

ORDINANCE/RESOLUTION REQUEST

Please email requests to the Mayor's Legislative Team

at MileHighOrdinance@DenverGov.org by 9 a.m. Friday. Contact the Mayor's Legislative team with questions

Please mark one: ☐ Bill Request or ☒ Resolution Request Date of Request: July 26, 2024

Please mark one: The request directly impacts developments, projects, contracts, resolutions, or bills that involve property and impact within .5 miles of the South Platte River from Denver's northern to southern boundary? (Check map [HERE](#))

☐ Yes ☒ No

1. Type of Request:

☒ Contract/Grant Agreement ☐ Intergovernmental Agreement (IGA) ☐ Rezoning/Text Amendment

☐ Dedication/Vacation ☐ Appropriation/Supplemental ☐ DRMC Change

☐ Other:

2. **Title:** (Start with *approves*, *amends*, *dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request, etc.)

Amends the Energy Conservation Measure Equipment Lease Purchase Agreement #FINAN-202161239-00 (RQ-00075443) with JPMorgan Chase N.A., for the purposes of modifying the equipment leased and corresponding escrow agreement and Acceptance Certificates, both exhibits to the lease purchase agreement.

3. **Requesting Agency:** Department of Finance

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution (e.g., subject matter expert)	Contact person for council members or mayor-council
Name: Hannah Stewart	Name: Carolina Flores, Hannah Stewart
Email: Hannah.Stewart@denvergov.org	Email: Carolina.Flores@denvergov.org ; Hannah.Stewart@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

The amendments to the lease agreement are administrative changes that will not change to the total contract amount or the contract duration.

These amendments to the lease purchase agreement are necessitated by Energy Performance Agreement amendments originated by the Department of General Services with McKinstry Essention, LLC; therefore, this resolution request should be read in conjunction with the resolution request being submitted by General Services to amend the McKinstry Essention, LLC (GENRL-202473002-02 / GENRL-202161179-02) contract.

The city and the lessor (JP Morgan Chase Bank, N.A.) previously entered into a capital equipment lease purchase agreement dated December 13, 2021, as amended June 29, 2022, related to the purchase of Energy Conservation Measure Equipment ("Equipment") on behalf of the city's Department of General Services, from two separate vendors, Ameresco, Inc. and McKinstry Essention, LLC. The proposed changes to the agreement include modifications to the lease purchase agreement equipment list and acceptance certificates as a result of changes to equipment and a reduction to the scope of work to the McKinstry Essention, LLC Energy Performance Agreement. The proposed modification will result in funds remaining in escrow after all payments have been made to the vendor. The remaining funds will be applied to the rental payments, as directed in the lease purchase agreement.

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

6. **City Attorney assigned to this request (if applicable):** Laurie Heydman
7. **City Council District:** Citywide
8. ****For all contracts, fill out and submit accompanying Key Contract Terms worksheet****

Key Contract Terms

Type of Contract: (e.g. Professional Services > \$500K; IGA/Grant Agreement, Sale or Lease of Real Property): Capital Equipment Lease Purchase Agreement

Vendor/Contractor Name: JP Morgan Chase Bank, N.A.

Contract control number: FINAN-202161239-02/202474177-02

Location: Citywide

Is this a new contract? ☐ Yes ☒ No **Is this an Amendment?** ☒ Yes ☐ No **If yes, how many?** 2

Contract Term/Duration (for amended contracts, include existing term dates and amended dates): 15-year Lease term, amendment does not change lease term

Contract Amount (indicate existing amount, amended amount and new contract total):

<i>Current Contract Amount</i>	<i>Additional Funds</i>	<i>Total Contract Amount</i>
<i>(A)</i>	<i>(B)</i>	<i>(A+B)</i>
\$16,514,858.73	\$0	\$16,514,858.73

<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>
15-year term (1/31/2037)	N/A	15-year term (1/31/2037)

Scope of work: This administrative amendment is needed to process payments to the vendors, McKinstry Essention LLC for delivery and installation of the Equipment through USBank, the escrow bank.

Was this contractor selected by competitive process? Yes **If not, why not?**

Has this contractor provided these services to the City before? ☒ Yes ☐ No

Source of funds: Annual Capital Improvement Program, Utility Savings and Climate Protection Fund

Is this contract subject to: ☐ W/MBE ☐ DBE ☐ SBE ☐ XO101 ☐ ACDBE ☒ N/A

WBE/MBE/DBE commitments (construction, design, Airport concession contracts): None

Who are the subcontractors to this contract? None

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CITY AND COUNTY OF DENVER

DEPARTMENT OF FINANCE

CASH AND CAPITAL FUNDING
201 WEST COLFAX AVE.
DENVER, COLORADO 80202
PHONE: (720) 913-5500

Executive Summary

Resolutions to amend 1) the Energy Performance Agreement with McKinstry Essention, LLC for the purpose of changing the scope of work for services related to the implementation of energy conservation measures at city buildings and 2) the Energy Conservation Measure Equipment Lease Purchase Agreement for the purpose of modifying the Lease Purchase Agreement.

Background:

On December 13, 2021, the City and County of Denver executed Energy Performance Agreements for services related to the implementation of energy conservation measures in 45 city buildings. The energy conservation measures were awarded to two Energy Services Companies: Ameresco, Inc. and McKinstry Essention, LLC. Energy Performance Agreements are a strategy to reduce energy use in existing buildings per the Strategic Energy Plan for City and County of Denver Municipal Facilities 100% Renewable Electricity Goal (now Energize Denver Ordinance). The strategy prioritizes large buildings with high energy-use intensity (EUI). Energy Conservation Measure recommendations were reviewed by the Denver Energy Office and building stakeholders, and a final list of Energy Conservation Measures for implementation was agreed upon by both parties. The equipment was purchased through a capital lease purchase agreement with JP Morgan Chase, payments for which will be made from utility savings. Additional funding to support the direct purchase of equipment and required professional services will be from the Climate Protection Fund and Annual Capital Improvement Program.

On June 29, 2022, the City and County of Denver executed the first amendment to the Energy Performance Agreements for the purposes of changing the scope of work for services and changing the term and payment structure. In conjunction with the Energy Performance Agreement amendments, the Energy Conservation Measure Equipment Lease Purchase Agreement was amended for the purpose of modifying the lease purchase agreement to align the scope and payment structure with the amended Energy Performance Agreements. There were no changes to the lease purchase agreement term or contract amount.

Proposed Amendments:

McKinstry Essention, LLC – Vendor (McKinstry): In relation to the Lease Purchase Agreement, the second amendment to the McKinstry Energy Performance Contract includes corrective changes to the scope of work at three locations. Unrelated to the Lease Purchase Agreement, it also seeks to increase the contract amount and extend the date of the contract's construction, measurement, and verification phase. For more details on the amendments, please see the accompanying McKinstry Essention LLC Energy Performance Contract Resolution Request.

JPMorgan Chase – Lessor: Due to the amendments referenced above, the amended equipment delivery schedule and equipment list for McKinstry is no longer accurate. The amendments to this Lease Purchase Agreement are to correctly reflect the changes to the equipment and price of the equipment which is to be leased and ultimately owned if all the lease payments are made.

Impacts: An administrative change to three Lease Purchase Agreement exhibits necessitated by the adjustments to the Energy Performance contract. There is no change to the cost of the lease and the \$361,912 reduction due the change and reduction in scope of the McKinstry contract will be applied to the lease rental payments, in accordance with the Lease Purchase Agreement.

- Deduction in LED lights at Van Cise-Simonet Detention Center (\$218,400)
- Deduction in scope of work at Lindsey Flanigan Courthouse for unavailable products (\$82,343)
- Removal of solar panels at Police Department #2 (\$61,169)

There will be no changes to the lease purchase agreement term.

Lease Purchase Term

- Original: December 13, 2021 – January 31, 2037 (no change)

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