

AGENDA ITEM NO.: 49 AGENDA DATE: Thu 07/29/2004

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SUBJECT: Ratify execution of Amendment No. 4 to the contract with COMVERGE INC., Norcross, GA, for programmable thermostats and water heater switches with built-in receivers for the "Power Partner Program" services in an amount not to exceed \$910,000, for a revised total contract amount not to exceed \$5,729,963.

AMOUNT & SOURCE OF FUNDING: Funding in the amount of \$910,000 is available in the Fiscal Year 2003-2004 Amended Operating Budget of the Electric Utility Department.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Purchasing DIRECTOR'S

DEPARTMENT: for Austin Energy; AUTHORIZATION: Vickie Schubert

FOR MORE INFORMATION CONTACT: Dolores Castillo, Buyer/322-6466

PRIOR COUNCIL ACTION: March 9, 2000-Approved original contract; May 24, 2001-Approved Amendment No. 2.

BOARD AND COMMISSION ACTION: N/A

PURCHASING: N/A

MBE / WBE: This contract was awarded in compliance with Chapter 2-9 of the City code (Minority-Owned and Women-Owned Business Enterprise Procurement Program). No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

This request is for ratification of Amendment No. 4, which includes a third extension for \$640,000 (for 4000 units) inadvertently issued on December 3, 2002, even though there were no remaining extensions on the contract. Staff reviewed previous Council approval and mistakenly read the authorization to include a third extension for the purchase of an additional 4000 units that were shipped to the City and installed in 2003. Also, included in this ratification is the purchase of 1500 additional thermostats for \$270,000, bought in January, 2004. Comverge misunderstood the timeframe for Austin Energy's plan to pursue additional contract authorization from Council in 2004, and mistakenly shipped an additional 1500 units early this year. All the additional units (5500) have already been installed by the City's contractor (in 2003 and 2004) as part of the Power Partner Program.

The Power Partner Program was established by the City Council on February 11, 1999 as part of Resolution No. 990211-36. It is a load control program that reduces the energy load by cycling off air conditioning in participating units for ten minutes every 30 minutes between the hours of 4:00 p.m. and 8:00 p.m. Water heaters are cycled off 100% of the time between the hours of 2:00 p.m. and 6:00 p.m. The program allows Austin Energy's Control Center to reduce the energy load on an as needed basis and has served the City's conservation purposes very effectively.

On March 9, 2000, Council approved the original sole source contract for customized software, programmable thermostats and water heater switches, with built-in receivers and system start up support for the City's Program in the amount not to exceed \$464,963, with two 12-month extension options in an

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Purchasing Supply Agreement CITY OF AUSTIN RECOMMENDATION FOR COUNCIL ACTION

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amount not to exceed \$1,537,500 per option for a total contract amount not to exceed \$3,539,963. This contract initially provided Austin Energy with a total of 22,900 units that were installed over the course of a three year period. On November 20, 2000, Amendment No.1 was administratively issued to exercise the first 12-month extension option 30 days early for \$1,537,500. (Because the Program was accelerated and expanded, the contract required additional funding eleven months into the first year.) Amendment No. 2 was approved by City Council on May 24, 2001, to increase contract authorization for the first and second extension options by \$640,000 each year for a revised total contract amount of \$4,819,963 and an additional 4000 units per extension. On February 16, 2002, Amendment No. 3 was administratively issued to exercise the second extension option for \$2,177,500.

A companion agenda item requests Council authorization for a new sole source 12-month contract with Comverge, with two 12-month extension options.

CONTRACT BREAKDOWN

Original Contract	\$ 464,963
Amendment No. 1 (exercise 1st extension option)	\$1,537,500
Amendment No. 2 (increase each extension option by \$640,000)	\$ 640,000
1st option only-increase for 2nd option shown in Amend. No. 3	
Amendment No. 3 (exercise 2nd option)	\$2,177,500
Proposed Amendment No. 4	<u>\$ 910,000</u>
Total	\$5,729,963

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Disposition:

Published:



MEMORANDUM

TO:

Mayor and Council Members

Toby Hammett Futrell, City Manager

FROM:

Juan Garza, General Manager

Austin Energy

DATE:

July 14, 2004

SUBJECT: Ratification of Contract Modification with Comverge, Inc.

BACKGROUND:

Austin Energy's Power Partner Program has been purchasing and installing load management programmable thermostats since the year 2000. Austin Energy purchases the programmable thermostats from Comverge, Inc., Inc. and contracts with Honeywell DMC to install the thermostats and maintain the program call center.

The program has adequate funding for the 2003-2004 fiscal year, and thermostats were mistakenly ordered before the contract with Comverge, Inc. was authorized by City Council. In addition, Comverge, Inc. errantly shipped 1,500 additional programmable thermostats to Honeywell DMC, who in turn put them into inventory and subsequently installed them.

It is clear that the popularity of the Power Partner Program would have required Austin Energy to purchase and install the thermostats, nonetheless. However, the errors described above necessitate the ratification of a contract extension with Comverge, Inc. and authorization for payment of outstanding invoices for the 1,500 additional programmable thermostats.

RESOLUTION:

In order to continue providing our customers the opportunity to participate in the Power Partners Program without a significant delay, I have authorized AE to extend our contract with Converge, Inc. The total contract ratification will be in the amount of \$910,000, of which \$640,000 has already been paid, leaving \$270,000 still to be paid. The funding for this ratification is included in the FY 2004 Approved Budget. A formal request for a contract award will be brought to Council on July 29, 2004. This is in accordance with the critical business need provision of the AE Purchasing Procedures, adopted by the City Council on March 30, 2000.

Please let me know if you have any questions. I can be reached at 322-6002.

Juan Garza ' General Manager

Austin Energy

cc: Diana Granger, Purchasing Officer
Michael McCluskey, Sr. VP, Wholesale & Retail Markets