



Contract Cover Sheet
Contracts & Procurement Division

DATE 08/31/2021

TO Mami Hara, General Manager
Seattle Public Utilities

CC Terri.Gregg@seattle.gov
paul.faulds@seattle.gov
alex.chen@seattle.gov
mrigos@northbendwa.gov

FROM Lisa Hill, Contract Administrator
Lisa.Hill@seattle.gov

CONTRACT 21-226-A
Agreement for Conservation Services

Original Contract
 Amendment #
 Work Assignment #
 Other

Please sign the attached contract document referenced above.

The purpose of this contract document is to establish an Agreement for Conservation Services between City of Seattle and City of North Bend.

For your reference, here is a link to the [Supporting Documentation](#) (SPU internal site link).

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AGREEMENT FOR CONSERVATION SERVICES
BETWEEN
SEATTLE PUBLIC UTILITIES
AND
CITY OF NORTH BEND

This AGREEMENT made and entered into this day of July 28, 2021 by the CITY OF NORTH BEND, a municipal corporation of the State of the Washington, hereinafter called "NORTH BEND" and THE CITY OF SEATTLE, a municipal corporation of the State of Washington, acting through Seattle Public Utilities, hereinafter called "SEATTLE".

WHEREAS, NORTH BEND entered into a Partial Requirements Contract for the Supply of Untreated Water to City of NORTH BEND, "Untreated Water Contract", dated February 2008 for mitigation water until January 1, 2067, in which conservation services were not included; and

WHEREAS, the parties executed a letter agreement dated December 16, 2020 under which SEATTLE and NORTH BEND entered into good faith negotiations for a short-term contract to support NORTH BEND's immediate conservation needs and memorialize a mutual agreement to extend the deadline for changes to the "Untreated Water Contract;" and

WHEREAS, SEATTLE administers a regional water conservation program under the name the Saving Water Partnership ("SWP") to its Full and Partial Requirement Water Supply Customers ("F and P Customers") to reduce water systems costs by helping retail customers use water efficiently; and

WHEREAS the SWP services are paid for by SEATTLE and the "F and P Customers" through rates and facility charges; and

WHEREAS, NORTH BEND, desires to become a member of the SWP and Conservation Technical Forum and purchase conservation services to help meet its immediate needs.

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. TERM OF AGREEMENT

This AGREEMENT for conservation services shall be in effect beginning September 1, 2021, and shall remain in effect until December 31, 2022, unless terminated by either party in accordance with the terms of this AGREEMENT. The parties may mutually agree to extend the term in writing prior to the expiration date. Either party may terminate this AGREEMENT for its own convenience upon 60 days written notice to the other party.

2. SEATTLE'S ROLES AND RESPONSIBILITIES. SEATTLE will:

- 2.1 Assist NORTH BEND to become a member of the SWP and SEATTLE will recommend NORTH BEND for membership in the Conservation Technical Forum (CTF).
- 2.2 Administer the regional water conservation program and extend program delivery to NORTH BEND'S retail water customers. The regional water conservation program currently includes elements such as education, technical assistance, and financial incentives (e.g., toilet rebates). SEATTLE updates the programs from time to time in consultation with the CTF.
- 2.3 Provide education, outreach, and marketing materials and content that NORTH BEND may customize and use in their service area.
- 2.4 Provide an annual report on the overall SWP program.
- 2.5 Provide an annual report to NORTH BEND on the activity level of the programs in their service area.
- 2.6 Provide information related to the SWP goal and SWP program to help NORTH BEND in their Water Use Efficiency (WUE) rule reporting related to the SWP goal and SWP program.

3. NORTH BEND'S ROLES AND RESPONSIBILITIES. NORTH BEND will:

- 3.1 Ensure that SWP conservation services will only be applicable to the retail water customers served by NORTH BEND.
- 3.2 Compensate SEATTLE for conservation services as set forth in this Section 3.2. SEATTLE will invoice NORTH BEND for the following fees to become a member of the SWP and NORTH BEND agrees to pay these fees within the later of 30 days of mutual execution of this AGREEMENT or receipt of SEATTLE'S invoice:
 - 3.2.1 One-time non-refundable Buy-in Fee of \$9,600, covering NORTH BEND'S share of investments already made by other SWP members to develop the program infrastructure.
 - 3.2.2 One-time non-refundable Set-up Fee of \$1,600, covering costs such as modification of SWP materials and onboarding NORTH BEND staff.
 - 3.2.3 The Annual Fee will be \$15,375. For 2021 the fee will be pro-rated to reflect the effective date of this AGREEMENT. - The Annual fee will be invoiced to NORTH BEND by the end of March , each year and NORTH BEND will remit payment to SEATTLE within **30 days** of receipt of invoice.
- 3.3 Adopt and report to the Department of Health (DOH) and NORTH BEND'S customers the Water Use Efficiency (WUE) goal for the SWP established by the SEATTLE Water Supply Operating Board. Any additional conservation efforts made by NORTH BEND beyond the SWP program will be the responsibility of NORTH BEND to report the DOH.
- 3.4 Identify one staff person to serve on the CTF.
- 3.5 Market the programs to NORTH BEND'S retail customers.
- 3.6 Provide SPU with NORTH BEND'S total retail water sales by the end of February each year, which allows SPU to calculate the "total average annual retail water use of SWP members" for the SWP Water Use Efficiency goal.

4. NON-DISCRIMINATION

In carrying out their mutual responsibilities under this AGREEMENT, the parties shall not discriminate against any individual because of race, color, age, sex, marital status, sexual orientation, gender identity, political ideology, creed, religion, ancestry, national origin, honorably discharged veteran or military status or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification.

5. NO THIRD PARTY BENEFICIARIES

The Parties do not intend this AGREEMENT to create or grant any rights or benefits for third parties not signatory to this AGREEMENT and this AGREEMENT shall not be construed to create any third-party right, claim, or cause of action against either party to this AGREEMENT.

6. INDEPENDENT CONTRACTOR

The relationship of the parties shall be that of independent contractors. No NORTH BEND personnel carrying out activities under this AGREEMENT shall be considered to be employees of SEATTLE, and no SEATTLE personnel carrying out activities under this AGREEMENT shall be considered to be employees of NORTH BEND. Neither party shall have the right to transact any business in the name of the other.

7. GOVERNING LAW; JURISDICTION

This AGREEMENT shall be governed by the laws of the State of Washington. The jurisdiction and venue for any legal action shall be King County Superior Court for the State of Washington.

8. GENERAL TERMS

- 8.1 Severability. The provisions of this AGREEMENT are severable and if any portion is held to be invalid, illegal, or unenforceable for any reason, the remaining provisions shall be effective and binding on the parties.
- 8.2 Captions. Any captions and headings are solely for the convenience of the parties and do not affect the interpretation or validity of the AGREEMENT or its provisions.
- 8.3 Enforceability and waiver. Any waiver of any terms or conditions herein must be in writing and signed by the parties. The waiver of performance of any provision of this AGREEMENT shall not be deemed to be a waiver of any remaining provision. The invalidity and non-enforceability of any term or provision of this AGREEMENT shall not affect the validity or enforceability of any other term or provision.
- 8.4 Counterparts. This AGREEMENT may be executed in counterparts, each of which shall be deemed an original, but all counterparts together shall constitute one and the same instrument. Signatures transmitted by fax, .PDF, .JPG, email, or other digital formats shall be deemed valid.

9. NOTICE

Written notice required under this AGREEMENT shall be delivered by email, personally, or sent by U.S. Registered or certified mail and addressed to the following:

To SEATTLE:	To NORTH BEND:
Terri Gregg, Wholesale Contract Analyst Seattle Public Utilities	David Miller, City Administrator City of North Bend
700 5 th Ave PO Box 34018 Seattle, WA 98124-4018	920 SE Cedar Falls Way North Bend, WA 98045
Terri.gregg@seattle.gov	dmiller@northbendwa.gov

EXECUTED BY:


Mami Hara (Sep 1, 2021 11:14 PDT)

Mami Hara, General Manager
Seattle Public Utilities

Date


7/28/21

Rob McFarland, Mayor
City of North Bend

Date