

Legislation Text

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Authorizing the City of Philadelphia to enter into a guaranteed energy savings contract for the evaluation and implementation of energy conservation and efficiency measures designed to reduce energy, or other measurable consumption or operating costs of the City's municipal street lighting system, all under certain terms and conditions.

WHEREAS, the City of Philadelphia (the "City") owns a municipal street lighting system ("City Street Lighting System"); and the City Street Lighting System is in need of energy conservation measures that include equipment, alterations or upgrades designed to reduce energy;

WHEREAS, the Office of Sustainability ("OOS") and Streets Department ("Streets") have requested that the Philadelphia Energy Authority (the "Authority") undertake a project (the "Project") to provide energy conservation measures for the City;

WHEREAS, the City is authorized under the Constitution, the Philadelphia Home Rule Charter and the laws of the Commonwealth of Pennsylvania, including without limitation the Guaranteed Energy Savings Act (62 Pa. C.S. § 3751 *et seq.*), to enter into this contract for the purpose of implementing selected energy conservation measures;

WHEREAS, the Authority is authorized by the Municipality Authorities Act, 53 Pa. C.S., Ch. 56, to enter into long term contracts suitable for the Project;

WHEREAS, the Authority is given responsibility for actions concerning the development or facilitation of energy efficiency projects under Ordinance No. 100163-AA, passed by the Philadelphia City Council on June 3, 2010 and signed by the Mayor on July 29, 2010;

WHEREAS, Ameresco, Inc, has been selected through a competitive process, to provide energy conservation measures in accordance with a Request for Proposals; and

WHEREAS, the Project will require the Authority to enter into a guaranteed energy savings agreement with Ameresco, Inc. for the Project, and the City will undertake certain obligations that Authority has to Ameresco, Inc.; now therefore,

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Procurement Commissioner, on behalf of the City of Philadelphia, is hereby authorized to enter into a guaranteed energy savings contract with the Philadelphia Energy Authority, under which the Authority will cause Ameresco, Inc. to evaluate and implement energy conservation measures within the City Street Lighting System pursuant to a guaranteed energy savings contract between the Authority and Ameresco, Inc., and the City will undertake certain obligations that the Authority has to Ameresco, Inc.

SECTION 2. The following condition shall apply to the authority granted pursuant to Section 1. The

contract price for the guaranteed energy savings agreement between the Authority and Ameresco, Inc. must be a firm, fixed price. Such agreement may provide that price increases are permitted for the following reasons: (1) a change in law or permit requirements after the date hereof affecting the design or Project implementation; (2) pre-existing hazardous materials discovered in the course of Project implementation; (3) other unknown conditions discovered in the course of Project implementation; (4) force majeure events occurring in the course of design or Project implementation that are beyond the reasonable control of the affected party; (5) Authority-ordered changes to the scope of work or schedule; (6) Authority failure to provide services required during the Project implementation period; or (7) Authority-ordered suspension of the work other than for Ameresco, Inc. default. Any price increase must be supported by a demonstration of additional costs to Ameresco, Inc. resulting from one of the reasons enumerated above, and any reduction to the Project implementation costs resulting from one of the reasons enumerated above must be reflected in an equitable reduction in the Project price.

SECTION 3. The guaranteed energy savings contract between the City and the Authority will be substantially in the form set forth in Exhibit A of this ordinance. The guaranteed energy savings contract between the Authority and Ameresco, Inc. will be substantially consistent with the terms set forth in the document attached hereto as Exhibit B of this ordinance.

SECTION 4. The City Solicitor is hereby authorized to review and approve the agreements necessary to effectuate this Ordinance, and to impose such terms and conditions on them as the City Solicitor may deem necessary and proper to protect the interests of the City of Philadelphia and to carry out the purpose of this Ordinance.

SECTION 5. The Chief Clerk of City Council shall keep the exhibits to this Ordinance on file and make them available to the public for inspection and copying during regular office hours.

SECTION 6. This Ordinance shall take effect immediately.