

AMENDMENT NO. 1
CONSTRUCTION AGREEMENT WITH MCKINSTRY ESSENTION, LLC
(CITY OF GLENDALE, Contract No. C23-0999)

This Amendment No. 1 (“Amendment”) to the construction agreement (“Agreement”) is made this _____ day of _____, 2024, (“Effective Date”), by and between the City of Glendale, an Arizona municipal corporation (“City”) and Mckinstry Essention, LLC, a Washington limited liability company, authorized to do business in Arizona (“Contractor”).

RECITALS

- A. City and Mckinstry Essention, LLC (“Contractor”) previously entered into a construction agreement, Contract No. C23-0999, dated September 26, 2023 (“Agreement”); and
- B. City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this Amendment.

AGREEMENT

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor hereby agree as follows:

1. **Recitals.** The recitals set forth above are not merely recitals but form an integral part of this Amendment.
2. **Term.** The term of the Agreement is extended for a one-year period from September 26, 2024, through September 25, 2025. The term may be extended for three (3) additional one-year periods if needed to cover long lead or warranty items, unless otherwise terminated or canceled as provided by the Agreement. The City shall notify Contractor 30 days in advance of its extension of this Agreement. All other provisions of the Agreement except as set forth in this Amendment shall remain in their entirety.
3. **Scope of Work.** The Scope of Work is being amended to include Transition to Sustainable Operations - TSO as provided in Exhibit A.
4. **Compensation.** The compensation is increased by \$156,660, resulting in a maximum compensation amount available under this Agreement of \$10,373,329. The additional compensation is being provided so Contractor can perform additional tasks added to the scope of work.
5. **Insurance Certificate.** The current certificate will expire on January 31, 2025. A new insurance certificate must be provided prior to this date to the Materials Manager and the Contract Administrator in order for this Agreement to remain in effect.
6. **Non-discrimination.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S.

military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.

7. **No Boycott of Israel.** To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.
8. **Uyghur Forced Labor Prevention Act (UFLPA).** Contractor certifies that it does not currently, and during the term of this Agreement, will not use:
 - (a) the forced labor of ethnic Uyghurs in the People’s Republic of China;
 - (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; and
 - (c) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China.
9. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. **Ratification of Agreement.** City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

[Signatures on the following page.]

CITY OF GLENDALE, an Arizona
municipal corporation

Kevin R. Phelps, City Manager

ATTEST:

Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

Mckinstry Essention, LLC
c/o Greg Spalding
4835 East Cactus Road, Suite 100
Scottsdale, Arizona 85254



By: Greg Spalding
Its: Regional Director

EXHIBIT A

SCOPE OF WORK

The Transition to Sustainable Operations (TSO) scope will complete three key items: asset management, maintenance planning, and warranty management. The following sections outline a detailed scope of work, deliverables, and clarifications for each focus area.

ASSET MANAGEMENT

The asset management scope of work pertains to the buildings and asset types listed below.

Buildings:

- Adult Center •Civic Center
- Foothills Recreation and Aquatics Center (FRAC)
- Glendale Regional Public Safety Training Center (GRPSTC)

Asset Types:

- Air Conditioner •Evaporative Cooler •Pump
- Air Handling Unit – With Energy Wheel •Exhaust Fan •Packaged Unit
- Air Separator •Expansion Tank •Sump Pump
- Boiler •Fan Coil Unit •VAV Terminal Unit
- Chiller •Fluid Cooler •Variable Frequency Drive
- Condensing Unit •Heat Exchanger •Water Treatment System (Hydronic)
- Cooling Tower •Makeup Air Unit

Asset Inventory

McKinstry will develop and populate a standard asset inventory list containing new EPC assets and applicable existing assets. McKinstry will then provide the list to City of Glendale staff for upload or update into the City's computerized maintenance management system (CMMS) (CentralSquare /Lucity). Once the assets are uploaded, McKinstry will review the data in CentralSquare for accuracy and compliance with existing CMMS standards.

Asset Tagging

McKinstry will design a standard serialized asset tag that can be applied across the City's asset portfolio. McKinstry will then purchase 1000 of the agreed upon tags and apply to them only to the assets within the scope of work detailed at the beginning of the asset management section. During the tagging process, McKinstry will associate the asset tag ID with the standard asset inventory list. Once tagging is complete, McKinstry will supply the City of Glendale with the asset ID information so it can be uploaded into the CMMS. Any leftover tags will be given to the City of Glendale for use on future asset tagging projects.

Schedule

The asset management scope of work will commence following contract signature and all work will be completed by the end of 2025.

MAINTENANCE PLANNING

The maintenance planning scope of work pertains to the buildings and asset types listed below.

Buildings:

- Adult Center •Civic Center
- Foothills Recreation and Aquatics Center (FRAC)

- Glendale Regional Public Safety Training Center (GRPSTC)

Asset Types:

- Air Conditioner •Evaporative Cooler •Pump
- Air Handling Unit – With Energy Wheel •Exhaust Fan •Packaged Unit
- Air Separator •Expansion Tank •Sump Pump
- Boiler •Fan Coil Unit •VAV Terminal Unit
- Chiller •Fluid Cooler •Variable Frequency Drive
- Condensing Unit •Heat Exchanger •Water Treatment System (Hydronic)
- Cooling Tower •Makeup Air Unit

Maintenance Schedules and Tasks

McKinstry will develop a PM program for all equipment in the maintenance planning scope of work. McKinstry will define detailed preventive maintenance tasks and schedules for all applicable assets. Schedules and tasks will be based on available operations and maintenance manuals, industry best practices, and operational environment factors. McKinstry will develop and organize these PM plans in a spreadsheet format agreed upon by the City of Glendale. Next, McKinstry will review the PM plans and schedules with City of Glendale staff.

During the PM review process, McKinstry will meet with City of Glendale maintenance staff to ensure the maintenance plans developed work within the existing City of Glendale facility maintenance structure. These meetings will inform the trade supervisors of the asset types, quantities, consumable parts, maintenance tasks, and maintenance frequencies. After the City of Glendale trade supervisors have signed off on the maintenance tasks and frequencies, McKinstry will provide the PM plans to the City of Glendale for upload into the CMMS. After the upload of PM plans is complete, McKinstry will review the plans in the CMMS for accuracy and completeness.

Ongoing Preventive Maintenance Tracking

McKinstry will provide monthly preventive maintenance tracking for PM tasks developed during the maintenance schedules and tasks phase of the project. Any other PMs developed by the City of Glendale or others will not be tracked under this scope of work. Before the tracking begins, McKinstry will work the City of Glendale to develop three key performance indicators (KPIs) that highlight the health of the PM program. The month-to-month tracking of the PM tasks will start after preventative maintenance plans are setup in the CMMS and conclude two years after contract signature.

- Each month McKinstry will analyze PM task data from the CMMS and create a brief KPI summary document. The document will show the current and historical KPIs values over the length of the project.
- McKinstry will hold a virtual one-hour combined meeting with all applicable members of the City's facility management department. In this meeting McKinstry will review the KPI summary document, discuss past due PMs, highlight upcoming PMs, and collect feedback on the current state of the PM program.

Schedule

The maintenance planning scope of work will commence following contract signature and all work will be completed by the end of 2025.

*The ongoing preventive maintenance tracking scope of work will start following contract signature and end 2-years after.

WARRANTY MANAGEMENT

The warranty management scope of work only applies to the mechanical equipment installed during the McKinstry EPC. Specifically, the equipment installed during the McKinstry construction projects. Specifically, the mechanical equipment installed at the FRAC.

Enhanced Warranty Tracking and Training

Equipment and general contractor warranties are often underutilized or voided due to a lack of information. The goal of enhanced warranty tracking is to ensure the warranties for new EPC assets are documented, easily accessible, and fully utilized by City of Glendale facilities staff. This includes assembling all general contractor (GC) and extended manufacturer warranties for applicable equipment.

McKinstry will compile key warranty information, like warranty expiration date and warranty claim contact information, and then associate the information to each applicable asset in a warranty tracking document. Next, McKinstry will apply warranty expiration tags to the applicable equipment, which will help field staff identify equipment under warranty. Lastly, McKinstry will provide the warranty tracking document to the City of Glendale staff for upload into the CMMS.

Compiling warranty information is one thing but understanding how to use it is another. After the completion of the enhanced warranty tracking work, McKinstry will hold a training with key City of Glendale facilities stakeholders. In the training McKinstry will review all the warranty data collected, where it's located in the CMMS, and how to utilize it in the future.

Schedule

The warranty management scope of work will commence following contract signature and all work will be completed by the end of 2025.

CLARIFICATIONS

1. McKinstry will be provided appropriate access to the City's CMMS to review uploaded asset, warranty, and preventive maintenance data.
2. This scope of work assumes that City of Glendale internal staff and/or external contractors will conduct the preventive maintenance. McKinstry's role is to set up the framework, processes, and tools such that the City of Glendale can conduct all applicable PMs.
3. This scope of work assumes the City of Glendale will be the party responsible for uploading data into the CMMS. McKinstry will package all data in accordance with the City of Glendale standards.
4. This scope of work assumes City of Glendale maintenance staff will be available to attend TSO meetings as needed during normal business hours. (8:00 AM- 5:00 PM)
5. Assets must be easily accessible to receive an asset and warranty tag. Assets requiring a lift, deconstruction of the building, or posing safety risks to access shall not be tagged.
6. McKinstry shall purchase and supply 1000 asset tags for this project. Asset tag design and functionality will be reviewed with the City of Glendale staff before purchase.
7. City of Glendale staff shall provide feedback on deliverables within one calendar week of McKinstry's submission to City staff.
8. The fees shown in this document escalate by 3% on January 1st of each new year.
9. McKinstry guarantees fixture of asset tags for up to one (1) year from date of placement. If asset tags fall off during the guarantee period, McKinstry will retag all applicable equipment at the conclusion of the guarantee period. McKinstry will not be responsible for retagging asset tags removed or damaged by City of Glendale staff or its vendors during the guarantee period. Asset tags that fall off equipment after the guarantee period are the responsibility of the City of Glendale to replace.

Proposed Billing Schedule

Month	Percent Complete	Estimated Billing Amount
September 2024	10%	\$14,920.00
October 2024	5%	\$7,460.00
November 2024	5%	\$7,460.00
December 2024	5%	\$7,460.00
January 2025	5%	\$7,460.00
February 2025	5%	\$7,460.00
March 2025	5%	\$7,460.00
April 2025	5%	\$7,460.00
May 2025	5%	\$7,460.00
June 2025	5%	\$7,460.00
July 2025	5%	\$7,460.00
August 2025	5%	\$7,460.00
September 2025	5%	\$7,460.00
October 2025	3%	\$4,476.00
November 2025	3%	\$4,476.00
December 2025	3%	\$4,476.00
January 2026	2%	\$2,984.00
February 2026	2%	\$2,984.00
March 2026	2%	\$2,984.00
April 2026	2%	\$2,984.00
May 2026	2%	\$2,984.00
June 2026	2%	\$2,984.00
July 2026	2%	\$2,984.00
August 2026	2%	\$2,984.00
September 2026	5%	\$7,460.00