

**CITY OF EL PASO, TEXAS  
AGENDA ITEM  
DEPARTMENT HEAD'S SUMMARY FORM**

**DEPARTMENT:** Airport  
**AGENDA DATE:** December 12, 2017  
**CONTACT PERSON/PHONE:** Monica Lombraña, A.A.E., Director of Aviation, (915) 212-7301  
**DISTRICT(S) AFFECTED:** All

**STRATEGIC GOAL 1: Create and Environment Conducive to Strong, Sustainable, Economic Development**

**SUBJECT:**

That the City Manager be authorized to sign the Termination Agreement by and between the City of El Paso and Johnson Controls, Inc., terminating Amendment #5 to the Professional Services Contract relating to measurement and verification services for facility improvement measures completed at various El Paso International Airport facilities.

**BACKGROUND / DISCUSSION:**

As a continuation of City-wide energy and operational efficiency initiatives, Council amended a contract awarded to Johnson Controls, Inc. (JCI) to implement facility improvement measures at the El Paso International Airport (EPIA). In addition to the physical upgrades, a measurement and verification program to last ten years was also included. Since then, however, operational changes at the airport due to several additions to and remodels at the airport have changed the energy usage model the amendment was premised on and is no longer applicable. Accordingly, EPIA and JCI have agreed to terminate Amendment #5 with no further monitoring, testing, measurement or reporting to be performed in relation to the facility improvement measures. (Districts 2 & 3)

**SELECTION SUMMARY:**

N/A

**PROTEST**

No protest received for this requirement.

Protest received.

**COUNCIL REPRESENTATIVE BRIEFING:**

Was a briefing provided?  Yes or  Not Applicable (Routine)

If yes, select the applicable districts.

- District 1
- District 2
- District 3
- District 4
- District 5
- District 6
- District 7
- District 8

All Districts

**PRIOR COUNCIL ACTION:**

The original Energy Services Company (ESCO) contract with Johnson Controls, Inc. was approved by Council on May 25, 2010 to act as the City's ESCO for the next 5 years. The original award amount totaled \$350,000 under Solicitation Number 2010-085R for Advanced Engineering and grant application support.

The First Amendment to the ESCO contract was approved by City Council on January 6, 2011 in the amount of \$3,626,770 for facility upgrades including lighting improvements, solar photovoltaic (PV) power generation panels, and HV AC equipment and control upgrades at 44 separate City facilities.

The Second Amendment was approved on October 25, 2011 in the amount of in the amount of \$2,824,000 for the conversion of 2,600 streetlights to energy-efficient light-emitting diode standards.

The Third Amendment was approved on October 25, 2011 in the amount of \$5 million for the conversion of 4,700 streetlights to energy-efficient light-emitting diode standards.

The Fourth Amendment was approved on January 10, 2012 in the amount of \$1,080,000 for the installation of solar PV power generation panels at the Municipal Service Center funded through a stimulus grant received from the State Energy Conservation Office (\$900,000 SECO, \$180,000 local cash match).

The Fifth Amendment was approved January 22, 2013 in the amount of \$5,649,993 for additional facility improvement measures on eleven El Paso International airport buildings, as well as for maintenance, measurement, and verification services over a 10-year period, funded with Airport Enterprise Funds.

The Sixth Amendment was approved January 22, 2013 in the amount of \$247,300 to perform expanded measurement and verification services over a three-year term, funded with General Services Department Operating Funds.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**



\_\_\_\_\_  
Monica Lombraña, A.A.E.  
Managing Director of Aviation and International Bridges

**R E S O L U T I O N**

**WHEREAS**, on January 22, 2013, the City entered into Amendment #5 to the Professional Services Contract (dated May 7, 2010) with Johnson Controls, Inc. (JCI) to implement facility improvement measures (FIMs) on various El Paso International Airport facilities/buildings, with the option of having JCI perform maintenance, measurement and verification (M&V) services following substantial completion of the FIMs; and

**WHEREAS**, the City has determined not to exercise the option to implement the M&V services under Amendment #5; and

**WHEREAS**, the parties have concluded that it is in their respective best interests to terminate the Amendment #5 and each of their remaining respective rights, obligations, and liabilities thereunder; and

**WHEREAS**, the parties understand and agree that the termination of Amendment #5 in no way effects the original Professional Services Agreement, and any other active amendments thereto, including their guarantees, assurances and M&V services.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the City Manager is authorized to sign the Termination Agreement by and between the City of El Paso and Johnson Controls, Inc., terminating Amendment #5 to the Professional Services Contract relating to measurement and verification services for facility improvement measures completed at various El Paso International Airport facilities.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**THE CITY OF EL PASO**

\_\_\_\_\_  
Dee Margo  
Mayor


**ATTEST:**

\_\_\_\_\_  
Laura D. Prine  
Interim Municipal Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Elizabeth Ruhmann  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

  
\_\_\_\_\_  
Monica Lombraña, A.A.E.  
Director of Aviation

---

**AMENDMENT #5 TERMINATION AGREEMENT**

---

This Termination Agreement (this "Agreement") is entered into as of October \_\_\_\_\_, 2017 by and between the City of El Paso ("Customer") and Johnson Controls, Inc. ("JCI").

WHEREAS, Customer and JCI are parties to that certain Amendment #5 to the Professional Services Contract ("Amendment #5"), dated January 22, 2013, wherein facilities improvement measures ("FIMs") were performed on various El Paso International Airport facilities.

WHEREAS, the Amendment #5 provides the City with the option of having JCI perform maintenance, measurement and verification services ("M&V services") to be initiated following substantial completion of the FIMs.

WHEREAS, the City has determined not to exercise the option to implement the M&V services under Amendment #5.

ACCORDINGLY, JCI and Customer have concluded that it is in their respective best interests to terminate the Amendment #5 and each of their respective rights, obligations, and liabilities thereunder as of the substantial completion date of April 26, 2016; and

WHEREAS, the parties understand and agree that the termination of Amendment #5 in no way effects the original Professional Services Agreement (dated May 7, 2010), and any other active amendments thereto, including their guarantees, assurances and M&V services.

NOW, THEREFORE, the parties agree as follows:

1. Termination of Amendment #5. The parties agree that the Amendment #5 is terminated as of the date first set forth above, and neither party has nor shall have any further rights, obligations, or liabilities under or because of the Amendment #5. In connection with this termination, JCI shall have no rights or obligations to Customer under the Amendment #5 (specifically including but not limited to JCI's obligations to monitor, test, measure, and report on or otherwise perform under the guarantee or planned services

agreement associated with the Amendment #5); and Customer shall have no rights or obligations to JCI under the Amendment #5 (specifically including but not limited to Customer's obligation to pay JCI to monitor, test, measure, and report on or otherwise perform under the guarantee or planned services agreement associated with the Amendment #5).

2. Authorization and Approval. Customer represents that this Agreement has been approved by it through properly noticed and legally valid action, and the person executing this Agreement on behalf of Customer is fully authorized and legally competent to execute this Agreement as the legal, valid and binding act and deed of Customer, and is a duly authorized representative of Customer. JCI represents that the person executing this Agreement on behalf of JCI is fully authorized and legally competent to execute this Agreement as the legal, valid and binding act and deed of JCI, and is a duly authorized representative of JCI.

3. Multiple Copies of Agreement. This Agreement may be executed in two or more identical counterparts or with detachable signature pages and shall constitute one agreement, binding upon the parties thereto as if the parties had signed the same document. The parties further agree that copies of this Agreement, including any facsimile copies with signatures, shall be binding and treated as an original agreement.

4. Additional Documents. Each party agrees to execute such additional documents as may be reasonable or necessary to effectuate the terms and provisions of this Agreement.

5. Binding Agreement. This Agreement is binding upon, and shall inure to the benefit of, the parties and their respective predecessors in interest, successors in interest, subsidiaries, parents, affiliates and each of their respective directors, officers, members of the City council, insurers, representatives, employees, principals, agents, assigns, attorneys, and shareholders, in each case both present and past, as well as the respective heirs, successors, assigns and agents of each of them.

[Signature Page Follows]

