



Codington County Extension Building & Courthouse Projects

Date: June 27, 2023

Name: Extension Building & Courthouse Projects

Document Type: Project Development Agreement Proposal

Codington County

Owner: Codington County

Address: 14 1st Avenue SE

Watertown, SD 57201

Phone: (605) 882-6284

Website: www.codington.org

Owner Contact: Steve Molengraf

Title: Facilities Manager

Phone: (605) 882-6255

Email: codmain@codington.org

Johnson Controls Inc

Name: Johnson Controls Inc.

Address: HVAC Branch Office

3413 South Gateway Boulevard

Sioux Falls, SD 57106

Phone: (605) 361-0680

Website: www.johnsoncontrols.com

Contact: Jonathan Paul

Title: Mechanical Service Sales Specialist

Phone: (701) 630-0548

Email: jonathan.f.paul@jci.com

OVERVIEW

This Spring and Summer Johnson Controls has been working under a Project Development Agreement for a set of Facility Improvement Measures (FIMs) at the Codington County Detention Center. JCI has been asked to look into utilizing our Prime Retrofit Team to also assess you're a Backup Generator and Sprinkler System for the County Extension Building as well as a Backup Generator for the Courthouse. This document includes a new Project Development Agreement for those scopes.

FACILITY IMPROVEMENT MEASURES PRELIMINARY BUDGETS

FIM #1 – Courthouse Building Generator Upgrade	\$335,000
FIM #2 – Extension Building Generator Upgrade	\$445,000
FIM #1 – Extension Building Fire Protection Installation	\$440,000
Total Preliminary Turnkey Budget	\$1,220,000*

*Preliminary turnkey budgets will need to be confirmed so we recommend factoring 15% over/under until we finalize a construction proposal.

FIM #1 – Courthouse Building Generator Upgrade Scope of Work

- Install a new standby packaged generator located on the exterior of the building at a location coordinated with the County. This will likely be on the east side of the facility; however, the final location will be determined during the project development agreement phase of the project. The new generator will be 208V/3Ph and is preliminarily anticipated to be 175kW in capacity based on 2022 peak utility data. The final generator capacity will be determined in cooperation with the County during the project development agreement phase of the project. The generator will be packaged in an enclosure with all necessary cooling, starting, and noise control equipment. The generator will also be provided with a new automatic transfer switch with service disconnect. The intent will be to install the automatic transfer switch in the lower level of the courthouse as close to the existing main distribution panel as possible. The new generator will be installed on a new concrete pad.
- Set and wire automatic transfer switch in the lower level of the courthouse. Provide a new feeder (conduit and wiring) from the generator to the automatic transfer switch. This will require excavation on the exterior of the building to install the feeder underground into the lower level of the building.
- Revise the service entrance feeder into the main switchboard to connect to the new automatic transfer switch. This will include extending the existing service entrance feeder (conduit and wire) to the new transfer switch.
- Provide new feeder (conduit and wire) from the new automatic transfer switch to the main distribution panel.
- Complete startup and testing of the new generator.
- \$335,000 +/- 15% is our Preliminary Budget for this FIM. This includes all scopes listed above including all Design & Construction costs. Please note that the budget will be finalized during the Project Development Phase.

FIM #2 - Extension Building Generator Upgrade Scope of Work

- Demolish the existing natural gas generator and automatic transfer switch for the building.
- Demolish the existing concrete pad for the existing generator.
- Install a new standby packaged generator located on the exterior of the building in place of the existing generator. The new generator will be 208V/3Ph and is preliminarily anticipated to be 125kW in capacity based on 2022 peak utility data and to allow for future capacity to be connected to the system. The final generator capacity will be determined in cooperation with the County during the project development agreement phase of the project. The generator will be packaged in an enclosure with all necessary cooling, starting, and noise control equipment. The generator will also be provided with two new automatic transfer switches with service disconnects, one switch for each service (this facility has two electrical services). For the purposes of this narrative, we will refer to the services as the SDSU service and the extension building service. The new generator will be installed on a new concrete pad.
- Set and wire the automatic transfer switch for the SDSU service near the SDSU service entrance. Provide a new feeder (conduit and wiring) from the generator to the automatic transfer switch. Revise the SDSU utility service entrance feeder to connect to the new automatic transfer switch. Provide a new feeder (conduit and wire) from the new automatic transfer switch to the SDSU main distribution panel.
- Set and wire the automatic transfer switch for the extension building service near the extension building service entrance. Provide a new feeder (conduit and wiring) from the generator to the automatic transfer switch. Revise the extension building utility service entrance feeder to connect to the new automatic transfer switch. Provide a new feeder (conduit and wire) from the new automatic transfer switch to a new main distribution panel.
- Set and wire a new main distribution panel located inside the extension building. This main distribution panel will have breakers installed to feed the existing panelboards within the facility. The existing main feeders to each existing panelboard in the facility will then be extended/modified as necessary to connect them into the new main distribution panel. By performing this work, there will be one main distribution panel on backup power which will then feed the existing panelboards within the facility, effectively backing up all the electrical loads for the facility.
 - Note, it is possible the county will not find it necessary to back up all existing panelboards within the facility. The project team will determine the exact scope of panelboards to be backed up during the project development phase of the project.
- Complete startup and testing of the new generator.
- \$455,000 +/- 15% is our Preliminary Budget for this FIM. This includes all scopes listed above including all Design & Construction costs. Please note that the budget will be finalized during the Project Development Phase.

FIM #3 - Extension Building Fire Protection Installation Scope of Work

- Provide new fire protection water service to the extension center. This includes the new underground piping into the building from the nearest public water utility. The fire protection
- Install a fire protection riser and zone control valves inside of the extension center. This includes floor removal and installation for installation of piping into the building. It also includes all fire sprinkler controls and alarms.
- Install fire sprinkler piping and sprinkler heads throughout the extension center. Piping will be run exposed in much of the existing facility with upright sprinkler heads in cages for head protection. Where sprinkler piping is installed in areas with removable tile ceilings, sprinkler piping will be run above the ceiling and concealed-type sprinkler heads will be installed. Sprinkler coverage will be designed and installed to meet the layout and hazard analysis of the building and its rooms.
- During the project development phase of the project, hydraulic calculations will be performed to determine whether a fire pump will be required to be installed. The intent of the project would be not to install a fire pump however, the need for this piece of equipment is unknown until preliminary design efforts and calculations are completed. In the event a fire pump is required, a new fire pump, controls, and electrical will be installed. The fire pump will be connected to the backup generator for the building.
- \$440,000 +/- 15% is our Preliminary Budget for this FIM. This includes a new Service Line, Riser & Piping, Fire Pump (if required), Design, & Construction costs. Please note that the budget will be finalized during the Project Development Phase.

PROJECT DEVELOPMENT AGREEMENT

Objective:

The objective of a Project Development Agreement (PDA) is to establish a mutual commitment between the customer and Johnson Controls to successfully execute a project based on the Facility Improvement Measures (FIMs) and budgets outlined in the above preliminary scope of work and budget. The PDA benefits Johnson Controls by utilizing internal resources and incurring costs associated with design, site visits, and project documents. For the customer, the PDA provides an opportunity to thoroughly understand project details and costs before entering into a construction agreement. This allows for more accurate pricing, reduces risks, and minimizes contingencies for both Johnson Controls and the customer.

Key Features and Benefits:

Collaborative Design Development: Unlike traditional design-bid-build approaches, our process involves working closely with you during the design development phase. We consider your specific building requirements to select the right equipment, and we offer flexible pricing options through alternates, empowering you to make informed decisions.

Focus on Maintenance and Longevity: We prioritize ease of maintenance, ensuring that the installed equipment is designed to be easily maintained by your team. This approach enhances longevity and reduces operational costs over the long term.

Process and Timeline:

1. **Preliminary Design and Construction Timeline:** During the PDA phase, Johnson Controls completes a preliminary design for the requested FIMs. We collaborate with you to establish a construction timeline for the FIMs.
2. **Finalizing Pricing:** Johnson Controls finalizes pricing for the Prime Retrofit Construction Proposal, considering the selected FIMs. This ensures transparency and enables accurate cost estimation.
3. **Funding Model Collaboration:** We work together to develop a funding model for the project, taking into account your specific financial requirements and constraints.
4. **Proposal Presentation and Approval:** Johnson Controls presents the final Prime Retrofit Proposal, including funding options if needed, to the Owner. The Owner reviews and approves the Prime Retrofit Proposal for design and construction services. If required, the Owner also approves the funding model and signs the necessary funding documents.

Collaboration and Communication:

We understand the importance of involving key stakeholders in the decision-making process. Therefore, we actively engage with your board or committee, collaborating closely with your leadership team to develop a project proposal that aligns with your financial capabilities. Our extensive experience in similar buildings, coupled with insights from our Service Department, allows us to provide informed recommendations and options.



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HVAC Equipment, Products, and Services

Flexibility and Adaptability:

Transparency is at the core of our approach. Throughout the PDA process, we maintain open lines of communication and regularly update you on project progress. We prioritize efficient resource allocation by focusing on projects that are truly necessary, and we communicate any findings or discoveries promptly as they arise.

By embracing a collaborative and transparent approach, Johnson Controls ensures that the Project Development Agreement provides a solid foundation for a successful retrofit project, addressing your building's needs while considering your financial objectives.

PROJECT DEVELOPMENT AGREEMENT PROPOSAL

THIS PROJECT DEVELOPMENT AGREEMENT (this "Agreement") is made between "**Codington County**" ("Customer"), located at **14 1st Avenue SE Watertown, SD 57201** and **Johnson Controls, Inc.** ("JCI"), a located at **3413 South Gateway Boulevard Sioux Falls, SD 57106**. This Agreement shall be effective upon the date of execution of this Agreement by the parties.

RECITALS

WHEREAS Customer **Codington County** desires to develop a Design Development Packet for the construction and installation of **RFP SCOPES OF WORK** to be located at the **Codington County** (the "Upgrade / Retrofit Project"); and

WHEREAS Customer **Codington County** desires to develop appropriate design development documents to obtain final pricing for the construction and installation of **RFP SCOPES OF WORK** to be located at the **Codington County**; and

WHEREAS, Customer **Codington County** further desires to engage JCI to construct and install the **RFP SCOPES OF WORK**; and

WHEREAS JCI is knowledgeable in providing the foregoing services and is prepared to perform the required services in relation to the Upgrade / Retrofit Project, pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, Customer **Codington County** agrees to appoint JCI as the provider of the services contained herein and JCI hereby accepts such appointment upon the terms and conditions set forth in this Agreement. The parties hereby agree as follows:

Phases of Upgrade / Retrofit Project

The parties agree that the Upgrade / Retrofit Project shall be executed by JCI and Customer **Codington County** and completed in a total of (**Three**) Phases:

- a) **Phase I Preliminary Scopes of Work and Budgets** for this Upgrade / Retrofit Project was completed **June 27, 2023**.
- b) **Phase II Project Development** of this Upgrade / Retrofit Project will provide will consist of a sole sourced turnkey design-build agreement to have Johnson Controls design a set of construction documents, procure the materials and labor for each FIM, and complete the onsite construction in a timeline intended to be completed in 2024. The deliverable to the owner for Phase II will be set of construction contracts to procure the equipment and labor to execute each FIM.
- c) **Phase III Construction** of this Upgrade / Retrofit Project will execute the work of **RFP SCOPES OF WORK**. The timeline for the execution of this phase will be determined once we know the lead times and availability of the labor needed to complete each FIM. The Owner and JCI will arrange a construction schedule together to meet the County's highest priorities first.

Design Development

To enable both parties to expeditiously evaluate the potential benefits of this approach without excessive speculative investment by JCI, or speculative commitment by the Customer **Codington County**, the parties agree to jointly undertake a Process of Design Development (or this "Process").

This Process shall include the following:

- a. Execution of this Upgrade / Retrofit Project Development Agreement between JCI and Customer **Codington County**.
- b. Provision of initial pricing information based on the owner's expectations and the **RFP SCOPES OF WORK** budget and schedule requirements. The initial budget and development will be a working model of the program and construction cost objectives and shall be revised, as needed.
- c. Development of schematic design package of the **RFP SCOPES OF WORK**. The Schematic Design Package will include the pertinent drawings needed to complete the proposal. This may include: Structural, Mechanical, & Electrical drawings. This package will contain information to ensure that the appropriate design criteria are maintained in the development process.
- d. Completion of preliminary design review with Customer **Codington County**.
- e. The design development package will also allow for the development of a construction schedule and installation price.

Duties of Customer Codington County

Customer **Codington County** will work in a diligent and timely manner with JCI to develop the aforesaid functions. The Customer **Codington County** shall commit to providing in a timely manner any information required to perform all relevant programming and planning and shall also properly position JCI with the rest of its staff to insure a cooperative and successful effort.

Duties of JCI

JCI also commits to work in a diligent and timely manner with the Customer **Codington County** to deliver the aforesaid documents and materials and to complete the foregoing tasks for the purpose of constructing an **RFP SCOPES OF WORK**. JCI shall provide adequate and qualified resources to meet the Upgrade / Retrofit Project schedule and shall work with the Customer's management in a manner that enables it to make an informed decision.

Phase II Compensation

As compensation for JCI's performance of the Phase I Scope of Services under and pursuant to this Agreement, the fee to JCI shall be six percent of the total budget or these projects.

The foregoing fee is based upon the assumption that the total cost for construction and installation of a new **RFP SCOPES OF WORK** will be budgeted at $\$1,220,000 \times 6\% = \$73,200$.

JCI understands it is the Customer's **Codington County's** intent to move forward with Phase II of this agreement. At the end of the Phase I, if this objective is achieved, the cost for Phase I will be rolled into the final construction and installation agreement. If the Customer **Codington County** does not move forward with Phase II, or does not move forward within 90 days, then total amount for Phase I shall be due in full to JCI.



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Timeline

The following are approximate milestones for the development process of this Project Development Agreement and subsequent activities. Customer and JCI agree that this timeline is subject to change depending upon the mutually defined scope of the Project. A more complex schedule will be developed by the Prime Retrofit Team in the coming weeks.

Tentative Project Development Schedule

1. Customer to Approve this Project Development Agreement
2. JCI to review the 70% Plans with the Owner
3. JCI to Finalize Pricing for FIMs
4. Customer to Approve Construction Agreement

Completed By

July 2023
September 2023
October 2023
October 2023

Indemnity

The Customer **Codington County** shall indemnify and hold harmless JCI, its employees, agents, and assigns from and against all claims, actions, damages, liabilities, and expenses, including attorney's fees, arising out of, or related to this Agreement, except for injuries or death to persons or damage to property caused by the negligence of JCI, its employees, agents, or assigns.

JCI shall indemnify and hold harmless the Customer **Codington County**, its employees, agents, and assigns against all claims, actions, damages, liabilities, and expenses, including attorney's fees, arising out of, or related to any claims of patent infringement and any claims of construction or materialman's lien made by any subcontractor or materialmen. JCI and the Customer **Codington County** agree that JCI shall be responsible only for such injury, loss, or damage caused by the intentional misconduct or the negligent act or omission of JCI.

Under no circumstances shall Customer **Codington County** or JCI be responsible or liable for indirect, special, punitive, exemplary, or consequential damages, including damages for lost profits or loss of business opportunity.

Disputes

If a dispute arises under this Agreement, the parties shall promptly attempt in good faith to resolve the dispute by negotiation. All disputes not resolved by negotiation shall be resolved in accordance with the Commercial Rules of the American Arbitration Association in effect at that time, except as modified herein. A single arbitrator shall decide all disputes. The arbitrator shall render a decision no later than nine months after the demand for arbitration is filed, and the arbitrator shall state in writing the factual and legal basis for the award. No discovery shall be permitted. The arbitrator shall issue a scheduling order that shall not be modified except by the mutual agreement of the parties. Judgment may be entered upon the award in the highest state or federal court having jurisdiction over the matter. The prevailing party shall recover all costs, including attorney's fees, incurred because of the dispute. **If the Customer Codington County is a state or local governmental entity, then this paragraph shall not apply.**



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All Parties agree with the intent outlined by this Agreement. IN WITNESS WHEREOF, the parties have duly executed this Agreement, in duplicate, as of the date set forth below and certify they are authorized to execute this agreement.

Codington County

Johnson Controls, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature: _____

Signature: _____



Codington County Extension Building & Courthouse Projects

Date: August 22, 2023

Name: Extension Building & Courthouse Projects

Document Type: Project Development Agreement Proposal

Codington County

Owner: Codington County

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OVERVIEW

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FACILITY IMPROVEMENT MEASURES PRELIMINARY BUDGETS

FIM #1 – Courthouse Building Generator Upgrade	\$335,000
FIM #1 – Extension Building Fire Protection Installation	\$440,000
Total Preliminary Turnkey Budget	\$775,000*

*Preliminary turnkey budgets will need to be confirmed so we recommend factoring 15% over/under until we finalize a construction proposal.

FIM #1 – Courthouse Building Generator Upgrade Scope of Work

- Install a new standby packaged generator located on the exterior of the building at a location coordinated with the County. This will likely be on the east side of the facility; however, the final location will be determined during the project development agreement phase of the project. The new generator will be 208V/3Ph and is preliminarily anticipated to be 175kW in capacity based on 2022 peak utility data. The final generator capacity will be determined in cooperation with the County during the project development agreement phase of the project. The generator will be packaged in an enclosure with all necessary cooling, starting, and noise control equipment. The generator will also be provided with a new automatic transfer switch with service disconnect. The intent will be to install the automatic transfer switch in the lower level of the courthouse as close to the existing main distribution panel as possible. The new generator will be installed on a new concrete pad.
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FIM #2 - Extension Building Fire Protection Installation Scope of Work

- Provide new fire protection water service to the extension center. This includes the new underground piping into the building from the nearest public water utility. The fire protection
- Install a fire protection riser and zone control valves inside of the extension center. This includes floor removal and installation for installation of piping into the building. It also includes all fire sprinkler controls and alarms.
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WHEREAS JCI is knowledgeable in providing the foregoing services and is prepared to perform the required services in relation to the Upgrade / Retrofit Project, pursuant to the terms and conditions set forth in this Agreement.

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Phases of Upgrade / Retrofit Project

The parties agree that the Upgrade / Retrofit Project shall be executed by JCI and Customer **Codington County** and completed in a total of (**Three**) Phases:

- a) **Phase I Preliminary Scopes of Work and Budgets** for this Upgrade / Retrofit Project was completed **June 27, 2023**.
- b) **Phase II Project Development** of this Upgrade / Retrofit Project will provide will consist of a sole sourced turnkey design-build agreement to have Johnson Controls design a set of construction documents, procure the materials and labor for each FIM, and complete the onsite construction in a timeline intended to be completed in 2024. The deliverable to the owner for Phase II will be set of construction contracts to procure the equipment and labor to execute each FIM.
- c) **Phase III Construction** of this Upgrade / Retrofit Project will execute the work of **RFP SCOPES OF WORK**. The timeline for the execution of this phase will be determined once we know the lead times and availability of the labor needed to complete each FIM. The Owner and JCI will arrange a construction schedule together to meet the County's highest priorities first.

Design Development

To enable both parties to expeditiously evaluate the potential benefits of this approach without excessive speculative investment by JCI, or speculative commitment by the Customer **Codington County**, the parties agree to jointly undertake a Process of Design Development (or this "Process").

This Process shall include the following:

- a. Execution of this Upgrade / Retrofit Project Development Agreement between JCI and Customer **Codington County**.
- b. Provision of initial pricing information based on the owner's expectations and the **RFP SCOPES OF WORK** budget and schedule requirements. The initial budget and development will be a working model of the program and construction cost objectives and shall be revised, as needed.
- c. Development of schematic design package of the **RFP SCOPES OF WORK**. The Schematic Design Package will include the pertinent drawings needed to complete the proposal. This may include: Structural, Mechanical, & Electrical drawings. This package will contain information to ensure that the appropriate design criteria are maintained in the development process.
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- e. The design development package will also allow for the development of a construction schedule and installation price.

Duties of Customer Codington County

Customer **Codington County** will work in a diligent and timely manner with JCI to develop the aforesaid functions. The Customer **Codington County** shall commit to providing in a timely manner any information required to perform all relevant programming and planning and shall also properly position JCI with the rest of its staff to insure a cooperative and successful effort.

Duties of JCI

JCI also commits to work in a diligent and timely manner with the Customer **Codington County** to deliver the aforesaid documents and materials and to complete the foregoing tasks for the purpose of constructing an **RFP SCOPES OF WORK**. JCI shall provide adequate and qualified resources to meet the Upgrade / Retrofit Project schedule and shall work with the Customer's management in a manner that enables it to make an informed decision.

Phase II Compensation

As compensation for JCI's performance of the Phase I Scope of Services under and pursuant to this Agreement, the fee to JCI shall be six percent of the total budget or these projects.

The foregoing fee is based upon the assumption that the total cost for construction and installation of a new **RFP SCOPES OF WORK** will be budgeted at $\$775,000 \times 6\% = \$46,500$.

JCI understands it is the Customer's **Codington County's** intent to move forward with Phase II of this agreement. At the end of the Phase I, if this objective is achieved, the cost for Phase I will be rolled into the final construction and installation agreement. If the Customer **Codington County** does not move forward with Phase II, or does not move forward within 90 days, then total amount for Phase I shall be due in full to JCI.



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2. JCI to review the 70% Plans with the Owner
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4. Customer to Approve Construction Agreement

Completed By

August 2023
October 2023
November 2023
December 2023

Indemnity

The Customer **Codington County** shall indemnify and hold harmless JCI, its employees, agents, and assigns from and against all claims, actions, damages, liabilities, and expenses, including attorney's fees, arising out of, or related to this Agreement, except for injuries or death to persons or damage to property caused by the negligence of JCI, its employees, agents, or assigns.

JCI shall indemnify and hold harmless the Customer **Codington County**, its employees, agents, and assigns against all claims, actions, damages, liabilities, and expenses, including attorney's fees, arising out of, or related to any claims of patent infringement and any claims of construction or materialman's lien made by any subcontractor or materialmen. JCI and the Customer **Codington County** agree that JCI shall be responsible only for such injury, loss, or damage caused by the intentional misconduct or the negligent act or omission of JCI.

Under no circumstances shall Customer **Codington County** or JCI be responsible or liable for indirect, special, punitive, exemplary, or consequential damages, including damages for lost profits or loss of business opportunity.

Disputes

If a dispute arises under this Agreement, the parties shall promptly attempt in good faith to resolve the dispute by negotiation. All disputes not resolved by negotiation shall be resolved in accordance with the Commercial Rules of the American Arbitration Association in effect at that time, except as modified herein. A single arbitrator shall decide all disputes. The arbitrator shall render a decision no later than nine months after the demand for arbitration is filed, and the arbitrator shall state in writing the factual and legal basis for the award. No discovery shall be permitted. The arbitrator shall issue a scheduling order that shall not be modified except by the mutual agreement of the parties. Judgment may be entered upon the award in the highest state or federal court having jurisdiction over the matter. The prevailing party shall recover all costs, including attorney's fees, incurred because of the dispute. **If the Customer Codington County is a state or local governmental entity, then this paragraph shall not apply.**



Prime Retrofit Team
Simplified Procurement of
HVAC Equipment, Products, and Services

All Parties agree with the intent outlined by this Agreement. IN WITNESS WHEREOF, the parties have duly executed this Agreement, in duplicate, as of the date set forth below and certify they are authorized to execute this agreement.

Codington County

Johnson Controls, Inc.

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature: _____

Signature: _____