

# **Interagency Agreement**

Date: January 9, 2012

*Department of Enterprise Services*

Interagency Agreement No: 2012-ERG-538

**Interagency Agreement Between the  
Department of Enterprise Services  
and  
Tukwila Metropolitan Park District**

This Agreement, pursuant to Chapter 39.34 RCW, is made and entered into by and between the Department of Enterprise Services, Facilities Division, Engineering & Architectural Services, hereinafter referred to as "DES", and Tukwila Metropolitan Park District, hereinafter referred to as "MPD".

The purpose of this Agreement is to establish a vehicle for DES to provide future Energy/Utility Conservation Project Management and Monitoring Services to MPD and to authorize the development of the energy services proposal.

Now therefore, in consideration of the terms and conditions contained herein, or attached and incorporated by reference and made a part hereof, the above-named parties mutually agree as follows:

## **1. Statement of Work**

DES shall furnish the necessary personnel and services and otherwise do all things necessary for or incidental to the performance of the work set forth in Attachment "A" and Attachment "C", attached hereto and incorporated herein by reference. Unless otherwise specified, DES shall be responsible for performing all fiscal and program responsibilities as set forth in Attachment "A" and Attachment "C".

Energy/Utility Conservation projects shall be authorized by Amendment to this Agreement.

## **2. Terms and Conditions**

All rights and obligations of the parties to this Agreement shall be subject to and governed by the terms and conditions contained in the text of this Agreement.

## **3. Period of Performance**

Subject to its other provisions, the period of performance of this master Agreement shall commence when this Agreement is properly signed, and be completed on **June 30, 2014** unless altered or amended as provided herein.

## **4. Consideration**

Compensation under this Agreement shall be by Amendment to this Agreement for each authorized project. Each Amendment will include a payment schedule for the specific project.

For Project Management Services provided by DES under Attachment "A" of this Agreement, MPD will pay DES a Project Management Fee for services based on the total project value per Project Management Fees Schedule set forth in Attachment "B".

If MPD decides not to proceed with an Energy/Utility Conservation project that meets MPD's cost effective criteria, then MPD will be charged a Termination Fee per Attachment "B". The Termination Fee will be based on the estimated Total Project Value outlined in the Energy Audit and Energy Services Proposal prepared by Energy Services Company (ESCO).

If monitoring and verification services are requested by MPD and provided by DES under Attachment "C" of this Agreement, MPD will pay DES \$2,000.00 annually for each year of monitoring and verification services requested.

Compensation for services provided by the ESCO shall be paid directly to the ESCO by MPD, after DES has reviewed, approved and sent the invoices to MPD for payment.

## **5. Billing Procedure**

DES shall submit a single invoice to MPD upon completion of each authorized project, unless a project specifies a Special Billing Condition in the Amendment. Each invoice will indicate clearly that it is for the services rendered in performance under this Agreement and shall reflect the Agreement number.

DES will invoice for any remaining services within 60 days of the termination of this Agreement.

## **6. Payment Procedure**

MPD shall pay all invoices received from DES within 90 days of receipt of properly executed invoice vouchers. MPD shall notify DES in writing if MPD cannot pay an invoice within 90 days.

## **7. Non-Discrimination**

In the performance of this Agreement, DES shall comply with the provisions of Title VI of the Civil Rights Act of 1964 (42 USC 200d), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and Chapter 49.60 RCW, as now or hereafter amended. DES shall not discriminate on the grounds of race, color, national origin, sex, religion, marital status, age, creed, Vietnam-Era and Disabled Veterans status, or the presence of any sensory, mental, or physical disability in:

- a) Any terms or conditions of employment to include taking affirmative action necessary to accomplish the objectives of this part and
- b) Denying an individual the opportunity to participate in any program provided by this Agreement through the provision of services, or otherwise afforded others.

In the event of DES's non-compliance or refusal to comply with the above provisions, this Agreement may be rescinded, canceled, or terminated in whole or in part, and DES declared ineligible for further Agreement with MPD. DES shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth therein.

## **8. Records Maintenance**

MPD and DES shall each maintain books, records, documents, and other evidence that sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the services described herein. These records shall be subject to inspection, review, or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. DES will retain all books, records, documents, and other material relevant to this agreement for six years after expiration; and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

## **9. Contract Management**

- a. MPD Representative on this Agreement shall be:

Robert Eaton  
Tukwila Metropolitan Park District  
Tukwila Community Center  
12424 2<sup>nd</sup> Avenue South  
Tukwila, WA 98168  
Telephone (206) 267-2350

The Representative shall be responsible for working with DES, approving billings and expenses submitted by DES, and accepting any reports from DES.

- b. The DES Project Manager on this Agreement shall be:

Todd Flynn, P.E.  
Department of Enterprise Services  
Facilities Division  
Engineering and Architectural Services  
PO Box 41012  
Olympia, WA 98504-1012  
Telephone (360) 407-9375

Todd Flynn will be the contact person for all communications regarding the conduct of work under this Agreement.

## **10. Hold Harmless**

Each party to this Agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this Agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this Agreement.

## **11. Agreement Alterations and Amendments**

MPD and DES may mutually amend this Agreement. Such Amendments shall not be binding unless they are in writing and signed by personnel authorized to bind MPD and DES or their respective delegates.

## **12. Termination**

Except as otherwise provided in this Agreement, either party may terminate this Agreement upon thirty (30) days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.

## **13. Disputes**

If a dispute arises under this Agreement, it shall be determined in the following manner: MPD shall appoint a member to the Dispute Board. The Director of DES shall appoint a member to the Dispute Board. MPD and DES shall jointly appoint a third member to the Dispute Board. The Dispute Board shall evaluate the dispute and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

## **14. Order of Precedence**

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- a) Applicable Federal and State Statutes and Regulations
- b) Terms and Conditions
- c) Attachment "A", Project Management Scope of Work; Attachments "B", Project Management Fees; and Attachment "C", Monitoring Services Scope of Work, and
- d) Any other provisions of the Agreement incorporated by reference.

**All Writings Contained Herein**

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

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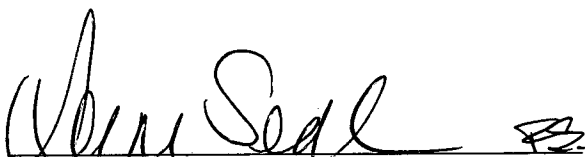
**AUTHORIZATION TO PROCEED**

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Agreed to and signed by:

**Tukwila Metropolitan Park District**

**Department of Enterprise Services  
Facilities Division  
Engineering & Architectural Services**

  
Signature

  
Signature

Verna Seal  
Name

Roger Wigfield, P.E.  
Name

Board President  
Title

Energy Program Manager  
Title

1/9/12  
Date

1/9/2012  
Date

The Department of Enterprise Services provides equal access for all people without regard to race, creed, color, religion, national origin, age, gender, sex, marital status, or disability. Contract information is available in alternative formats. For more information, please call Eddie Miller at (360) 407-9363.

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REVIEWED BY DES CONTRACT UNIT 1/9/12

# ATTACHMENT A

## Scope of Work Energy/Utility Conservation Projects Management Services

### Statewide Energy Performance Contracting Program Master Energy Services Agreement No. 2011-169

DES will provide the following project management services for each specific project for MPD. Each individual project shall be authorized by Amendment to this Agreement.

1. Assist MPD in the selection of an Energy Service Company (ESCO) consistent with the requirements of RCW 39.35A for local governments; or 39.35C for state agencies and school districts.
2. Assist in identifying potential energy/utility conservation measures and estimated cost savings.
3. Negotiate scope of work and fee for ESCO audit of the facility(s).
4. Assist in identifying appropriate project funding sources and assist with obtaining project funding.
5. Negotiate the technical, financial and legal issues associated with the ESCO's Energy Services Proposal.
6. Review and recommend approval of ESCO energy/utility audits and Energy Services Proposals.
7. Provide assistance during the design, construction and commissioning processes.
8. Review and approve the ESCO invoice vouchers for payment.
9. Assist with final project acceptance.
10. Provide other services as required to complete a successful energy performance contract.

# ATTACHMENT B

## 2011-13 Interagency Reimbursement Costs for Project Management Fees to Administer Energy/Utility Conservation Projects

<u>TOTAL PROJECT VALUE</u>	<u>PROJECT MANAGEMENT FEE</u>	<u>TERMINATION</u>
\$5,000,000 - or more	1.1% of project cost	\$25,500
Below 5,000,000	\$68,800	\$25,500
" 4,000,000	64,900	23,600
" 3,000,000	59,900	21,700
" 2,000,000	52,800	19,600
" 1,500,000	47,800	17,150
" 1,000,000	40,800	16,150
" 900,000	38,900	15,000
" 800,000	36,900	13,950
" 700,000	34,600	12,800
" 600,000	31,900	11,500
" 500,000	28,700	10,100
" 400,000	24,800	8,800
" 300,000	19,800	7,300
" 200,000	10,500	4,400
" 100,000	6,500	3,000
" 50,000	4,000	2,000
" 20,000	2,000	1,000

1. These fees cover project management services for energy/utility conservation projects managed by DES's Energy Program.
2. Termination fees cover the selection and project management costs associated with managing the ESCO's investment grade audit and proposal that identifies cost effective conservation measures if MPD decides not to proceed with the project through DES.
3. If the project meets MPD's cost effectiveness criteria and MPD decides not to move forward with a project, then MPD will be invoiced per Attachment B Termination or \$25,500.00 whichever is less. If MPD decides to proceed with the project then the Agreement will be amended per Attachment B for Project Management Fee.
4. If the audit fails to produce a project that meets MPD's established Cost Effectiveness Criteria, then there is no cost to MPD and no further obligation by MPD.

# ATTACHMENT C

## Scope of Work Energy/Utility Conservation Projects Monitoring Services

Statewide Energy Performance Contracting Program  
Master Energy Services Agreement No. 2011-169

If requested DES will provide the following monitoring services for each specific project for MPD.

1. Monitor actual energy use and dollar costs, compare with the ESCO's annual Measurement and Verification (M&V) report and any ESCO guarantee, resolve differences, if needed, and approve any vouchers for payment.
2. Monitor facility operations including any changes in operating hours, changes in square footage, additional energy consuming equipment and negotiate changes in baseline energy use which may impact energy savings.
3. Provide annual letter report describing the ESCO's performance, equipment performance and operation, energy savings and additional opportunities, if any, to reduce energy costs.



**Tukwila Metropolitan Park District**  
4414 S 144<sup>th</sup> St, Tukwila WA 98168

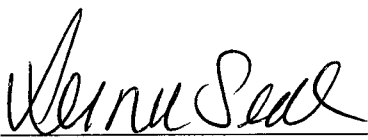
**Notice of Energy Services Company Selection**

At the January 9, 2012 Tukwila Metropolitan Park District Board Meeting the Board approved the selection of McKinstry Energy Services as the Energy Services Company (ESCO) for the Tukwila Pool Capital Improvement Project.

For this project please direct all correspondence to:

Robert Eaton, Project Coordinator  
12424 42<sup>nd</sup> Ave S, Tukwila WA 98168  
[robert.eaton@tukwilawa.gov](mailto:robert.eaton@tukwilawa.gov)  
206.767.2332

TUKWILA METROPOLITAN PARK DISTRICT

By:  ES  
Signature

Printed Name: Verna Seal

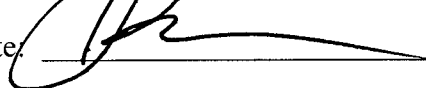
Title: Board President

Date: 1/9/12

By: 1/9/12  
Signature

Printed Name: Lisa Marshall

Title: TMPD Attorney

Date: 

**Tukwila Metropolitan Park District**  
4414 S 144<sup>th</sup> St, Tukwila WA 98168

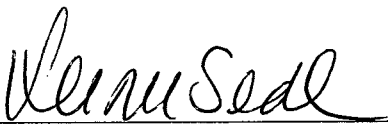
**Notice Authorizing Investment Grade Audit**

At the January 9, 2012 Tukwila Metropolitan Park District Board Meeting the Board authorized Washington Department of Enterprise Services to contract with McKinstry, the approved ESCO, to perform the Investment Grade Audit at the Tukwila Pool as outlined in the Directed Engineering Study Proposal for the Tukwila Pool Capital Improvement Project.

For this project please direct all correspondence to:

Robert Eaton, Project Coordinator  
12424 42<sup>nd</sup> Ave S, Tukwila WA 98168  
[robert.eaton@tukwilawa.gov](mailto:robert.eaton@tukwilawa.gov)  
206.767.2332

TUKWILA METROPOLITAN PARK DISTRICT

By:  FS  
Signature

Printed Name: Verna Seal

Title: Board President

Date: 1/9/12

By: 1/9/12  
Signature

Printed Name: Lisa Marshall

Title: TM/D Attorney

Date: 