

Contact:

Ruth Floyd, Executive Director of Business Services
Stanwood-Camano School District
26920 Pioneer Highway, Stanwood, WA 98292
360-629-1200
rfloyd@stanwood.wednet.edu

TO: Board of Directors

FROM: Ruth Floyd, Executive Director of Business Services

SUBJECT: Clean Buildings Compliance Program Management Services

DATE: March 19th, 2024

TYPE: Action Needed

The Clean Buildings bill was signed into law in 2019 and requires school districts to be in compliance for their largest buildings by June 1, 2026, which includes Stanwood High School. The law (as amended) created energy performance standards for commercial buildings of more than 20,000 square feet and is designed to lower costs and pollution from fossil fuel consumption. Data entry and systems need to be in place prior to June 2025 to comply with the 2026 reporting requirements (RCW 19.27A.210).

McKinstry provided the attached proposal to deliver data entry, gap analysis, and other compliance support to get the district ready for initial reporting in 2026 and to set the district up for succeeding compliance years. The \$59,500 cost is consistent with OMNIA statewide cooperative pricing and comparable to what other local districts are paying for similar services.

Recommendation: It is recommended that the Board approve the McKinstry Proposal to provide Clean Buildings Compliance Program Management services.

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and is prepared for the future of their choice

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WA Clean Buildings Stanwood-Camano SD CBPS COMPLIANCE PROGRAM MANAGEMENT

STANWOOD, WA
MARCH 11, 2024





March 11, 2024

William (Jeff) Silverman

Stanwood-Camano School District

Re: Clean Buildings Performance Standard (CBPS/HB 1257) – Compliance Program Management (Omnia Contract #1158)

Dear Jeff,

Thank you for the opportunity to allow McKinstry to serve as a partner with Stanwood-Camano School district on your pathway to compliance with the Washington State Clean Buildings Performance Standard (CBPS).

Through the proposed Clean Buildings Compliance Program Management, McKinstry will support the District through the all stages compliance starting with the CBPS benchmarking and planning phase. The McKinstry team will develop a compliance roadmap including the recommended compliance pathways for the building and recommended EUI reduction strategies (where applicable). The enclosed scope of work also includes coordination support helping the District pull together the required facility-specific energy and operational documentation.

Additionally, we have laid out potential future support of ultimately managing the process of submitting each site's compliance package. Preliminary pricing has been provided for this stage, for budgetary purposes.

Please don't hesitate to reach out should you have any questions regarding our approach or the scope of proposed services.

Sincerely,

Grant Granger | Account Executive, Technical Services
206.456.4327 | grantg@mckinstry.com

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Scope of Work Summary

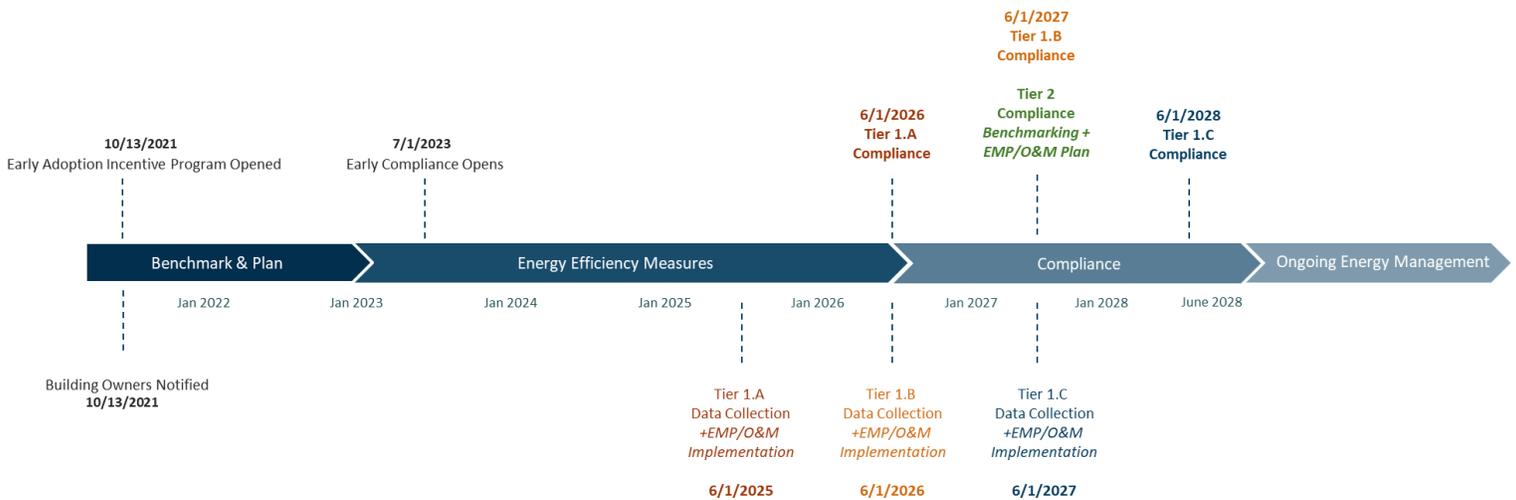
McKinstry proposes to provide comprehensive support for the District’s compliance with the Washington State Clean Buildings Performance Standard (CBPS, also known as House Bill 1257) for the law’s first compliance cycle. The scope of work includes creation of each facility’s benchmarking profile (ENERGY STAR).

McKinstry would also propose future support to serve as your designated CBPS Qualified Person, developing compliance planning based on energy benchmarking, develop required compliance materials, and manage future submission of compliance documentation for each facility required to comply with CBPS. For an overview of the Clean Buildings Performance Standard, please see Appendix A.

DELIVERABLES

- ENERGY STAR Portfolio Manager profile update
- CBPS compliance roadmap
- Energy Management Plan and Operations & Maintenance plan
- Completion and Submission of all compliance forms required.

CLEAN BUILDINGS PERFORMANCE STANDARD – STATE COMPLIANCE TIMELINE AND KEY DATES



Compliance Group	Gross Floor Area (sq.ft.)
Tier 1.A	≥ 220,000
Tier 1.B	90,000 - 220,000
Tier 1.C	50,000 - 90,000
Tier 2*	20,000 - 50,000

*Tier 2 includes Multifamily Residential buildings ≥ 20,000 SF

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FACILITIES INCLUDED IN SCOPE

SCOPE OF WORK CLEAN BUILDINGS SITES		
FACILITY	CBPS TIER	COMPLIANCE DEADLINE
Stanwood HS	Tier 1.A	6/1/2026
Stanwood MS	Tier 1.B	6/1/2027
Port Susan MS	Tier 1.C	6/1/2028
Stanwood ES	Tier 1.C	6/1/2028
Elger Bay ES	Tier 2	6/1/2027*
Cedarhome ES	Tier 2	6/1/2027*
Utsalady ES	Tier 2	6/1/2027*
Church Creek Campus	Tier 2	6/1/2027*
Twin City ES	Tier 2	6/1/2027*

* Tier 2 facilities do not have to meet an EUI target for compliance during initial cycle. Benchmarking and documentation only

Scope of Work Detail

McKinstry will perform the following according to industry best practices:

CLEAN BUILDINGS COMPLIANCE SUPPORT

Phase 1: Building Baseline/Benchmarking

1. Conduct audit of ENERGY STAR Portfolio Manager profile:
 - a. Ensure accuracy of existing account and profile, and develop profile should any not currently exist for the facility included in this scope of work.
2. Verify property use details and operating metrics that determine the facility's weather normalized Energy Use Intensity (EUI) and ENERGY STAR® score (if available):
 - a. Interview occupants and managers to verify occupancy counts, operating hours, and the utility meters in the facility
 - b. Interview building operators regarding building operating characteristics and performance of all occupied spaces.
3. Finalize CBPS compliant ENERGY STAR® Portfolio Manager Profile
 - a. Quality check the historical data and meters per facility
 - b. Complete and submit new data request forms to utility providers if necessary
 - c. Make connection to utilities and verify correct meters are reporting data to profiles
 - d. Verify profile meters to combine old and new meters
 - e. Final clean-up of profile and meters
 - f. Share profile to Authority Having Jurisdiction (AHJ)
4. Evaluate the Clean Buildings Notification letter
 - a. Validate buildings listed in the notification letter
 - b. Compare to owner provided building list

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- c. Provide list of updated building information to update information in notification letter

Phase 2.1: Compliance Roadmap

1. Calculate building-specific EUI target, which must be calculated by a Qualified Person per CBPS.
2. Develop CBPS compliance roadmap including:
 - a. Conduct an EUI gap analysis
 - b. Recommended compliance path for the building
 - c. Create a compliance timeline
3. Outline concrete next steps to executive iterative compliance roadmap
4. Provide requirements and initial insights for:
 - a. Energy Management Plan
 - i. **CBPS language:** All buildings shall implement an energy management plan as described in Section 5 of the ASHRAE 100 Standard.
 - ii. The EMP is designed as a tool to support ongoing efficient operations through energy accounting, management of energy projects and capital planning. This plan must have an Energy Manager assigned to own it and update it annually.
 - b. O&M Program
 - i. **CBPS language:** Each building system shall have an O&M program that, at a minimum, preserves the condition of the system and its elements in a manner that enables the system to provide the intended thermal and visual comfort, energy efficiency, and helps to achieve the intended indoor environmental quality required for the building. At a minimum, the O&M program shall contain an inventory of equipment, systems and controls to be inspected and maintained and a maintenance plan describing the goals, objectives, and execution of the systems maintenance program.

Phase 2.2: Develop Energy Management Plan and O&M Plan

McKinstry will work with Stanwood-Camano SD stakeholders to develop Energy Management Plan (EMP) and Operations & Maintenance Program (O&M Plan) documentation per CBPS requirements by documenting existing Stanwood-Camano SD programs, processes, and procedures. This will include a review of any existing Stanwood-Camano SD programs to identify any gaps, and will be overseen by a Qualified Person per CBPS.

Creating any missing elements of the required programs (such as occupant training or developing detailed maintenance tasking) **is not included** in the consulting program base scope, but can be added once gaps are identified and assistance is required. Templates will be developed based on detailed analysis of ASHRAE Standard 100 and WAC 194-50 which drive plan requirements. Based on current AHJ guidance, McKinstry intends to create a standard format for the District as a whole, with as-needed adaptations for each individual site.

- **Note:** Energy Management and O&M Plans must be implemented/in place for *at least* 12 months prior to each site's compliance submittal/deadline

Required Energy Management Plan (EMP) components

1. Identification of energy manager
2. Energy usage analysis and tracking
3. Facility parameters

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4. Previous energy audit reports
5. Implemented EEMs
6. Occupant energy efficiency instructions
7. O&M personnel training plan
8. Capital management plan
9. Vendor contact list for relevant equipment
10. Lighting upgrade procedure (*building on lighting audit performed fall 2022*)
11. Additional EMP procedures as specified in Section 5, ASHRAE Standard 100.

Required Operations and Maintenance (O&M Plan) Components

1. Program summary
2. Inventory of items
3. Performance objectives
4. Inspection and maintenance tasks with condition indicators and task frequencies
5. O&M program review and improvement procedure

These plans will evaluate the following building systems, as required by CBPS:

- Building envelope
- Domestic hot water
- Heating, ventilation, and air conditioning
- Refrigeration
- Lighting
- Controls
- Electric power distribution and on-site power generation

Future Support

Phase 4 would entail compliance submission of all required forms and documentation for each CBPS building within the District's portfolio. The timing of this effort will vary by building and based on the compliance path /strategy recommendations to be finalized as part of the Compliance Roadmap in Phase 2.

Phase 4: CBPS Compliance Submission

Following implementation of any individual EUI reduction strategies (Phase 3), Phase 4 would entail compliance submission of all required forms and documentation for the building. The timing of this effort will vary by building and will be based on the compliance path /strategy recommendations yet to be made (as part of the Compliance Roadmap in Phase 2).

- Complete all forms required for CBPS submission
- Support upload of compliance requirements to Department of Commerce portal
- Sign off on submittal as Qualified Person*
 - Determine whether or not the building seeking compliance has an energy use intensity target (EUI_t)
 - Establish the building-specific energy use intensity target (EUI_t)
 - Submit forms as specified in Normative Annex Z documenting compliance

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- State in writing on Form A that the Energy Management plan and Operations and Maintenance program requirements have been developed, implemented and maintained
- [For any sites pursuing Investment Criteria Compliance Pathway] Review the commissioning report and certify that the EEMs are functioning as intended (may also be performed by the Qualified Energy Auditor)
- Signature on Form A

Timeline and Staffing

McKinstry will mobilize staff within a three-week period following contract execution or formal notice-to-proceed (NTP). McKinstry intends to complete Clean Buildings Phases 1-2.2 over a 12-month project timeframe.

The specific timing of each facility’s CBPS Compliance Submission (Phase 4) will be impacted by the site-specific compliance strategies and EUI reduction efforts for the facility, as well as potential early compliance submission/acceptance if applicable. Phase 4 would be authorized via a future change order.

Pricing

FEES

Stanwood-Camano SD will compensate McKinstry for its efforts on a lump sum basis. Proposed fees are as follows:

SCOPE	FEE
Ph 1: Benchmarking (ENERGY STAR Portfolio Manager Profile Update)	\$22,000
Ph. 2.1 CBPS Compliance Analysis and Roadmap	\$14,500
Ph 2.2: Energy Management Plan and O&M Plan	\$23,000
TOTAL	\$59,500
<i>Future Support: Phase 4 CBPS Compliance Submission</i>	<i>~\$10,000-\$14,000</i>

Add/Alt Scopes: Additional Building Benchmarking

The following support is not included in the above base scope and can be added upon request via written change order authorization.

SCOPE	FEE
Per-Building Cost - Benchmarking (any additional buildings)	\$1,500/building
Onsite Meter validation	\$3,500/building

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Billing Schedule

Stage	Mobilization	Benchmarking Finalization	CBPS Roadmap Complete	EMP/O&M 50% Complete	EMP/O&M 100% Complete
Est. Inv. Date	Upon acceptance (Est. 3/19/24)	Est 45-60 days from acceptance (Est. 5/1/24)	Est 8/15/24	Est 10/15/24	Est 12/15/24
Billing Amount	\$4,000	\$18,000	\$14,500	\$11,500	\$11,500

ASSUMPTIONS

- McKinstry will staff this project and deliver Standard of Care consistent with industry best practices.
- The district will make the appropriate operations staff available to participate in interviews, site walks, and access to controls as needed.
- The district will provide McKinstry any existing documentation from previous or concurrent efforts relevant to benchmarking, compliance planning, or facilities operations.
- Project pricing is based on the total project timeline stated above.
- Payment terms are net 30.
- Projected dates are subject to change based on district team member availability. Significant delays due to unavailability of district personnel, data, or documentation may lead to a request for change order to offset additional McKinstry support and project management time.
- Project shall be invoiced according the billing schedule above.
- Above proposal pricing is valid for a period of 90 days.
- Work will be performed M-F, 7AM to 4PM
- No repair work, EEM implementation or EEM verification will be completed under this scope of work

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ACCEPTANCE

Authorization to proceed may be granted via signatures to the following. The terms of this agreement extend through OMNIA Contract Number 1158 set to expire on 12/3/2028.

Stanwood-Camano School District

McKinstry Essention, LLC

Name

Name

Title

Title

Signature

Signature

Date

Date

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Terms and Conditions

DEFINING CONTRACT

As discussed, McKinstry will assist the district in prioritizing HVAC improvements and replacements across the District's facilities. This effort aligns with and can be contracted under the Technical Audit section of the OMNIA Partners public sector agreement. Please note McKinstry's OMNIA contract number 1158 on the McKinstry Cooperative Contract | Overview (omniapartners.com) website. McKinstry will provide Stanwood-Camano School District with an energy efficiency compliance roadmap based on WA Clean Building Performance Standards. In addition, McKinstry will provide an energy baseline derived from actual energy measurements and identify the ROM energy impacts related to the prioritization of path of efficiency measures for the District should that scope be accepted to move forward. This effort positions The District to make informed decisions about project prioritization highest priority facilities that McKinstry will help identify. The information may be used as a precursor to potential future ESPC driven work.

PERFORMANCE OF WORK

McKinstry shall perform the scope of work ("Work") specified herein. McKinstry shall furnish all services necessary to perform the Work and perform the Work to completion diligently, expeditiously and with adequate forces. Customer shall use its best efforts to provide all information, materials, documents, and assistance that is reasonably required for McKinstry to perform any and all aspects of the Work.

PAYMENTS

Customer shall pay McKinstry the compensation specified herein ("Price") for the value of Work that McKinstry has completed, as the Work is completed. Customer shall pay McKinstry within thirty (30) days of receiving an invoice. McKinstry will be entitled to interest at the rate of 1.5 percent per month on all sums overdue and unpaid from the date due.

TERMINATION

Either Party may terminate this agreement upon fifteen (15) days written notice to the other Party. In such case, the rights and obligations of each Party that arose prior to the termination date shall survive such termination.

DISPUTES

In case of dispute between the Parties, the Parties will attempt to negotiate a resolution. If a dispute remains unresolved more than thirty (30) calendar days after the commencement of negotiation, and the Parties have not agreed to extend such date, then the Parties shall pursue mediation. If any dispute remains unresolved more than sixty (60) calendar days after the commencement of mediation, then either Party may pursue arbitration. *No litigation will be commenced by either Party unless all of the foregoing steps have been pursued to completion.*

CHOICE OF LAW, VENUE

The validity, interpretation, and performance of this agreement shall be governed by the laws of the state in which the Work is performed. The venue for resolving any dispute shall be the county in which the Work is performed.

FORCE MAJEURE

Neither McKinstry nor Customer shall be considered in breach of this agreement to the extent that the Party's performance is prevented by an event or events that are beyond the control of such party, including but not

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limited to acts of God, fire, earthquake, flood, storm, war, rebellion, revolution, insurrection, riot, strike, nuclear contamination, and/or acts or threats of terrorism.

Notwithstanding any other provision(s) of this or any related agreement(s), if McKinstry's work is delayed, disrupted, suspended, or otherwise impacted as a direct or indirect result of COVID-19 (coronavirus), including, but not limited to, by (1) disruptions to material and/or equipment supply; (2) illness of McKinstry's workforce and/or unavailability of labor; (3) government quarantines, closures, or other mandates, restrictions, and/or directives; (4) owner or contractor restrictions and/or directives; and/or (5) fulfillment of McKinstry's contractual or legal health and safety obligations associated with COVID-19; then, McKinstry shall be entitled to a reasonable equitable adjustment to its scope, schedule, duration, and price to account for such delays, disruptions, suspensions, and impacts.

NO WAIVER

No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver.

DAMAGES LIMITATION

Neither party shall be liable to the other party for any consequential, indirect, special, incidental, exemplary, or similar, damages or losses, including loss of profits, arising out of or relating to this agreement, whether based in contract or tort or any other theory, even if a party has been advised of the possibility of such damages. Furthermore, the total aggregate liability of either party, under any theory, is limited to the agreement price.

INDEMNIFICATION

McKinstry shall indemnify and hold harmless Customer from and against all third party claims, damages, losses and expenses for bodily injury, sickness, disease, or death or destruction of tangible property, directly arising from McKinstry's performance of the Work, but only to the extent caused by the negligent acts or omissions of McKinstry.

SEVERABILITY, SURVIVAL

If any portion of this agreement shall be held invalid in whole or in part under any law, rule, regulation, or order, then such portion shall remain in effect only to the extent permitted, and the remaining portions of the agreement shall remain in full force and effect. Any invalid portions shall be substituted with an interpretation that most accurately reflects the Parties' intentions.

AMENDMENT

This agreement may not be amended except pursuant to a written amendment signed by an authorized signer of each Party.

COMPLETE AGREEMENT

This agreement, including the exhibits attached hereto, is a fully integrated agreement. Any legal terms and conditions appearing elsewhere in this agreement shall be ignored to the extent they contradict or are inconsistent with the terms and conditions contained in the foregoing numbered list. All previous agreements between McKinstry and Customer as to the Work are superseded by this agreement.

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Appendix A: Clean Building Performance Standards (CBPS) Summary

BACKGROUND

On May 7, 2019 the Clean Buildings Performance Standard (HB 1257, 2019) was signed into law. The standard applies to non-residential building greater than 50,000 square feet in floor area. The objective is to lower costs and pollution from fossil fuel consumption in the state's existing buildings by requiring that affected buildings meet an Energy Use Intensity (EUI) target. From 2021 to 2026, the standard will be used to administer a voluntary efficiency incentive program. Beginning in 2026, the standard will be implemented as a mandatory requirement. **Non-compliance carries a financial penalty of \$5,000 plus \$1/SF/year until compliance or conditional compliance is achieved (or 18 months, whichever comes first) per compliance period (every 5 years).**

In 2022 Washington State passed a Clean Buildings Expansion Law (SB5772) which covers Tier 2 buildings: commercial buildings that are 20,000 - 50,000 sq. ft. These buildings have to follow the benchmarking and documentation requirements but don't have to meet energy performance standards, and have a lower financial penalty (\$.30/SF/Year ongoing).

COMPLIANCE REQUIREMENTS

CBPS authorizes Commerce to develop energy use intensity targets (EUI_t) for building use types represented in the ENERGY STAR Portfolio Manager (ESPM) benchmarking program administered by EPA. Commerce set EUI_t at 15% less than the Washington State average for each building use type (mixed-use buildings are required to provide aggregated EUI). See the full list of EUI_t by building use type in the attachment to this proposal.

- Owners of buildings with **EUI equal to or less than EUI_t** must submit evidence of EUI through ESPM and submittal of an Energy Management Plan and O&M Plan. Submittal forms will be provided by Commerce.
- Owners of buildings with **EUI greater than the EUI_t** must develop methods of conditional compliance that include energy efficiency audits (ASHRAE Level 2), development of an Energy Management Plan and O&M Plan, and verification of implementation of energy efficiency measures (EEM's) with a savings-to-investment ratio (SIR) of >1 over the life of the measure. *Note: Tier 2 Buildings (established via the CBPS Expansion Law) do not have an EUI_t to meet during this 1st compliance cycle*

The compliance dates by building square footage:

- **Tier 1a:** June 1, 2026: 220,001 or more SF
- **Tier 1b:** June 1, 2027: 90,001 SF to 220,000 SF
- **Tier 1c:** June 1, 2028: 50,000 SF to 90,000 SF
- **Tier 2:** June 1, 2027: 20,000 SF to 49,999 SF (*Benchmarking, EMP, and O&M only*)

The compliance process is represented as follows:

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