



PUBLIC WORKS DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: February 4, 2025

Subject

Award of a design-build contract to Syserco Energy Solutions for \$4,339,881 and award a project management and construction management agreement to 4Leaf, Inc. for \$225,000 for the Photovoltaic Systems Design and Installation Capital Improvement Programs Project.

Recommended Action

1. Award a design-build contract for the Photovoltaic Systems Design and Installation Project (budget unit 420-99-274) in the amount of \$3,939,881 with Syserco Energy Solutions, Inc., as the Design-Build Entity.
2. Authorize the City Manager to execute the design-build contract with Syserco Energy Solutions, Inc. with substantially similar terms as those in the draft contract in Attachment A, when all conditions have been met.
3. Authorize the Director of Public Works to execute any necessary change orders up to a contingency amount of \$400,000 (approximately 10%) for a total contract amount of \$4,339,881.
4. Authorize the City Manager to execute a professional services agreement with 4Leaf, Inc. for project and construction management services, for a total not-to-exceed contract amount of \$225,000.

Executive Summary

On October 1, 2024, the City Council authorized the procurement of a design-build contract for the Capital Improvement Program (CIP) Photovoltaic (PV) Systems Design and Installation Project (Project). A competitive process was undertaken, including a Request for Qualifications (RFQ) to generate a short list of qualified proposers, with a Request for Proposals (RFP) subsequently issued to the firms on the pre-qualified list. The City Council is being asked to approve the award of a design-build contract to the most qualified Design-Build Entity.

A competitive process was also performed to determine the most qualified Construction Management firm. The City Council is being asked to approve the execution of an agreement with that firm to provide construction management services for the project.

Reasons for Recommendation

The Net Energy Metering (NEM) program is administered by the California Public Utilities Commission (CPUC) which provides credits to a building's utility bill for generating excess electricity and feeding the excess back into the electrical system. Accounts with NEM ratings are guaranteed these credits over a 20-year period. In 2023, Pacific Gas & Electric (PG&E) announced a rate decrease for electricity generated by PV systems NEM 3 but provided a window to allow for "grandfathering" of the more economically attractive NEM 2.0 rates, if interconnection applications are successfully submitted by the deadline and the corresponding PV systems are installed and operational by April 2026.

The NEM 2.0 interconnection applications were successfully submitted to PG&E for five City of Cupertino facilities. This Project aims to design and build PV systems at three of the five locations. The NEM 2.0 projects must be completed by April 15, 2026, to receive the incentive, otherwise the NEM 3.0 program would be applied to these properties. The NEM 2.0 rates provide 75 - 80% greater compensation than NEM 3 rates for electricity that is generated and fed back into the electrical system. The savings in utility costs for the three proposed sites are projected to be approximately \$276,000 annually, and \$13 million over a 30-year lifespan.

The Project was initially approved in June 2024 as part of the Fiscal Year (FY) 2024-25 annual CIP budget (see Attachment C). The City Council authorized the procurement of a design-build contract for the Project on October 1, 2024. The conceptual design was approved by the City Council on December 3, 2024, for the following City locations:

- Community Hall
- Cupertino Sports Center
- Quinlan Community Center

Pursuant to California Public Contract Code section 22160 *et seq.*, the approved delivery process for the Project is design-build, instead of conventional design-bid-build project delivery. Design-build delivery involves contracting with a single entity known as the Design-Build Entity (DBE) for both design and construction of the project. The Public Contract Code allows for the selection of the DBE using "best value" procurement, which allows the review panel to consider factors such as quality and experience in addition to price.

Design-Build Contract

In October 2024, an RFQ for the design-build contract for the Project was publicly posted and publicly noticed. The RFQ documents issued by the City are available at <https://apps.cupertino.org/details/727>. On October 31, 2024, submittals were received from the following companies:

- Endelos Construction, LLC/Endelos Energy, Inc.
- Mesa Energy Systems, Inc./Emcor Services

- Sustainable Living Builders, Inc.
- Syserco Energy Solutions, Inc.
- Engie Services U.S., Inc.

The Public Works Department reviewed the statements of qualifications from these companies and determined that three firms were qualified to meet the requirements of the Project. The RFP was issued to Endelos, Syserco, and Mesa in November 2024 (see Attachment D). On December 27, Syserco and Mesa submitted proposals. A thorough review of the submittals, including an interview with both firms, was conducted. The review panel evaluated criteria identified in the RFP and determined Syserco Energy Solutions, Inc.'s proposal and subsequent interview information represented the best value to the City.

Staff recommends awarding the design-build contract to Syserco Energy Solutions, Inc., for the contract amount of \$3,939,881 and to include an approximate 10% project contingency in the amount of \$400,000, for a total contract amount not to exceed \$4,339,881. The project contingency covers costs that may be incurred due to unforeseen circumstances and is a typical contracting best practice for design and construction contracts. Refer to Attachment A to view the draft design-build contract.

Project and Construction Management Services Contract

On January 15, an RFP was publicly posted on the City's Business Opportunities webpage (<https://apps.cupertino.org/details/767>), in search of firms qualified to perform Project and Construction Management services for the Project. The City does not make a practice of distributing the RFP responses prior to completion of the contract negotiation process. The scope of work is to provide project management throughout all phases of the DBE's scope of work.

Proposals were received from five firms on January 27. After reviewing the submittals, staff determined 4LEAF, Inc. to be the highest-rated proposer and negotiation of an agreement is underway. Staff recommends awarding the professional services contract to 4LEAF, Inc., for a total not-to-exceed contract amount of \$225,000 (see Attachment B.)

Next Steps

If approved, the DBE will begin design phase services in February 2025, with the construction completion date in April 2026.

If this item is not approved, the City will be unable to meet the NEM 2.0 deadline requirements and thus will not proceed with a PV Project at this time. Neither the DBE contract nor the PM/CM contract would be executed.

Sustainability Impact

The City's Climate Action Plan has explicit goals for the commercial sector to reduce natural gas usage (BE-3) and support resiliency by encouraging commercial battery

storage and solar panel installations (BE-7). This Project would (a) model these goals for our community, (b) save the City money, (c) improve the local air-quality and (d) can serve as the basis of a future microgrid plan providing local power resilience in the case of emergencies.

Fiscal Impact

The PV Project budget (420-99-274) has a total City-funded approved project budget of \$6,300,000. The total expenditures after completion of the project are estimated to be \$4,624,491, with remaining funds of \$1,675,509.

Fiscal Summary Table

| Current Funding Status (Budget) | Amount |
|--|---------------|
| City Approved Funds - FY 25 | \$6,300,000 |

| Projected Funding Impact (Expenses) | Amount |
|--|----------------------|
| Encumbrances to date (Conceptual Design) | (\$59,610) |
| Construction Contract (\$3,939,881 base contract and \$400,000 contingency) – <i>This Action</i> | (\$4,339,881) |
| Construction Management | (\$225,000) |
| Subtotal: | (\$4,624,491) |

| Summary | Amount |
|-------------------------------------|--------------------|
| Current Project Budget (420-99-036) | \$6,300,000 |
| Projected Funding Impact | (\$4,624,491) |
| Remaining Funds: | \$1,675,509 |

The City will apply for the Inflation Reduction Act (IRA) Direct Pay credit at the end of the project. If the application is successful, the rebate will cover 30% of the cost of the PV system installation. The project will also pursue the “Build America Buy America Act” (BABAA) domestic content bonus credit program for energy projects, which could return an additional 10% to the City. The BABAA bonus credit requires that the project use a specified percentage of domestically produced steel, iron, and manufactured products. The revenue from either of these rebate programs is not guaranteed.

However, these IRA credits are potentially at risk. At this time, President Trump has paused all funding disbursements for projects funded by the Inflation Reduction Act. Any disbursements are currently required to receive specific approval from the federal government.

City Work Program (CWP) Item: No

CWP Item Description: N/A

Council Goal: N/A

California Environmental Quality Act (CEQA)

The project is categorically exempt from CEQA, CEQA Guidelines section 15301(existing facilities) and section 15303 (construction of small structures), and/or statutorily exempt under Public Resources Code section 21080.35 (installation of solar energy systems).

Prepared by: Susan Michael, CIP Manager

Reviewed by: Chad Mosley, Director of Public Works

Reviewed by: Chris Jensen, City Attorney

Reviewed by: Tina Kapoor, Deputy City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Design-Build Contract

B – Draft Professional Services Agreement

C - FY 24-25 CIP Project Narratives Excerpt

D – RFP for Design-Build Entity