

Meeting of the Board of Commissioners TUKWILA METROPOLITAN PARK DISTRICT

Monday, September 12, 2011, 6:00 PM

Tukwila City Hall Council Chambers

1. CALL TO ORDER

2. BUSINESS ITEMS:

- | | |
|---|--------------|
| a. Election of Officers:
(1) Elect a President of the Board of Commissioners
(2) Elect a Clerk of the Board of Commissioners | Pg.1 |
| b. Appoint an Executive Director for the Tukwila Metropolitan Park District. | |
| c. A resolution establishing the operations and governance of the Tukwila Metropolitan Park District. | Pg.5 |
| d. Authorize the President of the Board of Commissioners to enter into an Interlocal Agreement between the City of Tukwila and the Tukwila Metropolitan Park District for support services through 1/15/2012. | Pg.11 |
| e. Authorize the President of the Board of Commissioners to sign a land lease agreement between the Tukwila School District and the Tukwila Metropolitan Park District. | Pg.17 |
| f. A resolution selecting an insurance provider. | Pg.27 |
| g. A resolution authorizing the establishment of a bank account for the Tukwila Metropolitan Park District. | Pg.29 |
| h. A resolution authorizing a procedure for the payment of Tukwila Metropolitan Park District invoices. | Pg.31 |
| i. A resolution authorizing acceptance of a loan from the City of Tukwila and establishing repayment terms. | Pg.33 |
| j. Authorize the President of the Board of Commissioners to sign a professional services contract with Lisa M. Marshall for the provision of legal counsel services for the Tukwila Metropolitan Park District. | Pg.35 |

3. MISCELLANEOUS

4. ADJOURNMENT

Tukwila City Hall is wheelchair accessible.

Reasonable accommodations are available at public hearings with advance notice to the City Clerk's Office (206-433-1800 or tukclerk@tukwilawa.gov). This notice is available at www.tukwilawa.gov, and in alternate formats with advance notice for those with disabilities.

Tukwila Metropolitan Park District Board meetings are audio taped.

INFORMATIONAL MEMORANDUM

TO: Tukwila Pool MPD Board President
FROM: Shawn Hunstock, Interim City Administrator
DATE: September 8, 2011
SUBJECT: Various MPD Formation Documents

ISSUE

The Tukwila Pool Metropolitan Park District (MPD) was approved by voters on August 16, 2011. Various formation resolutions need to be passed to formally create the MPD and begin operations.

BACKGROUND

The MPD intends to execute a twenty year lease agreement with the Tukwila School District for operation of the pool beginning September 14, 2011. Prior to execution of the lease agreement the Tukwila City Council, acting in their capacity as the MPD Board, must pass several resolutions formally creating the MPD and making various administrative decisions.

DISCUSSION

Appointments

By statute the MPD Board must elect a President and Clerk of the Board, to come from City Councilmembers, and appoint an Executive Director of the MPD. Staff recommendation is to appoint the City Parks and Recreation Director as Executive Director of the MPD. The Executive Director is the MPD's chief executive and administrative officer and shall report to the MPD Board on pool operations. The attached resolution also appoints, subject to approval by the County Treasurer, the City Finance Director as the MPD Treasurer.

School District Lease Agreement

The lease agreement with the Tukwila School District is for twenty years and includes the following payment amounts:

Lease Years 1-5	\$10,950 per year
Lease Years 6-10	\$11,497.50 per year
Lease Years 11-15	\$12,072.38 per year
Lease Years 16-20	\$12,675.99 per year

The lease can be extended by mutual agreement for two consecutive five year terms. The School District can not exercise termination provisions in the lease for the first two

years, and beginning in the third year a twelve-year notice for lease termination is required. This guarantees operation of the pool by the MPD for a minimum of fifteen total years.

Interlocal Agreements

City staff recommends the Board approve execution of an interlocal agreement with the City for provision of the following support services by City staff to the MPD:

- A. Administrative Services performed by the City Clerk
 - 1. Production of minutes for TPMPD meetings;
 - 2. Collect agenda items, prepare agendas, and prepare meeting packets and agenda items;
 - 3. Prepare meeting rooms;
 - 4. Notice meetings; and
 - 5. Organize and maintain District records and files according to state archive requirements.

- B. Information and Technology Services
 - 1. Consult with the TPMPD Board of Commissioners on TPMPD website design and creation, including e-mail capability;
 - 2. Build TPMPD website; and
 - 3. Maintain and post documents, and update TPMPD's website.
 - 4. Provide support of computers, telephones, cell phones, printers, copiers, fax machines used by the TPMPD.

- C. Finance
 - 1. Prepare annual report to the State Auditor's Office;
 - 2. Support State Auditor's Office with annual audit; and
 - 3. Maintain records and prepare reports, such as monthly expense and revenue reports.
 - 4. Provide general accounting services, monthly reports to the Board on the status of TPMPD funds.
 - 5. Provide semi-monthly payroll processing, file any necessary monthly, quarterly and/or annual payroll reports and returns.
 - 6. Provide Accounts Payable services, payment of invoices and Purchasing Card administration.
 - 7. Provide risk management administration.

- D. Parks and Recreation
 - 1. Project Management Support (.25 FTE).
 - 2. Maintenance of exterior pool grounds/landscaping.
 - 3. Janitorial services.
 - 4. Pool staff and management.

E. Human Resources

1. Recruitment of TPMPD employees.
2. Maintenance of employee records.
3. Benefit administration.

These services are subject to change upon mutual agreement by the MPD and the City. The City Administrator shall determine the specific staff assignments for each of the duties listed above. Costs above shall be charged to the MPD at actual costs using the City's project accounting system, plus 10% overhead.

The interlocal agreement also transfers capital assets the City currently owns for the pool to the MPD for the nominal fee of \$100.00.

Loan Agreement

A resolution is included in the agenda packet that provides for a loan between the City and the MPD for up to \$1.1 million plus 2% interest. Repayment, as recommended in the original MPD budget projections that Council reviewed previously, will be for ten years at the current market rate of interest (2%). The amount of the loan is based on staff projections of what the MPD will need to fund operations through receipt of the first significant property tax receipts in May 2013. Program revenue will also be credited to the MPD accounts, as well as expenses separately tracked and accounted for in a new fund in the City's accounting system.

Other Agreements and Contracts

One of the attached resolutions recommends the Board approve a contract with Lisa M. Marshall as the MPD legal counsel. Lisa is known by the City Attorney and comes with her recommendation.

Another resolution recommends the Board contract with Washington Cities Insurance Authority for general liability, property and equipment insurance for the MPD. The premium of \$5,000 is relatively low, and should the Board desire, a competitive bid process can be used at a later date to secure a different rate or different coverages.

RECOMMENDATION

Staff is recommending adoption of the various attached resolutions. This item is scheduled for the September 12th MPD Board meeting.

ATTACHMENT

Resolutions
Interlocal Agreements

Tukwila Pool Metropolitan Park District

Resolution No. _____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TUKWILA POOL METROPOLITAN PARK DISTRICT PROVIDING FOR THE ORGANIZATION OF THE DISTRICT AND OTHER MATTERS PROPERLY RELATED THERETO.

WHEREAS, the City Council of the City of Tukwila, Washington, by Resolution No. 1738, asked the voters to create a Metropolitan Park District whose boundaries would be coextensive with the boundaries of the City of Tukwila, including the authority to levy a general tax on property not to exceed 15 cents per thousand dollars of assessed valuation each year as statutorily provided, and providing for the City Council to serve as the Metropolitan Park District Commissioners; and

WHEREAS, on August 16, 2011, the voters of Tukwila approved the formation of a Metropolitan Park District as required and approved the City Council's governance of the Metropolitan Park District; and

WHEREAS, Chapter 35.61 RCW provides for the authority to create, manage, control, improve, maintain, and acquire parks and recreational facilities by a Metropolitan Park District; and

WHEREAS, the City Council of the City of Tukwila is authorized pursuant to RCW 35.61.050 to serve in an ex-officio capacity as the Board of Metropolitan Park Commissioners; and

WHEREAS, this City Council, acting in its ex-officio capacity as the Board of Metropolitan Park Commissioners, desires to provide for organizational details of the District and its relationship to the City of Tukwila;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ACTING IN ITS EX-OFFICIO CAPACITY AS THE BOARD OF COMMISSIONERS OF THE TUKWILA POOL METROPOLITAN PARK DISTRICT, HEREBY RESOLVES AS FOLLOWS:

Section 1. Purpose. This resolution addresses the governance of the Tukwila Pool Metropolitan Park District and the City Council acting in an ex-officio capacity as the Board of Metropolitan Park Commissioners, hereafter referred to as the "Park District Board."

Section 2. Name. The name of the Tukwila Pool Metropolitan Park District shall be the Tukwila Metropolitan Park District, hereinafter referred to as the "Park District."

Section 3. Officers. The officers of the Park District Board shall be a President and Clerk of the Board, elected from the City Council of the City of Tukwila as required by RCW 35.61.120. An Executive Director shall be appointed by the Park District Board.

Section 4. Officers – Election. At the last public meeting of the Park District in every odd-numbered year, the City Council, acting in its ex-officio capacity as the Park District Board, shall elect from among its members a President and another of its members a Clerk of the Board by majority vote of the quorum of the Park District Board in attendance at the meeting. In the event of a vacancy, the Park District Board shall elect a successor to serve the balance of the term of the vacant position.

Section 5. Officers – Term. The officers of the Park District Board shall serve until a successor is elected and the failure to elect a successor as provided herein shall not operate as a removal of the existing officers.

Section 6. Officers – President.

A. The President shall preside at all meetings of the Board. In the event of the President's absence or inability to preside, the Clerk of the Board shall assume the duties of presiding over the meetings of the Park District Board and such other duties prescribed by the Park District Board.

B. The President shall act as spokesperson for the Park District and shall act as its representative at meetings with other organizations, committees, and other such activities, unless another representative shall otherwise be authorized by the Park District Board. The President may delegate to any Board members the duty of being a spokesperson or representative. The Executive Director shall be the chief executive and administrative officer of the Park District.

Section 7. Resolutions. The business of the Park District shall be conducted by resolution or motion. Resolutions of the Park District Board shall be signed by the President and attested by the Clerk of the Board.

Section 8. Competitive Bidding. The Park District Board waives competitive bidding requirements of RCW 39.04.280 if an exemption contained within RCW 39.04.280 applies to the purchase or public work as provided in RCW 35.65.135.

Section 9. Compensation. RCW 35.61.150 authorizes the Park District Board to pay compensation to each of its Commissioners. The Park District Board, by this resolution, intentionally declines to provide compensation for the Commissioners.

Section 10. Treasurer. RCW 35.61.180 authorizes the City of Tukwila Finance Director to serve as the ex-officio treasurer of the Park District without compensation. The Park District Board hereby designates the Finance Director of the City of Tukwila to serve as the Park District Treasurer upon approval of the designation by the County Treasurer of the City of Tukwila Finance Director, subject to the requirements of a bond

from a surety company operating in the state that is sufficient to protect the Park District from loss.

Section 11. Fund. Pursuant to RCW 35.61.210, the Park District Board hereby designates the fund for operations of the Park District as the Tukwila Pool Metropolitan Park District Fund and directs that all tax levies and other funds payable to the Park District shall be deposited to such fund.

Section 12. Meetings. All meetings shall be conducted in accordance with the Open Public Meetings Act, Chapter 42.30 RCW. The meetings of the Park District Board shall be held on the second Monday of each month at 6:15 PM at Tukwila City Hall, unless otherwise noticed. If at any time any meeting falls on a holiday, the Commission shall meet on the next business day at the same hour.

Section 13. Offices. The offices of the Park District shall be at Tukwila City Hall, 6200 Southcenter Boulevard, Tukwila, Washington 98188.

Section 14. Powers, Purpose, and Responsibilities.

A. The Park District Board intends to exercise all powers, functions, rights, and privileges now or hereafter given or granted to a Metropolitan Park District.

B. The Park District Board authorizes the negotiation of an interlocal agreement with the City of Tukwila for the operation and management of the Tukwila Pool funded by the Park District.

Section 15. Interpretation. This resolution is not intended to limit the powers granted to a Metropolitan Park District and, therefore, should be literally construed to carry out the intent of any grant of power to the Park District and its exercise provided for herein.

Section 16. Powers and Duties of the Board. The Park District Board intends to exercise all powers, functions, rights and/or purposes conveyed and delegated to a Metropolitan Park District pursuant to Chapter 35.61 RCW and other laws of the State of Washington.

Section 17. Parliamentary Procedure. Unless otherwise governed by the provisions of the laws of the state of Washington, Robert's Rules of Order shall govern the conduct of all Park District Board meetings.

Section 18. Minutes of Meetings. The minutes of the proceedings of the Park District Board shall be recorded and maintained by the Park District Executive Director or designee. The minutes shall reflect who attended the meeting. The minutes shall consist primarily of a record of the action taken. Prior to the adoption of the minutes, copies of the proposed minutes shall be forwarded to all Park District Board members prior to the next regular meeting for their reference and/or correction.

Section 19. Committees. The President may from time to time nominate Park District Board members or others to serve on committees. The Park District Board may also establish committees. Nominations to any committee shall be made by the

President and approved by a quorum of the Park District Board. The Park District Board may recommend people to the President for appointment to any committee.

Section 20. Severability. If any provision of this resolution or its application to any person or circumstances is held invalid, the remainder of the resolution or the application of the provision to other persons or circumstances shall not be affected.

Section 21. Service of Process. The President or Clerk of the Board shall receive on behalf of the Park District Board all pleadings commencing an action against the Park District. Service on the President or Clerk of the Board shall constitute service on the Park District.

Section 22. Indemnification.

A. **General.** The Park District, pursuant to RCW 36.16.138 and Chapter 48.62 RCW, as hereafter amended, shall indemnify any person who was or is an elected or appointed commissioner, officer (including committee members), or employee of the Park District that has been threatened or has been made a party to an action, claim, or other proceeding by a third party.

B. **Scope.** The Park District shall pay the reasonable and necessary expenses that are actually incurred and connected with the defense, settlement, or monetary judgments, including costs, disbursements, and reasonable attorneys' fees arising out of any action, claim, or other proceeding, within the standard of conduct contained in paragraph 22.C. herein and for which notice has been given pursuant to paragraph 22.D. The Park District Board shall be the sole judge of the reasonableness of expenses to be borne by the Park District. Indemnification shall not extend to any claim, action, or other proceeding against the Park District, either for indemnification or for other causes.

C. **Standard of Conduct.** Indemnification shall be limited to any action, claim, or other proceeding threatened, pending, or instituted against any person who was, or is, at the time of the alleged conduct, an elected or appointed commissioner, officer, or employee, and arising out of such person's performance, purported performance, or failure to perform in good faith the duties for, or employment with, the Park District.

D. **Determination of Conduct.** Unless ordered or adjudged by a court of competent jurisdiction, indemnification may be authorized only as follows:

1. To the extent that the person has been successful on the merits, or otherwise in defense, such person shall be indemnified.

2. With respect to any other determination of conduct, by a majority vote of all the commissioners not interested in or party to the action, claim, or other proceeding. In the event a majority vote cannot be obtained because of disqualification of commissioners, then the alternate or alternates of those disqualified shall be permitted to vote.

3. Indemnification shall not be authorized for any claim or action founded upon a statute, law, rule, or regulation punishable by fine, imprisonment, or both or for any claim or action against the Park District.

4. Every commissioner, officer, or employee who seeks or believes he or she may claim indemnification must give notice, in writing, to the President of his or her interest to seek indemnification before incurring any costs, disbursements, or attorneys' fees for which indemnification is sought, and provide a copy of any and all claims, pleadings, reports, or other written statements regarding the allegations.

5. Expenses prior to determination: Expenses actually incurred in defending any action, claim, or other proceeding may be paid as incurred, and prior to final determination of conduct, if the action, claim, or other proceeding makes no assertion that the person named acted outside the scope of his or her employment or authority and that the Park District makes no claim that the person's acts or failure to act were outside the scope of the person's employment or authority.

E. **Interpretation.** This article of the bylaws is intended to exercise the authority contained in RCW 36.16.138 and Chapter 48.62 RCW, and that it be construed in light of such statutes and laws as hereafter amended and interpretive case law. Failure of the Park District to obtain insurance for any claim, action, or other proceeding against the Park District shall not be construed to limit this indemnification.

Section 23. Amendments. This resolution, as adopted by the Park District Board, may be revised or amended at any regular meeting of the Park District Board

PASSED BY THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT at a Regular Meeting thereof this _____ day of _____, 2011.

ATTEST/AUTHENTICATED:

Commission Clerk

_____, President,
Board of Commissioners

APPROVED AS TO FORM BY:

Lisa M. Marshall, Commission Attorney

Filed with the Clerk: _____
Passed by the Commission: _____
Resolution Number: _____

**INTERLOCAL AGREEMENT
FOR SUPPORT SERVICES
BETWEEN THE CITY OF TUKWILA AND
THE TUKWILA POOL METROPOLITAN PARK DISTRICT**

In accordance with the Interlocal Cooperation Act (RCW 39.34), the City of Tukwila (“Tukwila”) and the Tukwila Pool Metropolitan Park District (“TPMPD”), both of whom are Washington municipal corporations, hereby enter into the following agreement:

I. RECITALS

Tukwila and TPMPD, through their respective legislative bodies, have declared their intent to create a relationship whereby TPMPD contracts for support services from Tukwila; and

Tukwila and TPMPD recognize that the cost savings from shared support services greatly outweighs the increased facility and administrative expenses in creating and maintaining separate facilities and accounting practices associated with the operation of the City of Tukwila Pool and related services;

Now, Therefore, Tukwila agrees to provide, and TPMPD agrees to pay for, support services to facilitate the operation of TPMPD and the City of Tukwila Pool:

II. AGREEMENT

1. Term of Agreement and Renewal.

1.1 Term. This Agreement shall be valid from the Effective Date set forth in Section 4.1 of this Agreement until January 15, 2012.

1.2 Renewal. This Agreement may be renewed only by written agreement of both Parties.

2. Scope of Work.

2.1 Duties shall be performed primarily by the incumbent identified by job title, however, the City Administrator may delegate responsibilities based on staff availability and organizational needs. Tukwila shall perform the following duties for TPMPD:

A. Administrative Services performed by the City Clerk:

1. Production of minutes for TPMPD meetings;
2. Collect agenda items, prepare agendas, and prepare meeting packets and agenda items;
3. Prepare meeting rooms;

4. Notice meetings; and
5. Organize and maintain District records and files according to state archive requirements.

B. Information and Technology Services:

1. Consult with the TPMPD Board of Commissioners on TPMPD website design and creation, including e-mail capability;
2. Build TPMPD website;
3. Maintain and post documents, and update TPMPD's website; and
4. Provide support of computers, telephones, cell phones, printers, copiers, fax machines used by the TPMPD.

C. Finance:

1. Prepare annual report to the State Auditor's Office;
2. Support State Auditor's Office with annual audit;
3. Maintain records and prepare reports, such as monthly expense and revenue reports;
4. Provide general accounting services, monthly reports to the Board on the status of TPMPD funds;
5. Provide semi-monthly payroll processing, file any necessary monthly, quarterly and/or annual payroll reports and returns;
6. Provide Accounts Payable services, payment of invoices and Purchasing Card administration; and
7. Provide risk management administration.

D. Parks and Recreation:

1. Project Management Support;
2. Maintenance of exterior pool grounds/landscaping;
3. Janitorial services; and
4. Pool staff and management.

E. Human Resources:

1. Recruitment of TPMPD employees;
2. Maintenance of employee records; and
3. Benefit administration.

3. Cost of Support Services and Payment.

- 3.1 Cost Basis. TPMPD shall pay Tukwila for providing support services based on the hourly wages and benefits of City staff and their time spent providing support services, plus 10% for overhead expenses. The services provided under this agreement shall not exceed \$7,500.00 per month.
- 3.2 Monthly Invoice. Tukwila shall provide to TPMPD a monthly invoice for support services provided to TPMPD no later than 15 business days after the end of each month. Payment shall be due from TPMPD 30 days from the date of invoice and made payable to the City of Tukwila.
- 3.3 Transfer of Tukwila Pool Assets. Due to the formation of the TPMPD, Tukwila no longer is in need of the assets associated with the Tukwila Pool. For the consideration of \$100.00 Tukwila will transfer the assets listed on Exhibit A. to the TPMPD.

4. General Provisions.

- 4.1 Effective Date. This Agreement shall be effective upon ratification by each Party's governing body and execution by TPMPD's Board President and the Mayor of Tukwila.
- 4.2 Amendment. This Agreement may be amended only upon the consent of both Parties. Any amendments shall be in writing and shall be ratified and executed by the Parties in the same manner in which this Agreement was originally adopted.
- 4.3 Waiver. The waiver by any party of any breach of any term, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same term, covenant, or condition of this Agreement.
- 4.4 Severability. If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby.
- 4.5 Entire Agreement. This Agreement represents the entire understanding of the Parties and supersedes any oral representations that are inconsistent with or modify its terms and conditions.

4.6 Counterparts. This Agreement shall be effective whether signed by all Parties on the same document or signed in counterparts.

4.7 Notices. Any notice to be provided under the terms of this Agreement, shall be delivered by certified mail, return receipt requested, or by personal service to the following:

For Tukwila:

For TPMPD:

City Clerk
City of Tukwila
6200 Southcenter Blvd.
Tukwila, WA 98188

President
TPMPD
6200 Southcenter Blvd.
Tukwila, WA 98188

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

CITY OF TUKWILA

TUKWILA POOL METROPOLITAN
PARK DISTRICT

By: _____
Jim Haggerton, Mayor

By: _____
Title: Board President

Dated: _____

Dated: _____

Attest:

Attest:

Christy O'Flaherty, City Clerk

Title: Clerk of the Board

Approved as to Form:

Approved as to Form:

Shelley M. Kerslake, City Attorney

Lisa M. Marshall, Attorney for TPMPD

Attachment: Exhibit A

Exhibit A

TUKWILA POOL ASSETS

purchase date	asset_type	tag_number	asset_desc	Years of Dep	original_cost	Accumulated Depreciation thru 12/31/2010	Book Value as of 12/31/2010
12/31/2003	bidg	GFA-3.17	Tukwila City Pool	7	2,180,200.00	292,628.00	1,887,572.00
12/31/2003	non-bldgim	GFA-4.36	Tukwila City Pool	7	9,593.00	4,480.00	5,113.00
12/31/2004	bidg	GFA-3.13b	6300 SCB Building - 2004 addition to GFA-3.13	6	9,600.00	2,304.00	7,296.00
12/31/2004	bidg	GFA-3.17a	Tukwila City Pool - 2004 addition to GFA-3.17	6	98,762.00	11,850.00	86,912.00
12/31/2005	machequip	GFA-11a.34	Artwork: Tukwila Pool Mural Project	0	5,440.00	-	5,440.00
12/31/2005	bidg	GFA-3.13c	6300 SCB Building - 2005 addition to GFA-3.13	5	17,244.80	3,448.96	13,795.84
12/31/2005	bidg	GFA-3.17b	Tukwila City Pool - 2005 addition to GFA-3.17 (301 Fund)	5	51,952.94	5,195.29	46,757.65
12/31/2005	bidg	GFA-3.17c	Tukwila City Pool: Diving Board (301 Fund)	5	8,170.12	4,085.06	4,085.06
12/31/2005	bidg	GFA-3.17d	Tukwila City Pool: Heat Exchanger (301 Fund)	5	9,868.85	4,934.43	4,934.43
12/31/2005	bidg	GFA-3.17e	Tukwila City Pool: Mechanical Room Doors (301 Fund)	5	6,177.43	2,059.14	4,118.29
12/31/2005	bidg	GFA-3.17f	Tukwila City Pool: 2005 additions to GFA-3.17 (301 Fund)	5	9,730.00	4,865.00	4,865.00
12/31/2005	bidg	GFA-3.17g	Tukwila City Pool: 2005 additions to GFA-3.17 (301 Fund)	5	7,390.00	739.00	6,651.00
12/31/2005	bidg	GFA-3.20	IT Move to 6300 Bldg.: IT Server Room Install Cooling Unit.	5	8,453.76	4,226.88	4,226.88
12/31/2005	bidg	GFA-3.21	Citywide Card Access System	5	43,667.93	21,833.97	21,833.97
12/31/2006	bidg	GFA-3.17h	Tukwila City Pool: 2006 HVAC & Painting Imps. (301 Fund)	4	8,964.00	2,390.40	6,573.60
\$ 2,475,214.83							\$ 2,110,174.70

**LEASE AGREEMENT BETWEEN THE TUKWILA SCHOOL DISTRICT
AND THE TUKWILA POOL METROPOLITAN PARK DISTRICT**

THIS LEASE AGREEMENT (“Lease”) is entered into by and between the Tukwila School District, a Washington municipal corporation (“School District”), and the Tukwila Pool Metropolitan Park District, a Washington municipal corporation (“TPMPD”).

WHEREAS, the School District owns that certain parcel of land (“Property”) located in the City of Tukwila, King County, Washington, described in Exhibit A to this Lease; and

WHEREAS, since 1971 the School District has leased said Property, initially to King County and then to the City of Tukwila beginning in 2003, for the construction and operation of a public pool currently known as the City of Tukwila (“Pool”); and

WHEREAS, the 1971 lease was for a term of forty (40) years, expiring in September 2011; and

WHEREAS, the residents of the City of Tukwila recently voted to form the TPMPD to preserve the Pool as a community facility for the use and benefit of the entire Tukwila community; and

WHEREAS, the School District desires, as its resources may allow, to offer aquatics athletic programs and aquatics education to its students and staff, and does not possess or operate a swimming pool in any of its other facilities; and

WHEREAS, TPMPD and the School District wish to enter into this new Lease Agreement to preserve the School District’s ability to provide aquatics programs, and to continue to offer this valuable recreational resource to the Tuwila community;

NOW, THEREFORE, in consideration of the foregoing recitals, of mutal promises of the School District and TPMPD, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the School District and TPMPD agree as follows:

1. PROPERTY

1.1 Property. The School District hereby leases to TPMPD, and TPMPD leases from the School District, the certain real property as described in Exhibit A attached hereto (the “Property”). In addition to the Property, the School District shall provide all convenient and necessary easements for utilities, ingress and egress.

1.2 Parking. The School District shall allow staff and patrons of the Pool to park in the Foster High School parking lot (“Parking Lot”) during Pool hours, provided that such use of the Parking Lot does not unreasonably interfere with School District operations. In the event

a Pool patron or staff member causes damage to the Parking Lot, the School District may request TPMPD to repair the damage solely caused by the Pool patron or staff member. For the purposes of this provision, “damage” shall mean documented physical damage to the Parking Lot, beyond normal wear and tear, directly attributed to the sole actions of a Pool patron or staff member. The School District bears the burden of documenting and attributing said damage.

2. TERM

2.1 Term. This Lease shall be for a term of twenty years (two hundred forty (240) months) and “Year” shall commence on September 14, 2011. The first “Lease Year” shall commence on the Commencement Date and shall end on the date that is twelve (12) months from the end of the month in which the Commencement Date occurs. Each successive Lease Year during the initial Term and any extension terms shall be twelve (12) months, commencing on the first day following the end of the preceding Lease Year. The Parties may mutually agree to extend the term of this Lease for two (2) terms of five (5) years each. Prior to and as a condition of any extension, the Total Rent shall be negotiated by the Parties in good faith.

2.2 Right to Recapture. The School District reserves the right to terminate this Lease and recapture the Property if an increase in student enrollment results in a need to construct new school facilities on the Property. Prior to exercising the right of recapture, the School District shall in due diligence explore alternative means of handling the enrollment increase other than recapturing the Property. In the exercise of due diligence, the School District shall research the real estate market to see if properties that would meet the School District’s needs are available for purchase, investigate whether any of the School District’s existing properties could be utilized to handle the increase in enrollment, and inquire with TPMPD to see if TPMPD can suggest any solutions. In the event the School District finds, after the exercise of due diligence and in its sole discretion, that it needs the Property for School District purposes prior to the expiration of this Lease and that no alternative solutions are practical or economically feasible, the School District shall provide TPMPD with advance written notice as follows:

2.2.1 During the 3rd through 5th year of this Lease, the School District shall provide at least twelve (12) years notice prior to terminating the Lease.

2.2.2 During the 6th through 8th year of this Lease, the School District shall provide at least nine (9) years notice prior to terminating the Lease.

2.2.3 During the 9th through 11th year of this Lease, the School District shall provide at least six (6) years notice prior to terminating the Lease.

2.2.4 During the 12th through 15th year of this Lease, the School District shall provide at least four (4) years notice prior to terminating the Lease.

2.2.5 During the 16th through 17th year of this Lease, the School District shall provide at least two (2) years notice prior to terminating the Lease.

The School District shall not exercise this right of recapture within the first two (2) years of the Lease term.

3. USE

TPMPD shall use the Property for use and operation of the Pool and shall not use or permit the Property to be used for any other purpose. As further consideration for this Lease, TPMPD agrees to enter into a Pool Use Agreement with the School District within six (6) months of receiving a request from the School District to enter into negotiations. The terms of the Pool Use Agreement shall consider the School District's use of the Pool for its aquatics education and athletic programs on terms that are beneficial to the School District, financially feasible for the TPMPD, and reflect the spirit of this Lease as a cooperative endeavor.

4. TOTAL RENT

4.1 Base Rent. TPMPD will pay the School District the following annual Base Rent which will increase as follows:

Lease Years 1-5	\$10,950 / yr
Lease Years 6-10	\$11,497.50 / yr
Lease Years 11-15	\$12,072.38 / yr
Lease Years 16-20	\$12,675.99 / yr

4.2 Payment. Payment of the annual Base Rent must be made on or before the first (1st) day of each October.

4.3 Pool Utilities and Operating Costs. In addition to the Base Rent, TPMPD shall pay for all operating and maintenance costs associated with the Pool, including payment of City of Tukwila surface water fees for the Property. TPMPD shall maintain accounts for utilities, including water, sewer, solid waste disposal, electricity, and heat, and shall be solely responsible for paying all utility charges. The TPMPD shall be solely responsible for hiring, supervising, disciplining, and paying all Pool employees.

4.4 Maintenance of Property. The TPMPD shall keep the Property in good repair and shall remove or repair all vandalism, including graffiti, within forty-eight (48) hours of its occurrence.

5. RENOVATION OF POOL BUILDING

During the term of the Lease, the TPMPD shall have sole discretion to determine whether and how to renovate the Pool building. The TPMPD shall bear all responsibility, risk, and expense of such renovations, and shall defend, indemnify, and hold the School District harmless from all claims arising out of same. TPMPD shall have the right to close the Pool temporarily if necessary to complete renovations, but shall provide the School District with at least thirty (30) days advance notice of any closure. Other than temporary closure of the Pool, the TPMPD shall use a reasonable effort not to disrupt or impact School District operations during renovations.

6. COMPLIANCE WITH STATE WATER RECREATION FACILITIES REGULATIONS

The TPMPD shall bear sole responsibility, risk, and expense of complying with state regulations on water recreation facilities and inspections by state and local health officials.

7. WAIVER OF CLAIMS AND INDEMNIFICATION

7.1 Indemnity. TPMPD shall defend, indemnify, and hold harmless the School District, its officers, officials, employees and volunteers from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises out of TPMPD's use of the Property, or from the conduct of TPMPD's business, or from any activity, work or thing done, permitted, or suffered by TPMPD in or about the Property, except only such injury or damage as shall have been occasioned by the sole negligence of the School District. In the event that any suit based upon such a claim, action, loss or damage is brought against the School District, the TPMPD shall defend the same at its sole cost and expense; provided, that the School District retains the right to participate in said suit if any principle of governmental or public law is involved, and if final judgment be rendered against the School District or its officers, agents, employees and elected officials, or any of them, or jointly against TPMPD and the School District and their respective officers, agents, employees and elected officials, or any of them, the TPMPD shall satisfy the same.

The foregoing indemnities shall survive the expiration or termination of the Lease.

7.2 Workers Compensation. The indemnification obligations contained in this Section shall not be limited by any worker's compensation, benefit or disability laws, and each indemnifying party hereby waives any immunity that said party may have under the Washington Industrial Insurance Act, Title 51 RCW, and similar worker's compensation, benefit or disability laws. THE SCHOOL DISTRICT AND TPMPD ACKNOWLEDGE BY THEIR EXECUTION OF THIS LEASE THAT EACH INDEMNIFICATION PROVISION OF THIS LEASE (INCLUDING, BUT NOT LIMITED TO, THOSE RELATING TO WORKER'S COMPENSATION BENEFITS AND LAWS) WAS SPECIFICALLY NEGOTIATED AND AGREED TO BY THE SCHOOL DISTRICT AND THE TPMPD.

8. INSURANCE

8.1 TPMPD's Insurance. Without limiting TPMPD's obligations and responsibilities, the TPMPD is required to maintain liability insurance and property insurance as described below. Such insurance shall be at TPMPD's own expense. Insurance policies required to be maintained by TPMPD shall provide that such policies are not subject to material alteration or cancellation except after at least thirty (30) days prior written notice to the School District, and shall be primary as to the School District. TPMPD shall provide the School District with copies of the insurance policies required herein and annual proof of coverage.

8.2 Liability Insurance. TPMPD must maintain adequate commercial general liability insurance on an occurrence basis in the minimum amounts of One Million Dollars (\$1,000,000) for property damage and in the minimum amounts of Two Million Dollars (\$2,000,000) (per individual) and Two Million Dollars (\$2,000,000) (per accident) for personal injuries. Such insurance must indemnify both the School District and TPMPD against any such claims, demands, losses, damages, liabilities and expenses, including contractual liability assumed under this Lease, and shall not include any non-standard exclusions. The School District shall be furnished with a copy of such policy(ies) and proof of coverage. Such policy(ies) shall bear an endorsement that the same shall not be canceled except upon ten (10) days prior written notice to the School District.

8.3 Worker's Compensation. TPMPD shall at all times during the term of this Lease comply with the worker's compensation and employment liability laws of the state in which the Property is located. In addition, TPMPD shall at all times during the term of this Lease, at its own expense, keep in full force and effect employer's liability coverage with a minimum of One Million Dollars (\$1,000,000) for injury by disease of more than one person, and One Million Dollars (\$1,000,000) per employee for injury by disease.

8.4 Property Insurance. TPMPD shall maintain, including the payment of premiums for, a policy of property insurance covering loss or damage to the Property.

8.5 Waiver of Subrogation. Lessee and School District hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the premises or said building. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

8.6 Notices. TPMPD shall immediately furnish the School District with a copy of any written notice received, or a written summary of any oral notice received, from any governmental or quasi governmental authority, insurance company, inspection bureau or any other third party as it relates to the Property.

9. ASSIGNMENT

The rights, duties and obligations of either Party to this Lease may not be assigned to any third party without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

10. POOL

10.1 Ownership. TPMPD is the sole owner of the Pool and shall retain ownership of the Pool throughout the duration of this Lease. Should the School District terminate this Lease prior to or in non-conformance with the terms set forth in Section 2 of this Lease, ownership of the Pool shall revert to the School District and TPMPD shall incur no additional costs or liability for the operation, maintenance or demolition of the Pool.

10.2 Demolition. TPMPD agrees that upon request by the School District at the proper termination or expiration of this Lease, TPMPD will demolish the Pool at its sole expense within one (1) year of the termination/expiration of this Lease. TPMPD shall be solely responsible for bidding and managing the demolition of the Pool. Demolition shall include dismantling the Pool building, abating asbestos and any other hazardous materials in accordance with applicable regulations, removing all debris from the Property, and restoring the Property to even grade. Should the School District terminate this Lease prior to or in non-conformance with the terms set forth in Section 2 of this Lease, ownership of the Pool shall revert to the School District and TPMPD shall incur no additional costs of liability for the operation, maintenance or demolition of the Pool.

11. NOTICES

11.1 General Notice Requirement. Any notice, approval, consent or request required or permitted under this Lease shall not be effective unless in writing. Such notices shall be addressed to the person(s) entitled to notice, and shall be personally delivered or mailed to the address stated below by certified or registered mail, return receipt requested and postage pre-paid.

School District:

Superintendent
4640 S. 144th Street
Tukwila, WA 98168

TPMPD:

6200 Southcenter Blvd.
Tukwila, WA 98168

12. FINAL AGREEMENT – PROCEDURE TO AMEND

This is the final and a fully integrated agreement of the Parties and all prior statements, promises, representations and/or discussions between or among the Parties, whether or not in writing, are void if not set forth in this final agreement. All Parties represent and warrant to all other Parties that he/she/it does not and will not rely upon any oral or written prior statements, promises, representations and/or discussions not set forth herein and will never seek to prove or assert that there is any agreement or understanding that varies, adds to, or supplements this document. No modification or alteration of this agreement nor any waiver, excuse, release, forbearance or forgiveness of any duty, obligation or of liability of the TPMPD hereunder shall be valid or binding on the School District unless the same is in writing and signed by the School District.

13. DISPUTE RESOLUTION

The Parties shall endeavor to resolve any disputes arising under this Agreement through negotiations, with or without the help of a professional mediator. Should negotiations fail to produce a resolution, the Parties shall submit all disputes to binding arbitration. The Party prevailing in any dispute shall be entitled to reasonable attorney fees.

14. COUNTERPARTS

This Lease may be executed in counterparts.

LEASE AGREED TO THIS _____ DAY OF _____, 2011.

TUKWILA SCHOOL DISTRICT

**TUKWILA POOL METROPOLITAN
PARK DISTRICT**

By: Ethelda Burke
Its: Superintendent

By:
Its:

LEGAL DESCRIPTION

KING COUNTY DEPARTMENT OF ASSESSMENTS PARCEL NO.: 152304-9106,
LOCATED AT 4414 SOUTH 144TH STREET, TUKWILA, 98168; W 190 FT OF E 565
FT OF S 320 FT OF SW 1/4 OF SE 1/4 LESS CO RD

Tukwila Metropolitan Park District

Resolution No. _____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT SELECTING WASHINGTON CITIES INSURANCE AUTHORITY (WCIA) TO PROVIDE INSURANCE FOR THE DISTRICT.

WHEREAS, the Commission finds it necessary for the operation of the District to obtain insurance coverage; and

WHEREAS, the Commission finds that the insurance coverage offered by Washington Cities Insurance Authority best suits the needs of the District;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT HEREBY RESOLVES AS FOLLOWS:

Insurance Provider Selected. Washington Cities Insurance Authority is hereby selected to provide insurance for the District.

PASSED BY THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT at a Regular Meeting thereof this _____ day of _____, 2011.

ATTEST/AUTHENTICATED:

Clerk of the Board

_____, President,
Board of Commissioners

APPROVED AS TO FORM BY:

Filed with the Clerk: _____
Passed by the Commission: _____
Resolution Number: _____

Lisa M. Marshall, Commission Attorney

Tukwila Metropolitan Park District

Resolution No. _____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT AUTHORIZING OPENING A DISTRICT BANK ACCOUNT WITH _____.

WHEREAS, the Tukwila Metropolitan Park District Board of Commissioners have designated the City of Tukwila Finance Director as the District's Treasurer pursuant to RCW 35.61.180; and

WHEREAS, pursuant to RCW 35.61.180, the County Treasurer has approved the District's designation of the City of Tukwila Finance Director, subject to the requirements of a bond from a surety company operating in the state sufficient to protect the District from loss; and

WHEREAS, the District will need to establish a bank account into which it can deposit monies received by the District and from which the City of Tukwila Finance Director can transfer those monies into the City fund established to hold the District's funds;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT HEREBY RESOLVES AS FOLLOWS:

Opening Account. The President of the Commission and the Clerk of the Commission are hereby authorized to open a District banking account with _____ to hold District funds. The President of the Commission and the Clerk of the Commission are authorized to sign checks drawn from that account on behalf of the Commission for sums up to \$100.00 without prior authorization and to sign checks over that amount upon specific authorization by the Commission.

PASSED BY THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT at a Regular Meeting thereof this _____ day of _____, 2011.

ATTEST/AUTHENTICATED:

Clerk of the Board

_____, President,
Board of Commissioners

APPROVED AS TO FORM BY:

Filed with the Clerk: _____
Passed by the Commission: _____
Resolution Number: _____

Lisa M. Marshall, Commission Attorney

Tukwila Metropolitan Park District

Resolution No. _____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT AUTHORIZING A PROCEDURE FOR THE PAYMENT OF PARK DISTRICT INVOICES.

WHEREAS, the Tukwila Metropolitan Park District ("Park District") desires to establish a procedure for the payment of Park District invoices in an efficient and timely manner;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT HEREBY RESOLVES AS FOLLOWS:

Section 1. Invoice Payment Procedure Authorized. The Park District Treasurer is hereby authorized to pay valid and correct invoices on behalf of the Commission, subject to approval by not less than two Commissioners whose approval must be obtained in advance of payment. From time to time as may be necessary, the Commission shall select two of its members to regularly review and authorize Park District invoices. In the event either Commissioner is unavailable to perform said duties, another Commissioner shall assume the duties to avoid incurring late fees.

Section 2. Monthly Report Required. The Park District Treasurer shall prepare a monthly report of invoices paid for the current month and shall present such report to the Commission during its next regular business meeting.

PASSED BY THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT at a Regular Meeting thereof this _____ day of _____, 2011.

ATTEST/AUTHENTICATED:

Clerk of the Board

_____, President,
Board of Commissioners

APPROVED AS TO FORM BY:

Filed with the Clerk: _____
Passed by the Commission: _____
Resolution Number: _____

Lisa M. Marshall, Commission Attorney

Tukwila Metropolitan Park District

Resolution No. _____

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT ACCEPTING A LOAN FROM THE CITY OF TUKWILA IN AN AMOUNT NOT TO EXCEED \$1.1 MILLION FOR OPERATING EXPENSES AND AUTHORIZING AN INTERLOCAL AGREEMENT SPECIFYING REPAYMENT TERMS FOR SAID LOAN.

WHEREAS, the Tukwila Metropolitan Park District ("Park District") requires funding to begin operations and its tax revenues, as approved by the voters, are not yet available for such purposes; and

WHEREAS, the Tukwila City Council has authorized a loan in an amount not to exceed the lesser of \$1,100,000.00 plus interest thereon, or the Park District's indebtedness limit pursuant to RCW 35.61.100, to fund the Park District's operating expenses and to be repaid by the Park District using its general tax revenues once those become available;

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT HEREBY RESOLVES AS FOLLOWS:

Section 1. Acceptance of Loan from the City of Tukwila. The Park District hereby accepts a loan from the City of Tukwila in an amount not to exceed the lesser of \$1,100,000.00 plus interest thereon, or the Park District's indebtedness limit pursuant to RCW 35.61.100, to fund the Park District's operating expenses.

Section 2. Loan Repayment Terms – Interlocal Agreement Authorized. The Park District hereby agrees to repay the loan referenced in Section 1 according to the terms and conditions set forth in an interlocal agreement to be prepared by City of Tukwila staff. Said agreement shall specify, at minimum, a repayment term of 10 years and interest due at the rate of 2% compounded annually.

PASSED BY THE BOARD OF COMMISSIONERS OF THE TUKWILA METROPOLITAN PARK DISTRICT at a Regular Meeting thereof this _____ day of _____, 2011.

ATTEST/AUTHENTICATED:

Clerk of the Board

_____, President,
Board of Commissioners

APPROVED AS TO FORM BY:

Lisa M. Marshall, Commission Attorney

Filed with the Clerk: _____
Passed by the Commission: _____
Resolution Number: _____

Attachment: Interlocal Agreement

INFORMATIONAL MEMORANDUM

TO: Commissioners of the Metropolitan Park District

FROM: Shelley Kerslake, Tukwila City Attorney

DATE: September 7, 2011

RE: Attorney Services for the Metropolitan Park District

ISSUE

The retention of legal counsel for the Metropolitan Park District.

BACKGROUND

The proposed contract is for legal services for the newly formed Metropolitan Park District. As you know, the Metropolitan Park District is a separate legal entity from the City. Due to the fact that the District will be contracting for services with the City, a conflict of interest exists for the Kenyon Disend, PLLC firm. Thus, separate legal counsel will need to be retained for the District.

DISCUSSION

Lisa Marshall is a very experienced municipal attorney. Her resume is attached for your review. As you will see she was a partner with our firm for several years and has been the City Attorney of both Burien and Newcastle. I can highly recommend Lisa Marshall as legal counsel for the Metropolitan Park District.

RECOMMENDATION

Authorize the President to enter into a contract for legal services with the Lisa Marshall Law Firm.

LISA M. MARSHALL

560 237th Ave. S.E. Sammamish, WA 98074 (425) 679-1537 cattmarshall118@gmail.com

LEGAL EXPERIENCE

OWNER

LAW OFFICE OF LISA M. MARSHALL, LLC

January 2011 – Present

Solo practice with an emphasis on land use and municipal law. Pro bono attorney for Northwest Immigrant Rights Project, representing individuals seeking political asylum.

ATTORNEY

KENYON DISEND, PLLC

April 2010 – October 2011

Provided contract attorney services in areas of land use, labor and employment, telecommunications and other areas of municipal law.

CITY ATTORNEY

CITY OF NEWCASTLE, WASHINGTON

2006 – April 2010

Served as City Attorney and legal advisor for all elected and appointed officials. Position required extensive knowledge in areas of land use, employment and labor, and public and private contracting. Negotiated and managed all contracts between the corporation and service providers. Represented the city in land use litigation and actions in eminent domain. Served as risk manager.

CITY ATTORNEY

CITY OF BURIEN, WASHINGTON

1998 – 2006

Advised the City Council, the City Manager, and staff on all legal matters. Emphasis on land use and real estate matters. Assisted outside counsel in the drafting and implementation of purchase and sale agreements necessary to transfer City property to Urban Partners for development of the Town Square Project. Managed Legal Department budget. Negotiated and managed contracts for special services.

PARTNER

KENYON DORNAY MARSHALL, PLLC

2000 – 2003

Served as city attorney for the cities of Duvall, Burien, and Maple Valley. Supervised associate city attorneys. Shareholder in Washington's largest municipal law firm.

EDUCATION

University of Puget Sound School of Law – J.D., Cum Laude (1994)
Pacific Lutheran University – B.A., Cum Laude (1985)

REFERENCES

Jean Garber, former Mayor and Council Member, City of Newcastle
(425) 277-9327

John Starbard, Director, King County Department of Development and Environmental Services
(425) 749-1634

Gary P. Long, Principal, Gary P. Long Consulting
(206) 818-8635

Roger Mason, Project Engineer, CH2M HILL
(206) 618-9021

Ben Varon, former Mayor and Council Member, City of Newcastle
BVaron56@gmail.com

PROFESSIONAL SERVICES CONTRACT

This Contract is entered into by and between the Tukwila Pool Metropolitan Park District, hereinafter referred to as “the District,” and Lisa M. Marshall and the Law Office of Lisa M. Marshall, LLC, hereinafter referred to as the “Contractor,” for the purpose of providing certain legal services to the District.

WHEREAS, the District has determined the need to have certain legal services performed for its citizens; and

WHEREAS, the District desires to have the Contractor perform such services pursuant to certain terms and conditions; now, therefore;

IN CONSIDERATION OF the mutual benefits and conditions hereinafter contained, the parties hereto agree as follows:

1. Scope of Services to be Performed by the Contractor. The Contractor shall perform those services described on Exhibit “A” attached hereto and incorporated herein by this reference as if fully set forth. In performing such services, the Contractor shall at all times comply with all federal, state, and local statutes, rules, and ordinances applicable to the performance of such services and the handling of any funds used in connection therewith.

2. Compensation and Method of Payment.

A. Fee. The District shall pay the Contractor for services rendered within ten (10) days after Board voucher approval in the form set forth on Exhibit “B” attached hereto and incorporated herein by this reference. The District shall pay the Contractor at the hourly rate of \$175, plus extraordinary expenses as set forth in Paragraph 2(B), below. The Contractor shall complete and return Exhibit “C,” Taxpayer Identification Number, to the District prior to or along with the first billing voucher submittal.

B. Extraordinary Expenses. The District will not be billed for travel time to and from Commission meetings. Extraordinary expenses shall include court filing fees, deposition and other discovery costs. In addition, the Contractor will charge the District fifteen cents per page for photocopying and facsimile, and shall be reimbursed for legal messenger services, computerized research charges, filing fees advanced, and other direct expenses.

3. Duration of Agreement. This Agreement shall be in full force and effect for a period commencing September 12, 2011 and ending September 12, 2012, unless sooner terminated under the provisions hereinafter specified.

4. Ownership and Use of Documents. All documents, drawings, specifications, and other materials produced by the Contractor in connection with the services rendered under this Agreement shall be the property of the District whether the project for which they are made is executed or not.

5. Independent Contractor. The Contractor and the District agree that the Contractor is independent with respect to the services provided pursuant to this Agreement. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties hereto. Neither the Contractor nor any employee of the Contractor shall be entitled to any benefits accorded District employees by virtue of the services provided under this Agreement. The District shall not be responsible for paying, withholding, or otherwise deducting any customary state or federal payroll deductions, including but not limited to FICA, FUTA, state industrial insurance, state workers compensation, or otherwise assuming the duties of an employer with respect to the Contractor or any employee of the Contractor.

6. Indemnification. The Contractor shall indemnify, defend, and hold harmless the District, its agents, and employees from and against any and all liability arising from injury or death to persons or damage to property resulting in whole or in part from negligent acts or omissions of the Contractor, its agents, servants, officers, or employees, irrespective of whether in connection with such act or omission it is alleged or claimed that an act of the District, its agents, or employees caused or contributed thereto. In the event that the District shall elect to defend itself against any claim or suit arising from such injury, death, or damage, the Contractor shall, in addition to indemnifying and holding the District harmless from any liability, indemnify the District for any and all expenses incurred by the District in defending such claim or suit, including reasonable attorneys' fees.

7. Insurance.

A. The Contractor shall procure and maintain in full force throughout the duration of the Agreement comprehensive general liability insurance with a minimum coverage of \$1,000,000 per occurrence/aggregate for personal injury and property damage. Said policy shall name the Tukwila Pool Metropolitan Park District as an additional named insured and shall include a provision prohibiting cancellation or reduction in the amount of said policy except upon thirty (30) days prior written notice to the District. Cancellation of the required insurance shall automatically result in termination of this Agreement.

B. In addition to the insurance provided for in Paragraph A above, if applicable, the Contractor shall procure and maintain in full force professional liability insurance for those services delivered pursuant to this Agreement that, either directly through Contractor employees or indirectly through contractual or other arrangements with third parties, involve providing professional services. Such professional liability insurance shall be maintained in an amount not less than \$1,000,000 combined single limit per claim/aggregate. For the purposes of this Paragraph "professional services"

shall include, but not be limited to, the provision of any services provided by any licensed professional.

C. Certificates of coverage as required by Paragraphs A and B above shall be delivered to the District within fifteen (15) days of execution of this Agreement.

8. Record Keeping and Reporting.

A. The Contractor shall maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of any nature expended and services performed pursuant to this Agreement. The Contractor shall also maintain such other records as may be deemed necessary by the District to ensure proper accounting of all funds contributed by the District to the performance of this Agreement and compliance with this Agreement.

B. These records shall be maintained for a period of seven (7) years after termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14 and by the District.

9. Audits and Inspections. The records and documents with respect to all matters covered by this Agreement shall be subject at all times to inspection, review, or audit by law during the performance of this Agreement. The District shall have the right to conduct an audit of the Contractor's financial statement and condition and to a copy of the results of any such audit or other examination performed by or on behalf of the Contractor.

10. Termination. This Agreement may at any time be terminated by the District upon giving the Contractor thirty (30) days written notice of the District's intention to terminate the same. If the Contractor's insurance coverage is canceled for any reason, the District shall have the right to terminate this Agreement immediately.

11. Discrimination Prohibited. The Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the services of the Contractor under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

12. Assignment and Subcontract. The Contractor shall not assign or subcontract any portion of the services contemplated by this Agreement without the prior written consent of the District.

13. Entire Agreement. This Agreement contains the entire agreement between the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties hereto. Either party may request changes to the Agreement. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Agreement.

14. Notices. Notices to the District shall be sent to the following address:

Tukwila Pool Metropolitan Park District
6200 Southcenter Blvd.
Tukwila, WA 98188
Phone number: 206-433-1800

Notices to the Contractor shall be sent to the following address:

Lisa M. Marshall
Law Office of Lisa M. Marshall, LLC
560 237th Avenue SE
Sammamish, WA 98074-3629
Phone: 425-679-1537

15. Applicable Law; Venue; Attorneys' Fees. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In the event any suit, arbitration, or other proceeding is instituted to enforce any term of this Agreement, the parties specifically understand and agree that venue shall be exclusively in King County, Washington. The prevailing party in any such action shall be entitled to its attorneys' fees, expert witness fees, and costs of suit.

Date: _____

Date: _____

TUKWILA POOL METROPOLITAN
PARK DISTRICT

LAW OFFICE OF LISA M. MARSHALL,
LLC

By: _____
_____, President

By: _____
Lisa M. Marshall

Approved As To Form:

Shelley Kerslake, Tukwila City Attorney

EXHIBIT A

Scope of Services to be Provided by Contractor

The Contractor shall be principally responsible for performing all legal work for the District, except where defense is provided through insurance coverage. The following list of duties is illustrative, but is not necessarily inclusive, of the services to be performed by the Contractor:

1. Review or draft contracts, resolutions, interlocal agreements, and other legal documents as requested by the District;
2. Advise the Commissioners and staff members with regard to legal matters relating to their respective duties for the District;
3. Represent the District in all lawsuits and other contested administrative proceedings commenced by or against the District, except where defense is provided exclusively through insurance coverage;
4. Consult with and advise the Commissioners and staff members in person, by telephone, e-mail, or by written memo on District business; and
5. Attend Commission meetings, staff meetings, or other meetings, as requested by the District.

EXHIBIT B

Tukwila Pool Metropolitan Park District
Billing Voucher

To: Tukwila Pool Metropolitan Park District
6200 Southcenter Blvd.
Tukwila, WA 98188
206-433-1800

Contractor:
Mailing Address:
Specific Program: _____
Contract Period: _____ Reporting Period: _____
Amount requested this invoice: \$ _____

Invoice Number: _____ Date of Invoice: _____

Authorized signature

BUDGET SUMMARY

Total contract amount \$ _____
Previous payments \$ _____
Current request \$ _____

Total requested this
contract to date \$ _____
Balance remaining \$ _____

Note: If applicable, submit a separate voucher for each program which is funded by your
Tukwila Pool Metropolitan Park District contract.

For Department Use Only

Approved for Payment:

_____ Date: _____

EXHIBIT C

Tukwila Pool Metropolitan Park District
6200 Southcenter Blvd.
Tukwila, WA 98188
206-433-1800

TAX IDENTIFICATION NUMBER

In order for you to receive reimbursement from the Tukwila Pool Metropolitan Park District, we must have either a Tax Identification Number or a Social Security Number. The Internal Revenue Code requires a Form 1099 for payments to every person or organization other than a corporation for services performed in the course of trade or business. Further, the law requires us to withhold 20% on reportable amounts paid to unincorporated persons who have not supplied us with their correct Tax Identification Number or Social Security Number.

Please complete the following information request form and return it to the Tukwila Pool Metropolitan Park District before or along with the submittal of the first billing voucher.

Please check the appropriate category:

- | | |
|--|---|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Government | |
| <input type="checkbox"/> Individual/Proprietor | <input type="checkbox"/> Other (please explain) |

TIN#: _ _ - _ _ _ _ _

SS#: _ _ - _ _ _ _ _

Print Name: _____

Print Title: _____

Business Name: _____

Business Address: _____

Business Phone: _____

