



FACILITIES MANAGEMENT

CENTRAL UTILITY PLANT

1710 Red Soils Court, Suite 200 \ Oregon City, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

**Approval of Goods and Services Contract with Johnson Controls, Inc.
for the Brooks Building BAS System Replacement Project**

Purpose/ Outcomes	Execution of a contract between Facilities Management, and Johnson Controls, Inc., for the procurement & installation of a BAS system to replace the obsolete one in the Brooks Building.
Dollar Amount and Fiscal Impact	Total contract value is \$295,457.00
Funding Source	CLCK-420-15-1505-150505-48120
Duration	Substantial Completion: September 30, 2021 Final Completion: October 31, 2021
Previous Board Action	Not previously heard.
Strategic Plan Alignment	1. Build (Maintain) a Strong Infrastructure 2. Ensure Safe, Healthy and Secure Communities
Counsel Review	AN July 14, 2021
Procurement Review	1. Was the item processed through Procurement? yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
Contact Person	Paul Landaas, Facilities Management, Building Systems Supervisor – 503-557-6420

BACKGROUND:

Facilities Management is tasked with providing safe, clean, well-functioning buildings for the use of our County staff and the public which it serves. The current BAS (Building Automation System) at the Brooks Building is over 20 years old. Parts, maintenance & support of the existing Trane Traser Summit BAS has become obsolete and problematic. Clackamas County solicited a bid from qualified contractor Johnson Controls for the installation of the Metasys 'M' Series BAS system that is our County standard. This standard has been in effect since 2004 when the Public Services Building was constructed and occupied. Johnson Controls is the only source for the system that is the domain for the County's BAS system. It is currently in 18 of our buildings with two more scheduled this year. Pricing for this bid is in accordance with the cooperative Sourcewell Agreement Contract #030817-JHN.

This contract will be for the procurement & installation of the equipment needed to replace the BAS system that is currently in the Brooks Building. This contract will cover required bonds and permits, the removal and disposal of existing equipment, and all incidentals needed or required to deliver a complete, operating system.

PROCUREMENT PROCESS:

This process was started on April 7, 2021 with Paul Landaas, Facilities Management Building Systems Supervisor, by sending a preliminary scope of work to Johnson Controls for the purpose of obtaining a bid for the replacement of the BAS system at the Brooks Building. A walkthrough was scheduled with Johnson Controls for April 9, 2021 at which time the scope was finalized and the revised scope sent to Johnson Controls on April 13, 2021. Johnson Controls bid was received on April 27, 2021. Paul Landaas then put together the PacsRequest package and submitted it to Procurement on April 30, 2021. Procurement posted the Notice of Intent to purchase on June 3, 2021, with a closing date of June 10, 2021. There was no objections.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County approve and execute the Contract between Facilities Management and Johnson Controls, Inc., for the Brooks Building BAS Replacement Project.

Sincerely,

Elizabeth Comfort

Elizabeth Comfort,
Finance Director

Placed on the BCC Agenda _____ by Procurement and Contract Services






BCC Staff Report - Brooks Building BAS Replacement - 07-21-21

Final Audit Report

2021-07-21

Created:	2021-07-21
By:	Jennifer Johnson (JJohnson@clackamas.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAVjjGndIVDTirtpNegKXIIIgF1VT7_i-

"BCC Staff Report - Brooks Building BAS Replacement - 07-21-21" History

-  Document created by Jennifer Johnson (JJohnson@clackamas.us)
2021-07-21 - 3:19:44 PM GMT- IP address: 73.25.146.220
-  Document emailed to Elizabeth Comfort (ecomfort@clackamas.us) for signature
2021-07-21 - 3:20:05 PM GMT
-  Email viewed by Elizabeth Comfort (ecomfort@clackamas.us)
2021-07-21 - 5:00:04 PM GMT- IP address: 73.11.77.31
-  Document e-signed by Elizabeth Comfort (ecomfort@clackamas.us)
Signature Date: 2021-07-21 - 5:00:45 PM GMT - Time Source: server- IP address: 73.11.77.31
-  Agreement completed.
2021-07-21 - 5:00:45 PM GMT



**CLACKAMAS COUNTY
GOODS AND SERVICES CONTRACT
Contract #4212**

This Goods and Services Contract (this "Contract") is entered into between **Johnson Controls, Inc.**, ("Contractor"), and Clackamas County, a political subdivisions of the State of Oregon ("County") on behalf of Facilities Management for the purposes of providing retrofit of the Trane Trasar control system.

I. TERM

This Contract shall become effective upon signature of both parties and shall remain in effect until **October 31, 2021**. This Contract and any amendments to this Contract will not be effective until approved in writing by an authorized representative of the Board of County Commissioners of Clackamas County. This Contract supersedes and cancels any prior contracts between the parties hereto for similar services. It is the County's intention to purchase against the Sourcewell Contract #030817-JHN' for the services described in Exhibit A.

II. SCOPE OF WORK

This Contract covers the purchase and installation of the Trane Trasar control system ("Work"), as described in Scope of Work, attached and hereby incorporated by reference as Exhibit "A." This Contract consists of the following documents which are listed in descending order of precedence and are attached and incorporated by reference, this Contract, Exhibit "A", and the Contractor's Proposal attached and hereby incorporated by reference as Exhibit "B." Work shall be performed in accordance with a schedule approved by the County. The Contractor shall meet the highest standards prevalent in the industry or business most closely involved in providing the appropriate goods or services. The County's Representative for this contract is: Paul Landaas.

III. COMPENSATION

1. **PAYMENT.** The County agrees to compensate the Contractor on a time and material basis as detailed in this Contract. The total Contract compensation shall not exceed **Two Hundred Ninety-Five Thousand Four Hundred Fifty-Seven Dollars (\$295,457.00)**.
2. **TRAVEL EXPENSE REIMBURSEMENT.** Authorized: Yes No
If travel expense reimbursement is authorized in this Contract, such expenses shall only be reimbursed at the rates in the County Contractor Travel Reimbursement Policy, hereby incorporated by reference, in effect at the time of the expense is incurred.
3. **INVOICES.** Invoices submitted for payment in connection with this Contract shall be properly documented and shall indicate pertinent County contract and/or purchase order numbers. All charges shall be billed monthly (unless a different payment period is outlined in Exhibit A) and will be paid net thirty (30) days from receipt of invoice and shall be subject to Oregon Revised Statute ("ORS") 293.462. If Contractor fails to present invoices in proper form within sixty (60) calendar days after the end of the month in which the services were rendered, Contractor waives any rights to present such invoice thereafter and to receive payment therefor. Invoices shall be submitted to the County Representative at: Facilitiesmangaement@clackamas.us

4. CONTRACTOR AND COUNTY CONTACTS.

Contractor	County
Administrator: Jessica Hines Phone: 971-420-3095 Email: Jessica.Hines@JCI.com	Administrator: Paul Landaas Phone: 503-742-2420 Email: PLandaas@clackamas.us

IV. CONTRACT PROVISIONS

- 1. ACCESS TO RECORDS.** Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred in the performance of this Contract. County and their duly authorized representatives shall have access to the books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcripts. Such books and records shall be maintained by Contractor for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.
- 2. AVAILABILITY OF FUNDS.** County certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract within its current annual appropriation or expenditure limitation, provided, however, that continuation of this Contract, or any extension, after the end of the fiscal period in which it is written, is contingent on a new appropriation or limitation for each succeeding fiscal period sufficient in amount, in the exercise of the County’s reasonable administrative discretion, to continue to make payments under this Contract.
- 3. CAPTIONS.** The captions or headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions of this Contract.
- 4. COMPLIANCE WITH APPLICABLE LAW.** Contractor shall comply with all federal, state, county, and local laws, ordinances, and regulations applicable to the work to be done under this Contract. Contractor specifically agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor shall also comply with the Americans with Disabilities Act of 1990 (Pub. L. No. 101-336), Title VI of the Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws. Contractor further agrees to make payments promptly when due, to all persons supplying to such Contractor, labor or materials for the prosecution of the work provided in this Contract; pay all contributions or amounts due the Industrial Accident Funds from such Contractor responsibilities incurred in the performance of this Contract; not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished; pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. If Contractor fails or refuses to make any such payments required herein, the appropriate County official may pay such claim. Any payment of a claim in the manner authorized in this section shall not relieve the Contractor or Contractor’s surety from obligation with respect to unpaid claims. Contractor shall promptly pay any person or entity that furnishes medical care to Contractor’s employees those sums which Contractor agreed to pay for such services and all money Contractor collected or deducted from employee’s wages to provide such services.

5. **EXECUTION AND COUNTERPARTS.** This Contract may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
6. **GOVERNING LAW.** This Contract shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, or suit between County and Contractor that arises out of or relates to the performance of this Contract shall be brought and conducted solely and exclusively within the Circuit Court for Clackamas County, for the State of Oregon. Provided, however, that if any such claim, action, or suit may be brought in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
7. **HAZARD COMMUNICATION.** Contractor shall notify County prior to using products containing hazardous chemicals to which County employees may be exposed, which includes any hazardous, toxic, or dangerous substance, waste, or material that is the subject of environmental protection legal requirements or that becomes regulated under any applicable local, state or federal law, including but not limited to the items listed in the United States Department of Transportation Hazardous Materials Table (49 CFR §172.101) or designated as hazardous substances by Oregon Administrative Rules, Chapter 437, or the United States Environmental Protection Agency (40 CFR Part 302), and any amendments thereto. Upon County's request, Contractor shall immediately provide Safety Data Sheets for the products subject to this provision.
8. **INDEMNITY, RESPONSIBILITY FOR DAMAGES.** Contractor shall be responsible for all damage to property, injury to persons, and loss, expense, inconvenience, and delay which may be caused by, or result from, the conduct of work, or from any act, omission, or neglect of Contractor, its subcontractors, agents, or employees. The Contractor agrees to indemnify, hold harmless and defend the County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the Contractor or the Contractor's employees, subcontractors, or agents.
9. **INDEPENDENT CONTRACTOR STATUS.** The service(s) to be rendered under this Contract are those of an independent contractor. Although the County reserves the right to determine (and modify) the delivery schedule for the Work to be performed and to evaluate the quality of the completed performance, County cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the work. Contractor is not to be considered an agent or employee of County for any purpose, including, but not limited to: (A) The Contractor will be solely responsible for payment of any Federal or State taxes required as a result of this Contract; (B) This Contract is not intended to entitle the Contractor to any benefits generally granted to the County employees, including, but not limited to, vacation, holiday and sick leave, other leaves with pay, tenure, medical and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement; and (C) If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor shall qualify and remain qualified for the term of this Contract as an insured employer under ORS Chapter 656.
10. **INSURANCE.** Insurance policies, which cannot be excess to a self-insurance program, are to be issued by an insurance company authorized to do business in the State of Oregon. Contractor shall provide insurance as indicated below:
 - A. **COMMERCIAL GENERAL LIABILITY**

The Contractor agrees to furnish the County evidence of commercial general liability insurance with a combined single limit of not less than \$1,000,000 for each claim, incident, or occurrence, with an aggregate limit of \$2,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of personal injury, bodily injury, death or damage to property, including loss of use thereof, in any way related to this Contract. The general aggregate shall apply separately to this project / location. The County, at its option, may require a complete copy of the above policy.

B. AUTOMOBILE LIABILITY

The Contractor agrees to furnish the County evidence of business automobile liability insurance with a combined single limit of not less than \$1,000,000 for bodily injury and property damage for the protection of the County, its officers, elected officials, agents, and employees against liability for damages because of bodily injury, death or damage to property, including loss of use thereof in any way related to this Contract. The County, at its option, may require a complete copy of the above policy.

C. Contractor shall provide County a certificate of insurance naming the Clackamas County and its officers, elected officials, agents, and employees as an additional insured. If Contractor's insurance policy does not include a blanket endorsement for additional insured status when/where required by written contract (as required in this Contract), the insurance, shall include Clackamas County and its officers, elected officials, agents, and employees as expressly scheduled additional insured. Use CG 20 10 or its equivalent. Such insurance shall provide sixty (60) days written notice to the County in the event of a cancellation or material change and include a statement that no act on the part of the insured shall affect the coverage afforded to the County under this insurance. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

D. If the Contractor has the assistance of other persons in the performance of this Contract, and the Contractor is a subject employer, the Contractor agrees to qualify and remain qualified for the term of this Contract as an insured employer under ORS 656. The Contractor shall maintain employer's liability insurance with limits of \$100,000 for each accident, \$100,000 per disease for each employee, and \$500,000 each minimum policy limit.

E. If any other required liability insurance is arranged on a "claims made" basis, "tail" coverage will be required at the completion of this Contract for a duration of thirty-six (36) months or the maximum time period the Contractor's insurer will provide "tail" coverage as subscribed, whichever is greater, or continuous "claims made" liability coverage for thirty-six (36) months following the contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided it's retroactive date is on or before the effective date of this Contract.

F. There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice by the Contractor to the County. This policy(s) shall be primary insurance with respect to the County. Any insurance or self-insurance maintained by the County shall be excess and shall not contribute to it.

G. Contractor shall require that all of its subcontractors of any tier provide insurance coverage (including additional insured provisions) and limits identical to the insurance required of the Contractor under this Contract, unless this requirement is expressly modified or waived by the County.

11. LIMITATION OF LIABILITIES. Except for liability arising under or related to Section 14 or 21(B), neither party shall be liable for (i) any indirect, incidental, consequential or special damages under this Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms. This Contract is expressly subject to the debt limitation of Oregon counties set forth in Article XI, Section 10, of the Oregon Constitution, and is contingent upon funds being appropriated therefore. Any provisions herein which would conflict with law are deemed

inoperative to that extent.

- 12. NOTICES.** Except as otherwise provided in this Contract, any required notices between the parties shall be given in writing by personal delivery, email, or mailing the same, to the Contract Administrators identified in Article II, Section 4. If notice is sent to County, a copy shall also be sent to: Clackamas County Procurement, 2051 Kaen Road, Oregon City, OR 97045, or procurement@clackamas.us. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing, and immediately upon personal delivery, or within 2 hours after the email is sent during County's normal business hours (Monday – Thursday, 7:00 a.m. to 6:00 p.m.) (as recorded on the device from which the sender sent the email), unless the sender receives an automated message or other indication that the email has not been delivered.

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or County at the address or number set forth on the signature page of this Contract, or to such other addresses or numbers as either party may hereafter indicate. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any such communication or notice delivered by facsimile shall be deemed to be given when receipt of transmission is generated by the transmitting machine. To be effective against County, such facsimile transmission must be confirmed by telephone notice to County's supervising representative. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

- 13. OWNERSHIP OF WORK PRODUCT.** All work product of Contractor that results from this Contract (the "Work Product") is the exclusive property of County. County and Contractor intend that such Work Product be deemed "work made for hire" of which County shall be deemed the author. If for any reason the Work Product is not deemed "work for hire," Contractor hereby irrevocably assigns to County all of its right, title, and interest in and to any and all of the Work Product, whether arising from copyright, patent, trademark or trade secret, or any other state or federal intellectual property law or doctrine. Contractor shall execute such further documents and instruments as County may reasonably request in order to fully vest such rights in County. Contractor forever waives any and all rights relating to the Work Product, including without limitation, any and all rights arising under 17 USC § 106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

- 14. REPRESENTATIONS AND WARRANTIES.** Contractor represents and warrants to County that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) the Work under this Contract shall be performed in a good and workmanlike manner and in accordance with the highest professional standards; and (4) Contractor shall at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

- a. Performance Warranty. Contractor warrants that the goods provided to the County shall consistently perform according to the performance characteristics described in the Scope of Work.
- b. Service Warranty. Contractor warrants that the services provided herein to the County, if any, will be performed in a workmanlike manner and in accordance with the highest professional standards. Contractor's liability and County's remedy under this services warranty are limited to

Contractor's prompt correction of such services, provided that written notice of such alleged defective services shall have been given by the County to Contractor. The County agrees to provide Contractor reasonable access to the goods for purposes of repair or replacement under this services warranty. Failure of Contractor to promptly correct problems pursuant to this Service Warrant shall be deemed a material breach of this Contract.

- 15. SURVIVAL.** All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in Sections of Section IV: 1, 6, 8, 11, 13, 14, 15, 16, 18, 21, 22, 23, 27, 31 and all other terms and conditions which by their context are intended to survive termination of this Contract.
- 16. SEVERABILITY.** If any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.
- 17. SUBCONTRACTS AND ASSIGNMENTS.** Contractor shall not enter into any subcontracts for any of the work required by this Contract, or assign or transfer any of its interest in this Contract by operation of law or otherwise, without obtaining prior written approval from the County. In addition to any provisions the County may require, Contractor shall include in any permitted subcontract under this Contract a requirement that the subcontractor be bound by this section and Sections 1, 8, 13, 14, 15, and 26 as if the subcontractor were the Contractor. County's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- 18. SUCCESSORS IN INTEREST.** The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- 19. TAX COMPLIANCE CERTIFICATION.** Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. Any violation of this section shall constitute a material breach of this Contract. Further, any violation of Contractor's warranty in this Contract that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to: (A) Termination of this Contract, in whole or in part; (B) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to County's setoff right, without penalty; and (C) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement performance. These remedies are cumulative to the extent the remedies are not inconsistent, and County may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

The Contractor represents and warrants that, for a period of no fewer than six calendar years preceding the effective date of this Contract, has faithfully complied with: (A) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (B) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor; (C) Any tax provisions imposed by a political subdivision of this state

that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and (D) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

- 20. TERMINATION.** This Contract may be terminated for the following reasons: (A) This Contract may be terminated at any time by mutual consent of the parties, or by the County for convenience upon thirty (30) days' written notice to the Contractor; (B) County may terminate this Contract effective upon delivery of notice to Contractor, or at such later date as may be established by the County, if (i) federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that either the work under this Contract is prohibited or the County are prohibited from paying for such work from the planned funding source; or (ii) any license or certificate required by law or regulation to be held by the Contractor to provide the services required by this Contract is for any reason denied, revoked, or not renewed; (C) This Contract may also be immediately terminated by the County for default (including breach of Contract) if (i) Contractor fails to provide services or materials called for by this Contract within the time specified herein or any extension thereof; or (ii) Contractor fails to perform any of the other provisions of this Contract or so fails to pursue the work as to endanger performance of this Contract in accordance with its terms, and after receipt of notice from the County, fails to correct such failure within ten (10) business days; or (D) If sufficient funds are not provided in future approved budgets of the County (or from applicable federal, state, or other sources) to permit the County in the exercise of its reasonable administrative discretion to continue this Contract, or if the program for which this Contract was executed is abolished, County may terminate this Contract without further liability by giving Contractor not less than thirty (30) days' notice.
- 21. REMEDIES.** (A) In the event of termination pursuant to Section 20(A), (B)(i), or (D), Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by the County, less previous amounts paid and any claim(s) which the County has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under Section 21(A), Contractor shall pay any excess to County on demand. (B) In the event of termination pursuant to Sections 20(B)(ii) or 20(C), the County shall have any remedy available to it in law or equity. If it is determined for any reason that Contractor was not in default under Sections 20(B)(ii) or 20(C), the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Section 20(A). (C) Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless County expressly directs otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to County all documents, information, works-in-progress and other property that are or would be deliverables had the Contract work been completed. Upon County's request, Contractor shall surrender to anyone County designates, all documents, research or objects or other tangible things needed to complete the work.
- 22. NO ATTORNEY FEES.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Contract, each party shall be responsible for its own attorneys' fees and expenses.
- 23. NO THIRD PARTY BENEFICIARIES.** County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- 24. TIME IS OF THE ESSENCE.** Contractor agrees that time is of the essence under this Contract.

- 25. FOREIGN CONTRACTOR.** If the Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue and the Secretary of State, Corporate Division, all information required by those agencies relative to this Contract. The Contractor shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this Contract.
- 26. FORCE MAJEURE.** Neither County nor Contractor shall be held responsible for delay or default caused by fire, terrorism, riot, acts of God, or war where such cause was beyond, respectively, County's or Contractor's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.
- 27. WAIVER.** The failure of County to enforce any provision of this Contract shall not constitute a waiver by County of that or any other provision.
- 28. COMPLIANCE.** Pursuant to the requirements of ORS 279B.020 and 279B.220 through 279B.235 and Article XI, Section 10, of the Oregon Constitution, the following terms and conditions are made a part of this Contract: (A) Contractor shall: (i) Make payments promptly, as due, to all persons supplying to the Contractor labor or materials for the prosecution of the work provided for in this Contract; (ii) Pay all contributions or amounts due the Industrial Accident Fund from such Contractor or subcontractor incurred in the performance of this Contract; (iii) Not permit any lien or claim to be filed or prosecuted against the County on account of any labor or material furnished. (B) If the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer representing the County may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract. (C) The Contractor shall pay employees for work in accordance with ORS 279B.020 and ORS 279B.235, which is incorporated herein by this reference. All subject employers working under the contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126. The Contractor shall comply with the prohibitions set forth in ORS 652.220, compliance of which is a material element of this Contract and failure to comply is a material breach that entitles County to exercise any rights and remedies available under this Contract including, but not limited to, termination for default. (D) The Contractor shall promptly, as due, make payment to any person or copartnership, association or corporation furnishing medical, surgical and hospital care or other needed care and attention incident to sickness and injury to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of the Contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such services.
- 29. DELIVERY.** All deliveries shall be F.O.B. destination with all transportation and handing charges paid by the Contractor, unless specified otherwise in this Contract. Responsibility and liability for loss or damage shall remain with the Contractor until final inspection and acceptance, when responsibility shall pass to the County except as to latent defects, fraud and Contractor's warranty obligations.
- 30. INSPECTIONS.** Goods and services furnished under this Contract will be subject to inspection and test by the County at times and places determined by the County. If the County finds goods and services furnished to be incomplete or not in compliance with the Contract, the County, at its sole discretion, may either reject the goods and services, require Contractor to correct any defects without

charge, or negotiate with Contractor to sell the goods and services to the County at a reduced price, whichever the County deems equitable under the circumstances. If Contractor is unable or refuses to cure any defects within a time deemed reasonable by the County, the County may reject the goods and services and cancel the Contract in whole or in part. Nothing in this paragraph shall in any way affect or limit the County's rights as a Buyer, including the rights and remedies relating to rejection under ORS 72.6020 and revocation of acceptance under ORS 72.6080.

31. MERGER. THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER REFERENCED THEREIN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. NO AMENDMENT, CONSENT, OR WAIVER OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY ALL PARTIES. ANY SUCH AMENDMENT, CONSENT, OR WAIVER SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. CONTRACTOR, BY THE SIGNATURE HERETO OF ITS AUTHORIZED REPRESENTATIVE, ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS CONTRACT AND CONTRACTOR AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

By their signatures below, the parties to this Contract agree to the terms, conditions, and content expressed herein.

Johnson Controls, Inc.
4011 SE International Way STE #605
Milwaukie, Oregon 97222

Clackamas County Board of County
Commissioners

Rick Viaene 7/7/2021
Authorized Signature Date

Chair Date

Rick Viaene / Installation Manager
Name / Title (Printed)

Recording Secretary

000864-21
Oregon Business Registry #

APPROVED AS TO FORM

FBC/Wisconsin
Entity Type / State of Formation

[Signature] 07/14/2021
County Counsel Date

EXHIBIT A – SCOPE OF WORK

Contractor shall provide and install an “M” series JCI DDC system to replace the Trane Trasar controls to be changed to the Johnson Controls Series ‘M’ control system in the building: located at 9101 SE Sunnybrook Blvd. Clackamas, OR 97015. This system will be a part of the already well established Johnson Controls DDC domain that is County standard. Bid will fall under the cooperative agreement ‘Sourcewell Contract #030817-JHN’. Designed for the machinery and equipment environments for County.

The Contractor shall supply all materials to complete their portion of the project in compliance with all local codes and regulations according to detailed requirements specified below. This is a mechanical project, and must follow the specified criteria in the job scope, or, needed and as directed by the County.

This contract and job scope is for the complete turnkey retrofit of the Trane Trasar control system to be changed to the Johnson Controls Series ‘M’ control system.

GENERAL REQUIREMENTS

1. The Contractor shall furnish the County with an industry standard written warranty for the equipment.
2. The Contractor shall also provide related operation manuals if any pertain, and system operational training to designated County staff.
3. It is understood that work to be performed by the Contractor is based upon the specified structure in the existing location and condition and that County assumes no responsibility and makes no guarantee or representation as to the condition thereof subsequent to the execution of the contract.
4. Work days are generally Monday through Friday. Work hours are 7:00am to 5:00 pm.
5. County will provide potable water access and 120v power supply for Subcontractor’s operations. Any additional requirements or needs of the Contractor shall be included in the bid proposal.

DETAILED REQUIREMENTS

CONTRACTOR:

1. The Contractor is responsible for supplying and installing the Johnson Controls Series ‘M’ BAS control system into the Brooks Building.
 - Parts (i.e VMA, FEC, NAE...etc)
 - Materials (i.e. Wiring, Fasteners...etc.)
 - Permits (i.e. Electrical...etc)
 - Labor (i.e. Man Hours...etc)
2. The Contractor is responsible for supplying and installing all qualified and required JCI “M” series components
3. The Contractor will provide the components needed for the following:
 - (a) 4ea 40-ton JCI JV40 packaged air handlers with VFD’s.

- (b) 1ea Greenheck energy recovery ventilator – ERV-581H-15-B
 - (c) 1ea Trane 15-ton air handler - TWE180B400CA
 - (d) 1ea Trane 15-ton heat pump – TWA180B400BD
 - (e) 2ea Liebert Challenger air handlers - BU067ASAME1790A
 - (f) 2ea Liebert Challenger condensing units – TCSV104
 - (g) 1ea Carrier packaged RTU cooling only – 48KCEA06A2A6A0A0A0
 - (h) 2ea Trane Split-system fan coils – 4TEC3F
 - (i) 2ea Trane Split-system condensing units – 4TWA30
 - (j) 1ea Carrier Split-system fan coil – FB4CNP
 - (k) 1ea Carrier Split-system condensing unit – 25HCE4
 - (l) 35ea Varitrane fan terminal units w/reheat – VPPEE
 - (m) 28ea Varitrane terminal units w/reheat – VCEE
 - (n) 7ea Various exhaust fans – Carnes & Greenheck
 - (o) 1ea Trane water source heat pump – Trane Axiom
4. The Contractor is responsible to follow Clackamas County Facilities Management (“CCFM”) current HVAC scheduling with the “M” series domain for all its inputs and outputs.
 5. The Contractor is responsible for all programming and graphics.
 6. The Contractor is responsible for connecting the Brooks Building’s new JCI-DDC system onto the County’s established “M” series domain.
 7. The Contractor is responsible for utilizing current power sources, and providing all low voltage needs for the new system; installing, and terminating all connections.
 8. The Contractor is responsible for a complete air-balance of the air handler systems in the building.
 9. The Contractor is responsible for providing and installing the required number of room sensors, CO2 sensors, FTU & TU discharge air sensors, occupancy sensors, motor status sensors & etc.
 10. The Contractor is responsible for providing, and installing all software updates; (if applicable at time of installation), or, when available, and technical support.
 11. The Contractor is responsible for hauling away and removing all construction debris from working areas, including leaving a clean work site.
 12. NOTE: The Contractor is to turn over the old Trasar components to the CCFM/HVAC department.

This purchase is authorized using the Sourcewell HVAC Systems, Installation, and Service with Related Products and Supplies Contract #030817-JHN.

Work is further described in Contractor’s Quote dated 4/27/21, attached and incorporated by reference as **Exhibit B**.

EXHIBIT B
CONTRACTOR'S PROPOSAL



Proposal

Date: 04/27/2021

4011 SE International Way, Suite 605
Milwaukie, Oregon 97222

To: Clackamas County
Paul Landaas

From: Jessica Hines
Account Executive
Jessica.Hines@jci.com

Project: Clackamas Co Brooks Bldg DDC

Scope of Work

Pricing is in accordance with the Sourcewell Agreement and any and all purchase orders must indicate the intent of using the **Sourcewell Contract #030817-JHN**.

Johnson Controls is pleased to provide the following scope of work and pricing for Clackamas Co Brooks Bldg DDC based on the scope of work prepared by Paul Landaas and sent to Johnson Controls on April 13th 2021.

SYSTEMS

- (a) 4ea 40-ton JCI JV40 packaged air handlers with VFD's.
- (b) 1ea Greenheck energy recovery ventilator – ERV-581H-15-B
- (c) 1ea Trane 15-ton air handler - TWE180B400CA
- (d) 1ea Trane 15-ton heat pump – TWA180B400BD
- (e) 2ea Liebert Challenger air handlers - BU067ASAME1790A
- (f) 2ea Liebert Challenger condensing units – TCSV104
- (g) 1ea Carrier packaged RTU cooling only – 48KCEA06A2A6A0A0A0
- (h) 2ea Trane Split-system fan coils – 4TEC3F
- (i) 2ea Trane Split-system condensing units – 4TWA30
- (j) 1ea Carrier Split-system fan coil – FB4CNP
- (k) 1ea Carrier Split-system condensing unit – 25HCE4
- (l) 35ea Varitrane fan terminal units w/reheat – VPPE
- (m) 28ea Varitrane terminal units w/reheat – VCEE
- (n) 6ea Various exhaust fans – Carnes & Greenheck
- (o) 1ea Trane water source heat pump – Trane Axiom

-
- Furnish and install DDC controls for all systems listed above:
 - 1. Furnish and install Johnson Controls DDC controllers and enclosures as needed to meet sequence of operations and points list described in the plans and specifications.
 - Enclosures to be standard NEMA 1 rating
 - Includes BACnet over MS/TP wiring to the Johnson Controls SNE2200 engine
 - 2. Includes furnishing and installation of the following devices required to meet sequence of operations and points list described in the plans and specifications:
 - a. Provide and install the required number of room sensors, CO2 sensors, FTU & TU discharge air

- sensors, occupancy sensors, motor status sensors & etc
3. Includes replacing Trane Varitrane Terminal Unit damper boxes and upgrading DDC to Johnson Controls CGM controller
 4. Firmware upgrade and IS-UNITY-DP network communications card installation for two (2) Liebert Challenger model BU067A units
 5. Includes all programming and graphics
 6. Connecting the Brooks Building's new JCI-DDC system onto the county's established "M" series domain.
 7. Perform complete air balancing of the AHU system
 - a. Exclude TAB reporting
 8. Provide and install all software updates; (if applicable at time of installation), or when available, and technical support.
 9. Haul away and remove all construction debris from working areas, leaving a clean work site.
 10. Turn over the old Tracer components to the CCFM/HVAC department.

ADD ALTERNATE

Upgrade all applicable Clackamas County locations currently on Metasys from SMP to MUI (Metasys User Interface)

With the assistance of Clackamas we will create a complete user interface that ties all of the spaces/rooms to the associated HVAC equipment and set up user accounts for each location to allow the local staff to help manage alarms and scheduling for their building. This will link the current graphics from SMP into MUI allowing previous graphics to be accessed through Mac or Windows PC's and mobile devices.

-Labor to create space tree configuration

-Labor to create equipment definitions for the equipment that serves the spaces

-Labor for discovering equipment that belongs to the equipment definitions

-Labor for defining space & equipment relationship

-Labor to map existing graphics into the new Metasys User Interface(MUI)

Note: Metasys User Interface will be done as per the information available in SCT database. Also, Clackamas to provide information on spaces and equipment relationship to complete the upgrade.

Training

1. On-Site Customer Training
 1. Includes 24 hours of on-site customer training delivered as Customer requests.

Exclusions & Clarifications (applies to all sections)

1. Pricing assumes normal working hours, Mon-Fri, 7am to 4pm. Excludes all off-hours work.
2. Excludes furnishing and/or installation of the following **unless noted otherwise in this proposal**
 - a. Fire Smoke Dampers (FSD), Smoke Control Dampers (SCDs) Fire/Smoke Detectors or associated power and control wiring
 - b. Control Dampers
 - c. Starters, Disconnects or Variable Speed Drives
 - d. Line-Voltage Thermostats, Thermal Switches or Pushbutton Switches
 - e. Lighting Integration or Lighting Controls
 - f. Line voltage power
 - g. Mechanical Equipment
 - h. Access Doors
 - i. Thermometers, Thermowells or Pressure Gauges
 - j. Control Valves
 - k. Airflow Measuring Stations
 - l. Metering Devices
 - m. Valves
 - n. Actuators
3. Excludes all 120v power to controllers, transformers or any other applicable devices.
4. Excludes any demolition work unless noted otherwise in this proposal.
5. Low voltage cabling will be installed using plenum rated cables without conduit in concealed, accessible locations. Where exposed or subject to damage, EMT conduit will be used. This applies to all control work.
6. Excludes any work or services associated or connected with the identification, abatement, cleanup, control, removal or disposal of hazardous materials or substances, including but not limited to asbestos or PCBs.
7. Start-up and/or verification of factory-installed controls to be provided by others.
8. Excludes Mineral Insulated Cable or work associated with the installation, procurement or wiring of said cable.
9. Excludes Maintenance or troubleshooting not associated with the scope of work described above.
10. Excludes Air or Water test & balancing
11. Work associated with occupancy/motion detector(s)
12. Excludes 3rd Party Commissioning or commissioning assistance unless noted otherwise in this proposal.
13. Excludes liquidated damages.
14. All invoices are net thirty (30) days.
15. **Excludes any and all items not specifically mentioned in the document above.**

PRICE SUMMARY

Project Description	Price
Brooks Bldg DDC Retrofit	Grand Total \$266,375
Add Alternate : Metasys User Interface	\$29,082

Signatures

This proposal is hereby accepted, and Johnson Controls is authorized to proceed with the work, subject however, to credit approval by Johnson Controls.

This proposal is Valid for
30 Calendar days

Signature

Rick Viaene

Signature

Rick Viaene Installation Manager

Company:

Name: Clackamas County

PO #:

Date: 04/23/2021

Name: Jessica Hines

Title: Account Executive