

# STAFF REPORT REGULAR MEETING

**AGENDA DATE:** December 17, 2024

**DEPARTMENT:** Electric Utility

**TITLE:**

Supplemental Wholesale Electric Energy & Capacity Procurement Process

**SUMMARY:**

The procurement process by which the City will obtain proposals for its next supplemental energy and capacity procurement agreement required to be in place by January 1, 2026

**BACKGROUND AND JUSTIFICATION:**

The City's Electric Utility currently has an Agreement for Base, Intermediate and Peaking Purchase and Sale of Electric Energy and Capacity with the Orlando Utilities Commission ("OUC") (the "Agreement"). The Agreement, which was entered in 2019, is set to expire on December 31, 2025. Given the nature of the wholesale electric power market in the state of Florida it is clear that there are a limited number of entities from which the Electric Utility may purchase power from at a reasonable rate. There are other entities which could sell power to the Electric Utility but the logistics of getting such power to the Electric Utility across multiple electric transmission systems will undoubtedly cause the purchase rate to be unreasonable.

Under section 2-112, of the City's Procurement Code, the City Commission may authorize the waiver of the competitive selection procedures upon the recommendation of the City Manager that it is not practicable or advantageous for the City to do so because goods and/or services cannot reasonably be acquired through the normal competitive selection process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by waiver process shall be acquired after conducting a good faith review of available sources and negotiation as to price, delivery and terms.

Based on the City Manager's review of the prior RFP process and in discussions with Ed Liberty, the City's Electric Utility Director, and Christy Goddeau, the City's Attorney for such matters, the City Manager recommends that the City Commission partially waive the requirements of the City's Procurement Code because of the limited number of entities that would reasonably be involved in the selection process and in order to expedite the process.

If the partial waiver is approved, the Electric Utility Director (along with a consultant and City's attorney with experience in power purchase agreements) the "Energy Procurement Team" will promptly commence their due diligence to identify the specific entities that would be most likely to submit competitive proposals for a supplemental capacity and energy purchase agreement with the City (e.g., with competitive wholesale power generation resources and value-added ancillary services which the City may be interested in obtaining). Once the Energy Procurement Team has completed their due diligence and preliminary negotiations, the Energy Procurement Team will make a presentation to the City Commission and request authorization to issue a targeted, competitive request for proposals to multiple selected entities. The selected entities' replies will then be vetted by City's consultant, City's attorney, and senior City Electric Utility Staff in separate meetings with each of the selected entities present to make individual presentations and answer questions. After the individual meetings, the Energy Procurement Team may engage in additional fact-finding negotiation sessions with the selected entities to fine-tune the next round of replies. The process will culminate with a City Commission meeting at which the Energy Procurement Team will make a recommendation for approval to the City Commission for a proposed purchase power agreement commencing January 1, 2026.

The proposed process will not affect existing agreements for City's electric supply such as those related to the Florida Municipal Power Agency (FMPA) Stanton, St. Lucie, and Municipal Solar Projects. The City is party to Agreements with each of these Projects that are not alterable by City's choice of supplemental energy and capacity providers. City's Resolution 05-2023 committing to the City's Electric Utility achieving net-zero greenhouse gas emissions by 2045 and an interim target of sourcing 60% of its electricity from renewable and emission free energy by 2035 will be adhered to during the process.

The individual meetings with the selected entities will be closed meetings under section 286.0113, Florida Statutes; however, the meetings will be recorded and the recordings will become publicly available after the receipt of the final replies as set forth in section 286.0113.

The written replies, final replies and resulting power purchase agreement will be public records; however, under the exemption found in section 163.01(15)(m), Florida Statutes, portions of these documents (including the recordings of the closed meetings) which contain proprietary confidential business information will be confidential and exempt from public release. Other applicable exemptions may apply depending on the content of each reply.

It should be noted that under section 163.01(15)(b), Florida Statutes, the Electric Utility is exempt from the procurement requirements of any general, local or special statute or in any charter provision which would otherwise require public bidding, competitive negotiation or both for an electric project. The request for the partial waiver is consistent with this statutory waiver of the statutory and charter required competitive processes.

**MOTION:**

Move to approve/disapprove the Supplemental Wholesale Electric Energy & Capacity Procurement Process

**ATTACHMENT(S):**

Fiscal Impact Analysis- N/A