

Parks, Recreation and Cultural Services
Memorandum #09-11

DATE: July 23, 2009

TO: Honorable Mayor Kathleen M. Novak and City Council Members

FROM: William A. Simmons, City Manager *WAS*
Amanda J. Peterson, Director of Parks, Recreation & Cultural Services *ajp*
David Willett, Director of Public Works *DW*
Doug Pullen, Facilities Maintenance *DP*

CC: Shawn Cordsen, Director of Finance *SC*

SUBJECT: MOU with Governor's Energy Office for Performance Contracting CR-77

RECOMMENDATION: Staff recommends that Council sign the attached Memorandum of Understanding with the Governor's Energy Office (GEO) to begin the process of the selection of an Energy Service Company (ESCO), and conduct an energy audit for the Recreation Center, City Hall, the Water Treatment Facility and the Wastewater Treatment Facility which would allow for energy efficiencies to be identified and implemented in these facilities through performance contracting.

BACKGROUND: As per City Council's direction, staff have worked with the GEO to determine if the performance contracting services available through the GEO would be a feasible way to decrease energy use and the associated expenses, replace aging and inefficient equipment, and utilize the energy savings as a means for paying for new energy efficient equipment.

Some of the changes that are required at the Recreation Center to meet the Order to Comply issued by North Metro Fire Rescue District (NMFRD), and the corresponding building and energy codes, could potentially be achieved at a lower out-of-pocket expense through the services available with the GEO.

Representatives from the GEO and their contractor, Trident Energy, believe that there are significant energy savings available not only in the Recreation Center, but other City facilities as well. This belief is based on the age of our facilities, their functions, and the GEO's experience with other municipalities.

Once energy efficiencies are identified and implemented, payment for those changes is typically made over a ten to fifteen year period through a lease-purchase agreement. This lease-purchase agreement is financed through a third-party lending agency selected by the City in coordination with the ESCO. Through the ESCO, the energy efficiency savings can be guaranteed for the life of the lease-purchase agreement.

BUDGET/TIME IMPLICATIONS: There are no immediate expenses associated with the MOU. If the City proceeds with the MOU, selects an ESCO and has an energy audit conducted, then chooses not to proceed with the implementation of the energy efficiencies, a fee would be assessed for the audit. This fee is estimated to be \$0.10 - \$0.15 per square foot for the Recreation Center and City Hall, which would equate to a total expense of approximately \$8,000.00 - \$12,000.00. Due to the unique systems at the Water and Wastewater Treatment Facilities, the audit fees for these facilities would be quoted separately by the ESCO. The audit fees are only assessed if the energy efficient changes are not implemented within each facility, and exact fees would be included in the bids submitted by each ESCO.

The City would have the option of only making those energy efficiency changes that can be paid for fully with the savings in energy cost, however, it is likely that changes will be recommended that exceed the ten to fifteen year energy savings. Once the audit is complete, a determination can be made as to which efficiencies are financially feasible for each facility.

If the MOU is signed in July 2009, an ESCO would be selected through the RFQ process and would likely be able to complete the audit by the end of 2009. It is recommended by the GEO that work begin shortly thereafter to implement changes, to ensure that any rebates or other short-lived savings opportunities remain in place. There is potential to phase the projects, with phase one projects fully funded through the energy savings, and phase two projects funded through DOLA grants, ARRA funds or the City's Capital Improvement Program.

STAFF REFERENCE: Please contact Amanda Peterson at apeterson@northglenn.org or by phone at 303.450.8727 for any further questions.

SPONSORED BY: MAYOR NOVAK

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-77
Series of 2009

Series of 2009

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF NORTHGLENN AND THE STATE OF COLORADO GOVERNOR'S ENERGY OFFICE FOR THE ENERGY PERFORMANCE CONTRACTING PROGRAM

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The Memorandum of Understanding between the City of Northglenn and the State of Colorado Governor's Energy Office, attached hereto as **Exhibit 1**, for the Energy Performance Contracting Program is hereby approved and the Mayor is authorized to execute same on behalf of the City.

DATED at Northglenn, Colorado, this ____ day of _____, 2009.

KATHLEEN M. NOVAK
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

**FACILITY OWNER'S MEMORANDUM OF
UNDERSTANDING**

**FOR THE GOVERNOR'S ENERGY OFFICE ENERGY
PERFORMANCE CONTRACTING PROGRAM**



THE GOVERNOR'S ENERGY OFFICE
1580 Logan Street, Suite 100
Denver, CO 80203

PLEASE SIGN **THREE (3) COPIES** AND RETURN TO:
GOVERNOR'S ENERGY OFFICE
ATTN: JOEL ASRAEL
1580 LOGAN ST, SUITE 100
DENVER, CO 80203

FACILITY OWNER MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made this 9th day of July in the year 2009 between the State of Colorado Governor's Energy Office, hereinafter called GEO, and Northglenn, Colorado, hereinafter called the Facility Owner.

WHEREAS, GEO, through its Energy Performance Contracting Program, used a state-approved Request for Proposals (RFP) process to select Energy Service Companies (ESCOs) to provide as-needed energy performance contracting services; and

WHEREAS, GEO will maintain a list of pre-qualified ESCOs that are eligible for final selection by Colorado's state and local governments to provide performance contracting services.

NOW, THEREFORE, it is agreed that:

1. Purpose of MOU. The purpose of this MOU is to provide Facility Owner access to the services and support provided under the Colorado Governor's Energy Office Energy Performance Contracting Program to assist in the development and implementation of Energy Performance Contracting (EPC) projects and to encourage the Facility Owner to follow and adhere to the guidelines of the program.

2. Term of MOU. This MOU becomes effective on the date signed by the Facility Owner and shall terminate on June 30, 2010, unless the Facility Owner elects to terminate it sooner.

3. Consideration. In consideration for the services rendered by the GEO under this MOU, the Facility Owner shall engage in a good faith effort to reduce its energy consumption through participation in the GEO EPC Program and follow and generally adhere to its guidelines, rules, and provisions.

4. Responsibilities of Facility Owner. The responsibilities of the Facility Owner include:

- a. Agree to program participation by executing a Facility Owner Memorandum of Understanding and engage the GEO EPC Program for assistance in project development
- b. Select an ESCO from GEO's current pre-qualified list, using a secondary selection process that fulfills Facility Owner's procurement policies.
- c. Assign members to the facility project team including operations, maintenance, financial and upper management personnel
- d. Ensure appropriate personnel attend project development meetings dependent upon the subject matter to be discussed
- e. Provide access and escort to buildings under reasonable conditions

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- f. Provide information as needed for the feasibility study, the Technical Energy Audit, and other project development activities
 - g. Work with ESCO to develop/refine project parameters
 - h. Review/approve ESCO proposals, designs, and reports
 - i. Ensure recommendations of the GEO EPC Program during reviews are addressed to the extent that such recommendations are reasonable
 - j. Make payments for ESCO services per contract terms
 - k. Make arrangements for project financing
 - l. Provide project management
 - m. Provide information as needed for measurement and verification activities.

5. Responsibilities of GEO EPC Program. The responsibilities of the GEO EPC Program include, but are not necessarily limited to:

- a. Actively promote the program and educate potential participants about the benefits and implementation of energy performance contracts.
- b. Work with Facility Owners to become program participants and to commit to a Facility Owner MOU
- c. Help Facility Owner procure services of an ESCO from the pre-qualified list
- d. Provide information on the website for currently pre-qualified ESCOs, as provided and updated by the ESCO, providing a link to the ESCO's website for more detailed information.
- e. Help Facility Owner develop and initiate a performance contracting project
- f. Facilitate the performance contracting process, to help ensure commitments are met by both the Facility Owner and the ESCO
- g. Provide technical guidance to the Facility Owner, attending on-site meetings between the Facility Owner and ESCO as needed
- h. Help develop the GEO EPC Program Standard Technical Energy Audit and Energy Performance contracts with facility owner amendments as needed, for each project
- i. Review audits, proposals, calculations, contracts, and measurement and verification reports
- j. Monitor project implementation
- k. Identify solutions to mediate any conflicts between Facility Owner and ESCO.

6. THIS MOU IS NOT INTENDED TO CREATE, NOR WILL THIS MOU EVER BE CONSTRUED OR INTERPRETED AS CREATING, A BINDING AND LEGALLY ENFORCEABLE CONTRACT BETWEEN THE PARTIES. THERE WILL BE NO LEGAL OR EQUITABLE REMEDIES AVAILABLE TO EITHER PARTY IN THE EVENT EITHER PARTY FAILS TO FULLY COMPLY WITH THE PROVISIONS OF THIS MOU. THE SOLE REMEDY FOR THE FAILURE OF A PARTY TO FULLY COMPLY WITH THE PROVISIONS OF THIS MOU WILL BE TERMINATION OF THIS MOU.

7. **Signatures.** In witness thereof, the parties to this MOU, either personally or through their duly authorized representatives, have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU.

COLORADO GOVERNOR'S ENERGY OFFICE

Thomas Plant, Director

Date

Joel Asrael, Program Manager

Date

FACILITY OWNER

Northglenn, Colorado

Name (print)

Signature

Date

PLEASE SIGN AND DATE **THREE (3) COPIES** AND RETURN TO:
GOVERNOR'S ENERGY OFFICE
ATTN: JOEL ASRAEL
1580 LOGAN ST, SUITE 100
DENVER, CO 80203

CONTACT INFO SHEET

Please complete the following form and include with your MOU. This information is for GEO use only and will not be shared.

Primary Contact Info

Name Amanda J. Peterson

Title Director of Parks, Recreation & Cultural Services

Phone 303.450.8950

Email apeterson@northglenn.org.

Address 11701 Community Center Drive, Northglenn, CO 80233

Project Info

Type of facilities included in your project

1. Recreation Center
2. City Hall/Police Department
3. Water Treatment Facility
4. Wastewater Treatment Facility
5. _____.

Have you selected an ESCO? Yes _____ No X
(ESCO)

Please list any immediate needs you have related to your performance contract.



To ensure successful Energy Performance Contracting programs for Colorado state and local governments, the Governor's Energy Office has developed these "Standards for Success" and associated free services to provide on-going guidance and support throughout the entire Performance Contracting process.

STEP 1 INTRODUCTORY STAGE

Make sure that performance contracting is right for you.

Your first step is to consider how an energy performance contract would work for you. We look at your facility size and needs, your energy bills, and the potential for improvements.

GEO will: *Conduct a telephone consultation to help you understand the energy performance contracting process and perform a screening to determine if you have a potential project; Analyze the feasibility of performance contracting for your facilities and prepare a recommendation.*

You will: *Submit information about your facilities using GEO's Request for Facilities Information*

Get the "Go" Decision

GEO will: *Give a presentation to the Board, Council, Commission, or decision-making group to explain the benefits of working with the GEO and using Energy Performance Contracting as a way to fund energy efficiency, alternative and renewable energy, and capital improvements.*

You will: *Sign GEO Energy Performance Contracting Facility Owner's Memorandum of Understanding.*

STEP 2 ESCO SELECTION STAGE

Set the stage for your project

GEO will: *Meet with your staff as requested to educate your ESCO selection committee; Help establish a broad scope as well as specific requirements for your project and help communicate your needs and wishes to prospective ESCOs.*

Competitively select (if required) your energy service company (ESCO)

GEO will: *Provide a complete list of GEO-approved ESCOs for your consideration and evaluation; Provide information and assistance so you can select the ESCOs you wish to interview.*

Select the ESCO that's right for you.

GEO will: *Help evaluate ESCO responses and/or participate in ESCO interviews; Serve as an advisor throughout the selection process. (GEO will remain neutral and unbiased on ESCO selection and will not be a scoring member of the evaluation committee, but will answer questions and provide clarifications and point out possible differentiators.)*

You will: *Select qualified ESCO.*

STEP 3 TECHNICAL ENERGY AUDIT STAGE

Before getting started, ensure you and your ESCO are "on the same page"

GEO will: *Meet with you and your ESCO to begin to develop the project so there is clear agreement on intent, ESCO's proposed service and GEO's ongoing involvement etc.*

Use the GEO Technical Energy Audit and Project Proposal Contract to ensure an investment grade audit

GEO will: *Provide a Colorado state-approved Technical Energy Audit & Project Proposal Contract; Assist in developing and negotiating final contract terms; Ensure that terms and expectations are incorporated in the contract.*

You will: *Enter into Technical Energy Audit and Project Proposal Contract with your ESCO.*

Get ongoing independent reviews during the audit process

GEO will: *Provide independent reviews of audit and ensure that the process set forth in the Audit Contract is followed accurately and that the technical, financial, and legal terms are fulfilled; Provide ongoing technical and contractual support throughout the audit phase; Review all energy and cost calculations for reasonableness; Provide ongoing support for finalization of ESCO's audit report.*

Develop a quality monitoring and verification plan to establish how savings will be determined

GEO will: *Review and help develop the monitoring and verification plan; Advise on your final acceptance of the Technical Energy Audit.*

STEP 4 PERFORMANCE CONTRACTING STAGE

Use the GEO Energy Performance Contract.

GEO will: *Provide a Colorado state-approved model Energy Performance Contract.*

Get trained on the energy performance contract prior to signing.

GEO will: *Meet with your team to review the overall contract.*

Develop a contract that will stand the test of time

GEO will: *Ensure the Performance Contract meets all terms set forth in the Audit and meets all technical, financial, and legal requirements of the state or local government; Assist you in negotiating a contract that meets your needs; Ensure thorough documentation to clearly address future "what-if" questions.*

Develop a final measurement & verification plan

GEO will: *Provide GEO's Measurement and Verification Guidelines that were co-developed with Colorado ESCOs; Assist in developing a mutually acceptable final savings Measurement and Verification plan and ensure it is incorporated into the Performance Contract.*

You will: *Sign GEO Energy Performance Contract.*

ESCO will implement installation of all equipment

GEO will: *Provide on-going support during the construction phase as necessary.*

STEP 5 MONITORING & VERIFICATION STAGE

Get independent reviews of annual energy savings reports

GEO will: *Provide annual independent review of energy savings reports.*

Get ongoing trouble-shooting expertise

GEO will: *Provide general technical and performance contracting expertise on an on-call basis when questions arise (GEO will not provide dispute resolution but can help assess if you have grounds for a dispute).*

GEO offers **free** services on an as-needed, as-available basis to state and local governments. We share the same goal of seeing successful, comprehensive energy efficiency, alternative/renewable, and water efficiency improvements in your facilities. Follow these standards to help ensure success!

Partner Responsibility Checklist: When to Contact GEO

As a participant in the GEO Energy Performance Contracting program, partners are responsible for communicating with GEO at key points throughout the process. This input helps ensure that we deliver our services to you in a way that helps ensure a successful project for you. We'll help keep your project on track by providing the input of our unbiased experts at pivotal meetings, and for document and contract reviews. Contact your GEO Energy Performance Contracting representative.

Step	Partner Responsibility for Contacting GEO	Date Completed	Note
Step 1: Introduction	Sign and submit the <i>GEO's Facility Owner's Memorandum of Understanding</i> to enroll as a partner in the GEO Performance Contracting Program.		
Step 2: ESCO Selection	Use the <i>online list of GEO pre-approved ESCOs</i> to identify qualified ESCOs.		
	Use the <i>ESCO solicitation template</i> (if making a competitive selection).		
	Invite GEO to review draft ESCO solicitation prior to issue.		
	Invite GEO to review proposals from ESCOs prior to interviews.		
	Invite GEO to attend ESCO interviews.		
Step 3: Technical Energy Audit (TEA)	Use <i>TEA & Project Proposal Contract</i> to develop contract with selected ESCO.		
	Invite GEO to review TEA & Project Proposal Contract prior to signing.		
	Send copy of signed TEA & Project Proposal Contract to GEO.		
	Invite GEO to audit kickoff meeting.		
	Invite GEO to preliminary audit review meeting.		
	Provide GEO with final draft TEA report for final review.		
	Send electronic copy of final audit to GEO.		
Step 4: Energy Performance Contract	Use <i>Energy Performance Contract</i> .		
	Use <i>Measurement & Verification Guidelines</i> .		
	Use <i>Commissioning Guidelines</i> .		
	Invite GEO to review Energy Performance Contract prior to signing.		
	Send signed electronic Energy Performance Contract to GEO.		
	For any addendums or additional phases, invite GEO to review prior to signing.		
	Send signed additions to contract to GEO.		
Step 5: Monitoring & Verification	Invite GEO to review annual (or other interval) savings reports prior to accepting.		
	Send final savings report to GEO, annually (or other interval).		
Ongoing	Contact GEO for guidance at any point in the process.		