

CITY CLERK  
ORIGINAL

C-10671  
02/23/2016

LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
JOHNSON CONTROLS, INC.

THIS LINKING AGREEMENT (this "Agreement") is entered into as of this 23 day of February, 2016, between the City of Glendale, an Arizona municipal corporation (the "City"), and Johnson Controls, Inc., a Wisconsin corporation authorized to do business in Arizona ("Contractor"), collectively, the "Parties."

RECITALS

- A. On April 13, 2011, under the Strategic Alliance for Volume Expenditures (S.A.V.E), the Maricopa County Office of Procurement Services entered into a contract with Contractor to purchase the goods and services described in the Building Automation Systems Service Parts and Programing, Contract No. Serial 11008-S ("Cooperative Purchasing Agreement"), which is attached hereto as Exhibit A. The Cooperative Purchasing Agreement permits its cooperative use by other governmental agencies including the City.
- B. Section 2-149 of the City's Procurement Code permits the Materials Manager to procure goods and services by participating with other governmental units in cooperative purchasing agreements when the best interests of the City would be served.
- C. Section 2-149 also provides that the Materials Manager may enter into such cooperative agreements without meeting the formal or informal solicitation and bid requirements of Glendale City Code Sections 2-145 and 2-146.
- D. The City desires to contract with Contractor for supplies or services identical, or nearly identical, to the supplies or services Contractor is providing other units of government under the Cooperative Purchasing Agreement. Contractor consents to the City's utilization of the Cooperative Purchasing Agreement as the basis of this Agreement, and Contractor desires to enter into this Agreement to provide the supplies and services set forth in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated by reference, and the covenants and promises contained in this Linking Agreement, the parties agree as follows:

1. Term of Agreement. The City is purchasing the supplies and/or services from Contractor pursuant to the Cooperative Purchasing Agreement. According to the Cooperative Purchasing Agreement award and rate sheet, which are attached hereto as part of Exhibit B, purchases can be made by governmental entities from the date of award, which was April 13, 2011, until the date the contract expires on April 30, 2017, unless the term of the Cooperative Purchasing Agreement is extended by the mutual agreement of the original contracting parties. The Cooperative Purchasing Agreement, however, may not be extended

beyond April 30, 2017. The period of this Agreement is the period from the Effective Date of this Agreement until April 30, 2017.

2. Scope of Work; Terms, Conditions, and Specifications.

- A. Contractor shall provide City the supplies and/or services identified in the Scope of Work attached as Exhibit C.
- B. Contractor agrees to comply with all the terms, conditions and specifications of the Cooperative Purchasing Agreement. Such terms, conditions and specifications are specifically incorporated into and are an enforceable part of this Agreement.

3. Compensation.

- A. City shall pay Contractor compensation at the same rate and on the same schedule as the Cooperative Purchasing Agreement, unless the City and Contractor agree to a different schedule, as provided in Exhibit D.
- B. The total purchase price for the supplies and/or services purchased under this Agreement shall not exceed three hundred fifty thousand dollars (\$350,000) annually or three hundred fifty thousand dollars (\$350,000) for the entire term of the Agreement.

4. Cancellation. This Agreement may be cancelled pursuant to A.R.S. § 38-511.

5. Non-discrimination. Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

6. Insurance Certificate. A certificate of insurance applying to this Agreement must be provided to the City prior to the Effective Date.

7. E-verify. Contractor complies with A.R.S. § 23-214 and agrees to comply with the requirements of A.R.S. § 41-4401.

8. Notices. Any notices that must be provided under this Agreement shall be sent to the Parties' respective authorized representatives at the address listed below:

City of Glendale  
c/o Ron Gouger  
6210 W. Myrtle Avenue, Suite #111  
Glendale, Arizona 85301  
623-930-2647  
and

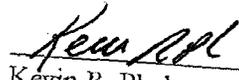
Johnson Controls, Inc.  
c/o Gary H. Whetstone  
2032 West 4<sup>th</sup> Street  
Tempe, AZ 85281

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth above.

"City"

City of Glendale, an Arizona  
municipal corporation

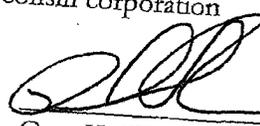
By:

  
Kevin R. Phelps  
City Manager

"Contractor"

Johnson Controls, Inc.,  
a Wisconsin corporation

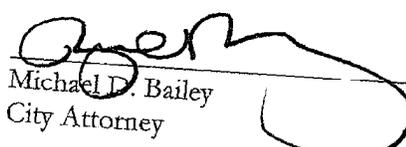
By:

  
Name: Gary H. Whetstone RICHARD C. SLACK  
Title: Sr. Account Manager BRANCH GENERAL MANAGER

ATTEST:

  
Pamela Hanna (SEAL)  
City Clerk

APPROVED AS TO FORM:

  
Michael D. Bailey  
City Attorney

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
JOHNSON CONTROLS, INC.**

**EXHIBIT A**

Maricopa County Office of Procurement Services, Contract No. Serial 11008-S  
Building Automation Systems Service Parts and Programing

**SERIAL 11008 S BUILDING AUTOMATION SYSTEMS SERVICE PARTS AND PROGRAMMING**

**DATE OF LAST REVISION: May 28, 2015**

**CONTRACT END DATE: April 30, 2017**

**CONTRACT PERIOD THROUGH APRIL 30, 2014 2017**

**TO: All Departments**  
**FROM: Office of Procurement Services**  
**SUBJECT: Contract for BUILDING AUTOMATION SYSTEMS SERVICE PARTS AND PROGRAMMING**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **April 13, 2011**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

---

Wes Baysinger, Chief Procurement Officer  
Office of Procurement Services

DW/at  
Attach

Copy to: Office of Procurement Services  
Don Jeffery, Facilities Management

## BUILDING AUTOMATION SYSTEMS SERVICE, PARTS AND PROGRAMMING

### 1.0 INTENT:

Maricopa County is soliciting contractors to add a contractor to provide parts, service, and programming to support its TAC/CSI Building Automation Systems in county facilities. This contract may be awarded in full or in part based on the vendor's capability to support the automation systems in the county inventory.

Other governmental entities under agreement with the County may have access to services provided hereunder (see also Sections 2.11 and 2.12, below).

The County reserves the right to add additional contractors, at the County's sole discretion, in cases where the currently listed contractors are of an insufficient number or skill-set to satisfy the County's needs or to ensure adequate competition on any project or task order work.

The County reserves the right to award in whole or in part, by item or group of items, by section or geographic area, or make multiple awards, where such action serves the County's best interest.

### 2.0 SCOPE OF SERVICES:

#### 2.1 AUTOMATION SYSTEMS SUPPORTED BY MARICOPA COUNTY:

2.1.1 Siemens: to include Insight software and Apogee and System 600 hardware

2.1.2 Johnson Controls: to include Metasys and Facility control hardware

2.1.3 TAC/CSI

2.1.4 Allerton: to include Envision Backtalk software and hardware

2.2 Service shall be all inclusive. The contractor shall be able to support all editions of the systems including BACNET communication interface system.

2.3 The contractor shall be able to provide upgrades to hardware and software to include custom programming if needed.

2.4 Contractor shall be certified by the manufacturer as an authorized service provider for the systems they would maintain. Proof of certification must accompany this bid package.

#### 2.5 HOURS OF SERVICE:

2.5.1 REGULAR SERVICE shall be work performed at regular County business hours (6:00 AM to 6:00 PM), Monday through Friday, excluding County holidays.

2.5.2 AFTER HOURS SERVICE shall be work performed after 6:00 PM and before 6:00 AM the next morning and Saturday work.

2.5.3 SUNDAY & HOLIDAY SERVICE shall be work performed during Sunday or during any County holiday.

#### 2.6 ACCEPTANCE:

For Customer's Initial purchase of each Equipment and Software product. Licensor shall provide an acceptance test period (the "Test Period") that commences upon Installation. Installation shall be defined as: a.) the Equipment, if any, is mounted; b.) the Software is installed on the data base server(s) and/or personal computer(s); and c.) implementation team training, if any, d.) programming and point to point check and e.) if applicable, sequence of operation is complete. During the Test Period, Customer shall determine whether the Equipment and Software meet the Licensor published electronic documentation, ("Specifications"). The Test Period shall be for 90

days. If Customer has not given Licensor a written deficiency statement specifying how the Equipment or Software fails to meet the Specification ("Deficiency Statement") within the Test Period, the Equipment and Software shall be deemed accepted. If Customer provides a Deficiency Statement within the Test Period, Licensor shall have 30 days to correct the deficiency, and the Customer shall have an additional 60 days to evaluate the Equipment and Software. If the Equipment or Software does not meet the Specifications at the end of the second 30 day period, either Customer or Licensor may terminate this Contract. Upon any such termination, Customer shall return all Equipment and Software to Licensor, and Licensor shall refund any monies paid by Customer to Licensor therefore. Neither party shall then have any further liability to the other for the products that were the subject of the Acceptance Test.

2.7 INVOICES AND PAYMENTS:

2.7.1 The Contractor shall submit two (2) legible copies of their detailed invoice before payment(s) can be made. At a minimum, the invoice must provide the following information:

- Company name, address and contact
- County bill-to name and contact information
- Contract Serial Number
- County purchase order number
- Invoice number and date
- Payment terms
- Date of service or delivery
- Quantity (number of days or weeks)
- Description of Purchase (product or services)
- Pricing per unit of purchase
- Extended price
- Arrival and completion time (if applicable)
- Total Amount Due

2.7.2 Problems regarding billing or invoicing shall be directed to the using agency as listed on the Purchase Order.

2.7.3 Payment shall be made to the Contractor by Accounts Payable through the Maricopa County Vendor Express Payment Program. This is an Electronic Funds Transfer (EFT) process. After Contract Award the Contractor shall complete the Vendor Registration Form located on the County Department of Finance Vendor Registration Web Site ([www.maricopa.gov/finance/vendors](http://www.maricopa.gov/finance/vendors)).

2.7.4 EFT payments to the routing and account numbers designated by the Contractor will include the details on the specific invoices that the payment covers. The Contractor is required to discuss remittance delivery capabilities with their designated financial institution for access to those details.

2.8 TAX:

No tax shall be levied against labor. It is the responsibility of the Contractor to determine any and all taxes and include the same in proposal price.

2.9 DELIVERY:

It shall be the Contractor's responsibility to meet the proposed delivery requirements. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

## 2.10 FUEL COST PRICE ADJUSTMENT:

- 2.10.1 This provision provides for limited increased or decreased costs of motor fuels (fuels) used to perform services under this Contract. This provision does not apply to burner fuel (i.e. propane, natural gas, fuel oil, used motor oil). It applies to motor fuel only. Fuel cost adjustments may be either positive or negative. A positive fuel cost adjustment will result in an increase in payments to Contractor while a negative fuel cost adjustment will result in a decrease in payments to Contractor.
- 2.10.2 This provision is intended to minimize risk to both parties to this Contract due to fuel cost fluctuations that may occur during the term of this Contract. This provision is not designed to estimate actual quantities of fuel used in providing services under this Contract, but to provide a reasonable basis for calculating a fuel cost adjustment based on average conditions.
- 2.10.3 Application of this provision will come into effect upon Contractor submittal of a fuel cost adjustment request. A request may be submitted only when the increased cost of fuel, established as a percentage of total contract price (base fuel cost) upon award of this Contract, exceeds ten (10%) percent of the base fuel cost. The Contractor may request a fuel surcharge no more than four (4) times annually, during the month(s) of March, June, September and December. The request must be submitted no later than the tenth (10<sup>th</sup>) of the month. Any surcharge shall be effective the first of the following month after receipt and approval. The date of County approval of a fuel cost adjustment request shall become the base date for any future Contractor adjustment requests.
- 2.10.4 Contractor shall include, as part of its price bid, the percentage of total contract price fuel represents (e.g., fuel cost equals 10% of Contractor cost) (see also, Attachment A, Prices). This percentage will represent and establish the base fuel cost for this Contract. The base fuel cost shall be established as the due date for submission of proposals for this Contract. All subsequent fuel cost adjustments shall be based upon the date the County approves a Contractor's request for fuel cost adjustment (e.g. fuel cost adjustment approved by County on January 1, 2006, January 1, 2006 becomes base date for any next Contractor request for adjustment).
- 2.10.5 Fuel Cost Application Requirement. The Contractor must provide documentation including type of motor fuel and fuel invoices with price of the fuel used in providing services under this Contract, from the month bids were due and the month of the cost adjustment request, with any fuel cost adjustment application. The fuel cost adjustment application must be completed with all applicable data, and signed by the Contractor.
- 2.10.6 The fuel surcharge shall be based on the current quarterly index of the West Coast (PADD5) Diesel (On-Highway)-All Types or Reformulated Areas Gasoline compared to the previous quarterly index period as reported on the Energy Information Administration (EIA) website: <http://www.eia.doe.gov/>
- 2.10.7 The computation of the fuel surcharge amount shall be determined as follows:
- 2.10.7.1 The fuel cost component from Attachment A (Pricing) of the Contract with Maricopa County, multiplied by the percent of change indicated by the EIA report from the previous index period.
- 2.10.7.2 Upon agreement by the County to the surcharge, the County shall issue written approval of the change prior to any adjusted invoicing submitted for payment.
- 2.10.7.3 The surcharge shall be added as a separate line item to the invoice.

 2.11 STRATEGIC ALLIANCE for VOLUME EXPENDITURES (\$AVE):

The County is a member of the \$AVE cooperative purchasing group. \$AVE includes the State of Arizona, many Phoenix metropolitan area municipalities, and many K-12 unified school districts. Under the \$AVE Cooperative Purchasing Agreement, and with the concurrence of the successful Respondent under this solicitation, a member of \$AVE may access a contract resulting from a solicitation issued by the County. If you **do not** want to grant such access to a member of \$AVE, **please so state** in your proposal. In the absence of a statement to the contrary, the County will assume that you do wish to grant access to any contract that may result from this Request for Proposal.

2.12 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS (ICPA's)

County currently holds ICPA's with numerous governmental entities throughout the State of Arizona. These agreements allow those entities, with the approval of the Contractor, to purchase their requirements under the terms and conditions of the County Contract. Please indicate on Attachment A, your acceptance or rejection regarding such participation of other governmental entities. Your response will not be considered as an evaluation factor in awarding a contract.

3.0 CONTRACTUAL TERMS & CONDITIONS:

 3.1 CONTRACT TERM:

This Invitation for Bid is for awarding a firm, fixed price purchasing contract to remain in effect through the April 30<sup>th</sup> 2014.

3.2 OPTION TO RENEW:

 The County may, at their option and with the approval of the Contractor, renew the term of this Contract up to a maximum of three (3) additional years, (or at the County's sole discretion, extend the contract on a month to month basis for a maximum of six (6) months after expiration). The Contractor shall be notified in writing by the Department of the County's intention to renew the contract term at least thirty (30) calendar days prior to the expiration of the original contract term.

3.3 PRICE ADJUSTMENTS:

Any requests for reasonable price adjustments must be submitted sixty (60) days prior to the Contract annual anniversary date. Requests for adjustment in cost of labor and/or materials must be supported by appropriate documentation. If County agrees to the adjusted price terms, County shall issue written approval of the change. The reasonableness of the request will be determined by comparing the request with the (Consumer Price Index) or by performing a market survey.

3.4 INDEMNIFICATION:

3.4.1 To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless County, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including, but not limited to, attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the negligent acts, errors, omissions, mistakes or malfeasance relating to the performance of this Contract. Contractor's duty to defend, indemnify and hold harmless County, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is caused by any negligent acts, errors, omissions or mistakes in the performance of this Contract by the Contractor, as well as any person or entity for whose acts, errors, omissions, mistakes or malfeasance Contractor may be legally liable.

- 3.4.2 The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.
- 3.4.3 The scope of this indemnification does not extend to the sole negligence of County.

3.5 INSURANCE:

- 3.5.1 Contractor, at Contractor's own expense, shall purchase and maintain the herein stipulated minimum insurance from a company or companies duly licensed by the State of Arizona and possessing a current A.M. Best, Inc. rating of A-, VII or higher. In lieu of State of Arizona licensing, the stipulated insurance may be purchased from a company or companies, which are authorized to do business in the State of Arizona, provided that said insurance companies meet the approval of County. The form of any insurance policies and forms must be acceptable to County.
- 3.5.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of County, constitute a material breach of this Contract.
- 3.5.3 Contractor's insurance shall be primary insurance as respects County, and any insurance or self-insurance maintained by County shall not contribute to it.
- 3.5.4 Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect the County's right to coverage afforded under the insurance policies.
- 3.5.5 The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to County under such policies. Contractor shall be solely responsible for the deductible and/or self-insured retention and County, at its option, may require Contractor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 3.5.6 County reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance certificates. County shall not be obligated to review policies and/or endorsements or to advise Contractor of any deficiencies in such policies and endorsements, and such receipt shall not relieve Contractor from, or be deemed a waiver of County's right to insist on strict fulfillment of Contractor's obligations under this Contract.
- 3.5.7 The insurance policies required by this Contract, except Workers' Compensation shall name County, its agents, representatives, officers, directors, officials and employees as Additional Insureds.
- 3.5.8 The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against County, its agents, representatives, officers, directors, officials and employees for any claims arising out of Contractor's work or service.
- 3.5.9 Commercial General Liability:  
  
Commercial General Liability insurance and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 for each occurrence, \$2,000,000 Products/Completed Operations Aggregate, and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage, and shall not contain any provision which would serve to limit third party action over claims.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from explosion, collapse, or underground property damage.

3.5.10 Automobile Liability:

Commercial/Business Automobile Liability insurance and, if necessary, Commercial Umbrella insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to any of the Contractor's owned, hired, and non-owned vehicles assigned to or used in performance of the Contractor's work or services under this Contract.

3.5.11 Workers' Compensation:

3.5.11.1 Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Contractor's employees engaged in the performance of the work or services under this Contract; and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.

3.5.11.2 Contractor waives all rights against County and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract.

3.5.12 Certificates of Insurance.

3.5.12.1 Prior to commencing work or services under this Contract, Contractor shall furnish the County with certificates of insurance, or formal endorsements as required by the Contract in the form provided by the County, issued by Contractor's insurer(s), as evidence that policies providing the required coverage, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

3.5.12.1.1 In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of Contractor's work or services and as evidenced by annual Certificates of Insurance.

3.5.12.1.2 If a policy does expire during the life of the Contract, a renewal certificate must be sent to County fifteen (15) days prior to the expiration date.

3.5.13 Cancellation and Expiration Notice.

Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty (30) days prior written notice to the County.

3.6 PROCUREMENT CARD ORDERING CAPABILITY:

County may determine to use a procurement card that may be used from time-to-time, to place and make payment for orders under this Contract. Contractors without this capability may be considered non-responsive and not eligible for award consideration.

3.7 INTERNET ORDERING CAPABILITY:

It is the intent of County to use the Internet to communicate and to place orders under this Contract. Contractors without this capability may be considered non-responsive and not eligible for award consideration.

3.8 ORDERING AUTHORITY.

- 3.8.1 Respondents should understand that any request for purchase of materials or services shall be accompanied by a valid purchase order, issued by , or by a Certified Agency Procurement Aid (CAPA).
- 3.8.2 Maricopa County departments, cities, other counties, schools and special districts, universities, nonprofit educational and public health institutions may also purchase from under this Contract at their discretion and/or other state and local agencies (Customers) may procure the products under this Contract by the issuance of a purchase order to the Respondent. Purchase orders must cite the Contract number.
- 3.8.3 Contract award is in accordance with the Maricopa County Procurement Code. All requirements for the competitive award of this Contract have been met. A purchase order for the products is the only document necessary for Customers to purchase and for the Respondent to proceed with delivery of materials available under this Contract.
- 3.8.4 Any attempt to represent any product not specifically awarded under this Contract is a violation of the Contract. Any such action is subject to the legal and contractual remedies available to the County, inclusive of, but not limited to, Contract cancellation, suspension and/or debarment of the Respondent.

3.9 REQUIREMENTS CONTRACT:

- 3.9.1 Contractors signify their understanding and agreement by signing a bid submittal, that the Contract resulting from the bid will be a requirements contract. However, the Contract does not guarantee any minimum or maximum number of purchases will be made. It only indicates that if purchases are made for the materials contained in the Contract, they will be purchased from the Contractor awarded that item. Orders will only be placed when the County identifies a need and proper authorization and documentation have been approved.
- 3.9.2 County reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.
- 3.9.3 Contractors agree to accept verbal notification of cancellation from the Procurement Officer with written notification to follow. By submitting a bid in response to this Invitation for Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

3.10 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

3.11 TERMINATION FOR DEFAULT:

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after the County deems that the Contractor has failed to remedy the problem after being forewarned.

3.12 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate the Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of a substantial violation of any provision of this Contract, then the County may terminate the Contract. Prior to termination of the Contract, the County shall give the Contractor fifteen- (15) calendar day's written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

3.13 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel any Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the Contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the Contract.

3.14 OFFSET FOR DAMAGES;

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance of the contract.

3.15 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete materials to a Contract. If a service requirement is deleted, payment to the Contractor will be reduced proportionately, to the amount of service reduced in accordance with the bid price. If additional materials are required from a Contract, prices for such additions will be negotiated between the Contractor and the County.

3.16 SUBCONTRACTING:

3.16.1 The Contractor may not assign a Contract or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

3.16.2 The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

3.17 AMENDMENTS:

All amendments to this Contract shall be in writing and approved/signed by both parties. Maricopa County shall be responsible for approving all amendments for Maricopa County.

**3.18 ACCESS TO AND RETENTION OF RECORDS FOR THE PURPOSE OF AUDIT AND/OR OTHER REVIEW:**

3.18.1 In accordance with section MCI 367 of the Maricopa County Procurement Code the Contractor agrees to retain all books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract for six (6) years after final payment or until after the resolution of any audit questions which could be more than six (6) years, whichever is latest. The County, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of, any and all said materials.

3.18.2 If the Contractor's books, records, accounts, statements, reports, files, and other records and back-up documentation relevant to this Contract are not sufficient to support and document that requested services were provided, the Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

3.18.3 If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance. The course of action to address the disallowance shall be at sole discretion of the County, and may include either an adjustment to future claim submitted by the Contractor by the amount of the disallowance, or to require reimbursement forthwith of the disallowed amount by the Contractor by issuing a check payable to Maricopa County.

**3.19 PUBLIC RECORDS:**

All Offers submitted and opened are public records and must be retained by the Records Manager at the Office of Procurement Services. Offers shall be open to public inspection after Contract award and execution, except for such Offers deemed to be confidential by the Office of Procurement Services. If an Offeror believes that information in its Offer should remain confidential, it shall indicate as confidential, the specific information and submit a statement with its offer detailing the reasons that the information should not be disclosed. Such reasons shall include the specific harm or prejudice which may arise. The Records Manager of the Office of Procurement Services shall determine whether the identified information is confidential pursuant to the Maricopa County Procurement Code.

**3.20 AUDIT DISALLOWANCES:**

If at any time it is determined by the County that a cost for which payment has been made is a disallowed cost, the County shall notify the Contractor in writing of the disallowance and the required course of action, which shall be at the option of the County either to adjust any future claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

**3.21 VALIDITY:**

The invalidity, in whole or in part, of any provision of the Contract shall not void or affect the validity of any other provision of the Contract.

**3.22 RIGHTS IN DATA:**

The County shall have the use of data and reports resulting from a Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to a Contract and to the performance thereunder.

## 3.23 RELATIONSHIPS:

In the performance of the services described herein, the Contractor shall act solely as an independent contractor, and nothing herein or implied herein shall at any time be construed as to create the relationship of employer and employee, partnership, principal and agent, or joint venture between the County and the Contractor.

## 3.24 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

3.24.1 The undersigned (authorized official signing for the Contractor) certifies to the best of his or her knowledge and belief, that the Contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals:

3.24.1.1 are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

3.24.1.2 have not within 3-year period preceding this Contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3.24.1.3 are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and

3.24.1.4 have not within a 3-year period preceding this Contract had one or more public transaction (Federal, State or local) terminated for cause of default.

3.24.2 Should the Contractor not be able to provide this certification, an explanation as to why should be attached to the Contact.

3.24.3 The Contractor agrees to include, without modification, this clause in all lower tier covered transactions (i.e. transactions with subcontractors) and in all solicitations for lower tier covered transactions related to this Contract.

## 3.25 ALTERNATIVE DISPUTE RESOLUTION:

3.25.1 After the exhaustion of the administrative remedies provided in the Maricopa County Procurement Code, any contract dispute in this matter is subject to compulsory arbitration. Provided the parties participate in the arbitration in good faith, such arbitration is not binding and the parties are entitled to pursue the matter in state or federal court sitting in Maricopa County for a de novo determination on the law and facts. If the parties cannot agree on an arbitrator, each party will designate an arbitrator and those two arbitrators will agree on a third arbitrator. The three arbitrators will then serve as a panel to consider the arbitration. The parties will be equally responsible for the compensation for the arbitrator(s). The hearing, evidence, and procedure will be in accordance with Rule 74 of the Arizona Rules of Civil Procedure. Within ten (10) days of the completion of the hearing the arbitrator(s) shall:

3.25.1.1 Render a decision;

3.25.1.2 Notify the parties that the exhibits are available for retrieval; and

3.25.1.3 Notify the parties of the decision in writing (a letter to the parties or their counsel shall suffice).

- 3.25.2 Within ten (10) days of the notice of decision, either party may submit to the arbitrator(s) a proposed form of award or other final disposition, including any form of award for attorneys' fees and costs. Within five (5) days of receipt of the foregoing, the opposing party may file objections. Within ten (10) days of receipt of any objections, the arbitrator(s) shall pass upon the objections and prepare a signed award or other final disposition and mail copies to all parties or their counsel.
- 3.25.3 Any party which has appeared and participated in good faith in the arbitration proceedings may appeal from the award or other final disposition by filing an action in the state or federal court sitting in Maricopa County within twenty (20) days after date of the award or other final disposition. Unless such action is dismissed for failure to prosecute, such action will make the award or other final disposition of the arbitrator(s) a nullity.

3.26 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §41-4401 AND FEDERAL IMMIGRATION LAWS AND REGULATIONS:

- 3.26.1 By entering into the Contract, the Contractor warrants compliance with the Immigration and Nationality Act (INA using e-verify) and all other federal immigration laws and regulations related to the immigration status of its employees and A.R.S. §23-214(A). The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the Immigration Reform and Control Act of 1986, as amended from time to time, for all employees performing work under the Contract and verify employee compliance using the E-verify system and shall keep a record of the verification for the duration of the employee's employment or at least three years, whichever is longer. I-9 forms are available for download at USCIS.GOV.
- 3.26.2 The County retains the legal right to inspect contractor and subcontractor employee documents performing work under this Contract to verify compliance with paragraph 3.25.1 of this Section. Contractor and subcontractor shall be given reasonable notice of the County's intent to inspect and shall make the documents available at the time and date specified. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County will consider this a material breach of the contract and may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.

~~3.27 VERIFICATION REGARDING COMPLIANCE WITH ARIZONA REVISED STATUTES §§35-391.06 AND 35-393.06 BUSINESS RELATIONS WITH SUDAN AND IRAN:~~

- ~~3.27.1 By entering into the Contract, the Contractor certifies it does not have scrutinized business operations in Sudan or Iran. The contractor shall obtain statements from its subcontractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract.~~
- ~~3.27.2 The County may request verification of compliance for any contractor or subcontractor performing work under the Contract. Should the County suspect or find that the Contractor or any of its subcontractors are not in compliance, the County may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Contract for default, and suspension and/or debarment of the Contractor. All costs necessary to verify compliance are the responsibility of the Contractor.~~

3.28 CONTRACTOR LICENSE REQUIREMENT:

3.28.1 The Respondent shall procure all permits, insurance, licenses and pay the charges and fees necessary and incidental to the lawful conduct of his/her business, and as necessary complete any required certification requirements, required by any and all governmental or non-governmental entities as mandated to maintain compliance with and in good standing for all permits and/or licenses. The Respondent shall keep fully informed of existing and future trade or industry requirements, Federal, State and Local laws, ordinances, and regulations which in any manner affect the fulfillment of a Contract and shall comply with the same. Contractor shall immediately notify both and the using agency of any and all changes concerning permits, insurance or licenses.

3.28.2 Respondents furnishing finished products, materials or articles of merchandise that will require installation or attachment as part of the Contract, shall possess any licenses required. A Respondent is not relieved of its obligation to possess the required licenses by subcontracting of the labor portion of the Contract. Respondents are advised to contact the Arizona Registrar of Contractors, Chief of Licensing, at (602) 542-1525 to ascertain licensing requirements for a particular contract. Respondents shall identify which license(s), if any, the Registrar of Contractors requires for performance of the Contract.

3.29 INFLUENCE

**As prescribed in MC1-1202 of the Maricopa County Procurement Code, any effort to influence an employee or agent to breach the Maricopa County Ethical Code of Conduct or any ethical conduct, may be grounds for Disbarment or Suspension under MC1-902.**

**An attempt to influence includes, but is not limited to:**

3.29.1 **A Person offering or providing a gratuity, gift, tip, present, donation, money, entertainment or educational passes or tickets, or any type valuable contribution or subsidy,**

3.29.2 **That is offered or given with the intent to influence a decision, obtain a contract, garner favorable treatment, or gain favorable consideration of any kind.**

**If a Person attempts to influence any employee or agent of Maricopa County, the Chief Procurement Officer, or his designee, reserves the right to seek any remedy provided by the Maricopa County Procurement Code, any remedy in equity or in the law, or any remedy provided by this contract.**

3.30 POST AWARD MEETING:

The Contractor shall be required to attend a post-award meeting with the Using Agency to discuss the terms and conditions of this Contract. This meeting will be coordinated by the Procurement Officer of the Contract.

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
JOHNSON CONTROLS, INC.**

**EXHIBIT B**  
Award and Rate Sheet

**JOHNSON CONTROLS, INC., 407 SOUTH 17<sup>TH</sup> AVENUE, PHOENIX, AZ 85007**

COMPANY NAME:	Johnson Controls, Inc.
DOING BUSINESS AS (DBA) NAME:	
MAILING ADDRESS:	407 South 17th Avenue Phoenix, AZ 85007
REMIT TO ADDRESS:	PO Box 730068 Dallas, TX 75373
TELEPHONE NUMBER:	602-254-1191
FACSIMILE NUMBER:	866-962-0128
WEB SITE:	www.johnsoncontrols.com
REPRESENTATIVE NAME:	Gary Whetstone
REPRESENTATIVE TELEPHONE NUMBER:	602-445-6761
REPRESENTATIVE E-MAIL:	Gary.H.Whetstone@jci.com

	<b>YES</b>	<b>NO</b>	<b>REBATE</b>
WILL ALLOW OTHER GOVERNMENTAL ENTITIES TO PURCHASE FROM THIS CONTRACT:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
WILL ACCEPT PROCUREMENT CARD FOR PAYMENT:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
FUEL COMPRISES (if section for fuel price adjustment is located in the solicitation document)	5% OF TOTAL BID AMOUNT		

NET 30 DAYS

Hourly Labor Rate Per System Type				
Title	Regular Hours	After Hours	Sunday/Holiday Hours	Bidder Notes
Johnson Controls Equipment	\$152.00 \$159.30 Effective 5/1/14	\$228.00 \$238.94 Effective 5/1/14	\$304.00 \$318.59 Effective 5/1/14	Includes trouble shooting, programming services related to Metasys Controls

Parts at Cost Plus or Minus %					
Title	Unit Price	Qty	UofM	Total Price	Bidder Notes
Parts at Cost Plus or Minus %	50.00%	1	each	50.00%	Parts and Software 50% off List Pricing (see example)

PRICING SHEET: NIGP CODE 91017

Vendor Number: 2011001105 0

Certificates of Insurance Required

Contract Period: To cover the period ending April 30, 2014 2017.

**Added 01/05/12**

BID DATE: 12-18-2015  
PROJECT: Glendale Foothills Library  
TO: Mr. Scott Cabral-City of Glendale

LAST ADDENDUM: 9-04-15 Rev B  
NOTE(S):

## JCI METASYS CONTROL SYSTEM

### General BAS Scope Notes:

1. **Attached to City of Glendale JCI METASYS SYSTEM** – The existing system is located in the main campus and we will provide JCI BACnet controllers with BACnet servers. JCI will provide compatible controllers and software for this project. It will also attach to the existing Metasys field controllers and the owners Metasys software.
2. **BACnet Compliance** – JCI conforms FULLY with a native BACnet BMS system as defined by ANSI/ASHRAE Standard 135-2001, BACnet. JCI DDC controllers are a programmable digital controller that communicates via BACnet Master-Slave/Token Passing (MS/TP) protocol. The controllers are “peer-to-peer” controllers that have the requested point counts for control of the system.
3. **Full BACnet Protocol Operator Workstation (1)** – Johnson Controls will program (1) EXISTING operator workstation for interface to the building controls. Workstation will include all system graphics, trending, tuning and standard functions as required. Using Internet Explorer this system is also a “web-site” base open protocol system.
  - **The PC and DDCs shall communicate through dedicated communications network(s). All communications on network shall be by digital signals only. Operator’s workstation shall as a minimum support Point-to-Point (PTP) and Ethernet BACnet LAN types. It shall communicate directly via these BACnet LANs as a native BACnet device.**
4. **Dynamic HVAC Graphic System** – Johnson Controls will provide and install system graphics to include a floor plan and HVAC equipment graphics. These graphics will provide a view of all necessary points of the building. (CAD Drawings are required from the owner)
5. **Submittals and Shop Drawings** - Providing engineered submittals, installation, materials, and system validation.
6. **Remote Communications** – JCI will provide Internet technical support throughout the warranty period. JCI service and warranty will be able to provide offsite system support directly to the Facilities People.
7. **Plenum Cable Installation** – Johnson Controls has included pricing for plenum rated cable install for the entire system within code compliant areas.

8. **Commissioning**— Johnson Controls will provide dedicated time for start-up and commissioning of the system. Johnson Controls will offer complete commissioning. A complete verification of the functionality of the system shall also be performed for the owner's representatives.
9. **BACnet Supervisor Controller** - A new supervisory controller shall be provided and installed by Johnson Controls. This controller shall monitor the points for the cooling tower, pumps, temperature sensor and heat pump units.
10. **BACnet and Peer to Peer Field Controller** – Proposed field controllers with BACnet protocol shall be provided and installed by Johnson Controls. The field controllers are also peer to peer communication as required by specifications.
11. **Warranty - Installation:** The Control System shall be free from defects in installation workmanship for a period of one year from acceptance. The DDC Contractor shall, free of charge, correct any defects in workmanship within 48 Hours of notification in writing by the Owner.

### Project Specific Scope

1. **Chiller Water Plant** - Controls would include the following devices, isolation valves, temperature sensors, wells, and system pressure meter. Pipe penetration for installation of the devices shall be the responsibility of the mechanical contractor. Metasys will be connected to:
  - (1) Water Cooled Chillers, start\stop and alarm
  - (1) Cooling Towers
  - (2) Primary Chilled Water Pumps
  - (2) Secondary Chilled Water Pumps
  - (1) DP PSI Sensors (new sensors)
  - (6) Temperature Sensors
  - EMT conduit, cable, terminations, and factory DDC panel included.
  - Existing Valves shall be reused and will not be installed.
2. **Exhaust Fans (2)** – Johnson Controls will connect these fans to BAS system to include:
  - Fan Start Stop and Status
  - VFD Control for FCU Fans by JCI
  - Duct Static Pressures as required
  - Damper actuator (damper by others)
  - EF Flow switch shall be provided for proof of status

3. **VAV Air Handlers (2)** - Johnson Controls shall provide a new electronic controller The points are as follows:
- Supply Fan start\stop, VFD control, duct PSI Sensor and status.
  - Exhaust Fan start\stop, VFD control
  - Economizer Section Damper actuators
  - MA Temperature Sensor
  - Return Temp Sensor
  - Discharge Air Temperature
  - Cooling Valve, existing to remain and be reused.
  - Duct Humidity Sensor
  - Supply Air DP Duct Sensor
4. **SUPPLY VAV Terminal Unit W\Electric Reheat (39)** – Johnson Controls shall provide noted field devices, damper actuator, room sensor, reheat valve, cable, wire, software programming, check-out, engineering, and controllers for the operation of the VAV boxes. The controls shall be factory mounted by others.
- a. Space Temperature Sensor with Display and Set-Point Adjust
  - b. VAV box controller, cfm sensor, and discharge air temperature sensor.
  - c. **VAV Box Existing**
  - d. **CO2 Sensors integral to each room sensor**
5. **DESKTOP Computer (1)** – JCI shall supply (1) new computer system to attached the new NAE-45 Controller for graphics and control of the system in the building.

**Clarifications for controls**

1. **Excluded:** Wire, terminations, or installation of **any smoke duct detectors or connection to life safety systems** or stairwell pressurization systems. Electrical contractor fire alarm contractor responsible for addressable hardware.
2. **Excluded:** All taxes, fees, permits and assessments related to this project.
3. **Excluded:** 3<sup>rd</sup> Party device hardware for BACnet integration.
4. **Excluded:** Holiday or Premium labor, all costs for bonds and permits, hazardous material identification, abatement or removal of same.
5. **Excluded:** Any/all general contractor related work, such as framing, painting, patching, man bars, roofing, architectural sheet metal, etc.
6. **Excluded:** Any floor plan graphics.
7. **Excluded:** Any duct mounted smoke detectors, installation, wiring, or connection to life safety systems. Existing wiring will remain as is.
8. **Excluded:** IT Ethernet drop to the operator workstation shall be by others.
9. It is assumed that all existing mechanical equipment including, but not inclusive of, boilers, pumps, VFD's, AHU's, HP's, EF's, all valves, all dampers, AFMS's and evaporative cooling is considered to be in good working order and repairs or replacements are not included in this proposal.

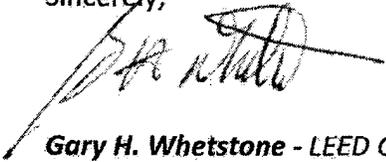
**Total Price (Less Taxes) .....\$132,400.00**

*Equipment and services proposed above may be subject to sales or use tax rate of 8.3%, the sum of which is excluded from the pricing above. If exempt, please provide proper documentation with your purchase order.*

<b>AUTHORIZE</b>	Accepted for:	Submitted by: <b>Johnson Controls, Inc.</b>
	Accepted by: _____	Submitted by: Gary H. Whetstone
	Title: _____	Title: Sr. Account Manager
	Signature: _____	Signature: <i>GHW</i>
	Date: _____	Date: December 18, 2015

Notwithstanding, any inconsistent or additional terms that may be embodied in your purchase order/contract, Johnson Controls, Inc. will accept your order subject only to the terms of the written contract between us under which your order is placed, subject to credit approval by Johnson Controls, Inc., Milwaukee, Wisconsin. If no such contract exists, Johnson Controls, Inc. will accept your order only on the express written condition that you assent to the terms and conditions contained above and on the pages attached hereto; and acceptance and receipt of the goods shipped hereunder shall constitute assent to such terms and conditions. *This proposal offer expires 30 days from bid date above.*

Sincerely,



**Gary H. Whetstone - LEED Green Associate®**  
 Senior Account Manager, Projects/ Service & Controls: Arizona  
 Building Efficiency Group  
**Johnson Controls Inc.**  
 Cell: 602-550-1279  
 Office: 480-517-3543  
 Fax: 480-967-5213  
 Email: [gary.h.whetstone@jci.com](mailto:gary.h.whetstone@jci.com)

## TERMS AND CONDITIONS

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions:

1. **SCOPE OF WORK.** This proposal is based upon the use of straight time labor only. Plastering, patching and painting are excluded. "in-line" duct and piping devices, including, but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Johnson, shall be distributed and installed by others under Johnson's supervision but at no additional cost to Johnson. Purchaser agrees to provide Johnson with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. Johnson agrees to keep the job site clean of debris arising out of its own operations. Purchaser shall not back charge Johnson for any costs or expenses without Johnson's written consent.  
Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal, or disposal of environment Hazards or dangerous substances, to include but not be limited to asbestos or PCBs, discovered in or on the premises. Any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify, or alter the scope of work or services to be performed by JCI shall not operate to compel JCI to perform any work relating to Hazards without JCI's express written consent.
2. **INVOICING & PAYMENTS.** Johnson may invoice Purchaser monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Purchaser shall pay Johnson at the time purchaser signs this agreement an advance payment equal to 10% of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder and purchaser agrees to pay Johnson additional amounts invoiced upon receipt of the invoice. Waivers of lien will be furnished upon request, as the work progresses, to the extent payments are received. If Johnson's invoice is not paid within 30 days of its issuance, it is delinquent.
3. **MATERIALS.** If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of Johnson, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, Johnson shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefor.
4. **WARRANTY.** Johnson warrants that the equipment manufactured by it shall be free from defects in material and workmanship arising from normal usage for a period of one (1) year from delivery of said equipment, or if installed by Johnson, for a period of one (1) year from installation. Johnson warrants that for equipment furnished and/or installed but not manufactured by Johnson, Johnson will extend the same warranty terms and conditions which Johnson receives from the manufacturer of said equipment. For equipment installed by Johnson, if Purchaser provides written notice to Johnson of any such defect within thirty (30) days after the appearance or discovery of such defect, Johnson shall, at its option, repair or replace the defective equipment. For equipment not installed by Johnson, if Purchaser returns the defective equipment to Johnson within thirty (30) days after appearance or discovery of such defect, Johnson shall, at its option, repair or replace the defective equipment and return said equipment to Purchaser. All transportation charges incurred in connection with the warranty for equipment not installed by Johnson shall be borne by Purchaser. These warranties not extend to any equipment which has been repaired by others, abused, altered or misused, or which has not been properly and reasonably maintained. THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE.
5. **LIABILITY.** Johnson shall not be liable for any special, indirect or consequential damages arising in any manner from the equipment or material furnished or the work performed pursuant to this agreement.
6. **TAXES.** The price of this proposal does not include duties, sales, use, excise, or other similar taxes, unless required by federal, state or local law. Purchaser shall pay, in addition to the stated price, all taxes not legally required to be paid by Johnson or, alternatively, shall provide Johnson with acceptable tax exemption certificates. Johnson shall provide Purchaser with any tax payment certificate upon request and after completion and acceptance of the work.
7. **DELAYS.** Johnson shall not be liable for any delay in the performance of the work resulting from or attributed to acts or circumstances beyond Johnson's control, including, but not limited to, acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Purchaser, Owner, or other Contractors or delays caused by suppliers or subcontractors of Johnson, etc.
8. **COMPLIANCE WITH LAWS.** Johnson shall comply with all applicable federal, state and local laws and regulations and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Purchaser.
9. **DISPUTES.** All disputes involving more than \$15,000 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorney's fees incurred as a result. Nothing here shall limit any rights under construction lien laws.
10. **INSURANCE.** Insurance coverage in excess of Johnson's standard limits will be furnished when requested and required. No credit will be given or premium paid by Johnson for insurance afforded by others.
11. **INDEMNITY.** The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys' fees, which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part, by the negligent act or omission of the indemnifying Party.
12. **OCCUPATIONAL SAFETY AND HEALTH.** The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act relating in any way to the project or project site.
13. **ENTIRE AGREEMENT.** This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings.
14. **CHANGES.** No change or modification of any of the terms and conditions stated herein shall be binding upon Johnson unless accepted by Johnson in writing.

BID DATE: 12-18-2015  
PROJECT: Glendale Adult Center  
TO: Mr. Scott Cabral-City of Glendale

LAST ADDENDUM: 9-04-15 Rev B  
NOTE(S):

## JCI METASYS CONTROL SYSTEM

### General BAS Scope Notes:

1. Attached to City of Glendale JCI METASYS SYSTEM – The existing system is located in the main campus and we will provide JCI BACnet controllers with BACnet servers. JCI will provide compatible controllers and software for this project. It will also attach to the existing Metasys field controllers and the owners Metasys software.
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  - o **The PC and DDCs shall communicate through dedicated communications network(s). All communications on network shall be by digital signals only. Operator’s workstation shall as a minimum support Point-to-Point (PTP) and Ethernet BACnet LAN types. It shall communicate directly via these BACnet LANs as a native BACnet device.**
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5. **Submittals and Shop Drawings** - Providing engineered submittals, installation, materials, and system validation.
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11. **Warranty - Installation:** The Control System shall be free from defects in installation workmanship for a period of one year from acceptance. The DDC Contractor shall, free of charge, correct any defects in workmanship within 48 Hours of notification in writing by the Owner.

### Project Specific Scope

1. **Chiller**– JCI to communicate directly to chiller BACnet communication panel for chiller
2. **Chiller Water Plant** - Controls would include the following devices, isolation valves, temperature sensors, wells, and system pressure meter. Pipe penetration for installation of the devices shall be the responsibility of the mechanical contractor. Metasys will be connected to:
  - (2) Water Cooled Chillers, start\stop and alarm
  - (2) Cooling Towers
  - (2) Primary Chilled Water Pumps
  - (2) Secondary Chilled Water Pumps
  - (1) DP PSI Sensors (new sensors)
  - (6) Temperature Sensors
  - Chiller Integration Points
  - EMT conduit, cable, terminations, and factory DDC panel included.
3. **Exhaust Fans (8)** – Johnson Controls will connect these fans to BAS system to include:
  - Fan Start Stop and Status
  - VFD Control for FCU Fans by JCI
  - Duct Static Pressures as required
  - Damper actuator (damper by others)
  - EF Flow switch shall be provided for proof of status

4. **VAV Air Handlers (2)** - Johnson Controls shall provide a new electronic controller The points are as follows:
  - Supply Fan start\stop, VFD control, duct PSI Sensor and status.
  - Exhaust Fan start\stop, VFD control
  - Economizer Section Damper actuators
  - MA Temperature Sensor
  - Return Temp Sensor
  - Discharge Air Temperature
  - Cooling Valve shall be re-used
  - Duct Humidity Sensor
  - Supply Air DP Duct Sensor
  
5. **CV Air Handlers (2)** - Johnson Controls shall provide a new electronic controller The points are as follows:
  - Supply Fan start\stop, VFD, duct PSI Sensor and status.
  - Exhaust Fan start\stop, VFD control
  - Economizer Section Damper actuators
  - MA Temperature Sensor
  - Return Temp Sensor
  - Discharge Air Temperature
  - Cooling Valve shall be reused
  - Duct Humidity Sensor
  - Supply Air DP Duct Sensor
  
6. **Fan Powered Supply Terminal Units With RH (33)** – Johnson Controls shall provide noted field devices:
  - VAV damper actuator
  - Room sensor
  - ~~Reheat valve (re-use existing)~~
  - Room PSI Sensor
  - Provide all cable, wire, software programming, check-out, engineering, and controllers for the operation of the VAV boxes.
  - The controls shall be mounted by JCI.
  - CO2 sensor
  
7. **Fan Coils (2)** – JCI shall supply controls for Fan Coil including all other control hardware\software.
  
8. **DESKTOP Computer (1)** – JCI shall supply (1) new computer system to attached the new NAE-45 Controller for system graphics and control of the system in the building.

**Clarifications for controls**

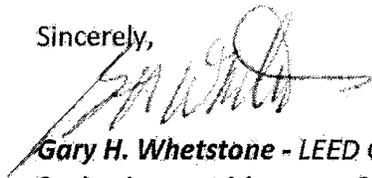
1. **Excluded:** Wire, terminations, or installation of any smoke duct detectors or connection to life safety systems or stairwell pressurization systems. Electrical contractor fire alarm contractor responsible for addressable hardware.
2. **Excluded:** All taxes, fees, bonds, permits and assessments related to this project.
3. **Excluded:** 3<sup>rd</sup> Party device hardware for BACnet integration.
4. **Excluded:** Holiday or Premium labor, all costs for bonds and permits, hazardous material identification, abatement or removal of same.
5. **Excluded:** Any/ all general contractor related work, such as framing, painting, patching, man bars, roofing, architectural sheet metal, etc.
6. **Excluded:** Any floor plan graphics.
7. **Excluded:** Any duct mounted smoke detectors, installation, wiring or connection to life safety systems. Existing wiring to remain as is.
8. **Excluded:** IT Ethernet drop to the operator workstation shall be provided by others.
9. It is assumed that all existing mechanical equipment including, but not inclusive of, boilers, pumps, VFD's AHU's, HP's, EF's all valves, all dampers, AFMS's and evaporative cooling is considered to be in good working order and repairs or replacements are not included in the scope of this proposal.

**Total Price (Less Taxes) .....\$142,941.00**  
*Equipment and services proposed above may be subject to sales or use tax rate of 8.3%, the sum of which is excluded from the pricing above. If exempt, please provide proper documentation with your purchase order.*

<b>AUTHORIZE</b>	Accepted for:	Submitted by: <b>Johnson Controls, Inc.</b>
	Accepted by: _____	Submitted by: Gary H. Whetstone
	Title: _____	Title: Sr. Account Manager
	Signature: _____	Signature: <i>GHW</i>
	Date: _____	Date: December 18, 2015

Notwithstanding, any inconsistent or additional terms that may be embodied in your purchase order/contract, Johnson Controls, Inc. will accept your order subject only to the terms of the written contract between us under which your order is placed, subject to credit approval by Johnson Controls, Inc., Milwaukee, Wisconsin. If no such contract exists, Johnson Controls, Inc. will accept your order only on the express written condition that you assent to the terms and conditions contained above and on the pages attached hereto; and acceptance and receipt of the goods shipped hereunder shall constitute assent to such terms and conditions. *This proposal offer expires 30 days from bid date above.*

Sincerely,



**Gary H. Whetstone - LEED Green Associate ®**  
 Senior Account Manager, Projects/ Service & Controls: Arizona  
 Building Efficiency Group  
**Johnson Controls Inc.**  
 Cell: 602-550-1279  
 Office: 480-517-3543  
 Fax: 480-967-5213  
 Email: [gary.h.whetstone@jci.com](mailto:gary.h.whetstone@jci.com)

## TERMS AND CONDITIONS

By accepting this proposal, Purchaser agrees to be bound by the following terms and conditions:

1. **SCOPE OF WORK.** This proposal is based upon the use of straight time labor only. Plastering, patching and painting are excluded. "in-line" duct and piping devices, including, but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Johnson, shall be distributed and installed by others under Johnson's supervision but at no additional cost to Johnson. Purchaser agrees to provide Johnson with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. Johnson agrees to keep the job site clean of debris arising out of its own operations. Purchaser shall not back charge Johnson for any costs or expenses without Johnson's written consent.  
Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal, or disposal of environment Hazards or dangerous substances, to include but not be limited to asbestos or PCBs, discovered in or on the premises. Any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify, or alter the scope of work or services to be performed by JCI shall not operate to compel JCI to perform any work relating to Hazards without JCI's express written consent.
2. **INVOICING & PAYMENTS.** Johnson may invoice Purchaser monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Purchaser shall pay Johnson at the time purchaser signs this agreement an advance payment equal to 10% of the contract price, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder and purchaser agrees to pay Johnson additional amounts invoiced upon receipt of the invoice. Waivers of lien will be furnished upon request, as the work progresses, to the extent payments are received. If Johnson's invoice is not paid within 30 days of its issuance, it is delinquent.
3. **MATERIALS.** If the materials or equipment included in this proposal become temporarily or permanently unavailable for reasons beyond the control and without the fault of Johnson, then in the case of such temporary unavailability, the time for performance of the work shall be extended to the extent thereof, and in the case of permanent unavailability, Johnson shall (a) be excused from furnishing said materials or equipment, and (b) be reimbursed for the difference between the cost of the materials or equipment permanently unavailable and the cost of a reasonably available substitute therefor.
4. **WARRANTY.** Johnson warrants that the equipment manufactured by it shall be free from defects in material and workmanship arising from normal usage for a period of one (1) year from delivery of said equipment, or if installed by Johnson, for a period of one (1) year from installation. Johnson warrants that for equipment furnished and/or installed but not manufactured by Johnson, Johnson will extend the same warranty terms and conditions which Johnson receives from the manufacturer of said equipment. For equipment installed by Johnson, if Purchaser provides written notice to Johnson of any such defect within thirty (30) days after the appearance or discovery of such defect, Johnson shall, at its option, repair or replace the defective equipment. For equipment not installed by Johnson, if Purchaser returns the defective equipment to Johnson within thirty (30) days after appearance or discovery of such defect, Johnson shall, at its option, repair or replace the defective equipment and return said equipment to Purchaser. All transportation charges incurred in connection with the warranty for equipment not installed by Johnson shall be borne by Purchaser. These warranties not extend to any equipment which has been repaired by others, abused, altered or misused, or which has not been properly and reasonably maintained. **THESE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY AND FITNESS FOR A SPECIFIC PURPOSE.**
5. **LIABILITY.** Johnson shall not be liable for any special, indirect or consequential damages arising in any manner from the equipment or material furnished or the work performed pursuant to this agreement.
6. **TAXES.** The price of this proposal does not include duties, sales, use, excise, or other similar taxes, unless required by federal, state or local law. Purchaser shall pay, in addition to the stated price, all taxes not legally required to be paid by Johnson or, alternatively, shall provide Johnson with acceptable tax exemption certificates. Johnson shall provide Purchaser with any tax payment certificate upon request and after completion and acceptance of the work.
7. **DELAYS.** Johnson shall not be liable for any delay in the performance of the work resulting from or attributed to acts or circumstances beyond Johnson's control, including, but not limited to, acts of God, fire, riots, labor disputes, conditions of the premises, acts or omissions of the Purchaser, Owner, or other Contractors or delays caused by suppliers or subcontractors of Johnson, etc.
8. **COMPLIANCE WITH LAWS.** Johnson shall comply with all applicable federal, state and local laws and regulations and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Purchaser.
9. **DISPUTES.** All disputes involving more than \$15,000 shall be resolved by arbitration in accordance with the rules of the American Arbitration Association. The prevailing party shall recover all legal costs and attorney's fees incurred as a result. Nothing here shall limit any rights under construction lien laws.
10. **INSURANCE.** Insurance coverage in excess of Johnson's standard limits will be furnished when requested and required. No credit will be given or premium paid by Johnson for insurance afforded by others.
11. **INDEMNITY.** The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys' fees, which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part, by the negligent act or omission of the indemnifying Party.
12. **OCCUPATIONAL SAFETY AND HEALTH.** The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act relating in any way to the project or project site.
13. **ENTIRE AGREEMENT.** This proposal, upon acceptance, shall constitute the entire agreement between the parties and supersedes any prior representations or understandings.
14. **CHANGES.** No change or modification of any of the terms and conditions stated herein shall be binding upon Johnson unless accepted by Johnson in writing.



# PROPOSAL

Johnson Controls, Inc.  
2032 West 4<sup>th</sup> Street  
Tempe, Arizona 85281  
Tel. 480-517-3543  
Fax 480-967-5213

TO: **City of Glendale**  
6210 West Myrtle Avenue, Suite 111  
Glendale, AZ 85301-1700

Date: December 18, 2015

Attn: Mr. Scott Cabral/ Building Maintenance Crew Leader-  
HVAC/ Plumbing  
Site: Civic Center-Thermostat Wiring

**RE: Replace Thermostat wiring in Civic Center**

We propose to furnish the materials and/or perform the work described below with highly skilled labor and licensed control technicians.

**Johnson Controls Scope of Work:**

Replace all thermostat wiring in Civic Center  
Approx. half the units for meeting rooms will require ceiling removal/ replacement-included

**Exclusions:**

- Holiday or Premium Labor
- Permits or taxes
- If wall panels must be removed, additional charges would apply (do not believe this will be required)
- Man lifts if required to verify conditions

**Pricing:**

▪ Total price for above scope including use taxes: \$14,030.00

(IMPORTANT: This proposal incorporates by reference the terms and conditions on the reverse side hereof.)

This proposal and alternates listed below are hereby accepted and Johnson Controls is authorized to proceed with the work; subject, however, to credit approval by Johnson Controls, Inc., Milwaukee, Wisconsin.

This proposal is valid until February 18, 2016

\_\_\_\_\_  
City of Glendale

\_\_\_\_\_  
JOHNSON CONTROLS, INC.

*GHW*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Name: Gary H. Whetstone

Title: \_\_\_\_\_

Title: Sr. Account Manager/ December 18, 2015

Date: \_\_\_\_\_

Cell : 602.550.1279  
Office: 480-517-3543

PROPSHORT

## TERMS AND CONDITIONS

By accepting this proposal. Purchaser agrees to be bound by the following terms and conditions:

1. **SCOPE OF WORK.** This proposal is based upon the use of straight time labor only. Plastering, patching and painting are excluded. "In-line" duct and piping devices, including, but not limited to, valves, dampers, humidifiers, wells, taps, flow meters, orifices, etc., if required hereunder to be furnished by Johnson, shall be distributed and installed by others under Johnson's supervision but at no additional cost to Johnson. Purchaser agrees to provide Johnson with required field utilities (electricity, toilets, drinking water, project hoist, elevator service, etc.) without charge. Johnson agrees to keep the job site clean of debris arising out of its own operations. Purchaser shall not back charge Johnson for any costs or expenses without Johnson's written consent.  
Unless specifically noted in the statement of the scope of work or services undertaken by JCI under this agreement, JCI's obligations under this agreement expressly exclude any work or service of any nature associated or connected with the identification, abatement, clean up, control, removal, or disposal of environment Hazards or dangerous substances, to include buy not be limited to asbestos or PCBs, discovered in or on the premises. Any language or provision of the agreement elsewhere contained which may authorize or empower the Purchaser to change, modify, or alter the scope of work or services to be performed by JCI shall not operate to compel JCI to perform any work relating to Hazards without JCI's express written consent.
2. **INVOICING & PAYMENTS.** Johnson may invoice Purchaser monthly for all materials delivered to the job site or to an off-site storage facility and for all work performed on-site and off-site. Purchaser shall pay Johnson at the time purchaser signs this agreement **an advance payment equal to 10% of the contract price**, which advance payment shall be credited against the final payment (but not any progress payment) due hereunder and purchaser agrees to pay Johnson additional amounts invoiced upon receipt of the invoice. Waivers of lien will be furnished upon request, as the work progresses, to the extent payments are received. If Johnson's invoice is not paid within 30 days of its issuance, it is delinquent.
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8. **COMPLIANCE WITH LAWS.** Johnson shall comply with all applicable federal, state and local laws and regulations and shall obtain all temporary licenses and permits required for the prosecution of the work. Licenses and permits of a permanent nature shall be procured and paid for by the Purchaser.
9. **ATTORNEYS' FEES.** Purchaser agrees that he will pay and reimburse Johnson for any and all reasonable attorneys' fees which are incurred by Johnson in the collection of amounts due and payable hereunder.
10. **INSURANCE.** Insurance coverage in excess of Johnson's standard limits will be furnished when requested and required. No credit will be given or premium paid by Johnson for insurance afforded by others.
11. **INDEMNITY.** The Parties hereto agree to indemnify each other from any and all liabilities, claims, expenses, losses or damages, including attorneys' fees, which may arise in connection with the execution of the work herein specified and which are caused, in whole or in part, by the negligent act or omission of the indemnifying Party.
12. **OCCUPATIONAL SAFETY AND HEALTH.** The Parties hereto agree to notify each other immediately upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act relating in any way to the project or project site.
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(rev6/88)

PROPSHORT

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
JOHNSON CONTROLS, INC.**

**EXHIBIT C  
Scope of Work**

**PROJECT**

Foothills Branch Library - Install a new energy management system, JCI Metasys Control System, including programming, remote communications, submittals, shop drawings, cable installation, comissioning, new controller, BACnet and peer to peer field controller.

Adult Center - Replace the energy management system, JCI Metasys Control System, including programming, remote communications, submittals, shop drawings, cable installation, comissioning, new controller, BACnet and peer to peer field controller.

Civic Center - Replace all thermostat wiring

Maintenance, repair, replace or upgrade of existing EMS systems on City of Glendale facilities on an as-needed basis

**LINKING AGREEMENT  
BETWEEN  
THE CITY OF GLENDALE, ARIZONA  
AND  
JOHNSON CONTROLS, INC.**

**EXHIBIT D**

**METHOD AND AMOUNT OF COMPENSATION**

Method and amount of compensation is provided in Section 3 of the agreement.

**NOT TO EXCEED AMOUNT**

The total amount of compensation paid to Contractor for full completion of all work required by the Project must not exceed \$350,000 annually or \$350,000 for the entire term of the Agreement.

**DETAILED PROJECT COMPENSATION**

Foothills Branch Library - Install a new energy management system - \$132,400

Adult Center - Replace the energy management system - \$142,941

Civic Center - Replace all thermostat wiring - \$14,030

Maintenance, repair, replace or upgrade of existing EMS systems on City of Glendale facilities on an as-needed basis - \$60,629