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Memorandum Date: December 1, 2009  
Order Date: December 16, 2009

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TO: Board of County Commissioners  
DEPARTMENT: Management Services  
PRESENTED BY: David Suchart, Director  
AGENDA ITEM TITLE: ORDER/In the Matter of Authorizing Replacement of Chiller Equipment at the Lane County Adult Corrections Facility and authorizing a contract amendment to McKinstry for Designing, Purchasing, and Installing said system, in an Amount Not to Exceed \$750,000.

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I. MOTION:

Move Approval of Order 09-12-16- In the Matter of Authorizing Replacement of Chiller Equipment at the Lane County Adult Corrections Facility (LCAC) and Authorizing a Contract Amendment to McKinstry for Designing, Purchasing, and Installing said system, in an Amount Not to Exceed \$750,000.

II. AGENDA ITEM SUMMARY:

In order to ensure that the operations of LCAC are maintained during warm weather in accordance with proper prisoner housing standards the chiller, which cools the main facility, needs to be replaced.

III. BACKGROUND/IMPLICATIONS OF ACTION:

A. Board Action and Other History

The main structure of the LCAC was constructed in 1978. The chiller system has been in operation since that time. During the past summer the system had numerous failures and temperatures rose to the high seventies in some of the housing areas. It is doubtful that continued repairs will keep the system functioning during next summer.

B. Policy Issues

See Board Goals

### C. Board Goals

Protecting the public's assets by maintaining, replacing, or upgrading the County's investments in systems and capital infrastructure, and identifying ways to improve space and facilities conditions to better serve citizens, insure the adequate maintenance of existing infrastructure, and provide an environment conducive to high employee productivity, as outlined in the Goals and Strategy B.1.d. of the County's Strategic Plan, will be served by the completion of these projects.

### D. Financial and/or Resource Considerations

During presentations to the Board on the Performance Contracting project for LCAC, staff informed the Board of the possibility of the failure of the chiller system at LCAC. Because that system did not have cost savings to be included in the program, it was removed from the project. The cost to replace the chiller is estimated at \$750,000. Funding for the project would come from CIP reserves, which are adequate to cover this. As a reminder, one third of the indirect (depreciation) annually is placed in the reserves for emergency capital replacement.

### E. Analysis

The County used an RFP process resulting in selection of McKinstry as the energy savings performance contractor. During Phase 1 of the Performance Contracting process, McKinstry had completed an analysis of chiller replacement system at the Adult Corrections facility, including preliminary design. The costs for this audit/design work is included in the Guaranteed Maximum Price under McKinstry energy savings performance contract. The new steam conversion project included building a boiler plant on the south side of the facility. It was designed by McKinstry to also house the chiller and all connections to the main facility as part of the energy savings contract. Where a consultant has provided personal services, including planning or previously studying or rendering for a project, a new contract or amendment with the consultant to continue that work is permissible without additional competitive selection. LM 21.118(8). In addition, the Guaranteed Maximum Price (GMP) for the construction work covered by the energy savings performance contract is \$3,191, 881. Under county rules, for a standard public improvement project involving renovation or remodeling of buildings, it is permissible to add up to 33% of original contract amount to cover amendments without additional competitive selection. Here, the \$750,000 in additional costs for the chiller system is less than 33%.

In addition, there is a substantial risk of loss, damage, interruption of services or threat of public health or safety that could not have been reasonably foreseen. At the time the decision was made not to include replacement of the chiller system in the project development plan for the

energy savings work at the Adult Corrections facility, it was not known exactly how bad the current system was. Circumstances since that time have revealed that the chillers could stop working or fail to start up any day. The County needs a fully operational chiller system by May 1, 2010, or risk closer of the Adult Corrections facility. Time is extremely tight to complete the design, purchase and installation of a new chiller system by May 1, 2010, even using McKinstry who is familiar with the County's needs and has already performed necessary work. Staff has been working with McKinstry to continue the design work and cost estimate for the replacement chiller system since becoming aware of the extreme need. Engineering firms in the community are very busy, and it is difficult to arrange a time to discuss a project with them. One firm was able to meet, including just to consider the design services along with an estimate of purchase and construction services which would need to be completed by another contractor. The time estimate was that it take approximately one year to complete competitive selection and work, and that is not acceptable within the County's time constraints. LM 20.255 authorizes the Board to declare an emergency and award any contract exceeding \$100,000. It would be appropriate for the Board to declare an emergency, approve the proposed findings, and approve this contract amendment with McKinstry.

#### F. Alternatives/Options

1. Authorize proceeding with the design, purchase and installation of a new chiller for the LCAC with McKinstry, and amend the current contract to include that project.
2. Authorize proceeding with the design, purchase and installation of a new chiller system through a design RFP leading to purchase and installation.
3. Attempt further repairs; wait and see.

#### IV. TIMING/IMPLEMENTATION

In order to have a new chiller system up and available before next summer, immediate action is required.

#### V. RECOMMENDATION

Authorize proceeding with the design, purchase and installation of a new chiller for the LCAC with McKinstry, and amend the current contract to include that project. There are efficiencies in not only having McKinstry proceed with the design, since they have been working on this for the last year and a half, but also in terms of installation in conjunction with the boiler plant project.

**VI. FOLLOW-UP**

Upon adoption by the B/CC, contract amendments will be prepared for signature by the County Administrator.

**VII. ATTACHMENTS**

Board Order and attached Findings in Support of Declaring an Emergency

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 09 -12 -16 - ) ORDER / IN THE MATTER OF AUTHORIZING  
) REPLACEMENT OF CHILLER EQUIPMENT  
) AT THE LANE COUNTY ADULT CORRECTIONS  
) FACILITY, AND AUTHORIZING A CONTRACT  
) AMENDMENT TO McKINSTRY FOR DESIGNING,  
) PURCHASING AND INSTALLING SAID SYSTEM,  
) IN AN AMOUNT NOT TO EXCEED \$750,000.

**WHEREAS, Lane County operates and maintains the Lane County Adult Corrections facility, and**

**WHEREAS, the HVAC system is over thirty years old, and**

**WHEREAS, the replacement of the chiller system is necessary to maintain the integrity of that facility during the summer months,**

**WHEREAS, McKinstry has already completed preliminary design and analysis of a chiller replacement system as part of the existing energy savings performance contract with the County and has provided additional design services;**

**WHEREAS, McKinstry is designing the building for the steam generation and chiller equipment, including piping and all connections to the main facility as part of the existing contract;**

**WHEREAS, it was not known how critical the need for the new chiller system was at the time the decision was made about the scope of the energy savings performance project;**

**WHEREAS, there is a substantial risk of loss, damage, interruption of services or threat of public health or safety by not approving this amendment with McKinstry;**

**NOW, THEREFORE, IT IS HEREBY ORDERED that the Board approves the findings attached as Exhibit A to this order and declares an emergency in order to complete the design, purchase, and installation of a new chiller system for the Lane County Adult Corrections facility through McKinstry.**

**IT IS FURTHER ORDERED that a contract amendment with McKinstry is approved for designing, purchasing and installing a new chiller system in the amount of \$750,000, and McKinstry shall perform such duties as to ensure the new chiller system is operable prior to May 1, 2010.**

IT IS FURTHER ORDERED that the County Administrator is delegated authority to execute such a contract amendment.

Dated this 16<sup>h</sup> day of December 2009.

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Peter Sorenson, Chair  
Board of County Commissioners

APPROVED AS TO FORM  
Date 12/14/09 large county  
[Signature]  
OFFICE OF LEGAL COUNSEL

## Exhibit A

### Findings of Fact for Emergency

Chiller for main facility of Adult Corrections is thirty years old. Normal useful life is twenty five years.

During the past warm/hot season the system failed numerous time causing the temperature in the housing units to rise to unacceptable levels. Repairs were temporary fixes.

Another engineering firm estimated that the length of time for competitive selection, design, procurement, construction and installation is approximately one year. Since the basic design with McKinstry had already been completed it remains only to complete final design and specifications. The current schedule calls for completion by May 15. This is right on the edge of being acceptable for next year's warm/hot season (LCAC had requested the work be done by May 1).

Not completing the work by May leaves the facility vulnerable to systems failure. The inmate population is required to have humane treatment to include a properly climate controlled environment. If the system were to fail inmates would have to be released or relocated at significant cost not to mention potential for security issues.

Waiting until complete failure will result in substantial risk of interruption of service at LCAC if contract performance awaited the time necessary given the complexity of the project to solicit, receive and analyze bids from contractors or proposals from engineers and designers. Prompt establishment and performance of the contract is necessary to preserve public funds, property, or the uninterrupted provision of government services.