

RESOLUTION NO. 2022 - 27

**A RESOLUTION AUTHORIZING EXECUTION OF A
SERVICE AGREEMENT WITH THE LOWEST RESPONSIBLE
BIDDER FOR THE SUPPLY OF ELECTRICITY FOR RESIDENTIAL
AND SMALL COMMERCIAL RETAIL CUSTOMERS WHO DO NOT
OPT OUT OF SUCH A PROGRAM**

- WHEREAS**, the City of Troy, Illinois, is a duly created, organized and validly existing municipality of the State of Illinois under the 1970 Illinois Constitution and the laws of the State of Illinois, including particularly the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto; and
- WHEREAS**, Section 1-92 of the Illinois Power Agency Act, 20 ILCS 3855/1-92, permits the City, if authorized by referendum, to adopt an ordinance by which it may operate a program to solicit bids and enter into service agreements for the sale and purchase of electricity and related services and equipment to residential and small commercial customers who do not opt-out of such a program; and
- WHEREAS**, the City previously submitted the public question of whether it should operate the program as an opt-out program; and
- WHEREAS**, the referendum passed by a majority vote of the qualified electors voting on the question; and
- WHEREAS**, the City established an opt-out electricity aggregation program and implemented the program according to the terms of the Illinois Power Agency Act, 20 ILCS 3855/1-1 *et seq.*; and
- WHEREAS**, the City has previously executed agreements with the lowest responsible bidder for the supply of electricity for residential and small commercial retail customers who do not opt out of such a program (i.e. in 2012, 2016 and 2020 with Homefield Energy – the lowest responsible bidder);
- WHEREAS**, the City Council finds that the best interests of the City are served by continuing the electric aggregation program according to the terms of the Illinois Power Agency Act, 20 ILCS 3855/1-1 *et seq.*; and
- WHEREAS**, as with before, the City desires to enter into an agreement with an alternative supplier to commence upon the expiration of the existing electric supply contract, in order to avoid the default rate charged by the electric provider; and
- WHEREAS**, as with before, the City Council finds that the best interests of the City are served by entering into an agreement with the lowest responsible bidder, pursuant to 20 ILCS 3855/1-92, to aggregate the residential and small commercial retail electric

loads located within the City and to arrange for competitive electric supply to these retail electrical accounts; and

WHEREAS, because electricity is a commodity for which supply bids typically are made each morning and expire the same day at the close of business, the City must act promptly to accept any such desired bid in order to contractually guarantee a per kilowatt hour electric rate for its residential and small commercial customers.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TROY, ILLINOIS, AS FOLLOWS:

- Section 1.** That the preceding recitations in the upper part of this Resolution are re-alleged, restated and adopted as paragraph one (“1”) of this Resolution.
- Section 2.** The City’s electricity aggregation program shall continue to be operated and governed in accordance with its Electricity Aggregation Program Plan of Operation and Governance, the applicable provisions of the Illinois Power Agency Act, and any applicable rules and regulations that are now or in the future adopted pursuant to the Act.
- Section 3.** That Jay Keeven, City Administrator for the City of Troy (“Agent”), be and the same is hereby authorized to execute and deliver a service agreement with the lowest responsible bidder for the supply of electricity for residential and small commercial retail customers who do not opt out of such a program, said execution and attestation to take place within the applicable time constraints required by the bidder; provided, however, that the energy price to be paid per kilowatt hour pursuant to the agreement is less than the default rate currently charged by the default electric provider, resulting in savings for the City’s residential and small commercial retail customers.
- Section 4.** The lowest responsible bidder shall be defined as the bidder that provides the lowest price for energy supplies that meet the minimum statutory requirement of renewable energy supplies. The Agent shall be authorized to execute a service agreement with the lowest responsible bidder for either: (1) the energy supply option that meets the minimum statutory requirement of renewable energy supplies, or (2) any combination of renewable options offered from the lowest responsible bidder that is not in excess of 2% higher than the cost of the minimum statutory requirement; provided, however, that the energy price to be paid per kilowatt hour pursuant to the agreement is less than the default rate currently in effect.
- Section 5.** If the lowest responsible bidder, as defined by this Resolution, is not the same supplier that is accepted as the prevailing bidder (as recommended by Good Energy) by a majority of the buying group of which the City is currently a member and the lowest responsible bidder will not, as a result,

execute a service agreement with the City, the Agent shall not be required to sign a service agreement.

Section 6. In the event that Agent does not sign a service agreement at the initial bid opening, Agent shall be authorized to sign a service agreement at a second bid opening, so long as such execution is carried out in the manner set forth in this Resolution.

Section 7. The authority of the Agent to execute a service agreement shall automatically expire at 11:59 p.m. on December 31, 2023.

Section 8. The provisions of this Resolution are hereby declared to be severable, and should any provision of this Resolution be determined to be in conflict with any law, statute, or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

Section 9. This Resolution shall take full force and effect immediately upon passage by the Corporate Authorities.

PASSED by the City Council of the City of Troy, Madison County, Illinois, approved by the Mayor, and deposited in the office of the City Clerk this 6th day of June 2022.

Aldermen Vote:

Dan Dawson	<u>AYE</u>	Sam Italiano	<u>ABSENT</u>	Ayes:	<u>7</u>
Tim Flint	<u>AYE</u>	Debbie Knoll	<u>AYE</u>	Nays:	<u>0</u>
Elizabeth Hellrung	<u>AYE</u>	Tony Manley	<u>AYE</u>	Absent:	<u>1</u>
Nathan Henderson	<u>AYE</u>	Troy Turner	<u>AYE</u>	Abstain:	<u>0</u>

APPROVED:

By: 
DAVID NONN, Mayor
City of Troy, Illinois

ATTEST:

By: 
KIMBERLY THOMAS, Clerk
City of Troy, Illinois

