



Board of Trustees - Study Session

Tuesday, July 25, 2023 at 5:45 pm

**PLEASE SILENCE ALL CELL PHONE AND ELECTRONIC DEVICES.
THANK YOU**

1. Meeting Information

207 Muegge Way, Bennett, CO 80102

For a live stream of the meeting use the information below:

<https://us02web.zoom.us/j/84285000718>

Meeting ID: 842 8500 0718

Passcode: 677682

One tap mobile

+16699006833

2. Memorandum of Understanding (MOU) with Colorado Energy Office (CEO)

Resolution No. 981-23 - A Resolution Supporting the Memorandum of Understanding (MOU) with the Colorado Energy Office (CEO)

Denise Taylor, Assistant to the Town Manager

Attachments:

- **Staff Report Memorandum of Understanding (MOU) with Colorado Energy Office (CEO)** (0_-_TownofBennett_Staff_Report_Energy_MOU__1_.pdf)
- **Memorandum of Understanding (MOU) with Colorado Energy Office (CEO)** (1_-_MOU_Energy_Office.pdf)
- **Resolution No. 981-23 - A Resolution Supporting the Memorandum of Understanding (MOU) with the Colorado Energy Office (CEO)** (2_-_RESOLUTION_Energy_MOU_thedits__1_.pdf)

STAFF REPORT



welcome neighbors.

TO: Mayor and Town of Bennett Board of Trustees
FROM: Denise Taylor, Assistant to the Town Manager
DATE: July 25, 2023
SUBJECT: MOU with Colorado Energy Office (CEO)

Background

As part of an investigation into solar and other sustainable energy sources for Town facilities, Staff learned that the Colorado Energy Office (CEO) provides program administration and technical assistance to local governments through their Energy Performance Contracting (EPC) Program.

In the EPC Program, an Energy Service Company (ESCO) would be selected to perform an audit of Town facilities and identify which buildings are using energy inefficiently and estimate savings from possible upgrades. The CEO has a stringent vetting process (every 5 years) for Energy Service Companies (ESCO) to participate in the program. The ESCO will create a business case for possible energy savings. They are also experienced on the funding side of the process and can assist with seeking grants or other funding options. DOLA gives extra points on grant projects for using this service when applying for Energy Impact Funds.

The CEO will be a partner with Bennett through the work with the ESCO and any projects. They will answer questions and offer advice about how well projects align with the local governments goals, timeline and budget. Staff engineers will also review the business case and any energy audits created by the selected service company.

Town Staff had conversations with the Energy Service Company, McKinstry. They are a certified ESCO and willing to work with the Town. They have extensive experience in Colorado helping local governments realize cost savings through energy upgrades.

Staff Recommendation

Staff recommends entering into a non-binding MOU with the Colorado Energy Office and moving forward with McKinstry as the Energy Service Company.

Attachments

1. Memorandum of Understanding between the Colorado Energy Office and the Town of Bennett
2. Resolution No. 981-23

MEMORANDUM OF UNDERSTANDING
between the COLORADO ENERGY OFFICE
and the TOWN OF BENNETT

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by and between the STATE OF COLORADO (the “State”), acting by and through the Colorado Energy Office (the “CEO”), and the TOWN OF BENNETT (the “Facility Owner”). “Party” means the State, CEO or Facility Owner and “Parties” means both the State/CEO and the Facility Owner.

RECITALS

WHEREAS, in compliance with the State Procurement Code as set forth in section 24-101-101, *et seq.*, C.R.S. and any applicable public bidding requirements, the CEO issued a Request for Proposals (“RFP”) to energy service companies (“ESCOs”) to provide as needed energy performance contract services for its Energy Performance Contracting Program; and

WHEREAS, as a result of the RFP process, CEO maintains a list of pre-qualified ESCOs that are eligible for final selection by State agencies and local governments and/or municipalities to provide energy performance contracting services; and

WHEREAS, the purpose of this MOU is to provide the Facility Owner with access to the services and support of the CEO’s Energy Performance Contracting (“EPC”) Program; and

WHEREAS, in furtherance of the purpose of this MOU, the CEO is available to assist the Facility Owner with the development and implementation of EPC projects, as well as to encourage the Facility Owner to adhere to the guidelines of the EPC Program.

NOW, THEREFORE, for and in consideration of the mutual covenants and the representations and covenants contained herein, the parties hereto agree as follows:

- 1. Effective Date of MOU.** This MOU shall become effective upon the later date on which the Director or authorized designee of CEO, or the representative for the Facility Owner has signed it.
- 2. Term of MOU.** The Parties’ respective performances under this MOU shall commence on the Effective Date and shall expire one year from date of signature or at the end of the term of services contracted from a pre-qualified ESCO.
- 3. Responsibilities of the CEO and the EPC Program to Facility Owner.** The responsibilities of the CEO and the EPC Program include, but are not limited to:
 - a. Upon execution of this MOU, CEO will assign an EPC project consultant to provide advice and technical assistance throughout the lifecycle of Facility Owner’s project.
 - b. CEO will provide the Facility Owner with information on the CEO website regarding the preapproved, pre-qualified list of ESCOs, which includes links to the ESCOs’ website for further information;
 - c. CEO will assist Facility Owner to procure the services of an ESCO from the pre-qualified list of approved ESCOs;

- d. CEO will assist the Facility Owner with technical guidance in order to develop and execute a Technical Energy Audit and Project Proposal Contract with a pre-qualified ESCO and also support the Facility Owner with any amendments thereof;
- e. CEO will provide technical guidance to the Facility Owner and attend on-site meetings between the Facility Owner and ESCO, as needed and subject to availability;
- f. CEO will assist the Facility Owner to develop and initiate an energy performance contract project;
- g. CEO will monitor project implementation for audits and for energy performance contract projects;
- h. CEO will facilitate the energy performance contract process to ensure commitments are met by both the ESCO and the Facility Owner;
- i. CEO will review Facility Owner's audits, proposals, calculations, contracts and measurement and verification reports;
- j. As required for school districts and requested by other public agencies, the CEO will complete a construction walk-through of project facilities prior to the "Notice of Substantial Completion" documents being finalized;
- k. If applicable, CEO will identify possible solutions to mediate any conflicts between the Facility Owner and the ESCO.

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

- a. By executing this MOU, Facility Owner agrees to program participation in CEO's EPC Program and engage the CEO for assistance in all stages of the EPC Program, including project development;
- b. Using a secondary selection process, Facility Owner agrees to select an ESCO from CEO's current pre-qualified list of ESCOs and which meets the requirements of Facility Owner's procurement rules, regulations and statutes (if applicable);
- c. Facility Owner will provide information as needed for the feasibility study/technical energy audit and any other project development activities;
- d. Facility Owner will review/approve the ESCO's proposals, designs and reports in a timely manner;
- e. Facility Owner agrees to execute CEO approved contracts with the ESCO;
- f. Facility Owner agrees to arrange for project financing, and with the assistance and advice of legal counsel, execute appropriate financing documents and EPC contract;
- g. Facility Owner agrees to provide project management;
- h. Facility Owner will endeavor to work with the pre-qualified ESCO to develop and refine project parameters and any other project development activities;
- i. Facility Owner will assign its staff, employees, representatives to the facility project team including operations, maintenance, financial and upper management personnel;
- j. Depending on the subject matter to be discussed, Facility Owner will ensure appropriate personnel attend project development meetings;

- k. Facility Owner will provide access to and escort ESCO, its subcontractors and CEO to buildings during mutually agreed-upon hours;
- l. If Facility Owner is a school district, Facility Owner agrees to allow CEO to complete a construction walk-through of project facilities prior to the "Notice of Substantial Completion" documents being finalized;
- l. During project reviews and any other reviews, Facility Owner will endeavor to address CEO's recommendations;
- m. As requested by CEO and as needed, Facility Owner agrees to provide CEO with information regarding measurement and verification activities.

5. THIS MOU IS NOT INTENDED TO CREATE, NOR WILL THIS MOU BE CONSTRUED OR INTERPRETED AS CREATING A LEGALLY BINDING AND ENFORCEABLE CONTRACT BETWEEN THE PARTIES. IN THE EVENT EITHER PARTY FAILS TO FULLY COMPLY WITH THE PROVISIONS OF THIS MOU, THERE WILL BE NO LEGAL OR EQUITABLE REMEDIES AVAILABLE TO EITHER PARTY. THE SOLE REMEDY AVAILABLE TO THE PARTIES FOR FAILURE TO FULLY COMPLY WITH THE PROVISIONS OF THIS MOU IS TO TERMINATE THIS MOU. THE FACILITY OWNER ACKNOWLEDGES AND AGREES THAT CEO'S SERVICES MAY INCLUDE ADVICE AND RECOMMENDATIONS, BUT ALL DECISIONS IN CONNECTION WITH THE FACILITY OWNER'S EPC PROJECT SHALL BE THE SOLE RESPONSIBILITY OF THE FACILITY OWNER, ITS AGENTS AND CONTRACTORS.

6. **Signatures.** IN WITNESS WHEREOF, the Parties have executed this MOU as of the Effective Date.

| | | | |
|--|-------|---|-------|
| STATE OF COLORADO, acting by and through the COLORADO ENERGY OFFICE | | FACILITY OWNER: | |
| _____ | _____ | _____ | _____ |
| Will Toor, CEO Director | Date | Name: Title: ___ Yes! I have reviewed this MOU and accept CEO's free technical support for an EPC project. ___ No thank you. I have reviewed this MOU and decline CEO's free technical support for an EPC project. | Date |
| _____ | _____ | | |
| EPC Team Representative | Date | | |



FACILITY OWNER INFORMATION

To be completed by facility owner (for CEO use only)

Owner's representative

| | |
|---------------------|--|
| Name | Denise Taylor |
| Title | Assistant to the Town Manager |
| Mailing address | 207 Muegge Way, Bennett CO 80102 |
| Email address | dtaylor@bennett.co.us |
| Direct office phone | 303-644-3249 x 1029 |
| Cell phone | 303-918-6771 |

Project information

| | | | | | |
|---|---|---------------|--------------------------------|--------------------------|----------|
| Types of facilities to be assessed for energy savings: | <ol style="list-style-type: none"> 1. Town Hall and other buildings with office space 2. Pump/Well Buildings 3. Maintenance Buildings 4. Water & Waste water Treatment Facilities 5. 6. | | | | |
| Have you selected an ESCO? | <input type="checkbox"/> | Yes. Name: | In conversation with McKinstry | <input type="checkbox"/> | No |
| If yes, has procurement department validated selection? | <input type="checkbox"/> | Yes. | | <input type="checkbox"/> | Not yet. |

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

RESOLUTION NO. 981-23

**A RESOLUTION SUPPORTING THE MEMORANDUM OF UNDERSTANDING
(MOU) WITH THE COLORADO ENERGY OFFICE (CEO)**

WHEREAS, the Board of Trustees elects to enter into a non-binding MOU with the Colorado Energy Office (CEO) for the purpose of accessing the services and support of the CEO's Energy Performance Contracting ("EPC") Program.

WHEREAS, there is no cost for these services; and

WHEREAS, the Town of Bennett Board of Trustees wishes to participate in the EPC Program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF BENNETT, COLORADO:

Section 1: The Board of Trustees of the Town of Bennett supports entering into the Memorandum of Understanding between the Colorado Energy Office and the Town of Bennett.

INTRODUCED, READ AND ADOPTED THIS 25TH DAY OF JULY 2023.

TOWN OF BENNETT, COLORADO

Royce D. Pindell, Mayor

ATTEST:

Christina Hart, Town Clerk