

CONTRACT NUMBER 1158
*Contract Number Must
Appear On All Invoices*

AMENDMENT NUMBER 1

PERSONAL SERVICES CONTRACT

For

Energy Savings Performance Contracting Technical Energy Audit Services

Parties:	The Port of Portland PO Box 3529 Portland, OR 97208	("Port")
	McKinstry Essention, LLC 5005 3rd Ave S Seattle, WA 98134	("Provider")

RECITALS

- A. The parties entered into a Personal Services Contract effective December 19, 2017, (the "Contract") under which Provider offers Preliminary and Technical Energy Audit Services (the "Services") to the Port.
1. Add a new Contract Section titled "FEMA Standard Terms and Conditions".
 2. Add a new Contract Section titled "Community Development Block Grant Addendum".
 3. Add a new Contract Section titled "Uniform Administrative Requirements".

AGREEMENT

1. Add new Section 22 to read as follows:

22. FEMA STANDARD TERMS AND CONDITIONS

If any purchase made under this Contract is funded in whole or in part by Federal Emergency Management Agency ("FEMA") grants, Provider shall comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to the contractual procedure set forth in Title 44 of the Code of Federal Regulations, Part 13 ("44 CFR 13").

In addition, Provider agrees to the following specific provisions:

1. Pursuant to 44 CFR 13.36(i)(1), the Port is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Provider's compliance with the terms of this Contract, including but not limited to those remedies set forth at 44 CFR 13.43.
2. Pursuant to 44 CFR 13.36(i)(2), the Port may terminate the Contract for cause or convenience in accordance with the procedures set forth in the Contract and those provided by 44 CFR 13.44.
3. Pursuant to 44 CFR 13.36(i)(3)-(6)(12), and (13), Provider shall comply with the following federal laws:
 - a. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor ("DOL") regulations (41 CFR Ch. 60);
 - b. Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR Part 3);
 - c. Davis-Bacon Act (40 U.S.C. 276a-276a-7) as supplemented by DOL regulations (29 CFR Part 5);
 - d. Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR Part 5);
 - e. Section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
 - f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
4. Pursuant to 44 CFR 13.36(i)(7), Provider shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41.
5. Pursuant to 44 CFR 13.36(i)(8), Provider agrees to the following provisions regarding patents:
 - a. All rights to inventions and/or discoveries that arise or are developed, in the course of or under this Contract, shall belong to the Port and be disposed of in accordance with Port policy. The Port, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.
6. Pursuant to 44 CFR 13.36(i)(9), Provider agrees to the following provisions, regarding copyrights:

a. If this Contract results in any copyrightable material or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal Government purposes:

- (1) The copyright in any work developed under a grant or Contract; and
- (2) Any rights of copyright to which a grantee or a Provider purchases ownership with grant support.

7. Pursuant to 44 CFR 13.36(i)(10), Provider shall maintain any books, documents, papers, and records of the Provider which are directly pertinent to this Contract. At any time during normal business hours and as often as the Port deems necessary, Provider shall permit the Port, FEMA, the Comptroller General of United States, or any of their duly authorized representatives to inspect and photocopy such records for the purpose of making audit, examination, excerpts, and transcriptions.

8. Pursuant to 44 CFR 13.36(i)(11), Provider shall retain all required records for three years after FEMA or the Port makes final payments and all other pending matters are closed. In addition, Provider shall comply with record retention requirements set forth in 44 CFR 13.42.

2. Add new Section 23 to read as follows:

23. COMMUNITY DEVELOPMENT BLOCK GRANT ADDENDUM

Purchases made under this Contract may be partially or fully funded with federal grant funds. Funding for this work may include federal funding sources, including Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development. When such funding is provided, Provider shall comply with all terms, conditions and requirements enumerated by the grant funding source, as well as requirements of the State statutes for which the Contract is utilized, whichever is the more restrictive requirement. When using federal funding, Provider shall comply with all wage and latest reporting provisions of the Federal Davis-Bacon Act. HUD-4010 Labor Provisions also applies to this Contract.

3. Add new Section 24 to read as follows:

24. UNIFORM ADMINISTRATIVE REQUIREMENTS

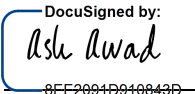
By entering into this Contract the Provider agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—UNIFORM GUIDANCE ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 et seq.

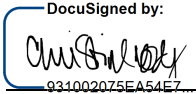
4. Integration. Except as expressly provided otherwise by this Contract Amendment Number 1, all provisions of the Contract, as it may have been previously amended, shall remain in effect.

5. Authority of Signers. The individuals signing below represent that they are authorized by the party for which they sign to contractually bind that party to the provisions of this Contract Amendment Number 1.

McKinstry Essention, LLC

Port of Portland

By: 
8EE2091D910843D...
Name: Ash Awad
Title: President
Date: 1/25/2018
Phone: 2069154540
Email: AshA@mckinstry.com

By: 
931002075EA54E7...
Name: Christine Moody
Title: Contracts & Procurement Manager
Date: 1/30/2018