

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

Date of Request: July 26, 2024__

Please mark one: Bill Request or Resolution Request

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.)

Approves an amendment to the Energy Performance Agreement with McKinstry Essention, LLC to extend the contract term to September 1, 2027, and increase the contract maximum to \$2,526,933 for services related to the implementation of energy conservation measures at city buildings.

3. **Requesting Agency:** Department of Finance on behalf of General Services

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: Tom Ochtera	Name: Tom Ochtera Nicol Suddreth
Email: Tom.Ochtera@denvergov.org	Email: Tom.Ochtera@denvergov.org Nicol.Suddreth@denvergov.org

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

This resolution request is to approve a contract amendment to the Energy Performance Agreement for services to the purchase of energy conservation measure implementation in 23 city buildings throughout the city and to extend the contract term and increase the contract amount. 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 known as Energize Denver Ordinance). The strategy prioritizes large buildings with high energy-use intensity (EUI).

This amendment will reduce the scope of work at two facilities due to conditions in the field; increase the contract amount due to owner-driven changes; and extend the date of completion of measurement and verification services to September 1, 2027.

Under the current agreement with McKinstry Essention, LLC, the contract expiration date is December 31, 2026, and contract maximum is \$2,346,783. The second amendment will extend the contract expiration date to September 1, 2027, and increase the contract capacity by adding an additional \$180,150 for unforeseen and owner-driven changes, resulting in a new contract amount of \$2,526,933.

6. **City Attorney assigned to this request (if applicable):** Brian Martin

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____

Date Entered: _____

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):
Expenditure – Energy Performance Agreement

Vendor/Contractor Name: McKInstry Essention, LLC

Contract control number: GENRL-202473002-02 (GENRL-202161179-02)

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):

Current Contract Term: December 1, 2021 – December 31, 2026

Amended Contract Term: December 1, 2021 – September 1, 2027

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

Current Contract Amount: \$2,346,783

Amended Contract Amount: \$2,526,933

<i>Current Contract Amount</i> (A)	<i>Additional Funds</i> (B)	<i>Total Contract Amount</i> (A+B)
\$2,346,783.00	\$180,150.00	\$2,526,933.00

<i>Current Contract Term</i>	<i>Added Time</i>	<i>New Ending Date</i>
12/1/2021-12/31/2026	8 months	September 1, 2027

Scope of work: This agreement is for services associated with the purchase of energy conservation measure implementation equipment in 23 city buildings.

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): 18% MWBE Goal Participation

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Who are the subcontractors to this contract?

ECM Holdings

ATS Rocky Mountain

Trane

Setpoint

Westover

Siemens

Haynes Mechanical

LEI Electrical

MGT Landscaping

Standard Mechanical

Murphy Company

Circuitus Energy Solutions

Titan

Jedi

Certified Balancing and Commissioning

Pela

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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:

There are no changes to the Ameresco Energy Performance Contract.

For the McKinstry Essention LLC, Energy Performance Contract, there are three corrective changes: reduce the scope of work at three locations, increase the contract amount due to owner-driven and unforeseen circumstances, and extend the date of the contract's construction, measurement, and verification phase.

The reduction in the scope of work will reduce the lighting changes in the Van Cise-Simonet Detention Center due to scheduling conflicts, and it will reduce the lighting changes in the Lindsey Flanigan Courthouse due to product availability. This amendment also reduces the number of solar panels at Police Department #2 due to unforeseen field conditions. Under the current agreement with McKinstry Essention, LLC, the contract expiration date is December 31, 2026, and contract maximum is \$2,346,783. This second amendment will extend the contract expiration date to September 1, 2027, and increase the contract capacity by adding an additional \$180,150 for unforeseen and owner-driven changes, resulting in a new contract amount of \$2,526,933. This increase will be added to the Owner Contingency.

Due to the changes and increased contract capacity, the following schedules will be replaced as described below:

Schedule B is replaced in its entirety with Schedule B-2 (Detailed Scope of Work)

Schedule C is replaced in its entirety with Schedule C-2 (Guarantee)

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Schedule D is replaced in its entirety with Schedule D-2 (Measurement and Verification Plan)
Schedule F is replaced in its entirety with Schedule F-2 (Schedule of Values)
Schedule G is replaced in its entirety with Schedule G-2(Proposed Financial Cost and Cash Flow Analysis)
Schedule H is replaced in its entirety with Schedule H-2 (Certification that the Cost Weighted Average Service Life of Equipment Exceeds Financing Term)
Schedule Y Certificates of Acceptance numbers 59, 70, and 76 of 141 are replaced in its entirety with Schedule Y-2

Term

- Original: December 1, 2021 – December 31, 2026
- Amended: December 1, 2021 – September 1, 2027

Associated with the changes in the aforementioned McKinstry Essention LLC Energy Performance Contract Amendment 2, the companion Equipment Lease Purchase Agreement changes include:

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

Contract Amount:

<i>Original Contract Amount:</i>	\$2,346,783
<i>Current Request Amount:</i>	\$ 180,150
<i>New Total If Executed:</i>	\$2,526,933

Impacts: There is no change to the cost of the lease and the \$361,912.40 reduction due the reduction in scope of the McKinstry contract will be applied to the lease rental payments, in accordance with the lease purchase agreement.

For more details on the amendments, please see the accompanying Equipment Lease Purchase Agreement Resolution.

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