

ORDINANCE No. 176190

*Authorize an exemption to the competitive bidding process for the issuance of a Request for Qualifications for electricity service suppliers and authorize the Chief Administrative Officer to enter into an agreement for the provision of electricity to City facilities, if it is deemed economically beneficial. (Ordinance; waive City Code 5.33.320)

The City of Portland ordains:

Section 1. The Council finds:

1. The City is committed to promoting energy conservation and efficiency, environmental stewardship, and sustainable development in a manner that promotes long-term quality of life for all of Portland's citizens.
2. The City's Local Action Plan on Global Warming (Resolution No. 35995) establishes a goal of serving 10 percent of City electricity load with renewable sources of electricity by 2003.
3. Renewable electricity currently provides about two percent of the City's electricity needs through the fuel cell at the Columbia Boulevard Wastewater Treatment Plant, micro-hydroelectric turbines at Mt. Tabor, and purchases from Portland General Electric and Pacific Power.
4. Oregon's electricity restructuring legislation, signed into law in 1999 as SB 1149 and modified in 2001 through HB 3633, allows nonresidential facilities to purchase electricity from electricity service suppliers other than the incumbent investor-owned utility.
5. A credit of 0.5 cents per kilowatt hour (at current rates, equal to approximately seven percent) is available to the first 10 percent of each class of electricity customers who purchase electricity from a supplier other than the incumbent investor-owned utility.
6. This credit, combined with changing market conditions, may enable the City to reduce its electricity expenditures.
7. After consultation with the Bureau of Environmental Services, City Attorney's Office, Office of Sustainable Development, Office of Transportation, Parks, and the Bureau of Water Works, the Office of Management and Finance proposes to issue a Request for Qualifications to establish a list of qualified electricity suppliers.
8. Because of the fluid nature of the electricity market, it is necessary to seek bids from qualified suppliers during the 24-hour period from 5:00 p.m. January 15, 2002 to 5:00 p.m. January 16, 2002 in which PGE's fixed price quote is valid. If these bids offer cost savings to the City, the City must act on the bids by 5:00 p.m. on January 16, 2002.
9. The City Council, acting as the local contract review board, finds that the contract for electricity service should be exempt from the competitive bidding requirements of

ORS Chapter 279 for the following reasons:

- a. The exemption will result in substantial cost savings to the City because there is a need to execute the contract quickly. The Oregon Public Utilities Commission requires these contracts to be executed by 5 p.m. on January 16, 2002 and the traditional competitive bidding process would not permit advertisement and contract execution within the time required by the PUC. As a result, if the traditional competitive bidding process was used, the City would miss the opportunity to get competing price quotations for electricity and would have to acquire it from its current provider without competition. In addition, the City plans to evaluate the proposed contract conditions proposed by electricity providers so it can take those factors into account along with price. Therefore substantial cost savings will arise because the best "bid" to the City may not be the lowest dollar bid, but will be a combination of the dollar bid with the most favorable contract terms. The traditional bidding process does not allow for evaluation of such contractual terms.
- b. The exemption is unlikely to encourage favoritism in the awarding of public contracts nor will it substantially diminish competition for public contracts because the City plans to contact all qualified providers of electricity to receive price quotations. Therefore, there will be full competition just as if the City was conducting a traditional competitive bidding process.

NOW, THEREFORE, the Council directs:

- a. The proposed contract with an electricity supplier is hereby exempted from the traditional bidding requirements of ORS Chapter 279 provided the City contacts qualified competitors and evaluates contractual terms and conditions along with price.
- b. The proposed contract with an electrical provider is hereby exempted from the requirements of Portland City Code 5.33.320, related to notice and appeal.
- c. The proposed contract with an electricity supplier is hereby exempted from any other provision of Portland City Code Chapter 5.33 the application of which would be inconsistent with or would otherwise foreclose the contracting process contemplated by this ordinance.
- d. The Purchasing Agent, in conjunction with the Office of Management and Finance is authorized to solicit bids from qualified parties without advertising to provide electricity to certain City facilities for the period beginning March 1, 2002, and extending not further than December 31, 2002.
- e. Upon receipt of the Purchasing Agent's report for recommendation of the contractor for the electricity service supplier(s), the Chief Administrative Officer, Office of Management and Finance, is authorized to enter into a contract for the purchase of electricity from a Energy Services Supplier qualified to conduct business in Oregon, if he determines that the contract would provide economic benefits to the City in comparison to the fixed price arrangements available from PGE. No agreement will be entered into unless the energy cost savings exceed lost franchise fee revenues.

That is, reduced energy costs must provide an economic benefit to the city and not just reduced energy costs.

- f. The Chief Administrative Officer, Office of Management and Finance, is authorized to enter into a contract pursuant to contractual terms approved as to form by the City Attorney's Office.
- g. The Mayor and the Auditor are authorized to draw and issue checks chargeable to the appropriate budget when demand is presented and approved by the proper authorities.

Section 2. The Council declares that an emergency exists since failure to execute a power purchase agreement in a timely manner may prevent the City from securing a favorable contract for electricity service; therefore, this ordinance shall be in full force and effect from its passage by the Council.

Passed by the Council: JAN 09 2002

Mayor Vera Katz
Office of Management and Finance
Bureau of Purchases
January 9, 2002

B. Tomlinson
D. Toonze
J. Van Dyke

Gary Blakmer
Auditor of the City of Portland

BY /S/ Susan Parsons
Deputy

BACKING SHEET INFORMATION

AGENDA NO. 48-2002

ORDINANCE/RESOLUTION/COUNCIL DOCUMENT NO. 176190

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
FRANCESCONI	X	
HALES	X	
SALTZMAN	===	====
STEN	X	
KATZ	X	