

State of Washington
Contracts & Procurement Division
Department of Enterprise Services
P.O. Box 41411
Olympia, WA 98504-1411

McKinstry Co., LLC
5005 3rd Ave S.
Seattle, WA. 98134

**FIRST AMENDMENT
TO
CONTRACT No. 02919
HVAC SERVICES**

This First Amendment ("Amendment") to Contract No. 02919 is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("State") and McKinstry Co., LLC, a Washington Limited Liability Company ("Contractor") and is effective as of August 31, 2021.

RECITALS

- A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 02919 for HVAC Services dated effective as of October 1, 2019 ("Contract").
- B. The Parties have not previously amended the Contract
- C. The amendment set forth herein is within the scope of the Contract.
- D. The Parties now desire to amend the Contract as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree to amend the Contract, as previously amended, as follows:

1. **TERM.** The Contract term is amended to extend the term to June 30, 2024.
2. **NO CHANGE OTHER THAN AMENDMENT.** Except as amended herein, the Contract is unaffected and remains in full force and effect.
3. **INTEGRATED AGREEMENT; MODIFICATION.** This Amendment constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. In the event of any conflict between this Amendment and the Contract or any earlier amendment, this Amendment shall control and govern. This Amendment may not be modified except in writing signed by the Parties.
4. **AUTHORITY.** Each party to this Amendment, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Amendment and that its execution, delivery, and performance of this Amendment has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

5. ELECTRONIC SIGNATURES. A signed copy of this Amendment or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment or such other ancillary agreement for all purposes.
6. COUNTERPARTS. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Amendment at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Amendment.

EXECUTED AND EFFECTIVE as of the day and date first above written.

McKINSTRY Co., LLC,
A WASHINGTON LIMITED LIABILITY COMPANY

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

By: Adam Gloss
Name: Adam Gloss
Title: Vice President, Service
Date: 8/17/2021

By: Alexander Kenesson
Name: Alexander Kenesson
Title: Procurement Supervisor
Date: 08/24/21

State of Washington Contracts & Procurement Division – Internal Contracts Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	CONTRACT AMENDMENT	
	Contract No.:	02919
McKinstry Co., LLC 5005 3rd Ave S. Seattle, WA. 98134	Amendment No.:	2
	Effective Date:	April 1, 2024

**SECOND AMENDMENT
TO
CONTRACT NO. 02919
HVAC SERVICES**

This Second Amendment (“Amendment”) to Contract No. 02919 is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency (“State”) and McKinstry Co., LLC, a Washington Limited Liability Company (“Contractor”) and is effective as of April 1, 2024.

RECITALS

- A. State and Contractor (collectively the “Parties”) entered into that certain Contract No. 02919 for HVAC Services dated effective as of October 1, 2019 (“Contract”).
- B. The Parties previously amended the Contract as follows:
 - Amendment 1, effective August 31, 2021 (Term extension).
- C. The amendment set forth herein is within the scope of the Contract.
- D. The Parties now desire to amend the Contract as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree to amend the Contract, as previously amended, as follows:

1. **TERM.** The term of the Contract is amended to add fifteen (15) months and thereby changing the end date of the Contract from June 30, 2024, to September 9, 2025.
2. **NONDISCRIMINATION.** The following provision is added as a new subsection at the end of Section 19 of the Contract (General Provisions):

16.24. NONDISCRIMINATION.

- i. **Nondiscrimination Requirement.** During the term of this Contract, Contractor, including any subcontractor, shall not discriminate on the bases enumerated at RCW 49.60.530(3). In addition, Contractor, including any subcontractor, shall give written notice of this

nondiscrimination requirement to any labor organizations with which Contractor, or subcontractor, has a collective bargaining or other agreement.

- ii. Obligation to Cooperate. Contractor, including any subcontractor, shall cooperate and comply with any Washington state agency investigation regarding any allegation that Contractor, including any subcontractor, has engaged in discrimination prohibited by this Contract pursuant to RCW 49.60.530(3).
 - iii. Default. Notwithstanding any provision to the contrary, Enterprise Services may suspend Contractor, including any subcontractor, upon notice of a failure to participate and cooperate with any state agency investigation into alleged discrimination prohibited by this Contract, pursuant to RCW 49.60.530(3). Any such suspension will remain in place until Enterprise Services receives notification that Contractor, including any subcontractor, is cooperating with the investigating state agency. In the event Contractor, or subcontractor, is determined to have engaged in discrimination identified at RCW 49.60.530(3), Enterprise Services may terminate this Contract in whole or in part, and Contractor, subcontractor, or both, may be referred for debarment as provided in RCW 39.26.200. Contractor or subcontractor may be given a reasonable time in which to cure this noncompliance, including implementing conditions consistent with any court-ordered injunctive relief or settlement agreement.
 - iv. Remedies for Breach. Notwithstanding any provision to the contrary, in the event of Contract termination or suspension for engaging in discrimination, Contractor, subcontractor, or both, shall be liable for contract damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, which damages are distinct from any penalties imposed under Chapter 49.60, RCW. Enterprise Services and/or Purchasers shall have the right to deduct from any monies due to Contractor or subcontractor, or that thereafter become due, an amount for damages Contractor or subcontractor will owe Enterprise Services and/or Purchasers for default under this provision.
3. NO CHANGE OTHER THAN AMENDMENT. Except as amended herein, the Contract is unaffected and remains in full force and effect.
 4. INTEGRATED AGREEMENT; MODIFICATION. This Amendment constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. In the event of any conflict between this Amendment and the Contract or any earlier amendment, this Amendment shall control and govern. This Amendment may not be modified except in writing signed by the Parties.
 5. AUTHORITY. Each party to this Amendment, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this

Amendment and that its execution, delivery, and performance of this Amendment has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

6. ELECTRONIC SIGNATURES. A signed copy of this Amendment or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment or such other ancillary agreement for all purposes.
7. COUNTERPARTS. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Amendment at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Amendment.

EXECUTED AND EFFECTIVE as of the day and date first above written.

**MCKINSTRY Co., LLC,
A WASHINGTON LIMITED LIABILITY COMPANY**

By: AdamGI@mckinstry.com
Name: Adam Gloss
Title: Sr. Vice President
Date: 3/8/2024

Digitally signed by
AdamGI@mckinstry.com
DN: CN=AdamGI@mckinstry.com
Date: 2024.03.08 11:17:31-08'00'

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

By: Theresa Jensen
Name: Theresa Jensen
Title: Procurement Supervisor
Date: March 11, 2024

Digitally signed by Theresa
Jensen
Date: 2024.03.11 13:24:25 -07'00'