

Item # 2

Replacement Exhibit 1

ADDITIONAL MATERIAL Regular Meeting OCTOBER 20, 2020

SUBMITTED AT THE REQUEST OF

**PUBLIC WORKS
DEPARTMENT**



Public Works Department

Facilities Management Division

115 S. Andrews Avenue, Room 501 • Fort Lauderdale, Florida 33301 • 954-357-6470 • FAX 954-357-6136

MEMORANDUM

Date: October 13, 2020

To: Broward County Board of County Commissioners

Thru: Bertha Henry, County Administrator

Thru: Anh Ton, Acting Deputy Director of Public Works

From: Scott Campbell, Director, Facilities Management Division

Re: Agenda Item 2 for the October 20, 2020; Revisions to Summary Explanation/Background Information; Replacement Exhibit 1, Second Amendment to JCI Agreement

Regarding Agenda Item No. 2, File 20-1728: Attached is a substitute Second Amendment for consideration by the Board for Item 2, Exhibit 1 to correct the amounts payable. The Board's consideration of this item will be based on this substitute for the Second Amendment and revised Summary Explanation/ Background paragraph below.

Amended paragraph should read:

On November 6, 2019, the Director of Purchasing approved a First Amendment to the Agreement adding additional County locations with Fire Alarm and Security equipment to be monitored and maintained and increasing the maximum amounts payable to JCI by **\$2,006,493** for a total Not-to-Exceed amount of \$8,652,493.

cc: Michael Kerr, Deputy County Attorney
Matthew Haber, Assistant County Attorney

**SECOND AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND JOHNSON
CONTROLS, INC., FOR FIRE ALARM AND SECURITY MANAGEMENT SYSTEM MAINTENANCE
(M2113151A1)**

This Second Amendment ("Second Amendment") to the Agreement for Fire Alarm and Security Management System Maintenance (the "Agreement") by and between Broward County, a political subdivision of the State of Florida ("County"), and Johnson Controls, Inc., a Wisconsin corporation ("JCI") (collectively referred to as the "Parties"), is entered into and effective as of the date the Second Amendment is fully executed by the Parties ("Effective Date").

Recitals

- A. On November 7, 2016, the Parties entered into the Agreement for JCI to provide fire alarm and security management services for certain County locations.
- B. On November 6, 2019 a First Amendment to the Agreement was executed adding additional County locations and increased the maximum amounts payable to JCI by \$2,006,493 for a Not-to-Exceed amount of \$8,652,493.00.
- C. Pursuant to Section 3.1.2 of the Agreement, Changes to Covered Equipment, the County reserves the right to modify the Covered Equipment, the applicable levels of coverage, or the County locations covered by the Agreement.
- D. The Parties desire to amend the Agreement by adding additional equipment and County locations and by increasing the maximum amounts payable to JCI in order to cover the services to be provided by JCI for the additional equipment and County locations.
- E. This Second Amendment is reasonable and necessary and in the best interest of the public.

NOW, THEREFORE, in consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. The above recitals are true and correct, and are incorporated herein by reference.
- 2. For this paragraph, words in ~~struck through~~ type are deletions from existing text whereas words in underscored type are additions. Article 5, Compensation, Section 5.1 of the Agreement is hereby amended to read as follows:

5.1 For the duration of the Agreement, County will pay Provider in accordance with Exhibit B up to the following maximum amount(s):

| Services/Goods | Term | Not-To-Exceed Amount |
|--|---|---|
| Equipment and Support and Maintenance Services | Initial Term (3 years) | \$2,966,000 \$3,142,694 |
| Optional Renewal Term | Renewal - Contract Year 4 | \$1,185,000 \$1,679,336.00 |
| Optional Renewal Term | Renewal - Contract Year 5 | \$1,220,000 \$1,714,336.00 \$1,814,983.00 |
| Optional Services | Duration of the Agreement (inclusive of any renewals) <u>Initial Term (3 Years)</u> | \$1,275,000 |
| <u>Optional Services</u> | <u>All Renewals (inclusive of Contract Years 4 and 5)</u> | <u>\$841,127.00</u> |
| | | \$6,646,000 \$8,652,493.00 \$8,753,140.00 |
| TOTAL NOT TO EXCEED | | <u>\$8,753,140.00</u> |

Payment shall be made only for work actually performed and completed pursuant to this Agreement or as otherwise set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Provider as full compensation for all such work. Provider acknowledges that the amounts set forth herein are the maximum amounts payable for the respective terms and constitute a limitation upon County's obligation to compensate Provider for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Provider's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, Provider shall not be reimbursed for any expenses it incurs under this Agreement.

3. Exhibit B, Payment Schedule, is amended to include Exhibit B-2 – Pricing Sheets, JCI Security & Fire 5 Year Pricing, attached hereto and incorporated herein.
4. Exhibit C, Covered Equipment, is amended to include Exhibit C-1 – Covered Equipment, attached hereto and incorporated herein.
5. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.
6. Except to the extent modified herein, the Agreement, as amended, shall remain in full force and effect. In the event of a conflict or ambiguity between the terms and conditions of

this Second Amendment and the terms and conditions set forth in the Agreement, this document shall control.

7. Preparation of this Second Amendment has been a joint effort of the Parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

8. The Agreement, as amended hereby, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter hereof that are not contained in the Agreement and this Second Amendment to the Agreement. Accordingly, the Parties agree that no deviation from the terms of this Second Amendment shall be predicated upon any prior representations or agreements, whether oral or written.

9. This Second Amendment is effective on the Effective Date, and may be executed by the Parties in counterparts which, when taken together, shall have the force and effect of an original binding document.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Second Amendment to the Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the ____ day of _____, 20____, and JCI, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____

_____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

Matthew
By: Haber Digitally signed by Matthew Haber
DN: cn=Matthew Haber, o=Broward
County, ou=CAO,
email=mhaber@broward.org, c=US
Date: 2020.09.21 16:51:49 -04'00'
Matthew Haber (Date)
Assistant County Attorney

MICHAEL KERR
By: _____ Digitally signed by MICHAEL
KERR
Date: 2020.09.22 09:16:48
-04'00'
Michael J. Kerr (Date)
Deputy County Attorney

Second Amendment to Agreement between Broward County and Johnson Controls, Inc. for Fire Alarm and Security Management System Maintenance

Johnson Controls, Inc.

Secretary

(Please Type Name of Secretary)

CORPORATE SEAL

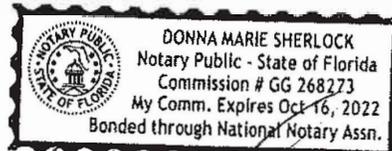
By Stephen P Telo
~~XXXXXXXXXXXXXXXX~~

Stephe P Telo, Area General Manager
(Please Type Name and Title)

17th day of September, 2020

Witness [Signature]

Witness [Signature]



09/17/2020 Donna Sherlock