

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE CITY ATTORNEY TO FILE A CIVIL ACTION AGAINST JOHNSON CONTROLS, INC. ("JCI").

WHEREAS, in 2008, the City and JCI entered into a Performance Contract by which JCI agreed to implement automated meter reading technology for all water meters, provide multi-space parking meter terminal improvements, and install a citywide wireless broadband network (collectively, the "Project"); and

WHEREAS, later in 2008, the City and JCI entered into Amendment 1 to the Performance Contract, which clarified portions of the Performance Contract; and

WHEREAS, under the Performance Contract, as amended, the Project was required to result in project benefits in amounts guaranteed by JCI; and

WHEREAS, if the project benefits were not realized in amounts at least equal to the amounts guaranteed by JCI, JCI was required to pay to the City each year for 15 years the amount of the annual shortfall; and

WHEREAS, after the Performance Contract, as amended, became effective, it was determined that the successful installation of the citywide wireless broadband network could not be achieved, and it is not currently being pursued; and

WHEREAS, the success of the automated meter reading and the parking meter improvements was dependent, in great part, on the success of the citywide wireless broadband network, so these two components of the Project are not functional to the extent required under the terms of the Performance Contract, as amended; and

WHEREAS, JCI has breached the Performance Contract, as amended, by failing to perform its obligations, including but not limited to the obligation to pay to the City the amount of the annual shortfall in project benefits.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That the City Attorney is authorized to file a civil action against JCI to seek damages and any and all other remedies that may be available to the City.

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Section 3: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2018.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY for the use and reliance of
the City of Hollywood, Florida only:

DOUGLAS R. GONZALES, CITY ATTORNEY