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191222

Emergency Ordinance

*Amend contract with McKinstry Essention, LLC for energy savings performance contracting services not to exceed \$18,500,000 (amend Contract 30007025)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. In partnership with the Office of Management and Finance (OMF) Procurement and the Bureau of Planning and Sustainability, Portland Parks & Recreation (PP&R) is committed to reducing our environmental footprint while improving the resiliency of our infrastructure. Our lighting, cooling, heating, and plumbing systems consume over \$6 million per year in gas, electricity, and water and many of these systems are well beyond expected service life and contribute to our \$600 million and growing capital maintenance backlog.
2. On April 5, 2017, City Council authorized a competitive solicitation per City Code 5.34.880 for an Energy Savings Performance Contract (ESPC) (Ordinance No. 188310). To complete the work most efficiently, PP&R determined that it would implement multiple design-build stages from one initial technical energy audit. On September 4, 2019, City Council accepted the Guaranteed Maximum Price for Stage 1 (GMP1) implementation of the ESPC. On November 20, 2019, the City entered into contract agreement with McKinstry Essention, LLC (Contract No. 30007025).
3. On December 28, 2022, the Commissioner-in-Charge signed an emergency declaration for lighting removal and replacement work to take place under this contract since many of the impacted parks and pathway lighting impacted by a structural deficiency were already within scope of the ESPC work.

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[Management and Finance;](#)
[Revenue and Financial Services](#)

Contact

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Requested Agenda Type

Regular

Date and Time Information

Requested Council Date

April 5, 2023

Time Requested

15 minutes

4. Both this Stage 2 amendment (GMP2) and GMP1 derive from the same feasibility, analysis, technical energy audit, technical specifications and know-how for the performance guarantee provided by McKinstry Essention, LLC. Performance has been satisfactory for Stage 1, including: 40% DMWESB firm utilization; direct annual cost savings of over \$79,000 per year; a 15% reduction of utility consumption at the Stage 1 sites; improved lighting coverage on pathways at seven parks; and DarkSky-compliant fixtures for improved conditions for wildlife.
5. In a continuation of that work, PP&R intends to award a GMP2 contract amendment that will include improvements to pathway lighting at an additional 12 parks; add more efficient heating and cooling to replace an obsolete heating-only system at Peninsula Park Community Center; and modernize the heating, ventilation, and air-conditioning system at Charles Jordan Community Center and East Portland Community Center so that they are better able to function in poor outdoor air quality environments. These investments support the Climate Emergency Declaration and Workplan and avoid 327 Metric Tonnes of CO2 per year – the equivalent of 1,222,000 miles not driven in an internal combustion engine car.
6. The current contract amount is \$1,071,124.24 incorporating change-orders 1 and 2, and the GMP 2 amendment's cost is anticipated to be \$14,500,000, including the emergency approved change orders 3 and 4 for pole and base removals. An additional amount of \$2,928,875.76 is being requested as a contingency in case other issues arise during construction and change orders are required, for a new contract not to exceed value of \$18,500,000.
7. Sufficient funds are expected to be available in the Parks Capital Improvement Program Fund, No. P00924.

NOW, THEREFORE, the Council directs:

- A. The Chief Procurement Officer is authorized to execute amendment(s) that are approved as to form by the City Attorney's office and/or change orders to Contract 30007025 if the contract not-to-exceed amount is \$18,500,000 or less.
- B. The Mayor and City Auditor, or their designee(s), are hereby authorized to draw and deliver checks when demand is presented and approved by the property authority.

Section 2. The Council declares an emergency exists due to the need for climate action and to replace removed pathway lighting for public safety; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
April 5, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

Authorize the Chief Procurement Officer to execute amendment(s) that are approved as to form by the City Attorney's office and/or change orders to Contract 30007025 if the contract not-to-exceed amount is \$18,500,000 or less.

This is the second stage of a Guaranteed Maximum Price Energy Savings Performance Contract (ESPC) which was originally competitively bid in 2017. ESPCs follow City Code 5.34.880 where an expert firm performs technical analysis and feasibility of efficiency work and then performs and guarantees the utility savings of selected and funded designs. Stage 1 covered nine locations and this second stage covers an additional fifteen.

This Stage 2 amendment will improve pathway lighting at an additional 12 parks; add more efficient heating and cooling to replace an obsolete heating-only system at Peninsula Park Community Center; and modernize the heating, ventilation, and air-conditioning system at Charles Jordan Community Center and East Portland Community Center to ones that are better able to function in poor outdoor air quality and in pandemic operating environments.

Financial and Budgetary Impacts

Based on the proposed Guaranteed Maximum Price and also including contingency, Parks anticipates the contract cost to be up to \$18,500,000.00. The additional amount in the amendment authorization ordinance includes the original award plus additional contract contingency should the scope change between now and the end of 2024.

The current contract amount is \$1,071,124.24 incorporating change-orders 1 and 2, and the GMP 2 amendment's cost is anticipated to be \$14,500,000, including the emergency approved change orders 3 and 4 for pole and base removals. An additional amount of \$2,928,875.76 is being requested as a contingency in case other issues arise during construction and change orders are required, for a new contract not to exceed value of \$18,500,000.

Funds are expected available from the following sources:

- Capital Set Aside: \$2,083,852
- System Development Charges: \$900,000
- Metro Bond Local Share: \$2,000,000
- PP&R Major Maintenance: \$8,916,148
- Department of Energy Block Grant: \$600,000
- Total anticipated funds available: \$14,500,000.00
- Previous contract amount: \$1,071,124.24
- Additional authorization for contingency: \$2,928,875.76
- Sum of authorization: \$18,500,000.00

No positions will be created, eliminated or re-classified as a result of this legislation. This project will reduce (or avoid the increase of) ongoing operating costs at the sites where these investments will be made.

Community Impacts and Community Involvement

The investment supports the Climate Emergency Declaration and Workplan and avoid 327 Metric Tonnes of CO2 per year – the equivalent of 1,222,000 miles not driven in an internal combustion engine car. In addition to progress on our major maintenance backlog, informal community feedback from the lighting conversion completed in the earlier pilot was positive and responds to extensive community involvement which shows extensive interest and concern about safety in-general and park lighting in-particular. The improved lighting is not only more energy efficient but also provides better coverage, appears brighter, and is more reliable. Based on preliminary consultation with the PP&R Community Engagement Team, implementation of the work will take an *inform* approach, where interested and impacted parties will be kept up to date on construction impacts through the project website, signage, and other appropriate site-specific strategies.

100% Renewable Goal

This projects advances the City's Renewable Energy Goal by improving the energy efficiency of our infrastructure to avoid the future consumption of over 362,313 kWh of electricity per year and over 10,092 therms of natural gas.

Budget Office Financial Impact Analysis

Based on the proposed Guaranteed Maximum Price and included contingency, the anticipated amended contract cost is expected to be up to \$18.5 million. That amount includes the original award plus additional contact contingency should the scope change. Funding for this project is expected to be available from the following sources: Capital Set Aside: \$2,083,852; System Development Charges: \$900,000; Metro Bond Local Share: \$2,000,000; PP&R Major Maintenance: \$8,416,148; Department of Energy Block Grant: \$600,000. Ongoing operating costs at the sites of these investments will be reduced or stay the same.

Breakdown of the total amount: The current unamended contract is \$1,050,624.24. Including all change-orders and GMP2, the amendment's cost is anticipated to be \$14.5 million. The contingency is \$2,949,375.76. The amendment's cost and the contingency total are for the new contact that is not to exceed \$18.5 million.

Agenda Items

264 Regular Agenda in [April 5, 2023 Council Agenda](#)

Passed

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea