



Memorandum

Date: 9/17/2024
Meeting of: City Council

File No. AM No. 24-132
Type: Consent Item

TO: Members of the City Council
FROM: Mayor Angela Birney
DEPARTMENT DIRECTOR CONTACT(S):

Public Works	Aaron Bert	425-556-5814
Executive	Lisa Maher	425-556-2427
Parks	Loreen Hamilton	425-556-5814

DEPARTMENT STAFF:

Public Works	Amy Kim	Engineer
Public Works	Eric Dawson	Acting Engineering Supervisor
Parks	Quinn Kuhnhausen	Parks Manager
Parks	David Tuchek	Parks Deputy Director
Executive	Jenny Lybeck	Environmental Sustainability Program Manager
Public Works	Steve Gibbs	Capital Projects Division Manager
Public Works	Vangie Garcia	Deputy Public Works Director

TITLE:

Approval of an Agreement with McKinstry Essention, in the Amount of \$109,197, for the Public Safety Building Phase 2 and Sustainability Building Automation Projects

OVERVIEW STATEMENT:

The Public Safety Building Phase 2 and Sustainability Building Automation Projects will replace selected existing Heating, Ventilation, and Air Conditioning (HVAC) equipment and controls with energy-efficient solutions, reducing utility and operational costs. In addition, this project will replace end-of-life equipment ensuring safe and optimized performance. This is phase 2 of a multi-phase effort to optimize energy efficiency in the Public Safety Building.

The agreement with McKinstry Essention is in the amount of \$109,197. The agreement is for an Investment Grade Audit (IGA) following the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Level 2 audit for the Public Safety Building Phase 2 and Sustainability Building Automation Projects (City Project Nos. 2336 and 2111). The audit will propose cost-effective upgrades to improve the building’s energy efficiency and assist in complying with current energy use regulations and City sustainability goals.

This initial agreement includes the cost of the audit only. Future supplemental agreements will be for the construction of the proposed improvements followed by measurement and verification to ensure energy savings goals are met.

Additional Background Information/Description of Proposal Attached

REQUESTED ACTION:

Receive Information Provide Direction Approve

REQUEST RATIONALE:

- **Relevant Plans/Policies:**
Capital Facilities Plan 2025-30, 2020 Environmental Sustainability Action Plan, 2021 City Operations Zero Carbon Strategy, Climate Emergency Declaration
- **Required:**
Council approval required for contracts exceeding \$50,000.
- **Council Request:**
N/A
- **Other Key Facts:**
Clean Buildings Performance Standard (CBPS)
The Washington Clean Buildings Performance Standard (CBPS) (HB 1257 Chapter 285 Laws of 2019) was signed into law in 2019 and requires Tier 1 commercial buildings that are 50,000 SF or greater to meet the established average energy use intensity target (EUI_t) or perform an energy audit and implement all cost-effective efficiency measures (a.k.a. investment criteria pathway). CBPS non-compliance penalties can start at \$5,000 plus \$1 per gross square foot for every year of non-compliance.

Public Safety Building is a Tier 1 building (53,328 SF) with a compliance date of June 1, 2028. Implementing this project will help meet the Washington State-mandated law.

Energy Service Performance Contracting (ESPC)

Energy Service Performance Contracting is an alternative to the traditional Design-Bid-Build (DBB) process.

Administered by the Washington State Department of Enterprise Services (DES), ESPC aims to improve energy efficiency in existing facilities. Local governments can join the program by signing an Interagency Agreement (IAA) with DES and collaborating with pre-qualified Energy Service Companies (ESCOs). On May 7, 2024, Council authorized the Mayor to sign an IAA, which was subsequently signed on May 17, 2024. McKinstry Essention is a pre-qualified ESCO and was selected to complete the PSB project.

ESPC offers unique opportunities for energy efficiency projects that are not typically feasible under the DBB process. The ESCO takes on both the construction and performance risks, guaranteeing the maximum construction cost and ensuring energy savings and equipment performance. This approach integrates commissioning as a key component, ensuring the ESCO meets its guarantees.

In ESPC, the ESCO handles everything from the initial audit to design, construction, and commissioning, acting as the single point of accountability. Unlike the DBB process, ESCOs do not have to publicly advertise for bids and can procure equipment through bidding, negotiation, or self-performance. While subcontracted work is expected to be competitively bid to ensure cost-effectiveness, the ESCO is not obligated to select the lowest

bidder if it negatively impacts the project's performance.

OUTCOMES:

- Compliance with the Washington State Clean Building Performance Standard (CBPS) and avoid a penalty of \$58,328 per year if not in compliance by the established Tier 1 compliance date.
- Reduced utility expenses and decreased maintenance costs associated with emergency equipment replacement.
- Decreased emissions from buildings by reducing overall energy consumption.

COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:

- **Timeline (previous or planned):**
N/A
- **Outreach Methods and Results:**
N/A
- **Feedback Summary:**
N/A

BUDGET IMPACT:

Total Cost:
\$109,197

Approved in current biennial budget: Yes No N/A

Budget Offer Number:
CIP

Budget Priority :
Vibrant and Connected
Healthy and Sustainable

Other budget impacts or additional costs: Yes No N/A

If yes, explain:
N/A

Funding source(s):
General Fund
Real Estate Excise Tax

Budget/Funding Constraints:
N/A

Additional budget details attached

COUNCIL REVIEW:

Previous Contact(s)

Date	Meeting	Requested Action
4/23/2024	Committee of the Whole - Parks and Environmental Sustainability	Provide Direction
5/7/2024	Business Meeting	Approve
9/3/2024	Committee of the Whole - Planning and Public Works	N/A

Proposed Upcoming Contact(s)

Date	Meeting	Requested Action
N/A	None proposed at this time	N/A

Time Constraints:

This CBPS compliance deadline of June 1, 2028, requires a minimum of 1 year of measurement and verification of the building's energy use. Therefore, considering the commissioning period of the HVAC equipment and building control system, the construction must be completed at least 15 months before the published deadline. In summary, this project must be completed by Q1 2027, and construction should start no later than Q2 2026.

ANTICIPATED RESULT IF NOT APPROVED:

If the agreement is not approved, staff would pursue a design-bid-build process which would likely extend the project schedule. This could lead to a potential violation of State law, CBPS. Failure to submit appropriate documentation by the scheduled reporting date will result in progressive penalties by legal notice.

ATTACHMENTS:

- Attachment A - Project Information Sheet
- Attachment B - ESPC Program Process Description
- Attachment C - Investment Grade Audit Proposal
- Attachment D - Interagency Agreement with Department of Enterprise Services
- Attachment E - History of the Clean Buildings Performance Standard
- Attachment F - DES Audit Authorization Packet Blank Forms