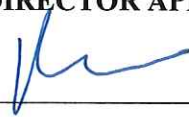


**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: 12/2/13**

<b>AGENDA ITEM:</b> Energy Efficiency Project Identification	
<b>PREPARED BY:</b> Jesse L. Hannahs, P.E., Traffic Engineer	<b>DIRECTOR APPROVAL:</b> 
<b>DEPARTMENT:</b> Public Works - Engineering	
<b>ATTACHMENTS:</b> Sample Interagency Agreement	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b> TBD

**SUMMARY:**

The City owns many facilities and various installations utilizing energy to provide for indoor/outdoor lighting, heating/cooling and many other functions. Many of the facilities utilize old technology in which upgrade/replacement with advanced equipment could result in significant energy savings. Through the Washington State Department of Enterprise Services (DES), a program has been established where jurisdictions can, through an Interagency Agreement (IAA), authorize an investigation of City infrastructure to determine the cost feasibility of establishing an energy efficiency project. Authorization of the IAA does not obligate funds from the City, unless a project can be established that would meet predetermined City goals. Project Costs can be financed over the number of payback years to attain no energy cost increases or funded with existing up-front City funds with immediate energy savings. The steps of this process are:

- 1.) The City enters into an IAA with DES.
- 2.) A DES approved and City selected Energy Services Company (ESCO), performs a preliminary walk through of City facilities and infrastructure to be considered. The DES approved ESCO's are under state contract and do not require the City to utilize an RFQ process. Facilities are likely to include the Public Works Maintenance Building, City Hall, Jennings Park Barn/Offices, Waste Water Treatment Plant, Police Evidence, parking lot and street lighting and could include several other facilities.
- 3.) The City develops a set of goals which may include among anything a specific payback time period or requirement that the project include specific facilities.
- 4.) To be presented to the City, the ESCO will perform an Investment Grade Audit (IGA) including short term monitoring to gain more detailed cost and saving information including a baseline to later evaluate. If the audit proves the City goals can be met, the City must move forward with a project or pay the cost of the audit as detailed in the IAA.
- 5.) A DES grant opportunity (1/31/14 application deadline) is currently in place with this process being a submittal requirement. Grant applications can request up to \$500k with a requirement for a 3:1 match. The match can include utility rebates offered by Snohomish County PUD.
- 6.) If a project with or without grant funding is to be constructed, the ESCO will complete the design and act as the general contractor/construction manager through the construction process, not requiring significant City staff resources. The ESCO will also provide training in operation and maintenance of installed systems.
- 7.) Following construction, the ESCO will perform annual evaluations to show the guaranteed versus actual cost savings. If the energy saving are not adequate the ESCO will be required to reimburse the City for savings shortfalls and must correct the problems.

**RECOMMENDED ACTION:**

Staff recommends that Council authorizes the signing of an Interagency Agreement with Washington State Department of Enterprise Services, selecting as the ESCO, Ameresco.

# Interagency Agreement

Date: \_\_\_\_\_

Department of Enterprise Services

Interagency Agreement No: 2012-ERG-xxx

**Interagency Agreement Between the  
Department of Enterprise Services  
and  
(Name of the Client Agency)**

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 (Name of the Client Agency), hereinafter referred to as the \_\_\_\_\_ "insert CITY or COUNTY or DISTRICT or COLLEGE".

The purpose of this Agreement is to establish a vehicle for DES to provide future Energy/Utility Conservation Project Management and Monitoring Services to the CLIENT (<= substitute "City", etc) 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.

*This paragraph added only if there's Federal grant funds: (may be added by amendment)*

**The CLIENT shall provide the Energy Services Company (ESCO) with any additional contract language necessary to comply with federal requirements under the American Recovery & Reinvestment Act of 2009 (ARRA) and the Energy Efficiency and Conservation Block Grant (EECBG). The ESCO and their subcontractors are required to comply with all applicable federal regulations and reporting procedures.**

## 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, the CLIENT 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 the CLIENT decides not to proceed with an Energy/Utility Conservation project that meets CLIENT's cost effective criteria, then the CLIENT 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 the CLIENT and provided by DES under Attachment "C" of this Agreement, the CLIENT 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 the CLIENT, after DES has reviewed, approved and sent the invoices to the CLIENT for payment.

#### **5. Billing Procedure**

DES shall submit a single invoice to the CLIENT at substantial completion of each authorized project, unless the CLIENT requests a Special Billing Condition in the Amendment. Substantial completion of the project will include the delivery and acceptance of closeout documents and commencement of energy savings notification. Each invoice will indicate clearly that it is for the services rendered in performance of this Agreement and shall reflect both the Agreement and amendment number.

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

#### **6. Payment Procedure**

The CLIENT shall pay all invoices received from DES within 90 days of receipt of properly executed invoice vouchers. The CLIENT shall notify DES in writing if the CLIENT 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 the CLIENT. 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**

The CLIENT 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. The CLIENT Representative on this Agreement shall be:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone (\_\_\_\_) \_\_\_\_-\_\_\_\_

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:

\_\_\_\_\_  
Department of Enterprise Services  
Facilities Division

Engineering and Architectural Services  
PO Box 41012  
Olympia, WA 98504-1012  
Telephone (360) 407-\_\_\_\_\_

\_\_\_ 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**

The CLIENT 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 the CLIENT 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: The CLIENT shall appoint a member to the Dispute Board. The Director of DES shall appoint a member to the Dispute Board. The CLIENT 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. (For state agencies add: " unless one of the parties requests intervention by the Governor as provided by RCW 43.17.330.")

#### **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:

NAME OF CLIENT

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

Roger Wigfield, P.E.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Energy Program Manager

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
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 (CS) at (360) 407-\_\_\_\_.

20125\_\_IAA\_\_

# **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 the CLIENT. Each individual project shall be authorized by Amendment to this Agreement.

1. Assist the CLIENT 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

## Fee Schedule

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>
5,000,001.....6,000,000 .....	\$66,000 .....	25,700
4,000,001.....5,000,000 .....	65,000 .....	25,400
3,000,001.....4,000,000 .....	64,000 .....	25,000
2,000,001.....3,000,000 .....	60,000 .....	23,400
1,500,001.....2,000,000 .....	56,000 .....	21,800
1,000,001.....1,500,000 .....	49,500 .....	19,300
900,001.....1,000,000 .....	42,000 .....	16,400
800,001.....900,000 .....	39,600 .....	15,400
700,001.....800,000 .....	36,800 .....	14,400
600,001.....700,000 .....	35,000 .....	13,700
500,001.....600,000 .....	32,400 .....	12,600
400,001.....500,000 .....	29,000 .....	11,300
300,001.....400,000 .....	24,800 .....	9,700
200,001.....300,000 .....	19,800 .....	7,700
100,001.....200,000 .....	13,800 .....	5,400
50,001.....100,000 .....	7,500 .....	3,500
20,001.....50,000 .....	4,000 .....	2,000
0.....20,000 .....	2,000 .....	1,000

The project management fee on projects over \$6,000,000 is 1.1% of the project cost. The maximum DES termination fee is \$25,700.

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 the CLIENT decides not to proceed with the project through DES.
3. If the project meets the CLIENT's cost effectiveness criteria and the CLIENT decides not to move forward with a project, then the CLIENT will be invoiced per Attachment B Termination or \$25,700.00 whichever is less. If the CLIENT 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 the CLIENT's established Cost Effectiveness Criteria, then there is no cost to the CLIENT and no further obligation by the CLIENT.

Rev. 3/12/12



# **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 the CLIENT.

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.