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| AGENDA ITEM: Consent | TYPE OF ACTION NEEDED Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other | CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER |
| MEETING DATE: FC 12/17/2019 BC 01/07/2020 | | |
| SUBJECT: Public Works Contract with Johnson Controls Fire Protection, LP | | |
| Prepared By: Rosa Garcia | | |
| Reviewed By: Darryl Banks | | |

BACKGROUND INFORMATION

The Benton-Franklin Counties Juvenile Justice Center solicited quotes to provide an annual fire alarm inspection, fire extinguisher testing, sprinkler inspection and repair, if necessary, for the January 1, 2020 through December 31, 2021.

SUMMARY

The proposals are as follows:

- Johnson Controls Fire Protection, LP, Spokane, WA – JOHNSCF837PB - \$2,375.00 for annual fire alarm inspection, fire extinguisher inspection \$172.00, sprinkler inspection \$930.00, kitchen hood inspection \$401.00 and \$208.00 per hour for fire alarm repairs, \$135.00 per hour for fire sprinkler, and \$133 per hour for suppression repairs, if necessary
- AlarmPro, LLC, Wenatchee, WA – ALARML*891DJ – Did not respond
- Blue Mountain Fire Protection, Inc., Kennewick, WA – BLUEMMF890CQ – Did not respond
- Fire Control Sprinkler Systems Co., Inc., Spokane, WA – FIRECSS120R1 – Did not respond

COORDINATION

This Contract was coordinated by Cindy Macdonald, Johnson Controls Fire Protection, LP, Darryl Banks, Administrator for the Benton-Franklin Counties Juvenile Justice Center; Shela Berry, Administrative Financial Services Manager; and Jennifer Johnson, Deputy Prosecuting Attorney for Franklin County. The Contract was prepared by Rosa Garcia, Senior Administrative Secretary for the Benton-Franklin Counties Juvenile Justice Center.

RECOMMENDATION

The Juvenile Administrative Financial Services Manager reviewed the quotes and recommends Johnson Controls Fire Protection, LP to provide annual fire alarm inspection, fire extinguisher testing, sprinkler inspection, kitchen hood repair and repairs, if needed as they were the lowest bidder.

FISCAL IMPACT

Amount not to exceed \$40,000.00 to be paid out of Current Expense Dept. 172 Facilities Budget. No supplemental required.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Public Works Contract with Johnson Controls Fire Protection, LP and Benton-Franklin Counties Juvenile Justice Center.

HANDLING/ROUTING

Following signature from Franklin County, route to Benton County for signature. Following signature from Benton County three originals are to be returned to Rosa Garcia to disperse.

I certify the above information is accurate and complete.

Rosa Garcia

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON;

IN THE MATTER OF AWARDING THE PUBLIC WORKS CONTRACT FOR FIRE ALARM INSPECTION, FIRE EXTINGUISHER TESTING, SPRINKLER INSPECTION AND REPAIR, IF NECESSARY, TO JOHNSON CONTROLS FIRE PROTECTION, LP

WHEREAS, per resolution 2012-677, any public works services or materials involving less than \$40,000.00, advertisement and competitive bidding may be dispensed, and such contracts may be entered into after direct negotiation and authorization from the Board of Benton County Commissioners and Board of Franklin County Commissioners; and

WHEREAS, the following quotes were solicited from contractors on the Benton County MRSC Small Works Roster:

- Johnson Controls Fire Protection, LP, Spokane, WA – JOHNSCF837PB - \$2,375.00 for annual fire alarm inspection, fire extinguisher inspection \$172.00, sprinkler inspection \$930.00, kitchen hood inspection \$401.00 and \$208.00 per hour for fire alarm repairs, \$135.00 per hour for fire sprinkler, and \$133.00 per hour for suppression repairs, if necessary
- AlarmPro, LLC, Wenatchee, WA – ALARML*891DJ – Did not respond
- Blue Mountain Fire Protection, Inc., Kennewick, WA – BLUEMMF890CQ – Did not respond
- Fire Control Sprinkler Systems Co., Inc., Spokane, WA – FIRECSS120R1 – Did not respond

WHEREAS, Johnson Controls Fire Protection, LP, Spokane Valley, WA was the only responsive bidder; and

WHEREAS, the Administrative Services Manager reviewed the quotes and recommends awarding the Public Works Contract to Johnson Controls Fire Protection, LP; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington and by the Board of Franklin County Commissioners, Franklin County, Washington the Boards concur with the Juvenile Administrative Financial Services Manager recommendation and hereby awards Johnson Controls Fire Protection, LP, the Public Works Contract for annual fire alarm inspection, fire extinguisher inspection, sprinkler inspection, kitchen hood and repair, if necessary to the Benton-Franklin Counties Juvenile Justice Center for a total contract amount not to exceed \$40,000.00 including W.S.S.T; and

BE IT FURTHER RESOLVED the Board of Benton County Commissioners and the Board of Franklin County Commissioners hereby awards the Public Works Contract to Johnson Controls Fire Protection, LP; and

BE IT FURTHER RESOLVED the term of the attached contract shall commence January 1, 2020 and shall expire on December 31, 2021.

DATED this ____ day of _____ 2019
BENTON COUNTY BOARD OF
COMMISSIONERS

DATED this ____ day of _____ 2019
FRANKLIN COUNTY BOARD OF
COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

Member

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

Attest:

Clerk of the Board

Clerk of the Board

**BENTON-FRANKLIN COUNTIES
PUBLIC WORKS CONTRACT**

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between Benton County, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place, Suite 106, Kennewick, WA 99336 (hereinafter "COUNTIES"), and **Johnson Controls Fire Protection, LP**, a corporation organized under the laws of the State of Washington with its principal offices at 10010 E. Knox Avenue, Spokane, WA 99206 (hereinafter "CONTRACTOR").

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

- a. Exhibit A - Proposed Labor Rates dated November 4, 2019;
- b. Exhibit B - Washington State Prevailing Wage Rates for Public Works Contracts

2. DURATION OF CONTRACT

The term of this Contract shall begin on **January 1, 2020** and shall expire on **December 31, 2021**. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

1. Fire Alarm Test & Inspection (Annual)
2. Sprinkler Test & Inspection - Wet Sprinkler & Backflow Systems (Annual)
3. Extinguisher Test & Inspection (Annual)

4. Kitchen Hood Test & Inspection (Semi-Annual)

5. As needed repair, if necessary

- a. The CONTRACTOR agrees to provide the above services for the Benton-Franklin Counties Juvenile Justice Center location in accordance with Exhibit A.
- b. In the event that requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTIES of that fact and shall coordinate with COUNTIES to complete the work in conjunction with the other contractor. In the event that the requested work requires, under State or local law, the issuance of a building permit or other permit, CONTRACTOR shall be responsible for procuring such permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTIES for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur.
- c. Upon completion of services, CONTRACTOR shall ensure that a completed work order, detailing the work done, the time expended, and the parts used, is remitted to the COUNTIES' Contract Representative or his or her designee prior to CONTRACTOR leaving the work site.
- d. The COUNTIES does not guarantee utilization of this contract. The COUNTIES may award contracts to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the COUNTIES.
- e. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTIES.
- f. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.
- g. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- h. The CONTRACTOR shall confer with the COUNTIES from time to

time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the COUNTIES.

4. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a Contract Representative. Each party may change its representative upon providing written notice to the other party. The parties' Contract Representatives are as follows:

a. For CONTRACTOR:

Name: Tami Irene Wais
Address: 10010 East Knox Avenue, Ste. 100
Spokane, WA 99206-4156
Phone: (509) 534-6055
Email: tami.wais@jci.com

b. For COUNTIES:

Name: Darryl Banks, Administrator
Address: 5606 W. Canal Place, Suite 106
Kennewick, WA 99336
Phone: (509) 222-2316
Email: Darryl.Banks@co.benton.wa.us

5. COMPENSATION

- a. For the services performed under this Contract, the CONTRACTOR shall be paid in accordance with the attached documents hereto as Exhibits A. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- b. The maximum total amount payable by the COUNTIES to the CONTRACTOR under this Contract shall not exceed Forty Thousand Dollars (\$40,000.00), including W.S.S.T.
- c. The CONTRACTOR shall have received training on the requirements related to public works and prevailing wage or, have completed three (3) or more public works projects and have had a valid business license in Washington for three (3) or more years and exempt from required training in RCW 39.04.350.

- d. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages via <https://secureaccess.wa.gov/> and then forward a copy of the statement to COUNTIES' Contract Representative. At the completion of all work contemplated by this Contract, or at the end of the contract term, whichever comes first, CONTRACTOR shall submit an Affidavit of Wages Paid via <https://secureaccess.wa.gov/> and then forward a copy of the affidavit to COUNTIES' Contract Representative. No final payment will be made until the affidavit is provided. COUNTIES require that all Statements of Intent to Pay Prevailing Wages and Affidavits of Wages Paid be filed electronically with <https://secureaccess.wa.gov/>.
- e. The CONTRACTOR may invoice the COUNTIES for filing fees paid to the Washington State Department of Labor and Industries for filing one Statement of Intent to Pay Prevailing Wages per year and one Affidavit of Wages Paid per site visit when billable work is performed.
- f. No payment shall be for any work performed by CONTRACTOR, except for work identified and set forth in this Contract.

6. INVOICING

- a. The CONTRACTOR may submit invoices to the COUNTIES for services that have been performed as they are performed, but shall not submit invoices more than once per calendar month. Such invoices shall detail the work done, the personnel involved, and the date of service and shall also reference the work order provided to COUNTIES as required in Section 3.c. of this Contract.
- b. Before or at the time that the CONTRACTOR submits its first invoice, the CONTRACTOR and any subcontractors and sub-subcontractors employed by the CONTRACTOR for the work contemplated by this Contract shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov and then forward a copy of the statement to the COUNTIES' Contract Representative.
- c. The CONTRACTOR shall not be paid for work rendered under this Contract until all required parties have executed and submitted a Statement of Intent to Pay Prevailing Wages in accordance with this section and the work has been performed to the satisfaction of the COUNTIES. The COUNTIES shall only be liable to pay for invoiced amounts that are detailed and

supported as described in this section. The COUNTIES shall authorize payment when the work billed is accepted by the COUNTIES and will remit payment for the accepted work, less any retainage or other legally withheld funds, within thirty (30) days after receiving the invoice.

- d. For each invoiced and approved payment due to the CONTRACTOR under this section, the COUNTIES shall withhold from the earned portion of the payment (i.e. that portion excluding sales tax or other tax) five percent (5%) as a contract retainage, pursuant to RCW 60.28.011 and in accordance with chapter 60.28 RCW. Within ten (10) days following the execution of this Contract, the CONTRACTOR shall submit written notice to the COUNTIES stating the method it has elected pursuant to RCW 60.28.011(4) for the holding of moneys retained by the COUNTIES. If such written election is not received by the COUNTIES, then the COUNTIES may choose any method allowed by RCW 60.28.011(4)(a)-(c) for holding the retained moneys.

7. AMENDMENTS AND CHANGES IN WORK

- a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTIES.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTIES.

8. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTIES and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or

caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTIES. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTIES or its officers, officials, employees, or agents. In the event of the concurrent negligence of the CONTRACTOR or its subcontractors, employees, or agents and the COUNTIES or its employees or agents this indemnification obligation of the CONTRACTOR shall be valid and enforceable only to the extent of the negligence of the CONTRACTOR and its subcontractors, employees, and agents.

- b. In any and all claims against the COUNTIES or its officers, officials, employees, or agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under workers compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section 8 shall survive termination and expiration of this Contract.
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission, or breach of any common law, statutory, or other delegated duty by the CONTRACTOR or the CONTRACTOR'S employees, agents, or subcontractors. The foregoing indemnification obligations of the CONTRACTOR are a material inducement to COUNTIES to enter into this Contract, are reflected in the CONTRACTOR'S compensation, and have been mutually negotiated by the parties.

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

- a. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. CONTRACTOR shall submit a copy of its certificate of coverage from the Washington State Department of Labor and Industries prior to commencement of work. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTIES for recovery of damages to the extent they are covered by workers compensation and employers liability.

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTIES incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTIES. Indemnity shall include all fines, payment of benefits to CONTRACTOR or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTIES by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTIES to CONTRACTOR for performance of this Contract.

- b. **Commercial General Liability and Employers Liability Insurance:** Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or equivalent) to protect the CONTRACTOR from claims for wrongful death, bodily injury, personal injury, and property damage, which may arise from any actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury and Advertising Injury

\$1,000,000 Each Occurrence

The commercial general liability policy must contain an endorsement naming the COUNTIES and its elected and appointed officials, employees, and agents as an Additional Insured and an endorsement that specifically states that CONTRACTOR'S commercial general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTIES.

The CONTRACTOR must provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 8. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

CONTRACTOR shall also provide Stop Gap Employer's Liability Insurance coverage with minimum limits as follows:

\$1,000,000 Each Accident

\$1,000,000 Policy Limit for Disease

\$1,000,000 Each Employee for Disease

- c. **Automobile Liability:** The CONTRACTOR shall maintain, during the life of this Contract, Automobile Liability Insurance (ISO Form Number CA0001 or equivalent) covering any auto (Symbol 1), or if the CONTRACTOR has no owned autos, any hired (Symbol 8) and non-owned autos (Symbol 9), in the amount of not less than one million dollars (\$1,000,000) per accident for Bodily Injury and Property Damage to protect CONTRACTOR from claims that may arise from the performance of this Contract, whether such operations are by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

d. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTIES and its elected and appointed officers, officials, employees, and agents. CONTRACTOR'S liability insurance policies must be

endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTIES shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTIES as an additional insured.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTIES or its officers, officials, employees, or agents.
4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. If the CONTRACTOR maintains higher limits than the minimums required in this contract, the COUNTIES shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.
7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, shall be written on an Occurrence Policy form.
8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an

endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

e. Verification of Coverage and Acceptability of Insurers:

All insurance required under this Contract shall be issued by companies authorized to do business under the laws of the State of Washington that have an A. M. Best's rating of at least A-VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing by the Benton County Risk Manager. If an insurer is not admitted to do business within Washington State, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and Chapter 284-15 WAC.

1. All insurance to be maintained by the CONTRACTOR, other than Auto Liability and Workers' Compensation, shall specifically include the COUNTIES and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTIES. Any insurance or self-insurance maintained by the COUNTIES or its elected and appointed officials, employees, or agents shall be excess of the CONTRACTOR'S insurance and shall not contribute to it.
2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTIES' Contract Representative referenced in Section 4.
3. All written notices under this Section 9 and notice of cancellation or change of required insurance coverages

shall be mailed to the COUNTIES' Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton-Franklin Counties Risk Manager at the following addresses: 5606 West Canal Place, Suite 106, Kennewick, WA 99336.

10. PERFORMANCE AND PAYMENT BONDS

The CONTRACTOR shall furnish Benton and Franklin COUNTIES with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton and Franklin Counties, in an amount equal to one hundred percent (100%) of the contract sum as security for the performance by the contractor of this Contract and payment of all the persons performing labor and supplying materials pursuant to this Contract. PROVIDED that the CONTRACTOR may elect, in lieu of the bonds, to allow the COUNTIES to retain ten percent (5%) of the contract amount either for a period of thirty (30) days after the date of final acceptance, or until all necessary releases from the Washington State Department of Revenue, the Washington State Department of Labor and Industries, and the Employment Security Department have been received and any liens filed under chapter 60.28 RCW have been settled, whichever is later. Proof of the performance and payment bonds must be received by COUNTIES within ten (10) days following the execution of this Contract.

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee or servant of the COUNTIES. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.

- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR nor its employees are entitled to any COUNTIES benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTIES employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTIES.
- d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required for the performance of work under this Contract by federal, state, or local law that is now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTIES' Contract Representative or designee.

13. INSPECTION OF BOOKS AND RECORDS

The COUNTIES may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep, and make available to the COUNTIES upon request, all records relating to the performance of this Contract for six (6) years after Contract termination or expiration.

14. CHOICE OF LAW AND JURISDICTION

This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

15. SUCCESSORS AND ASSIGNS

The COUNTIES, to the extent permitted by law, and the CONTRACTOR each bind themselves, their partners, successors, executors,

administrators, and assigns to the other party to this Contract and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Contract.

16. TERMINATION

- a. The COUNTIES may terminate this Contract in whole or in part whenever the COUNTIES determine in its sole discretion that such termination is in the best interests of the COUNTIES. The COUNTIES may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTIES shall pay the CONTRACTOR for actual costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 6, Invoicing. Nothing in this Section shall limit the rights of the COUNTIES pursuant to this Contract or by law.
- b. The CONTRACTOR may terminate this Contract in whole or in part whenever the CONTRACTOR determines in its sole discretion that such termination is in the best interests of the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving thirty (30) days written notice by certified mail to the COUNTIES. In that event, the COUNTIES shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 6, Invoicing. Nothing in this Section shall limit the rights of the COUNTIES pursuant to this Contract or by law.

17. COMPLIANCE WITH LAWS AND PREVAILING WAGES

The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Contract, including, but not limited to, prevailing wage laws. Specifically, at a minimum, the prevailing wages set out in Exhibit B, which is attached hereto and incorporated herein by reference, shall be paid to all employees, agents, subcontractors, and sub-subcontractors who do any work for the CONTRACTOR on this project. The CONTRACTOR shall ensure that all subcontractors or sub-subcontractors sign an agreement to pay these same wages and that the signed agreement is submitted to the COUNTIES prior to subcontractor commencing any work on the project. This schedule of prevailing wages is duplicated from the Washington State Department of Labor and Industries website, it is provided for informational purposes only, and the COUNTIES takes no responsibility for any inaccuracies or ambiguities contained

therein. If CONTRACTOR believes the schedule contains any such ambiguities or inaccuracies, then the CONTRACTOR is responsible for contacting the Washington State Department of Labor and Industries directly to resolve them. Perceived inaccuracies or ambiguities in the schedule shall not relieve CONTRACTOR from its obligation pursuant to this Contract and relevant law to pay prevailing wages.

18. NONDISCRIMINATION

The CONTRACTOR and its assignees, delegates, and subcontractors shall not discriminate against any person in the performance of any of their obligations hereunder on the basis of race, religion, color, national origin, sex, age, honorably discharged veteran or military status, sexual orientation, marital status, or the presence of any sensory, mental, or physical disability.

19. DISPUTES

Disputes over the CONTRACTOR'S performance shall be promptly addressed in writing by the aggrieved party in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTIES' Contract Representative or designee. All rulings, orders, instructions, and decisions of the COUNTIES' Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

20. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

The CONTRACTOR shall perform the services under this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior written consent of the COUNTIES.

21. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of their agreement. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

22. NOTICES

Any notices shall be effective if personally served upon the other

party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 4 of this Contract. Notice may also be given by e-mail, using the e-mail addresses set forth in Section 4 of this Contract, with the original to follow by regular mail. Notice shall be deemed effective three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

23. SEVERABILITY

- a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

24. LITIGATION HOLD NOTICE

In the event the COUNTIES learn of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR regarding the work performed under this Contract may be of evidentiary value, the COUNTIES may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTIES is in force. Such directions will include, but will not be limited to, instructions to suspend any regularly scheduled purge schedule.

25. PUBLIC RECORDS ACT

The CONTRACTOR hereby acknowledges that the COUNTIES is a governmental entity and as such is subject to the requirements of the Public Records Act, Chapter 42.56 RCW. Accordingly, CONTRACTOR understands that to the extent a proper request is made the COUNTIES may be required by virtue of that Act to disclose any

records related to this Contract actually in its possession or in CONTRACTOR'S possession. This may include records that CONTRACTOR regards as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTIES that it regards as confidential or proprietary, CONTRACTOR agrees to conspicuously mark the records as such. The CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTIES' release of records covered under the Public Records Act. The COUNTIES agree to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

26. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, provisions for: indemnification; insurance; non-waiver; inspection of books and records; choice of law; compliance with laws; litigation hold; and the Public Records Act.




27. CONFIDENTIALITY

The CONTRACTOR and its employees, subcontractors, and subcontractors' employees shall maintain the confidentiality of all information provided by the COUNTIES or acquired by the COUNTIES in performance of this Contract, except upon the prior written consent of the COUNTIES or an order entered by a court of competent jurisdiction. The CONTRACTOR shall promptly give the COUNTIES written notice of any judicial proceeding seeking disclosure of such information.

- This section was intentionally left blank -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective **January 1, 2020**.

The parties specifically certify that the provisions contained within Section **8** are mutually negotiated.

| | |
|--|---|
| JOHNSON CONTROLS FIRE PROTECTION, LP | Benton-Franklin Counties Juvenile Justice Center |
|  Cindy Macdonald Date <u>12/3/2019</u> |  Darryl Banks Juvenile Court Administrator Date <u>12-3-19</u> |
| BENTON COUNTY APPROVAL Approved as to Form: _____ Stephen Hallstrom, Deputy Prosecuting Attorney Date | FRANKLIN COUNTY APPROVAL Approved as to Form:  _____ Jennifer Johnson, Civil Deputy Prosecuting Attorney Date <u>11/4/19</u> |
| By: _____ Name: _____ Title: _____ Date: _____ | By: _____ Name: _____ Title: _____ Date: _____ |
| Attest: Clerk of the Board: _____ | Attest: Clerk of the Board: _____ |



SERVICE SOLUTION

Customer:
Benton-Franklin County
Date: 04-NOV-19
Proposal #:738865
Term:01-JAN-20 to 31-DEC-22

Billing Customer:
 Benton-Franklin County
 5606 W Canal Dr Ste 106
 Juvenile Justice Center
 KENNEWICK, WA 99336-1300

Service Location:
 Benton-Franklin County
 5606 W CANAL DR STE 106
 KENNEWICK, WA 99336

Johnson Controls Fire Protection LP
Sales Representative:
 TAMI IRENE WAIS
 10010 East Knox Ave
 SPOKANE, WA 99206-4156
 tami.wais@jci.com

INVESTMENT SUMMARY

(Excludes applicable Sales Tax ■ Service Solution Valid for 45 Days)

| SERVICE/PRODUCT DESCRIPTION | QUANTITY | FREQUENCY | INVESTMENT |
|---|----------|-----------|-------------------|
| Recurring Annual Investment | | | |
| FIRE ALARM BASIC SERVICE OFFER | | | |
| SIMPLEX 4100/4020 FIRE ALARM SYSTEM | | | |
| Main Fire Alarm Panel | 1 | Annual | |
| Smoke Sensor Addressable | 190 | Annual | |
| Heat Detector Restorable | 20 | Annual | |
| Pull Station | 13 | Annual | |
| Audio-Visual Unit Addressable | 29 | Annual | |
| FIRE ALARM BASIC SERVICE OFFER Total: | | | \$2,375.00 |
| SPRINKLER BASIC SERVICE OFFER | | | |
| WET SPRINKLER SYSTEM | | | |
| Wet System Test & Inspect (Includes Tamper, Flow, Gate Valve, Fire Dept Connection Plastic Caps, Valve Trim & Main Drain Valve) | 7 | Annual | |
| SPRINKLER BASIC SERVICE OFFER Total: | | | \$832.00 |
| SPRINKLER BASIC SERVICE OFFER | | | |
| BACKFLOW SYSTEM | | | |
| Backflow Preventer-Fire | 1 | Annual | |
| SPRINKLER BASIC SERVICE OFFER Total: | | | \$98.00 |
| EXTINGUISHER BASIC TEST & INSPECT | | | |
| EXTINGUISHERS/PORTABLES SYSTEM | | | |



SERVICE SOLUTION

| SERVICE/PRODUCT DESCRIPTION | QUANTITY | FREQUENCY | INVESTMENT |
|--|----------|-------------|------------|
| Dry chem - stored pressure- refillable (ABC) | 20 | Annual | |
| EXTINGUISHER BASIC TEST & INSPECT Total: | | | \$172.00 |
| KITCHEN HOOD TEST & INSPECT HOOD SYSTEM Single Tank Suppression System | 1 | Semi-Annual | |
| KITCHEN HOOD TEST & INSPECT Total: | | | \$401.00 |
| Total Recurring Annual Investment: | | | \$3,878.00 |



SERVICE SOLUTION

SUMMARY OF SERVICES

SPRINKLER BASIC SERVICE OFFER - BACKFLOW SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible fire sprinkler devices listed and currently connected to fire sprinkler system. Tests will be scheduled in advance. Labor discount if bundled with Fire Alarm Service Offer (10% with FA Basic), (20% with Advance, Precision, or Comprehensive).

DOCUMENTATION:

Accessible components and devices logged for:

- Test results

- Any discrepancies found noted

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

SPRINKLER BASIC SERVICE OFFER - WET SPRINKLER SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible fire sprinkler devices listed and currently connected to fire sprinkler system. Tests will be scheduled in advance. Labor discount if bundled with Fire Alarm Service Offer (10% with FA Basic), (20% with Advance, Precision, or Comprehensive).

DOCUMENTATION:

Accessible components and devices logged for:

- Test results

- Any discrepancies found noted

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

Annual Wet pipe sprinkler test & inspect includes inspecting gauges, systems valves, components and signs; operating control valves; testing tamper and flow switches, and local alarms and signals; opening main drain to record static and residual pressures; inspecting the fire department connection; and doing a building walkthrough to visually inspect sprinklers, piping, fittings and hangers from the floor level.

FIRE ALARM BASIC SERVICE OFFER - SIMPLEX PROGRAMMABLE FIRE ALARM SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible peripheral devices listed and currently connected to the facility fire alarm system. Tests will be scheduled in advance. System labor discount on parts and peripherals of 10%. Unless otherwise specified herein, batteries installed within wireless initiating and notification peripheral devices are not covered under this agreement. Replacement of such batteries will be at an additional cost.

DOCUMENTATION:

Accessible components and devices logged for:

- Location of each device tested, including system address or zone location



SERVICE SOLUTION

Test results and applicable voltage readings
any discrepancies found noted

Inspection documentation provided to Customer's representative. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted services are in compliance with these requirements.

EXTINGUISHER TEST & INSPECT - EXTINGUISHERS/PORTABLES SYSTEM

TEST AND INSPECTION OVERVIEW:

Inspections and diagnostic tests for the accessible portable fire extinguishers listed. Labor discount if bundled with Fire Alarm Service Offer (10% with FA Basic), (20% with Advance, Precision, or Comprehensive).

Any recharges, hydrostatic testing, service parts and labor will be performed at the time of inspection and billed in addition to this agreement.

DOCUMENTATION:

Any discrepancies found will be noted.

Inspection documentation shall be provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.

KITCHEN HOOD TEST & INSPECT - HOOD SYSTEM

TEST AND INSPECTION:

Inspections and diagnostic tests for the accessible kitchen fire suppression devices listed and currently connected to kitchen fire suppression system. Tests will be scheduled in advance. Labor discount if bundled with Fire Alarm Service Offer (10% with FA Basic), (20% with Advance, Precision, or Comprehensive).

DOCUMENTATION:

Accessible components and devices logged for:

- Location of each device tested, including system address or zone location
- Test results and applicable voltage readings
- Required device tags

Any discrepancies found noted

Inspection documentation provided to Customer. NOTE: Certain additional services may be required by the Authority Having Jurisdiction. AHJ or internal organizational requirements may be more restrictive than state/provincial requirements. Building owners and managers should make themselves aware of applicable codes and references in order to ensure that contracted Services fulfill requirements.



SERVICE SOLUTION

SPECIAL PROVISIONS

If there are deficiencies found, repairs or other service work needed, this will be subject to prevailing wage and will be billed at

\$208 per hour for fire alarm issues

\$135 per hour for sprinkler issues

and \$133 per hour for suppression related issues



SERVICE SOLUTION

This Service Solution (the "Agreement") sets forth the Terms and Conditions for the provision of equipment and services to be provided by Johnson Controls Fire Protection LP ("Company") to **Benton-Franklin County** and is effective **01-JAN-20** to **31-DEC-22** (the "Initial Term").

PAYMENT TERM: *Semi-Annual After Service is Performed*

PAYMENT AMOUNT:

\$3,878.00

- **Proposal # : 738865**

CUSTOMER ACCEPTANCE: In accepting this Agreement, Customer agrees to the Terms and Conditions on the following pages and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that Customer may issue. Any changes in the system requested by Customer after the execution of Agreement shall be paid for by Customer and such changes shall be authorized in writing.

ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, INDEMNITY AND OTHER CONDITIONS CONTAINED IN THIS AGREEMENT.

Benton-Franklin County

Johnson Controls Fire Protection LP

Signature: See attached signature page

TAMI IRENE WAIS

Print Name: _____

Phone #: _____

Title: _____

Fax #: _____

Phone#: _____

License #:
(If Applicable) _____

Fax #: _____

Authorized
Signature: _____

Email: _____

Print Name: _____

PO#: _____

Title: _____

Date: _____

Date: _____

Exhibit B

State of Washington
 Department of Labor & Industries
 Prevailing Wage Section - Telephone 360-902-5335
 PO Box 44540, Olympia, WA 98504-4540

Washington State Prevailing Wage

The PREVAILING WAGES listed here include both the hourly wage rate and the hourly rate of fringe benefits. On public works projects, worker's wage and benefit rates must add to not less than this total. A brief description of overtime calculation requirements are provided on the Benefit Code Key.

Journey Level Prevailing Wage Rates for the Effective Date: 11/1/2019

| <u>County</u> | <u>Trade</u> | <u>Job Classification</u> | <u>Wage</u> | <u>Holiday</u> | <u>Overtime</u> | <u>Note</u> | <u>*Risk Class</u> |
|---------------|--|---------------------------|-------------|----------------|-----------------|-------------|-----------------------------|
| Benton | <u>Electricians - Inside</u> | Cable Splicer | \$69.59 | <u>5A</u> | <u>1E</u> | | <u>View</u> |
| Benton | <u>Electricians - Inside</u> | Journey Level | \$67.22 | <u>5A</u> | <u>1E</u> | | <u>View</u> |
| Benton | <u>Electricians - Inside</u> | Welder | \$71.97 | <u>5A</u> | <u>1E</u> | | <u>View</u> |
| Benton | <u>Sprinkler Fitters (Fire Protection)</u> | Journey Level | \$56.82 | <u>7J</u> | <u>1R</u> | | <u>View</u> |