

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: _____

