

66289

TO: Board of Acquisition and Contract

FROM: Hugh J. Greechan, Jr., P.E.
Commissioner of Public Works and Transportation

DATE: November 27, 2018

SUBJECT: Resolution authorizing the County of Westchester to enter into an agreement with Johnson Controls Fire Protection LP (“Johnson Controls”) whereby Johnson Controls will provide all necessary labor, material and equipment required to perform testing, inspections and repair services for SimplexGrinnell fire alarm systems at various County buildings and facilities located throughout Westchester County, in a total amount not to exceed \$1,333,905.00, and having a term of January 1, 2019 through December 31, 2023. (Agreement No. 18-202)

Transmitted herewith is a resolution requesting authority for the County of Westchester (the “County”) to enter into an agreement with Johnson Controls Fire Protection LP (“Johnson Controls”), whereby Johnson Controls will provide all necessary labor, material and equipment required to perform testing, inspections and repair services for SimplexGrinnell (“Simplex”) brand fire alarm systems at various County buildings and facilities located throughout Westchester County, in a total amount not to exceed \$1,333,905.00, and having a term of January 1, 2019 through December 31, 2023.

The County has many Simplex fire alarm systems in its buildings that were previously serviced by Simplex. Due to a corporate merger, Simplex changed its name to Johnson Controls.

Pursuant to Section 9 of the Westchester County Procurement Policy and Procedures, and after reasonable investigation, it has been determined that Johnson Controls is the only practicable source for the provision of these services. Johnson Controls is the sole source for testing, inspections and repair services for Simplex brand fire alarm systems. Simplex fire alarm systems are manufactured by Johnson Controls and it is the sole provider for all manufacturer specified parts for service. Johnson Controls is also the only entity authorized to service Simplex fire alarm systems; no third party is authorized to manufacture market or service these systems. In addition, the County must utilize Johnson Controls to service and repair Simplex fire alarm systems in order to maintain the manufacturer’s warranty. Therefore, the procurement of this contract is not subject to public bidding under applicable case law recognizing the sole source exception, and I recommend to your Honorable Board that this procurement be treated as a sole source procurement pursuant to Section 9 of the Westchester County Procurement Policy.

This contract is in the public’s best interest because it will promote the health and safety of the general public by maintaining vital life safety systems along with providing safe and code compliant work environments at various County facilities.

As expenditures are made pursuant to this authorization, detailed records will be kept in the County's on-line financial system. These records will be easily accessible by Finance, Budget and department staff and will be reviewed regularly to ensure that funds are used appropriately.

As I believe this agreement to be in the best interests of the County, I most respectfully urge your Honorable Board to approve the attached resolution.

RESOLUTION

CONTRACT NO. 18-202

Upon communication from the Commissioner of Public Works and Transportation, be it hereby

RESOLVED, that the County of Westchester (the "County") is hereby authorized to enter into an agreement with Johnson Controls Fire Protection LP ("Johnson Controls"), 4 Commerce Drive South, Suite 3, Harriman, New York 10926, whereby Johnson Controls will provide all necessary labor, material and equipment required to perform testing, inspections and repair services for Simplex brand fire alarm systems at various County buildings and facilities located throughout Westchester County, in a total amount not to exceed \$1,333,905.00, and having a term of January 1, 2019 through December 31, 2023; and be it further

RESOLVED, that this procurement is deemed to be a sole source procurement pursuant to Section 9 of the Westchester County Procurement Policy; and be it further

RESOLVED, that adequate and sufficient security for the faithful performance of this contract shall be deemed to be furnishing of a performance and payment bond in an amount equal to the first year's contract amount, in a form approved by the County Attorney. In substitution thereof, an annual, renewable performance and payment bond may be furnished, in an amount equal to that year's contract amount in a form approved by the County Attorney, so long as an annual bond remains in place, uninterrupted, for the duration of the contract. The Bond Underwriter or Surety must appear on the U.S. Treasury's listing of approved sureties (Department Circular 570) and all Sureties must be licensed to transact business in New York as a surety company; and be it further

RESOLVED, that this Agreement is subject to County appropriations; and be it further

RESOLVED, that this Agreement is also subject to further financial analysis of the impact of any New York State Budget (the "State Budget") proposed and adopted during the term of this Agreement. The County shall retain the right, upon the occurrence of any release by the Governor of a proposed State Budget and/or the adoption of a State Budget or any amendments thereto, and for a reasonable period of time after such release(s) or adoption(s), to conduct an analysis of the impacts of any such State Budget on County finances. After such analysis, the County shall retain the right to either terminate this Agreement or to renegotiate the amounts and rates approved herein. If the County subsequently offers to pay a reduced amount to the Contractor, then the Contractor shall have the right to terminate this Agreement upon reasonable prior written notice; and be it further

RESOLVED, that the County Executive or his authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purposes hereof.

RESOLUTION

CONTRACT NO. 18-202

Account to be Charged/Credited	Fund	Dept.	Major Program, Program & Phase Or Unit	Object Sub Object	Trust Account	Dollars
	101	46	3200	4380		\$ 167,312.00 (2019)
	101	46	3400	4380		\$ 44,398.00 (2019)
	165	42	5540	4380		\$ 10,920.00 (2019)
	221	60	0110	4380		\$ 44,151.00 (2019)
	101	46	3200	4380		\$ 167,312.00 (2020)
	101	46	3400	4380		\$ 44,398.00 (2020)
	165	42	5540	4380		\$ 10,920.00 (2020)
	221	60	0110	4380		\$ 44,151.00 (2020)
	101	46	3200	4380		\$ 167,312.00 (2021)
	101	46	3400	4380		\$ 44,398.00 (2021)
	165	42	5540	4380		\$ 10,920.00 (2021)
	221	60	0110	4380		\$ 44,151.00 (2021)
	101	46	3200	4380		\$ 167,312.00 (2022)
	101	46	3400	4380		\$ 44,398.00 (2022)
	165	42	5540	4380		\$ 10,920.00 (2022)
	221	60	0110	4380		\$ 44,151.00 (2022)
	101	46	3200	4380		\$ 167,312.00 (2023)
	101	46	3400	4380		\$ 44,398.00 (2023)
	165	42	5540	4380		\$ 10,920.00 (2023)
	221	60	0110	4380		\$ 44,151.00 (2023)

Budget Funding Year(s): 2019-2023 **Start Date:** January 1, 2019 **End Date:** December 31, 2023
(must match resolution)

Funding Source: **Tax Dollars** 100% County
 State Aid _____
\$1,333,905.00 **Federal Aid** _____
(must match resolution)
 Other _____

APPROVED BOARD OF ACQUISITION & CONTRACT #18-20/2018 - JOAN BOCCIARDI, SECRETARY