

ORDINANCE NO. 4239

AN ORDINANCE authorizing the City of Alexandria to become a member of and participate in the Virginia Energy Purchasing Governmental Association.

WHEREAS, the VML/VACo Virginia Power Steering Committee (the ACommittee@), composed of representatives of the City of Alexandria, a municipal corporation of the Commonwealth of Virginia, and other local governments and political subdivisions of the Commonwealth, has for several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company (AVirginia Power@) as a sole source provider; and

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers that they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Sections 15.2-1300 et seq., of the Code of Virginia (1950), as amended (the AJoint Powers Act@); and

WHEREAS, the Virginia Electric Utility Restructuring Act (the ARestructuring Act@) further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers, and the Restructuring Act provides that such aggregation shall not require licensure; and

WHEREAS, the Virginia Public Procurement Act (the AProcurement Act@) exempts from its competitive sealed bidding and competitive negotiation requirements (the ARequirements@) the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and

WHEREAS, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services (AEnergy Services@) be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to and made part of this Ordinance (the AJoint Powers Agreement@), in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to the exemption under the Procurement Act from the Requirements; and

WHEREAS, the Committee also recommends that the other services provided by the Committee to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purchase of services from incumbent electricity utilities, (ii) education of members regarding

electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in the provision of the foregoing services (ASteering Committee Services@).

WHEREAS, it appearing to the City Council of Alexandria, Virginia, that the joint procurement of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of the City of Alexandria; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond to quickly changing market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.

Section 2. That the aggregation and joint procurement of Energy Services pursuant to the Joint Powers Agreement is hereby approved.

Section 3. That the provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.

Section 4. That the Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the City of Alexandria are hereby authorized and approved.

Section 5. That the City Manager is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the City of Alexandria in substantially the form attached to this Ordinance.

Section 6. That the payment of obligations the City pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefor by the City.

Section 7. That this ordinance shall become effective upon the date and at the time of its final passage.

KERRY J. DONLEY  
Mayor

**Attachment:            Joint Powers Agreement**

Introduction:        February 12, 2002  
First Reading:       February 12, 2002  
Publication:         February 14, 2002  
Public Hearing:       February 23, 2002  
Second Reading:     February 23, 2002  
Final Passage:      February 23, 2002