

July 14, 2011

12-006

GRANT EXCEPTION TO PERSONAL SERVICE
CONTRACT RULES AND RATIFY CONTRACT FOR
CONSULTING AND PROJECT DEVELOPMENT AND
MANAGEMENT SERVICES FOR THE SOLAR RFP
WITH BACGEN SOLAR GROUP

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FINANCIAL
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REPORT: The 2008 Bond Program is subject to ORS 279C.527, which requires a public body to set aside 1.5 percent of the total cost of construction for qualifying projects to incorporate solar technology. In Fall 2010, the College contracted with BacGen Solar Group through an RFP process to analyze the College's solar project potential and recommend a path forward for the "1.5% for Solar" projects. After a thorough analysis of existing and planned buildings at each campus, BacGen recommended consolidating the College's 1.5% solar investment into a ground mount array at the Rock Creek Campus.

This recommendation was due to several factors, including: ground mount arrays are less costly to install and have lower ongoing maintenance costs than roof mounted arrays, configuration of available land at Rock Creek provides optimal solar exposure, outside investment potential is increased for larger projects, and ability for project completion in 2011. Certain significant federal and state incentives for solar are likely to expire after 2011, which makes time of the essence to develop a solar project that could provide favorable utility costs over the long-term for the College. The College has recently learned the Oregon Department of Energy will

not grant BETC's to this project; however, other incentives may still be available.

The College would like to hire BacGen to provide consulting services in order to assist the college in developing an RFP for a turn-key solar project that is optimal District-wide, and managing the project to completion by 31 December 2011 if necessary to acquire financing incentives to make the project feasible. Solar projects are highly complex due to the rapidly changing technology, current legislation, utility rate structures, and need for careful inclusion of existing federal and state incentives into a Power Purchase Agreement deal structure to obtain the maximum long-term operating savings for the College.

BacGen has expertise in developing RFP's for large and innovative solar projects for public entities in Oregon and nationally. Their task will be to craft a comprehensive finance/design/build project structure including a Power Purchase Agreement (PPA) for the ground mount solar at RC which will be attractive to investors. BacGen has extensive knowledge of solar technologies, current laws and utility rates which they can use to ensure a favorable energy agreement for the College.

Time is of the essence for this project. Various state and federal incentive programs may expire or be substantially reduced after the current calendar year.

A contract for consulting services is a "personal services contract" within the meaning of College Contract Rule ("CCR").250(1). CCR.250 requires a formal or informal competitive solicitation process for personal services contracts over \$5000. The amount of the contract, including reimbursables, for services to prepare an RFP, Power Purchase Agreement (PPA), and ground lease and related documents, and provide assistance with the solicitation and selection of vendors, and technical assistance through construction and startup is approximately \$210,000.

ORS 279A.055 and 279A.070 empower and require contracting agencies to adopt procurement rules governing personal services contracts, but do not prescribe particular rules governing such contracts. The

Board of Directors, acting as the Local Contract Review Board, may therefore grant an exception to those rules if it determines that doing so is in the College's best interests.

BacGen has unique knowledge and understanding of the College's solar needs and requirements, and technical, legislative and financial expertise related to solar projects in Oregon. Given the short timeline created by the probable sunset of federal and state solar incentives which are needed to secure a favorable utility rate for the College, it is in the best interest of the College to avoid delay and proceed with this consulting and technical assistance. Staff therefore requests an exception to the competitive bidding requirement.

BacGen's original contract, as amended, was for \$92,470. The contract for the added scope of work addressed in this resolution is \$210,000.

The District President has authorized the College to proceed to develop an RFP for the solar power generation that is optimal from a District perspective, with the assistance of BacGen.

RECOMMENDATION: That the Portland Community College Board of Directors, acting as the Local Contract Review Board, grant an exception to the College Contracting Rules to waive the requirements for competitive solicitation and ratify the personal services contract for solar project consulting with BacGen Solar Group. The funding for the contract is from bond funds.