposal procured through the NJPA contract will have the NJPA contract number and will be logged. Upon customer award, each sale will be reported to NJPA quarterly (or on NJPA's desired frequency).

- 4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process?

We do accept P-card procurement and payment, and we do not pass on any fees to the customer.

Warranty

- 5) Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.
 Do your warranties cover all products, parts, and labor?
 Do your warranties impose usage restrictions or other limitations that adversely affect coverage?
 Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?
 Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?
 Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?
 What are your proposed exchange and return programs and policies?

The following sample text shows our standard warranty for HVAC systems and service. Extended or customized warranty terms are negotiable.

Parts Warranty: JCI warrants that original equipment, parts or components manufactured or labeled by JCI shall be free from defects in material and workmanship under normal usage and proper installation and maintenance for a period of one (1) year from the date of shipment. Equipment, parts or components not manufactured or labeled by JCI shall carry a warranty from defects in material and workmanship under normal usage and proper installation and maintenance for a period of ninety (90) days from the date of shipment. Notwithstanding the foregoing, in the event JCI is reasonably able to identify a warranty for a period longer than the ninety (90) days applicable to equipment, parts or components not manufactured or labeled by JCI, it will assign all assignable rights under such warranty to Customer and reasonably cooperate in the enforcement of any warranty claim. Recertified or replacement parts installed on equipment and still under the original equipment manufacturer's warranty are covered for ninety (90) days or the remainder of the original equipment manufacturer warranty period, whichever is longer. For large tonnage chillers, JCI will warrant under normal usage and proper installation and maintenance for a period of one (1) year from the date of shipment: screw compressors, motors, control panels and components, VFD's and components and Liquid Cooled Solid State Starters and components. For small tonnage chillers, JCI will warrant under normal usage and proper installation and maintenance for a period of one (1) year from the date of shipment: scroll compressors, condenser coils, control panels and components, screw compressors (DXS and Mustang), and fan motors. In the event of a valid warranty claim, the Customer's remedy shall, at JCI's sole discretion and subject to the exclusions herein, be limited to repair or replacement of the subject equipment, part or component conditioned upon the return to JCI of any defective equipment, part or component. This Parts Warranty does not cover any shipping, handling or transportation charges or any associated labor costs.



Labor Warranty: JCI warrants its workmanship or that of its agents in relation to installation of materials for a period of ninety (90) days from date of installation or with respect to service work for a period of ninety (90) days from the date of service. Customer acknowledges that re-performance shall be its exclusive and only remedy with regards to any services provided by JCI. Customer shall bear all labor costs associated with the repair or replacement of failed material that is outside the scope of this express labor warranty. All warranty labor shall be executed during JCI normal business hours.

These warranties do not extend to any equipment which has been repaired by others, abused, altered, or misused in any way, or which has not been properly and reasonably maintained.

THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE. UNDER NO CIRCUMSTANCES SHALL JCI BE LIABLE FOR ANY SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATING TO ANY DEFECT IN MATERIAL OR WORKMANSHIP OF EQUIPMENT OR THE PERFORMANCE OF SERVICES.

The following table provides answers to the questions from the RFP.

Question	Information
Do your warranties cover all products, parts, and labor?	There is a parts warranty and a typically a manufacturer warranty that is passed on to the customer. Additionally there is a labor warranty provided by Johnson Controls
Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	The warranties do not extend to any equipment which has been repaired by others, abused, altered, or misused in any way, or which has not been properly and reasonably maintained.
Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes.
Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?	We can provide warranty repairs in all geographic regions.
Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	We pass all manufacturer warranties on to the customer. If requested and negotiated into the contract, we can cover a manufacturer warranty or enable the customer to buy an extended warranty.
What are your proposed exchange and return programs and policies?	If we are in the installation phase and the requested change is similar in price and operation to the planned equipment, we will make the change as requested. If the change is less expensive, we will refund the difference to the customer. If the change is more expensive, we implement the change with a formal Change Order.



6) Describe any service contract options for the items included in your proposal.

We will guarantee the performance of our company's labor by supplying proposals based on our nationwide project-estimating program, Project Estimating Tool. This program has been refined over many years using thousands of service calls to establish acceptable rates and labor hours to perform mechanical tasks.

As described in Form A, question 19, we deliver unparalleled OEM service support for our industry-leading YORK chillers and Metasys building management system, as well as the expertise to service **any competitive brand of equipment**, including chillers, boilers, HVAC mechanical equipment, and controls systems. When it comes to servicing HVAC equipment or controls system, we will provide customers with the expertise, resources, professionalism, and results expected from a global industry leader – with the attention to detail and commitment to community of a local service provider.

We can customize a facility maintenance plan to address the manufacturer's recommended preventative maintenance tasks for all of your equipment. An effective strategy applies an optimum mix of different approaches based on the risk impact or cost and consequences of failure. Establishing this proper mix and focusing on continuous improvement are equally important in a successful strategy.

Reactive Maintenance

Fixing or replacing equipment only when they fail. Assets will be out of service until fixed. Significant overtime and expedited delivery costs incurred.

Preventative Maintenance

Scheduling maintenance at specific times offers a first line of defense against failure.

Predictive Maintenance

Checking the condition of equipment as it operates. Equipment condition, rather than time intervals, determines the need for service.

Proactive Maintenance

Addresses root causes identified by predictive methods. It isolates and corrects the sources of failure altogether.

Pricing, Delivery, Audits, and Administrative Fee

7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal.

Johnson Controls offers efficient energy solutions for all types of buildings. We have been the leader in high quality building environments and mechanical services and contracting for decades. We are the market leader in performance contracting, with a greater market share and more experience than any of our competitors.

We offer NJPA members experience and expertise in HVAC system design, installation, and service. This include such items as smart building services, controls, building automation systems, lighting, and building envelop. We also provide distribution systems, cogeneration plants, water conservation, and water and sewage systems. Our renewable energy offerings include solar, wind, microgrids, and distributed energy storage.

We have installed our products in major buildings throughout the world as documented in numerous case studies on our web site, <http://www.johnsoncontrols.com>. We embrace open systems fully and have solutions across all major protocols. This ensures that our system integrates with controls and equipment from other vendors.

Our 4,500 front-line service providers operate out of 160 company-owned branch locations, providing local expertise that is able to respond to customer needs 24 hours a day, 7 days a week. As a vendor neutral company, we service all makes and models of equipment. We also provide assistance to our customers with finding and procuring grants and rebates, public relations campaigns, training, and energy awareness education for your residents, students, or guests.



- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.)

This agreement will apply to all Johnson Controls Systems and Services North America (SSNA) branches across the United States. Johnson Controls strives to be a company that is easy to do business with. Therefore, our approach for this opportunity is to keep our pricing model simple, easy to use, and transparent.

Labor Rates

For labor rates, each branch location has **published street labor rates** that are **competitive in their local markets**. We will be using the approach **discounting 10%** off of our local branch published street rates (benchmark: Our labor pricing approach is the same approach utilized by Johnson Controls for GSA Schedule 84, which can be used by most state and local government entities). Local labor rates change annually.

Equipment, Controls, and Solutions

- For equipment, controls, fire alarm, and parts manufactured by Johnson Controls, our approach is to discount off of our North American List Price (NALP)
- For outside purchased HVAC equipment, controls, fire, security, technology equipment, and miscellaneous components, our approach is to mark up over our cost
- For Packaged Central Plant solutions (400-4500 tons), cooling towers and pumps, our price depends upon the complexity and size of the system
- HVAC Specialty Air Quality Products are custom built, so pricing will vary
- For miscellaneous 3rd party parts, mechanical subcontracts, electrical subcontracts, piping subcontracts, insulation subcontracts, job services such as cranes, facilities assessments, job specific tools, management & engineering services and surveys, our approach is to mark up over our cost as verified by 3rd party invoice to Johnson Controls.

Pricing Table

The following table describes our pricing for the services products and services offered:

Product/Service	Discount Type	Discount
Non-Johnson Controls HVAC control, security, fire and equipment products: includes subcontracts, non-Johnson Controls controls, assessments, tools, management & engineering services and surveys	Mark up over cost	Cost + 30%
Miscellaneous parts	Mark up over cost	Cost + 30%
York Chillers (air-cooled and water cooled)	Discounts from North America List Price (NALP)	NALP less 55%
York Air Handling Equipment	Discounts from North America List Price (NALP)	NALP less 55%
Johnson Controls Terminal Units (VAV & FCU)	Discounts from North America List Price (NALP)	NALP less 55%

Exhibit B

Form P



Johnson Controls Commercial Unitary Equipment (Series 5-40)	Discounts from North America List Price (NALP)	NALP less 55%
Johnson Controls Large Commercial Unitary Equipment (Series 100)	Discounts from North America List Price (NALP)	NALP less 55%
Johnson Controls DDC controls & Johnson Controls Security products	Discounts from North America List Price (NALP)	NALP less 55%
Fire Alarm Systems	Discount from list price	List less 15%
Johnson Controls Labor	Local Branch Published Street Labor Rates	Local Branch Published Street Rate less 10%
Packaged Central Plant (400-4500 tons)	Pricing varies depending upon complexity, but customers will receive a minimum of a 5% discount	

Pricing Notes:

1. All labor rates are based upon standard hours.
2. Overtime rates (afterhours, Saturday, Sunday): 1.5 x standard labor rates
3. Overtime rates (Holidays): 2 x standard labor rates
4. Per diem rates: Based upon location and job role to be provided
5. Minimum charge of 4 hours for all overtime work
6. Local branch published street labor rates may be updated annually at the discretion of each local branch

Not to exceed pricing:

The above pricing is submitted as not to exceed pricing and can be adjusted lower but cannot exceed the pricing above for those projects purchased under the agreement. Customer must indicate on the purchase order their intent to use the NJPA Agreement.

- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

Discounts vary based on equipment and labor. Maximum equipment discounts are 55%. See our response to question 8.

- 10) The pricing offered in this proposal is

- ~~_____ a. the same as the Proposer typically offers to an individual municipality, university, or school district.~~
- ☒ **b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.**
- ☒ **c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.**
- ~~_____ d. other than what the Proposer typically offers (please describe).~~

Both B and C apply to our response. Depending on the opportunity, the discounts will be equal or better than we offer to GPOs.

Exhibit B

Form P



11) Describe any quantity or volume discounts or rebate programs that you offer.

Volume discounts will be considered on a project-by-project basis. Most SSNA solutions are customized for each facility and do not qualify for volume discounts.

12) Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.

We supply these items at cost + 30%.

13) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

We offer turnkey pricing that includes all costs. Everything included in the costs is documented in the contract.

14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.

Shipping costs are included, as is disposal.

15) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.

Shipping costs are included in the price.

16) Describe any unique distribution and/or delivery methods or options offered in your proposal.

We strive to achieve just in time delivery to avoid storage costs and costs associated with damage that can occur when equipment and parts are stored on site or in a facility for any length of time. Additionally, we do not enforce your warranty until we reach substantial completion. This helps save our customers a little money by not starting the warranty period too early, when the system is not yet in use.

17) Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.

Pricing calculations under the NJPA contract will leverage estimating tools with defined pricing discounts for NJPA members. This pricing methodology makes it easy for our field organization and customers to understand pricing practices. Pricing transparency is provided to the customer with each NJPA proposal including reference to the NJPA contract. Pricing for large sales often have multiple reviews (sales, sales management, and cooperative program office). Small transactional sales are sample reviewed by the cooperative program office. If a pricing discrepancy would be identified all sales by that sales rep through the NJPA contract would be self-audited. The sales reporting and administrative fee remittance function is independent from the field sales organization. Fee processing is completed by a centralized GPO and cooperative processing team. This process will help to eliminate issues relating to unreported sales or missing fees under the NJPA contract. The centralized team utilizes data contained with our Customer Relationship Management system, booking system, and cooperative proposal log to help ensure completeness in sales reporting and fee submission.

Exhibit B

Form P



- 18) Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)

We propose a 1.5% annual administration fee with a reduction to 1% in any subsequent year that total contract volume exceeds \$60M.

Industry-Specific Questions

- 19) For the solutions that you are proposing in your response, what is your market share relating to NJPA's specific member sectors (i.e., governmental, educational, or not-for-profit entities)? If you are unable to cite reasonably accurate data or credible estimates, please state this.

Our market share in the Education and Government vertical markets are:

Item	2014	2015	2016
Education	25.4%	22.4%	23.1%
Government	21.2%	23.6%	23.1%

We do not track market share data for non-profit customers.

- 20) Detail your ongoing training programs for your service/installation technicians, including the training frequency and time requirements.

Annual mandatory training for front-line service providers typically includes training in safety, sexual harassment class, diversity, ethics, manager training, energy management, fire and life safety, HVAC mechanical services, life sciences, building controls, networking and connectivity, security systems, systems integration, and others.

Mandatory training for all employees typically includes training in sexual harassment, diversity, and ethics.

Johnson Controls also encourages external training that develops employees' skill and knowledge base, thus promoting career growth and development. External training is also provided as needed to meet account-specific requirements.

For injury prevention, it is critical that employees understand the hazards and potential hazards they could encounter when working on the job. The SSA Safety Training Program focuses on the identification of hazards specific to Johnson Controls work, and the safe work practices necessary to eliminate or control the hazardous conditions identified. As part of the annual or monthly training, employees are encouraged to discuss individual safety experiences on what has and hasn't worked from their perspective. To the extent that lessons learned play a role in accident prevention, employees can save their co-workers from potential injury by discussing these experiences along with their accidents or near misses. Through training and discussion, the idea is to help employees develop a personal stake in the process of making a worksite safer.

Field supervisors receive safety training at a minimum of annually during a kick-off session held during the first quarter of the fiscal year. In addition to a review of relevant safety issues and Area office safety metrics, a train-the-trainer session is conducted for field supervision. In this session, the supervisor learns to conduct the annual safety training for their employees (down to the specific topics chosen for the year), along with the process and resources for conducting and documenting monthly toolbox training.

At a minimum, team leaders conduct toolbox safety training for their team on a monthly basis. A "Toolbox of the Month" topic is posted on the Advisor Safety homepage and is retrieved by the team leader to conduct the training. The "Toolbox of the Month" format is used as a means to convey recent Group/Area safety issues, injury information, and other up-to-the minute safety topics. Each quarter, the supervisor completes a safety checklist in place of a toolbox session. This checklist is used to validate each employee's understanding of the safety training topics discussed earlier

Exhibit B

Form P



in the year. The checklist is on Advisor, in place of the Toolbox of the Month topic each quarter. The completed checklists are documented the same way as monthly toolbox training. Additional toolbox topics are also available on the Advisor and in handbook format. The supervisor uses these topics to supplement the Toolbox of the Month or to provide training on an as needed basis based on the type of work being performed, the environment, and/or customer requirements.

21) Describe and demonstrate what specifically differentiates you from your key competitors in the areas of organizational structure and product/service offerings.

Our extensive branch network of 4,500 front-line service providers nationwide is **100% company owned** and operated. Full ownership of our branch network benefits our customers because we are able to provide:

- *Consistent* processes and procedures
- *Consistent* service standards
- *Consistent* on-time delivery
- *Consistent* pricing and training
- *Consistent* long-term support and resources

In addition to our own internal resources, we frequently use local resources like engineering, mechanical, and electrical firms. Each branch office has extensive relationships with proven local businesses because we believe in supporting the communities where we work. We install and service all makes and models of equipment.

Additionally, we have entire teams dedicated to State Government, Higher Education, K-12 Schools and Districts, Local Government, Federal Government, Healthcare, and Public Housing. Our ability to dedicate resources and specialize in these markets ensures that NJPA members will receive service from experts with extensive experience serving similar customers in similar facilities facing similar problems.

22) In addition to the general narrative of equipment/products and related services requested in Form P, question 7, describe in detail what is included within your response in terms of installation, maintenance, and turn-key services.

We sell, install, commission, maintain, and service customers with cooling, HVAC, heating, energy management, and controls systems needs. Our 4,500 front-line service providers operate out of 160 company-owned branch locations, providing local expertise that is able to respond to customer needs 24 hours a day, 7 days a week.

Our turnkey projects provide equipment, installation, and your choice of maintenance and service needs for a single price. However, our value goes beyond equipment and maintenance programs. We have specialized experts and the experience to improve efficiency at your facilities, address maintenance issues, and prolong the life of the equipment through a life cycle program management approach, increase responsiveness through technical advantages and knowhow, and improve efficiency and downtime. Johnson Controls offers NJPA members the broadest array of offerings to maximize their savings, upgrade their infrastructure, and allow them to invest in staff, facilities, and their communities.

Working with the Johnson Controls team, you can expect:

- Expertise delivered by highly skilled and trained teams
- Expertise delivered by our project managers and engineers who develop solutions to reduce operational costs and improve environmental conditions
- A fast response from our local branches serving the entire state(s)
- A high level of trust through consistent service delivery, accountability and communication
- A flexible service solution with options that can be tailored to meet your requirements and budget
- The highest degree of service, utilizing innovative industry-leading technologies
- Risk mitigation to protect your building and equipment investments

Exhibit B

Form P



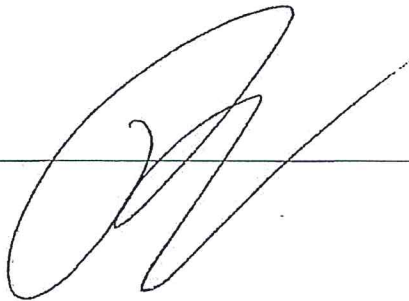
23) Which industry-specific quality management system certifications (if any) does your company hold? You may also include applicable ISO certifications in your answer.

Johnson Controls is ISO:9001 compliant.

Signature: _____

Date: _____

Signature: _____



Date: 03/02/2017

State of Wisconsin, County of Milwaukee
on this 2nd day of March, 2017
Signed by Danyu Foster, Notary Public
my certification expires May 30, 2020

Danyu Foster

Exhibit C

PI Group Clarification Mod Request 3/26/18

NJPA Contract #030817-JHN - Maturity Date: 06/30/2021

Pricing Table

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Johnson Controls Large Commercial Unitary Equipment (Series 100)	Discounts from North America List Price (NALP)	NALP less 55%
Johnson Controls DDC controls & Johnson Controls Security products	Discounts from North America List Price (NALP)	NALP less 55%
Fire Alarm Systems	Discount from list price	List less 15%
Johnson Controls Labor	Local Branch Published Street Labor Rates	Local Branch Published Street Rate less 10%
Packaged Central Plant (400-4500 tons)	Pricing varies depending upon complexity, but customers will receive a minimum of a 5% discount	
Energy Efficient Projects with General Requirements and internal/external Purchase Orders for Construction	All Related Services and Products	Cost Plus 30%

Pricing Notes:

1. All labor rates are based upon standard hours.
2. Overtime rates (afterhours, Saturday, Sunday): 1.5 x standard labor rates
3. Overtime rates (Holidays): 2 x standard labor rates
4. Per diem rates: Based upon location and job role to be provided
5. Minimum charge of 4 hours for all overtime work
6. Local branch published street labor rates may be updated annually at the discretion of each local branch

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