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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

LINDA WOODLEY, an individual,

Plaintiff,

vs.

CITY OF PORTLAND, a municipal
corporation,

Defendant.

Case No. 3:22-cv-00423

COMPLAINT

- (1) 42 U.S.C. § 1983
- (2) Defamation
- (3) False Light

DEMAND FOR JURY TRIAL

Plaintiff Linda Woodley is 72. Decades ago, she did time in federal prison in connection with allegations of bankruptcy fraud and tax fraud, related to a company of which she was majority shareholder. The IRS and state taxing authorities at various points have filed liens associated with those mistakes long ago. She has never concealed these facts, and Woodley has resolved, or is resolving, all of these liens. Nevertheless, because the *Oregonian* published an article overblowing the 1997 conviction and tax liens, the City revoked approximately \$11.5 million in contracts that the City had awarded to Woodley's company through the Portland Clean Energy Community Benefits Fund.

Ironically, that fund is designed to bolster ecological resiliency in Portland's communities

of color—communities whose members disproportionately are accused and convicted of crimes, and that lose future opportunities as a result. That is the precise harm that the City inflicted on Woodley. Rather than provide her an adequate opportunity to clear her name when the *Oregonian* article came out, the City gave her approximately 41 hours to respond to numerous questions about references Woodley had not provided and people she'd never heard of.¹ And, when she (understandably) could not within that allotted time explain why people she didn't know had never heard of her (because PCEF hadn't contacted the right people), PCEF informed the City Council that it should revoke the contracts, and worse, made multiple false statements impugning Woodley's character.

Woodley's career has been destroyed several years before her retirement. She cannot practice her chosen profession. She seeks recompense.

JURISDICTION AND VENUE

1. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, as Plaintiff's claims arise under the Federal Constitution. This Court has supplemental jurisdiction over the state-law claims pursuant to 28 U.S.C. § 1367(a).

2. This Court has personal jurisdiction over the City of Portland, as it is a municipal corporation located in this district.

3. Venue lies in this Court, as the acts or omissions occurred within this district.

4. Portland is the appropriate divisional venue, as the acts or omissions alleged in this complaint occurred in Multnomah County.

PARTIES

5. Plaintiff Linda Woodley is the Executive Director of a nonprofit corporation called Diversifying Energy ("DE"). Woodley founded DE in July 2020. DE's mission is to facilitate equitable access to clean, sustainable energy and improve air quality to vulnerable populations, including low-income communities and people of color. Woodley, who is 72 years

¹ Tellingly, the Portland Clean Energy Community Benefits Fund since has changed its procedures to give applicants six business days to respond to requests for additional information.

old, has worked in the fields of energy, diversity, and equity and inclusion, for her entire adult life. Plaintiff resides in Clackamas County and is an Oregon citizen.

6. Defendant City of Portland (the “City”) is a municipal corporation. It is a state actor for purposes of 42 U.S.C. § 1983. The City, through its Bureau of Planning and Sustainability, administers the Portland Clean Energy Community Benefits Fund (“PCEF”). As described below, this lawsuit arises from actions that PCEF has taken in connection with Woodley and DE.

FACTS COMMON TO ALL CLAIMS

A. The Portland Clean Energy Community Benefits Initiative and the creation of PCEF.

7. On November 6, 2018, Portland voters adopted Ballot Measure 26-201, the Portland Clean Energy Community Benefits Initiative. That initiative created a clean energy surcharge intended to fund clean energy projects and job training.

8. In February 2019, the City created the PCEF as part of implementing the initiative.

9. PCEF describes its purpose as follows:

The Portland Clean Energy Community Benefits Fund (PCEF) provides dedicated funding for climate action that advances racial and social justice. PCEF was created by local ballot measure #26-201 in November 2018 with overwhelming community support.

In the face of climate change, racial injustice, economic insecurity, and COVID-19, PCEF offers a community-led vision, grounded in justice and equity, that builds citywide resilience and opportunity.

The Fund is anticipated to bring \$44 - \$61 million in new annual revenue for green jobs, healthy homes, and a climate-friendly Portland. As the nation's first-ever climate-fund created and led by communities of color, PCEF is for and by the community. PCEF centers Black and Indigenous people, and other disadvantaged and marginalized groups in addressing the climate crisis.

Available at <https://www.portland.gov/bps/cleanenergy/about> (accessed March 12, 2022).

B. Woodley learns of a grant that PCEF planned to award without a competitive process. When Woodley expresses interest in applying, PCEF issues an RFP. Woodley and her organization respond fully and honestly to the RFP.

10. In late September 2021, Plaintiff learned that PCEF planned to award a major grant to a nonprofit to act as Equipment Purchasing Partner (“EPP”) in connection with an effort to distribute cooling equipment to low-income Portlanders. PCEF undertook that effort in response to the unprecedented, fatal heat dome weather event that struck the Portland area in the summer of 2021.

11. When Woodley learned of the EPP grant, she contacted PCEF to express DE’s interest in applying for the grant. Woodley is informed and believes, and on that basis alleges, that at the time she contacted PCEF, it anticipated awarding the grant to Earth Advantage without a competitive process.

12. Because there were now multiple potential grantees, PCEF issued on October 13, 2021, a Request for Proposal (the “RFP”). The RFP is attached as Exhibit 1.

13. The response to the RFP was due on October 27, 2021—two weeks after the RFP’s issuance. In Plaintiff’s experience, two weeks is a very short timeframe. Plaintiff believes that PCEF provided a short timeframe for responses because PCEF still intended to award the EPP grant to Earth Advantage.

14. DE was able to respond to the RFP on such short notice because it already was

working on a similar proposal in anticipation of a round 2 PCEF grant.

15. The RFP did not ask for personal references. Rather, the RFP requested the following information about “each of the key team members who will perform work on this project”:

- a. their role(s) and responsibilities on this project
- b. experience on similar or related projects and/or transferrable skills
- c. unique qualifications that will contribute to project success (e.g., personal and/or life experience, professional development, education, or other qualifications relevant to the project)
- d. bio or resume[.]

16. On October 27, 2021, Woodley, on behalf of DE, submitted DE’s response to the RFP. DE’s response included all information that the RFP requested, including information about her own experience. The response included five other “key team members,” in addition to Woodley.

17. In response to the question about her “experience on similar or related projects and/or transferrable skills,” Woodley listed five projects—some of which were recent and therefore easily verified, and others that were older.

18. On November 5, 2021, Woodley, on behalf of DE, submitted a revised response to the RFP. The revised response accounted for changes to the budget and other aspects of the project. The revised response also included all the information that the RFP requested, including information about Woodley’s experience, as well as the five other key team members.

19. In both responses, Woodley and DE were fully truthful.

20. On November 10, 2021, the PCEF Committee recommended to the City Council that it award the EPP grant to DE.

21. On December 1, 2021, the City Council awarded the EPP grant to DE. The EPP

grant was to be in the amount of \$11.5 million.

C. PCEF demands that Woodley provide personal references.

22. Woodley is informed and believes, and on the basis of such information and belief alleges, that in or about early December 2021, the *Oregonian* began asking City personnel about Woodley as part of an article it was writing.

23. On Thursday, December 9, 2021 at 8:30 p.m., without warning, PCEF requested that Woodley provide personal references regarding three of the projects listed as “experience on similar or related projects and/or transferrable skills.”

In the meantime, I need to get references (name, email, phone number) of a lead staff member that can speak to your performance for each of the following similar projects listed in your proposal. Can you send this over ASAP?

- HVAC equipment acquisition, warehousing and distribution for a Pacific Gas & Electric (PG&E) direct install program in Northern California
- HVAC equipment acquisition and distribution program for Fortis BC (Terasen Gas) in Vancouver, BC
- Launch of a San Jose Clean Energy program which targets disadvantaged communities. In this program, Linda will be responsible for the acquisition and distribution of refrigerators, washers and dryers, dishwashers, and smart thermostats.

PCEF wanted the information “ASAP” and, in any event, not later than noon on December 13, 2021.

24. On December 10, 2021, at 5:43 a.m., Woodley provided PCEF with references for the San Jose Clean Energy program and Fortis BC. She also provided details of a Pacific Gas & Electric (PG&E) project, including (a) a copy of the contract that contained the scope of work on that project, and (b) references for the subcontractors.

25. On December 10, 2021, at 9:41 a.m., PCEF requested references for the Energy Upgrade California program, PG&E project, and Portland General Electric Affordable Housing Project.

26. On December 10, 2021, at 1:20 p.m., Woodley provided PCEF a copy of the PG&E contract, including the contract number and contact information for the person who signed that contract, along with references for the subcontracts.

27. On Saturday, December 11, 2021, at 8:38 a.m., PCEF requested reference

contacts pertaining to the Energy Upgrade California program.

28. On Sunday, December 12, 2021, at 10:01 p.m., PCEF requested information for two of the DE employees who would work on the project.

29. On December 12, 2021, at 10:14 p.m., Woodley requested an update from PCEF on the status of the reference checks.

30. On December 13, 2021, at 9:32 p.m., PCEF emailed Woodley stating that they had connected with the Energy Upgrade California, Portland General Electric and San Jose Clean Energy references. PCEF also stated that they had connected with someone named Alfred Gaspari, who was not one of the references Woodley listed. Unsurprisingly, Gaspari did not know Woodley.

31. On December 14, 2021, at 2:26 p.m., PCEF requested references for a DE employee named Jamal Cross, about whom Woodley already had provided information. The request indicated that PCEF incorrectly believed Cross reported to PG&E.

32. On December 14, 2021, at 2:37 p.m., Woodley responded that Cross in fact reported to her, not to PG&E. She further indicated that she could provide records reflecting the installations that Cross managed, and that she would need PG&E permission to release the information (it contained personal information about customers). At 2:53 p.m., Woodley sent the installation records to PG&E with customer information redacted.

33. On December 14, 2021, at 10:00 p.m., PCEF sent a letter requesting a reply by 5:00 p.m. on December 16, 2021 (the "10:00 p.m. Letter"). A copy of the 10:00 p.m. Letter is attached as Exhibit 2.

34. The 10:00 p.m. Letter demonstrated that PCEF still was speaking with the wrong references. Thus, at 10:47 p.m., Woodley informed PCEF that it was using the wrong references and that one of the names in the letter was someone whom Woodley had not listed and did not know.

35. On December 16, 2021, in advance of the 5:00 p.m. deadline, Woodley provided the response PCEF had requested in the 10:00 p.m. Letter. She addressed each of the points

raised in the 10:00 p.m. Letter, pertaining to both the references and Woodley's criminal history. She also invited PCEF to contact her if it had additional questions. PCEF did not do so. A copy of Woodley's response is attached as Exhibit 3.

36. On December 17, 2021, PCEF informed Woodley that it would withdraw its recommendation to the City Council that Woodley's company be awarded the EPP grant. Notwithstanding Woodley's detailed responses indicating that PCEF was, at best, confused, PCEF provided no further opportunity for Woodley to clear her name or that of her company.

37. Also on December 17, 2021, the City, through Commissioner Rubio, the Commissioner whose bureau oversees PCEF, issued a public statement falsely stating that the City had given "Woodley the opportunity to respond," and that "there remain concerning inconsistencies that call into question Diversifying Energy's ability to get lifesaving cooling units to vulnerable Portlanders." This statement was inaccurate; in fact, PCEF had given Woodley very little time to respond. It also appeared to disregard the information that Woodley provided in her December 17 response.

38. On January 5, 2022, the City Council revoked the grant award to Diversifying Energy and instead awarded the grant to Earth Advantage. In (literal) contrast to Diversifying Energy, public reports indicate that 85% of that company's staff are white.

39. Prior to issuing the EPP grant RFP, PCEF had awarded contracts to Diversifying Energy, including a grant in the amount of \$198,000 for work on Portland Public Schools facilities. However, since the City Council revoked the EPP grant, PCEF has informed Diversifying Energy that it will no longer provide advance payments for this work as called for in the original grant agreement. This has required Diversifying Energy to incur significant out-of-pocket expenses while it awaits payment.

40. Additionally, in October 2021, the City awarded a \$5,000 mini grant to defray expenses related to preparing a grant application for a PCEF round two grant. The City, through PCEF, approved an award of that grant and indicated that Diversifying Energy would receive funds in approximately six weeks. The City still has not paid the mini grant funds and has

ignored Woodley's attempts to check on the status of the grant. As a result, Woodley has had to cover out-of-pocket related to the application process.

41. Since the City's revocation of the grant award and public statements about Woodley, PCEF has amended its policies in ways that confirm the lack of procedural due process afforded to Woodley. For example, it is now PCEF policy that grant applicants may have six days, as opposed to the 41 hours provided to Woodley, to respond to requests for information. Furthermore, PCEF has announced that it will not perform background checks.

FIRST CLAIM FOR RELIEF

(42 U.S.C. § 1983 – denial of procedural due process)

42. Woodley incorporates the foregoing paragraphs as though set forth here in full.

43. Defendant did not require personal references as part of its RFP.

44. Subsequently, Defendant decided to require personal references. Defendant gave Woodley four days to list references for projects some of which were over a decade old. Woodley did her best to provide the requested information, including by sending Defendant an email from one of her direct reports confirming Woodley's role in a particular project.

45. Through the 10:00 p.m. Letter, Defendant then gave Woodley approximately 40 hours to respond to follow-up questions. These questions revealed that PCEF either did not understand, or chose to disregard, the names and other information Woodley had provided. For example, Woodley did not recognize several of the names PCEF listed. Defendant also inquired into Woodley's criminal history.

46. Woodley responded to all aspects of the 10:00 p.m. Letter and invited PCEF to contact her with any additional questions. PCEF did not inquire further.

47. Rather than provide Woodley a meaningful opportunity to explain herself and clear her name, PCEF immediately revoked its endorsement of DE's proposal and issued a public statement indicating that Woodley had been dishonest and unable to substantiate her references. *See Exhibit 4*. In reality, she had been provided essentially no time to respond, and was deprived a meaningful ability to clear her name. Indeed, PCEF essentially acknowledged

this by amending its procedures to provide a period of not less than six business days for applicants to respond to PSEC's requests for additional information. (PCEF twice provided Woodley approximately two business days to respond to PCEF's requests.)

48. Woodley is unaware of any legitimate justification for the tight timeline PCEF provided. Woodley thus believes, and on such belief alleges, that PCEF's timeline was motivated by public relations concerns rather than an interest in determining the truth and providing Woodley a meaningful chance to clear her name.

49. PCEF's very public revocation of its endorsement; Commissioner Rubio's public statements; the City Council's vote revoking the award; and PCEF's refusal to compensate Diversifying Energy pursuant to prior grant awards, have destroyed Woodley's ability to make a living through her work with Diversifying Energy specifically, and in the public contracting and energy spaces more generally. The City has stigmatized her without a meaningful opportunity to clear her name and, through its official acts, deprived her of her legally-recognized liberty interests—including earning a living through her chosen profession.

50. Furthermore, the City also revoked its award of grant money to Diversifying Energy—some of which would have been paid to Woodley as salary but now no longer would be. The City therefore has deprived her of a property right.

51. As a result of Defendant's violation of her procedural Due Process rights, Woodley has suffered, and will suffer, lost income in an amount according to proof but estimated to be not less than \$600,000—the amount of salary Woodley anticipates she would have earned through Diversifying Energy and other endeavors for the next several years until retirement.

SECOND CLAIM FOR RELIEF

(Defamation)

52. Woodley incorporates the foregoing allegations as though set forth here in full.

53. PCEF has claimed repeatedly that it could not verify Woodley's references and withdrew support for DE's application as a result. PCEF has made such statements as recently as February 17, 2022. *See, e.g.*, <https://www.bizjournals.com/portland/news/2022/02/17/dcpo->

[update-pcef.html](#).

54. Defendant's public claims were defamatory by implication because the underlying facts that the statement implied—that Woodley was given an adequate opportunity to present information to PCEF after the initial grant application, and that the information Woodley provided could not be verified after giving Woodley the chance to provide information—were false, as described previously in this Complaint.

55. Furthermore, Commissioner Rubio's December 17, 2021 statement falsely noted that Woodley had been given an adequate opportunity to respond to PCEF and implied, despite not having followed up on the contents of Woodley's December 16 letter, that there were false statements in that document.

56. At a minimum, Defendant was negligent as to the truth of its assertions. Defendant was aware of the very tight deadlines it had provided Woodley, and of Defendant's ongoing efforts to provide information and cooperate.

57. As a result of Defendant's defamation, Woodley has suffered, and will suffer, lost income in an amount according to proof but estimated to be not less than \$600,000—the amount of salary Woodley anticipates she would have earned for the next several years, through Diversifying Energy and other endeavors, until retirement.

THIRD CLAIM FOR RELIEF

(False Light)

58. Woodley incorporates paragraphs 1 through 51, as though set forth here in full.

59. The City placed Woodley in a false light before the public. The City did so by indicating it had provided Woodley sufficient time to respond to PCEF's inquiries, and suggesting that it had conducted an adequate investigation—when, in fact, it appeared not to have conducted further inquiry in response to Woodley's December 16 letter.

60. A reasonable person would find the light in which the City painted Woodley—as a criminal, not to be trusted, who could not substantiate her references, and whose grant needed to be terminated as a result—highly offensive.

61. As noted above, the City knew, or was reckless as to whether, it had not provided Woodley an adequate opportunity to respond to the allegations against her and had not investigated further Woodley's December 16 responses.

62. As a result of the false light in which the City placed Woodley, Woodley has suffered, and will suffer, lost income in an amount according to proof but estimated to be not less than \$600,000—the amount of salary Woodley anticipates she would have earned for the next several years, through Diversifying Energy and other endeavors, until retirement.

PRAYER FOR RELIEF

WHEREFORE, Linda Woodley prays for relief as follows:

- A. As to all claims for relief, economic damages in the amount of \$600,000;
- B. As to the First Claim for Relief, reasonable attorney fees and expert fees pursuant to 42 U.S.C. § 1988;
- C. Costs;
- D. Prejudgment interest; and
- E. Such other and further relief as may be just and necessary.

JURY DEMAND

Plaintiff hereby demands a jury on all issues so triable.

DATED this 16th day of March, 2022.

SNELL & WILMER L.L.P.

s/ Clifford S. Davidson

Clifford S Davidson , OSB No. 125378
Lea K. Schneider, OSB No. 145154
Attorneys for Plaintiff Linda Woodley

4890-3598-4145



Bureau of Planning and Sustainability

Request for Proposal

PCEF Heat Response Grant - Equipment Purchasing Partner

Request for proposal responses are due: October 27, 2021 at 11:59 p.m.

Questions about the request for proposal are due: October 19, 2021 at 5:00 p.m.

Submit request for proposals to: PCEFHeatResponseGrants@portlandoregon.gov

Send questions to: PCEFHeatResponseGrants@portlandoregon.gov

This request for proposal (RFP) is organized into the following sections:

1. Scope of work
2. General requirements and instructions

1. Scope of work

The purpose of this RFP is to select an Equipment Purchasing Partner (grantee) that will perform the tasks listed below:

- A. Work with City staff to identify specifications of portable heat pump/cooling equipment to be purchased, based on energy efficiency, features, usability, and availability.
- B. Collaborate with City and Community Distribution Partners (CDPs) to evaluate the total number of portable heat pump/cooling units to purchase, including HEPA air filtration units.
- C. Manage contracts with manufacturers, retailers, commercial entities, or other organizations to purchase portable heat pump/cooling units and HEPA air filtration units.
- D. Coordinate delivery of the units through drop shipping to distribution partners, installers, or temporary warehouse space.
- E. Contract with and reimburse CDPs selected by the City for installation of equipment and defined services.
- F. Develop training, maintenance, warranty, and equipment replacement procedures with CDPs in order to maximize usable life of equipment.

- G. Establish and manage a database to track and report on equipment distribution and recipient information.

2. General requirements and instructions

a. Proposal submission format:

Proposer shall submit one (1) original copy in PDF format. If the proposer requests redactions to their proposal, please also submit a copy in unprotected MS Word format with the requested redactions.

b. Addenda to RFP:

If additional information or interpretation should be provided, an Addendum will be made available to known interested parties and posted online.

c. Proposal rejection:

The City reserves the right to reject any and all proposals.

d. Cost of proposal:

This request for proposal does not commit the City to pay any costs incurred by any proposer in the submission of a proposal, or in making necessary studies or designs for the preparation thereof, or for procuring or Contracting for the items to be furnished under the proposal.

e. Additional requirements:

Payments for work funded by PCEF must be at least 180 percent of the [relevant state minimum wage](#). The requirement applies to people that are paid by the grantee as well as people paid under contracts and subcontracts of the project. For the fiscal year July 1, 2022 to June 30, 2023 180% of the area minimum wage will be \$26.55.

f. Proposal response:

The proposal must clearly respond to all of the following questions or prompts:

i. Organization information

1. Basic Information:

- a. Organization name:
- b. Primary contact information (phone & email):
- c. Nonprofit status:

ii. Project team, management, and capabilities

- 1. Number of non-profit staff expected to work on project
- 2. Number of subcontractor/partner staff expected to work on project
- 3. For each of the key team members who will perform work on this project provide the following:
 - a. their role(s) and responsibilities on this project

- b. experience on similar or related projects and/or transferrable skills
 - c. unique qualifications that will contribute to project success (e.g., personal and/or life experience, professional development, education, or other qualifications relevant to the project)
 - d. bio or resume
 - 4. Description of organizational capacity and management approach, and how they will support the success of this project. This should include:
 - a. Description of organization qualifications and capacity to implement the project.
 - b. description of capacity, lines of authority and responsibility, coordination and supervision of partners and/or subcontractors, and internal procedures and/or policies associated or related to work quality and cost control
 - c. description of experience or track record managing similar or related projects including information about goals, results, timeliness of completion, and budget management
 - d. Description of existing or planned relationships with equipment manufacturers, distributors, or retailers who can provide portable heat/cooling pump units.
 - iii. Project approach and technical understanding
 - 1. Description of approach to the requested scope of work. Ensure that the description addresses the following:
 - a. Approach to equipment selection, including energy efficiency, usability, availability and product life.
 - b. Any preliminary estimates of bulk purchase cost reductions (expressed as a % off of retail price).
 - c. Approach to procurement and shipping/delivery of units, including proposed timeline.
 - d. Planned approach for communication, collaborations, and contracting with CDPs, including both affordable housing providers and community organizations.
 - e. Approach to database creation, management, and reporting to track equipment distribution and recipient information.
 - iv. Workforce diversity and hiring approach
 - 1. Describe the leadership and staff demographics of the nonprofit organization
 - 2. Describe approach to inclusion of PCEF priority populations (people with low-income, BIPOC, women, transgender people, two-spirit

people, gender non-conforming people and other groups of people who experience gender or sex-based discrimination, people who experience disabilities) in the hiring of new staff or selection of subcontractors.

v. Cost

1. Enter the annual estimated cost, excluding equipment purchase, for delivering service described in the scope. Estimate cost for two scenarios: 1) contracting with 20 community distribution partners and 2) contracting with 30 community distribution partners. Do not include cost of the heat pump/cooling equipment.

Year	Cost Estimate for Services	
	With 20 CDPs: 15 affordable housing providers and 5 community-based organizations	With 30 CDPs: 15 affordable housing providers and 15 community-based organizations
1		
2		
3		
4		
5		

2. List any subcontractors and the annual subcontracted costs associated with program delivery. Include costs of data management platforms, consultants, or other services.

Year	List subcontractors	Cost estimate for sub-contracted services	% subcontracted services provided by COBID-certified firms
1			
2			
3			
4			
5			

- vi. Provide a narrative of the cost elements above, including any additional services that the organization intends to offer :

Proposal evaluation criteria:

Section	Key Elements of Criteria	Points
Project team, management, and capability	<ul style="list-style-type: none"> • Key personnel and experience (20 points) • Project management and partnership engagement approach (10 points) • Track record of key staff in managing similar programs (5 points) 	35 Points
Project approach and technical understanding	<ul style="list-style-type: none"> • Proposed timeline of equipment delivery and approach to procurement (20 points) • Database, logistics, and customer tracking approach (10 points) • Approach to equipment selection (5 points) 	35 Points
Workforce diversity and hiring approach	<ul style="list-style-type: none"> • Nonprofit staff and leadership reflects PCEF priority populations (5 points) • New staff hiring/subcontractor approach furthers goals of PCEF in workforce (10 points) 	15 Points
Cost	<ul style="list-style-type: none"> • Annual cost projections for administering 5 years of equipment purchasing/logistics and project management, and engagement with Distribution Partners (15 points) 	15 Points

Program staff will review and score applications based on the criteria indicated in the RFP document and make funding recommendations to the [PCEF Committee](#).



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

December 14, 2021

Linda Woodley
President, Diversifying Energy

Via email only: linda@diversifying-energy.org

Re: Allegations of Misrepresentation on Heat Response, Equipment Purchasing Partner Grant Application
Allegations of Financial Crimes and Unpaid Taxes

Ms. Woodley:

As you are aware, City staff are working to independently document allegations of misrepresentation and financial crimes in a December 12, 2021 *Oregonian* article titled "Portland awarded \$12M clean energy contract to executive with long history of financial misdeeds, unpaid taxes." Below is a summary of allegations staff have independently documented. If you want to respond to any portion of the summary, please email your response to me using the address below by **5 pm on December 16, 2021**.

Documented Allegations of Misrepresentation on Grant Application

- You listed Alfred Gaspari in your email dated 12/10/2021 as a reference for your work with the PG&E Smart Thermostat Pilot Program for Northern California.
 - Mr. Gaspari was unfamiliar with your name and was unable to confirm any work conducted by you or any entity you are associated with.



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portland.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland Oregon, 97201 | phone: 503-823-7700 | tty: 503-823-6868

The City of Portland is committed to providing meaningful access. To request translation, interpretation, modifications, accommodations, or other auxiliary aids or services, contact 503-823-7700, Relay: 711.

Traducción e Interpretación | Biên Dịch và Thông Dịch | अनुवादन तथा व्याख्या | 口笔译服务 | Устный и письменный перевод | Turjumaad iyo Fasiraad | Письмовий і усний переклад | Traducere și interpretariat | Chiaku me Awewen Kapas | 翻訳または通訳 | ጥቅም ላይ የዋለው ጥያቄዎችን | الترجمة التحريرية أو الشفوية | Portland.gov/bps/accommodation

- You listed Lauren Casentini in your email dated 12/10/2021 as reference for your work on HVAC equipment acquisition, warehousing and distribution for PG&E direct install program in Northern California.
 - Ms. Casentini confirmed that you reported to the Midwest region when Ms. Casentini was a Senior Vice President at CLEAResult, but noted that she did not work with you on any PG&E contracts. Karen Melzer, a current colleague of Ms. Casentini, verified your participation in work with Resource Innovations, but noted that your participation was limited to diversity, equity, and inclusion trainings. She could not speak to other past work on PG&E programs.
- You listed Nancy Barba in your email dated 12/12/2021 as a reference for your work on Energy Upgrade California for LA County.
 - This reference is inconclusive as we are unable to confirm your characterization of the work experience, specifically:
 - You provided documentation of a forwarded email from Ms. Barba that you supervised her at BKi while working on Energy Upgrade California for LA County. We could not substantiate the work experience in follow up calls and emails to Nancy or Human Resources at Frontier Energy. Additionally, Howard Choy, who oversaw Energy Upgrade California for LA County over its entire history, noted in a phone call that he had no recollection of you as either Linda Woodley or Linda Leonard.

Documented Allegations of Financial Crimes and Unpaid Taxes

- 1997 conviction for tax and bankruptcy fraud, sentenced to three years and one month in prison and ordered to pay nearly \$1M in restitution.
- 2001 probation violations (over 12 violations related to falsehoods and conduct specifically prohibited under probation), sentenced to 2 years in prison.
- 2006 foreclosure proceedings on property in Pierce County, Washington.
- 2006 two attempts to file for Chapter 11 bankruptcy protection, court halted proceedings because required financial statements not filed.
- 2007 notice of default on second property in Pierce County, Washington.
- 2011 State of California lien for failure to pay state taxes.
- 2018 IRS lien of \$77,000 for failure to pay federal taxes in 2015, 2016 and 2017.
- 2021 State of California lien of \$810,000 for failure to pay state taxes.

Sincerely,

Sam Baraso

PCEF Program Manager

Sam.Baraso@portlandoregon.gov

Cc: Diversifying Energy Board Chair, Bruce Watts (via email only)



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December 16, 2021

Sam Baraso
PCEF Program Manager

Via email only: sam.baraso@portlandoregon.gov

Re: Allegations of Misrepresentation on Heat Response, Equipment Purchasing Partner Grant Application
Allegations of Financial Crimes and Unpaid Taxes

Dear Mr. Baraso:

In response to your December 14, 2021 letter to me regarding Allegations of Misrepresentation on Heat Response Equipment Purchasing Grant Application and Allegations of Financial Crimes and Unpaid Taxes, please see my response below:

Documented Allegations of Misrepresentation on Grant Application

- You listed Alfred Gaspari in your email dated 12/10/2021 as a reference for your work with the PG&E Smart Thermostat Pilot Program for Northern California.
 - Mr. Gaspari was unfamiliar with your name and was unable to confirm any work conducted by you or any entity you are associated with.
- To be clear, I did not list Mr. Gaspari as a reference and I do not know Mr. Gaspari. Mr. Gaspari's name was provided to PCEF in a December 10, 2021 email to you as a reference for Jake Tisinger who works for Franklin Energy.
- You listed Lauren Casentini in your email dated 12/10/2021 as reference for your work on HVAC equipment acquisition, warehousing and distribution for PG&E direct install program in Northern California.
 - Ms. Casentini confirmed that you reported to the Midwest region when Ms. Casentini was a Senior Vice President at CLEAResult, but noted that she did not work with you on any PG&E contracts. Karen Melzer, a current colleague of Ms. Casentini, verified your participation in work with Resource Innovations, but noted that your participation was limited to diversity, equity, and inclusion trainings. She could not speak to other past work on PG&E programs.
- To be clear, I did not list Ms. Casentini as a personal reference. Ms. Casentini was merely the person who executed the contract for CLEAResult. With all of the personnel changes in the industry I suggested to PCEF that they contact Ms. Casentini directly to confirm that I worked on the project in question because she signed the contract. I previously forwarded a copy of the contract that I had with CLEAResult to PCEF which included the contract number, the signature page and the scope of work.

- You listed Nancy Barba in your email dated 12/12/2021 as a reference for your work on Energy Upgrade California for LA County.
 - This reference is inconclusive as we are unable to confirm your characterization of the work experience, specifically:
 - You provided documentation of a forwarded email from Ms. Barba that you supervised her at BKI while working on Energy Upgrade California for LA County. We could not substantiate the work experience in follow up calls and emails to Nancy or Human Resources at Frontier Energy. Additionally, Howard Choy, who oversaw Energy Upgrade California for LA County over its entire history, noted in a phone call that he had no recollection of you as either Linda Woodley or Linda Leonard.
- As I have previously stated, I did not work for LA County and there is no reason that Howard Choy would necessarily remember me. In fact I worked for BKI who was the prime contractor on the Energy Upgrade California Program. While working for BKI on the Energy Upgrade California Program, Nancy Barba reported to me. I sent you a copy of a bog that Nancy posted online several years ago which describes in detail the work that our team did on the program. Nancy reported to me and has provided confirmation that I was her supervisor. The Energy Upgrade California Program had a \$30 million budget. It is not logical to assume that the management of such a large and important program would fall to one of my subordinates. Please see the email from Nancy pasted below.

Hi Linda,

I can confirm you were my supervisor during your time at BKI and that during your time our team worked on Energy Upgrade California. I don't recall your exact title at the time but it would make sense that it would be senior program manager.

Wish you the best.

Nancy Barba

Manager

Frontier Energy

██████████ | Los Angeles

FrontierEnergy.com

Documented Allegations of Financial Crimes and Unpaid Taxes

The allegations put forth by the media regarding my financial background have been construed to portray me and also PCEF in a most negative way. I was in fact convicted in 1997 of tax fraud and bankruptcy fraud and sentenced to prison for three years. I was also ordered to pay restitution over \$800,000. My conviction was the result of the corporate bankruptcy of a firm that I was the majority stockholder of (Pacific Western). This firm provided natural gas to utilities and other gas providers. During this time period, the firm purchased some of their natural gas supplies under futures contracts which resulted in large losses.

Over my objection, in early 1990 the Pacific Western board of directors voted to file bankruptcy. During bankruptcy proceedings it was alleged that I had personally received large sums of money that I did not declare on my personal taxes. The bankruptcy fraud charge came as a result of the fact that I had taken money out of the company and then the company consequently filed bankruptcy.

2001 probation violations (over 12 violations related to falsehood and conduct specifically prohibited under probation) sentenced to 2 years in prison.

I was released from prison in 2000 and returned to prison in 2001 for a probation violation. I violated my probation only once. My probation was violated because I purchased a house and not for the numerous probation violations as alleged in the newspaper articles. My recollection is that my time in jail for the violation was less than the two years referenced above.

2006 foreclosure proceedings on property in Pierce County, Washington.

This is correct. This was a time when I was personally struggling financial

2006 two attempts to file for Chapter 11 bankruptcy protection, court halted proceedings because required financial statements not filed.

This is not correct. In 2006 I filed a petition for protection and withdrew it myself, it was not "halted" at the discretion of the court. Later, I did refile the petition. I remember refiling a few weeks later and then withdrawing the petition.

2007 notice of default on second property in Pierce County, Washington.

While it is likely I received a notice of default, the property was never foreclosed upon by the lender.

2011 State of California lien for failure to pay state taxes.

This was for 1991 state taxes and is a refiling of the 1991 tax lien as related to the 1997 case

2018 IRS lien of \$77,000 for failure to pay federal taxes in 2015, 2016 and 2017

I entered into a payment plan with the IRS to pay these taxes and I was making payments. I filed an Offer in Compromise in 2019 after Covid 19 hit which was subsequently accepted and paid in full in 2020 and the tax lien was released.

2021 State of California lien of \$810,000 for failure to pay state taxes.

This is the same tax lien for 1991 taxes. I have attached a copy of the lien notice which confirms that this is for 1991 taxes. I just found out about this lien after the Oregonian article. It was refiled a couple of months ago. As in the past, I anticipate that this lien will be released.

I hope that this response to your December 14, 2021 letter regarding allegations of misrepresentations in our PCEF proposal and a history of financial crimes will be resolved by the extensive amount of information that we have supplied to PCEF. Regarding my financial history, I have acknowledged my 1997 conviction. However, my background from almost 25 years ago does not translate into a history of financial crimes. Rather, I have spent the years since my conviction working to make a worthwhile contribution to my community. The Heat Hazard Response Program is extremely important to the many vulnerable populations in Portland. As an organization led by an African American, Diversifying Energy is the most relatable to PCEF priority communities. We are also highly capable and the most qualified to take on the important role of the Equipment Purchasing Partner for the City of Portland.

Sincerely,

Linda Woodley

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Commissioner Rubio's Statement on Heat-Response Grant Recipient

News Article

We need to deliver cooling units as soon as next summer for those most at risk from extreme heat events triggered by climate change. Saving lives depends on the successful execution of this heat-response grant. And that's the bottom line for me.

Published: December 17, 2021 11:26 am

After reading [The Oregonian/OregonLive's article](#) on Sunday, I directed city attorneys and BPS staff to verify the information independently and to re-review Linda Woodley's grant proposal on behalf of Diversifying Energy. Our fiduciary responsibility as a council and as partners in this work with PCEF is paramount – and we have done our due diligence as quickly and as thoroughly as possible given the project's urgency. We need to deliver cooling units as soon as next summer for those most at risk from extreme heat events triggered by climate change.

As someone who has worked in the community for a long time, restorative justice is a value I believe in. Time and again we've seen how our justice system can be a barrier to someone's ability to make changes and reestablish their life. However, even through this lens, and after giving Ms. Woodley the opportunity to respond, there remain concerning inconsistencies that call into question Diversifying Energy's ability to get lifesaving cooling units to vulnerable Portlanders.

Saving lives depends on the successful execution of this heat-response grant. And that's the bottom line for me: to move the dial on improving outcomes for the lives of Black, Indigenous, and communities of color, vulnerable and low-income residents, and core to that is to responsibly steward these valuable resources to meet the PCEF mission. I want to preserve public trust in this new, innovative program, so that it can continue funding climate action in frontline communities – work that will save more lives and build a more resilient city.

The decision-making authority for this grant now rests with City Council and so, at our first January meeting, I will bring a new ordinance to award the grant to Earth Advantage, pending a thorough completion of reference checks. I hope that they are still ready to be a partner in delivering these life-saving units for frontline community members.

Contact

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Communications Director (Rubio)

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