



CITY OF OAKLAND

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OAKLAND

2013 JAN 31 PM 1:32

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E

SUBJECT: Supplemental Report
Regional Renewable Energy Procurement

DATE: January 2, 2013

City Administrator
Approval

Date

1/31/13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

A Report And Recommendation From The City Administrator On City's Effort To Convert Municipal Electricity Use To A Solar Source (S), To Include Information On Solar Companies Able To Perform Such Large Scale Municipal Conversions In Time To Obtain Federal And State Financial Incentives (Due To Expire Next Year) That Would Substantially Offset The City's Cost Of Conversion; And Consider Adopting A Recommended Resolution Or One Of Two Alternative Resolutions Which Authorize The City Administrator Or Her Designee To Implement A Solar Power Procurement Project, And Appropriate Related Incentives Accordingly, All Without Returning To Council:

A Revised Resolution Authorizing The City Administrator Or Her Designee To (A) Implement A Solar Power Procurement Project By Signing A Memorandum Of Understanding With Alameda County For The Regional Renewable Energy Procurement Project; And (B) Enter Into Solar Power Purchase/Equipment Lease Agreements With Contractor(s) Selected Through The County's Regional Renewable Energy Request For Proposals In An Amount Not To Exceed Three-Million Two-Hundred Twenty-Five Thousand Dollars (\$3,225,000) During The Term Of The Agreement; And (C) Appropriate Related Incentives; All Without Returning To Council; Or,

Option B - An Alternate Resolution Authorizing The City Administrator Or Her Designee To: (A) Waive The Competitive Request For Proposal/Qualification Requirements And Enter Into An Exclusive Negotiation Agreement For A Solar Power Purchase Agreement With NRG Solar LLC; And (B) Enter Into A Solar Power Purchase Agreement With NRG Solar LLC In An Amount Not To Exceed Three-Million Two-Hundred Twenty-Five Thousand Dollars (\$3,225,000) During The Term Of The Agreement; And (C) Enter Into Professional Services Agreements With Solar Power Consultants In An Amount Not To Exceed Seventy Five Thousand Dollars (\$75,000) And Waive The Competitive Request For Proposal/Qualification Process Requirements, Small And Local Business Enterprise Program Requirements For Professional Services; And (D) Appropriate Related Incentives; All Without Returning To Council; Or

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Option C - An Alternate Resolution Authorizing The City Administrator Or Her Designee To: (A) Enter Into Professional Services Agreements With Solar Power Consultants In An Amount Not To Exceed Ninety Thousand Dollars (\$90,000); And Waive The Formal Competitive Request For Proposal/Qualification Process Requirements, Small And Local Business Enterprise Program Requirements For Professional Services; And (B) Enter Into A Power Purchasing Agreement With A Design-Build Contractor Selected According To A Formal Competitive Request For Proposal / Qualifications (RFQ/RFP) Process In An Amount Not To Exceed Three-Million Two-Hundred Twenty-Five Thousand Dollars (\$3,225,000) During The Term Of The Agreement; And (C) Appropriate Related Incentives; All Without Returning To Council.

REASON FOR SUPPLEMENTAL

This supplemental report provides information requested at the Public Works Committee meeting held on December 11, 2012, addressing the following:

- Providing details about the Regional Renewable Energy Procurement (R-REP) program:
 - Background on City participation
 - Achieving the City's local hiring requirements
 - Selection of sites for solar power systems
- Outcomes of the Silicon Valley Renewable Energy Procurement (SV-REP) program
- Availability of California Solar Initiative (CSI) rebates to the City.
- Analysis of options to procure the project including through negotiations with NRG Solar, LLC (NRG Solar) or a City competitive request for proposal, including: analysis of procurement options considering several factors: greenhouse gas (GHG) emissions, rebates, tax incentives, local jobs, net electrical energy savings, consultant costs, and staff cost.
- Providing alternate resolutions to facilitate alternative options.

OUTCOME

The City Council authorizes the City Administrator to:

- 1) Enter into a Memorandum of Understanding (MOU) with the County to participate in the R-REP program;
- 2) Allow appropriation of incentives to energy projects; and
- 3) Execute a Power Purchase Agreement with contractors selected by the R-REP.

BACKGROUND

The Council approved \$287,000 for implementing solar powered projects on City owned facilities in 2007. The purpose of this project is to acquire solar power installations at 15 City facilities to reduce GHG emissions from the City's municipal operations in accordance with the Oakland Energy and Climate Action Plan. The most favorable implementation method is participating in the R-REP program led by Alameda County (County) and subsequently enter into a Power Purchasing Agreement (PPA) with a contractor for a term up to of 25 years.

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Through such a PPA, the City would purchase electricity from solar power equipment owned by a third party and installed on rooftops of 15 City-owned properties. The current characteristics of this project are:

- \$1.9 million of design and construction would be undertaken by a PPA Contractor, estimated at \$950,000 of materials costs, \$570,000 for PPA contractor administration and engineering, and \$380,000 of construction labor. None of these costs would be paid directly by the City. The PPA contractor incurs all of these costs and is compensated through the PPA and incentives.
- The City would incur expenses for supervising project implementation, typically approximately 10% to 15% of the construction cost.
- This project affects an estimated \$120,000 of the electricity the City buys annually at the 15 sites. Using a PPA, the City would pay an estimated \$110,000 in the first year, with a 3% annual escalation for the power generated by the solar panels.
- The City will only execute a PPA if the cost is less than what would otherwise be paid to Pacific Gas & Electric (PG&E), and no more than \$120,000 in the first year for this project. The total estimated energy cost is \$3,225,000 over a 20 year agreement period.
- The net estimated savings for electrical expenses under a PPA is approximately \$10,000 per year. The expected savings will likely offset some of the future increase in PG&E electrical costs.
- Roof and land leasing agreements may be necessary as part of the PPA.

RESPONSES TO QUESTIONS

On December 11, 2012, the Public Works Committee directed Staff to return to the Committee with responses to questions and options related to the installation of solar panels on City facilities and establishment of solar power purchase agreements to include an option to authorize negotiations with NRG Solar, based upon their proposal titled, Indicative Proposal for the City of Oakland, dated September 25, 2012.

1. What are the Regional Renewable Energy Procurement (R-REP) program details?

Background on City's Participation

The City has worked collaboratively with the County on developing of the R-REP program since April 2011. In August 2012, the County Administrator sent a letter requesting participation to all participating agencies. The County's letter described the intent of the program, the steps involved in the R-REP program, including signing a MOU, and the level of participation required of the agencies to benefit from the R-REP program. The City continues to engage with the R-REP program and has helped with selection of technical and financial consultants, providing comments on the draft MOU, and providing information necessary for the procurement process.

Will R-REP Achieve the City's Local Hiring Programs Requirements?

The Committee expressed concern that the R-REP process may preclude application of the City's local hiring programs. Responding to feedback from cities, the County confirmed that it

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is willing to include individual cities' procurement requirements in the R-REP solicitation. The County is designing the R-REP program to enable discrete contracts between each participating city and the selected contractors so that each participating city may apply their specific procurement requirements as part of the agreements.

The City forwarded language provided by the City's Contracts and Compliance Division to the County for inclusion in the R-REP RFP. The Contracts and Compliance Division has affirmed that the County has successfully integrated the City's local hiring program requirements into previous cooperative RFPs.

Selection of Sites for Solar Systems

Over 90 City facilities were evaluated to identify the best candidates for solar power systems (e.g., roof compatibility, roof angle, direction, shading, construction). Most of the City's 90 largest buildings have roofs that are well beyond 7 years old, which is typically too old for installing solar power equipment without including costly re-roofing into the solar project.

After solar potential was assessed, a shorter list of facilities was assessed for the suitability of the roofs for solar power installations. Many of the roofs were deemed unsuitable for this procurement because of their condition or because replacement required during the life of the PPA would increase the PPA cost cycle of the roof and would impact the cost-effectiveness of this solar power project. As roofs are replaced, those facilities can be considered for future solar power procurements.

After 20 sites with reasonable potential were identified, the City hired solar experts at Energy Solutions and Kilowatt (KW) Engineering (both located in Oakland) to complete a technical assessment of the sites to further identify their capacity for solar power equipment. The site assessment activities analyzed the following:

- a) On-site analysis: roof orientation, shading and tilt
- b) Electrical system observation: confirming electrical connections details
- c) Solar system sizing: Estimating system size (kW) and generation potential (kWh)
- d) Financial analysis: Estimating system cost and economic results

After considering the site assessments, and all factors that would make a solar power project feasible, 15 sites were determined to be viable at this time. They are listed in a revised version of **Attachment A**. There are three sites that have significant issues that might make them uneconomic for solar power projects, however these sites can be included in solicitations or negotiations for consideration by the proposers. Two sites are unsuitable for solar power projects until their roofs are replaced at an indefinite future time due to a lack of Capital Improvement Funding.

2. What were the outcomes of the Silicon Valley Regional Energy Procurement (SV-REP) Program?

The SV-REP conducted a request for proposal process for a PPA in 2010. Lessons learned from SV-REP are described below and published on the Joint Venture website at:

<http://www.jointventure.org/>.

The main lessons learned from the SV-REP program were:

- Providing more robust site assessment information in the RFP would result in better proposals and shorter and fewer items for negotiations.
- Having technical expertise, through consultants, during negotiations helped improve negotiations and resulted in better overall pricing.
- SV-REP participants, who entered into PPA, saved approximately 10-14% overall in PPA costs. These cost savings were the result of the economies of scale achieved from their collaborative process.
- SV-REP participants are averaging 8% on their Pacific Gas and Electric Company (PG&E) bills over the life of their PPA agreements (on average 20 years). Prices ranged from \$0.185 per kWh to \$0.215 per kWh.

Integration in R-REP from the SV-REP Program Lessons Learned

The County has used the lessons learned by the SV-REP in the design of the R-REP RFP. To address the issue of more robust site assessments, in Spring 2012 the County published a Request for Qualifications (RFQ)/Request for Proposals (RFP) soliciting firms to conduct site assessment activities. Within this RFQ/RFP, the County provided detailed instructions that addressed critical information lacking in the SV-REP site assessment reports.

Relative to the SV-REP experience, the R-REP site assessment process has been designed with increased accuracy of system sizing to set client and contractor expectations; added site visits as part of the R-REP process to accurately determine important existing conditions; and detailed evaluation of system connection points and roof conditions.

Based on the favorable experience of the SV-REP with the use of technical expertise, the County will provide experienced financial and technical consultants during the negotiating process with proposers to reach the best rates and terms for the participating agencies. This will avoid the need for each City to retain and pay for separate consulting support for these services.

Based on the SV-REP experience, the County will bundle sites based upon geography, type of renewable energy project, full range of system sizes, participating agencies' credit scores, and specific financing to be more attractive and providing a better business model for the proposers. The financial and technical consultants will assist the County to determine the final bundling strategy.

3. Will the City be able to benefit from CSI Rebates?

The City can meet the deadlines and receive the benefits of the CSI Rebates under all three options. On December 10, 2012, Pacific Gas and Electric (PG&E) Company provided an update

on the CSI rebate program for R-REP participants to assure the participants of eligibility in the R-REP program. PG&E covered the process to apply for rebates, including confirming:

- Based upon past and current incentive allocations, availability of the incentive rebates for government agencies should last until December 2013. As of January 15, 2013 reservation amounts remain available for 66 Megawatts (Oakland would submit rebates for about 0.4 Megawatts).
- Host customers (such as the City) or PPA contractors may apply for rebates.
- Cities have 240 calendar days from the date of rebate reservation to submit verification that they have executed a contract for a PPA.
- After the PPA is executed, agencies have 18 months to confirm that the system is operating. At any time during the construction process the City can request an extension of up to 6 months.
- Performance-based CSI incentive rebates for government entities are currently at \$0.025 / kWh.

At the Public Works Committee meeting on December 11, 2012, Staff stated that reservation applications would be submitted for \$189,000 of rebates for the City's viable photovoltaic or solar hot water systems identified as potential sites for inclusion in the R-REP program by December 2012. Subsequently, the City has re-examined the reservation application date in conjunction with the project timeline and recommends submitting reservations in Spring 2013 before funds for reservations are fully allocated. Upon further review, the rebate estimate is revised to \$67,000. The original rebate figured was based on a higher rebate amount associated with City ownership of the system, which is not proposed here.

ANALYSIS OF THE PROCUREMENT OPTIONS

The City Council has the following options available to install solar power projects on City facilities through a PPA:

- A. Continue with the County R-REP process; or
- B. Waive certain procurement requirements of the Oakland Municipal Code and enter into an exclusive negotiation process with NRG Solar; or
- C. Conduct a City RFQ/RFP process.

Analysis was conducted comparing implementation of the 15 sites that are confirmed to be fully viable at this time and how different approaches to implementing the project would impact results. Several different metrics were considered: (1) GHG reduction amounts, (2) rebates, (3) tax incentives, (4) local jobs, (5) electrical energy cost savings and (6) consultant costs, and (7) staff cost. Listed below is a brief summary of each metric and how it compares to each option.

Additionally, the City addressed creating and facilitating a high-quality PPA that properly supports approximately \$1.9 million of construction work, looks ahead for the next 20 to 25 years, with terms that meets the City's needs and expectations, and integrates the City's needs for roofing maintenance and re-roofing in a manner that creates clear expectations and minimizes expenses and surprises for all parties. NRG Solar stated to the Public Works Committee on

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December 11, 2012 that they are likely to respond to a competitive solicitation for a solar PPA; therefore this analysis anticipates the benefits that NRG Solar may offer would be accessible through any of the solicitation processes under consideration.

Comparing the three options according to the criteria listed above, the following was found:

- (1) GHG Reduction: No option is likely to result in a significant difference in the solar power production, therefore the GHG reduction are equal for all three options.
- (2) Rebate Availability: Based upon the CSI program and each option's timetable, all options allow the City to submit and receive the CSI rebates.
- (3) Tax Incentives: All three options allow the transfer of tax incentives and depreciation to a third party.
- (4) Local Jobs: All three options include provisions to hire locally, according to the City's current policies.
- (5) Electrical Energy Cost Savings: Net electrical cost savings are estimated to be very similar for each implementation method. KW Engineering and Energy Solutions estimate net electrical cost savings are \$10,000 per year (after paying an estimated \$110,000 to the PPA contractor and PG&E expenses decrease by an estimated \$120,000). Documented results of the Silicon Valley Renewable Energy Procurement program indicated savings of 8%. The goal of the project is to achieve life-cycle costs that are less than what PG&E is estimated to charge. The expected savings will likely offset some of the future increase in PG&E electrical costs.
- (6) Consultant Costs: These costs will vary among the different options as described below.
- (7) Staff Cost: These expenses will vary for each implementation method described below, according to the amount of staff effort necessary to fully implement the project.

A. R-REP Option:

Continue to work with the County and participants in the collaborative R-REP program where PPA proposals will be solicited through an RFP process. Using the R-REP process provides the City the following benefits:

- Saves the City costs for issuing an RFQ/RFP.
- Achieves greater competition through collaborative process for better pricing and terms
- Incurs the lowest cost for technical and financial consultants to draft solicitations and negotiate agreements. Participating in R-REP may not require any consultant expenses beyond the now-completed site assessment work; however there is some possibility that more consulting work, estimated at \$25,000 may be necessary if issues arise that are not covered by the County's contract with R-REP technical and financial consultants.
- Saves the City costs during initial negotiations.
- Meets the City's local hiring programs.
- Allows the City to take advantage of the CSI rebates.

Estimated cost for the City to participate and implement the solar power projects in R-REP is \$110,000 - \$135,000.

There are no known significant drawbacks of participating in R-REP. Although this option would take the longest to complete, it requires the least staff time of the options, saves \$50,000 to \$90,000 of consulting cost, produces similar, or better, results at the expense of six months of net electrical cost savings estimated at \$5,000.

B. NRG Solar Option:

The City could waive Oakland Municipal Code competitive solicitation requirements and enter into an exclusive agreement with NRG Solar of Larkspur, CA and its affiliates including but not limited to Oaktown Solar, originally of San Francisco, CA now located in Downtown Oakland.

The benefit of the process would be:

- Savings in City staff time and consultant costs by not issuing an RFQ/RFP for a PPA as compared to the City issuing its own RFQ/RFP.
- Allows the City to take advantage of the CSI rebates.
- Potential acceleration of schedule.

Estimated cost for the City to negotiate and implement the solar projects with NRG Solar is \$190,000 - \$215,000.

The major drawbacks of this option include waiving portions of the City procurement process, reducing competition in a field with an estimated 20 potential proposers. This may result in a PPA with less favorable terms to the City. Additionally, the City would incur costs for technical and financial expertise in developing and negotiating PPA contracts that would otherwise be covered by the R-REP program, it is estimated that these consultant cost range between \$50,000 - \$75,000.

Should the Council direct staff to negotiate exclusively with NRG Solar, it is recommended that the City negotiations include the following goals to protect the City and reduce the risk:

- Set the negotiating period at 30 calendar days, with the City retaining sole discretion to extend deadlines. After 30 days, the City may unilaterally terminate and conclude negotiations.
- Ensure the City will not pay for NRG Solar's cost associated with negotiating, regardless of how much cost NRG Solar incurs in conducting any preliminary investigation such as data collecting, field work or supplemental site assessments.
- Ensure the City will not be obligated to pay for roofing or roof repair.
- Reserve the City's rights to pursue other projects based on information gained during the negotiations without compensating NRG Solar.
- Utilize the CSI rebates.
- Access to tax incentives.
- Negotiate a 20 year PPA for 15 suitable sites (listed in ***Attachment A***) for solar power projects.
- Include the City's local hiring programs.

C. City RFQ/RFP Option:

This option would follow the City's procurement process to develop and publish a City RFQ/RFP to solicit proposals to provide solar power projects on City-owned facilities through a PPA. This option provides the following relative benefits:

- Uses a competitive process to solicit proposals for good pricing and terms.
- Automatically includes the City's local hiring programs.
- Allows the City to take advantage of the CSI rebates.
- Allows the City to set the schedule for the RFP/Q process.

Estimated cost for the City to conduct a City RFQ/RFP and implement the solar projects is \$230,000 - \$250,000.

The primary drawback to this option is that the City would need to budget for hiring technical and financial consultants to assist with PPA development, proposal review and negotiations, estimated between \$70,000 – \$90,000. This RFQ/RFP process may result in less favorable terms than the countywide R-REP process because the larger R-REP project pool may draw more proposers.

SUMMARY

Comparison of Options

Description	R-REP	NRG Solar	City Procurement
Number of Sites	15	15	15
System Capacity	Neutral	Neutral	Neutral
GHG Reduction Amount	Neutral	Neutral	Neutral
Rebates	Neutral	Neutral	Neutral
Tax Incentives	Neutral	Neutral	Neutral
Local Jobs	Neutral	Neutral	Neutral
Net Energy Cost Savings (per Year)	Neutral	Neutral	Neutral
Competitive/ Favorable Terms	High	Low	Medium
Consultant Costs	\$0 to \$25,000	\$50,000 to \$75,000	\$70,000 to \$90,000
Staff Cost	\$110,000	\$140,000	\$160,000

Most of the factors summarized above should result in very similar outcomes regardless of which procurement option is selected. The City can build projects of very similar scale with most contractors. NRG Solar said they will participate in R-REP, and presumably a City RFQ/RFP, therefore the City will have access to NRG Solar's pricing through the other competitive processes. Rebate and tax incentives are available to PPA contractors under all three scenarios. R-REP will include the City's local hiring programs, presumably NRG Solar would include them, and a City RFQ/RFP will include them.

The most significant determining factors are competitive/favorable terms, consultant costs, and staff cost. Net electrical savings from this work are approximately \$10,000 per year. Consultant costs for negotiating with NRG Solar or supporting a City RFP/Q are higher than for participating in R-REP.

Recommendation

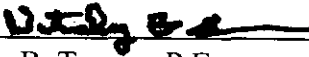
PWA is recommending participating in the County R-REP program. Working with R-REP is in the City's best interest because it provides all the benefits of the three options and is the most cost effective.

Alternate resolutions accompany this report, a resolution for exclusive negotiations with NRG Solar is attached as directed by the Public Works Committee and a Resolution to facilitate implementation through a City competitive request for qualifications/proposals process. The first alternate resolution waives the competitive request for proposal/qualification requirements; and authorizes the City Administrator to enter into an exclusive negotiation agreement for a solar power purchase agreement with NRG Solar LLC; and authorizes the City Administrator to enter into a solar power purchase agreement with NRG Solar LLC in an amount not to exceed \$3,225,000; and authorizes the City Administrator or her designee to enter into professional services agreements with solar power consultants in an amount not to exceed \$75,000; and waives the competitive request for proposal/qualification process requirements, small and local business enterprise program requirements for professional services; and appropriates related incentives; all without returning to Council.

The second resolution authorizes the City Administrator or her designee to enter into professional services agreements with solar power consultants in an amount not to exceed \$90,000; and waives the competitive request for proposal/qualification process requirements, small and local business enterprise program requirements for professional services; and authorizes the City Administrator to enter into a power purchasing agreement with a design-build contractor selected according to a competitive request for proposal/qualifications process in an amount not to exceed \$3,225,000; and appropriates related incentives; all without returning to Council.

For questions regarding this supplemental report, please contact Scott Wentworth, Energy Engineer, at (510) 238-3984.

Respectfully submitted,


Vitaly B. Troyan, P.E.
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
Susan Kattchee, Environmental Services Manager

Prepared by:
Scott Wentworth, Energy Engineer
Environmental Services Division

Attachment A: Revised List of Project Sites

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Attachment A

Projects ready for Solar System Implementation

Location	Address
Arroyo Viejo Recreation Center & Head Start	7701 Krause Ave
Charles Green Library	659 - 14th Street
DeFremery Recreation Center	1651 Adeline Street
Fire Station #8	463 - 51st Street
Firehouse #24	5900 Shepherd Canyon Rd
Firehouse #18	1700 - 50th Ave
Firehouse #19	5776 Miles Ave
Garden Center	666 Bellevue Ave
Junior Center of Art and Science	558 Bellevue Ave
Melrose Branch Library	4805 Foothill Blvd
Mosswood Recreation Center	3612 Webster Street
Studio One Art Center	365 - 45th Street
Tassafaronga Recreation Center	975 - 85th Ave
West Oakland Senior Center	1724 Adeline Street
81st Avenue Library	1021- 81st Ave

Sites with Unsuitable Roofs

Location	Address
Dimond Branch Library	3565 Fruitvale Ave
Main Library	125 - 14th Street

Sites for Future Consideration

Location	Address
Wilson Building	150 Frank H. Ogawa Plaza
Dalziel Building	250 Frank H. Ogawa Plaza
Municipal Service Center	7101 Edgewater Drive

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2013 JAN 31 PM 1:33

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO: (A) IMPLEMENT A SOLAR POWER PROCUREMENT PROJECT BY SIGNING A MEMORANDUM OF UNDERSTANDING WITH ALAMEDA COUNTY FOR THE REGIONAL RENEWABLE ENERGY PROCUREMENT PROJECT; AND (B) ENTER INTO SOLAR POWER PURCHASE AGREEMENTS WITH CONTRACTOR(S) SELECTED THROUGH THE COUNTY'S REGIONAL RENEWABLE ENERGY REQUEST FOR PROPOSALS IN AN AMOUNT NOT TO EXCEED THREE-MILLION TWO-HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$3,225,000) DURING THE TERM OF THE AGREEMENT; AND (C) APPROPRIATE RELATED INCENTIVES; ALL WITHOUT RETURNING TO COUNCIL

WHEREAS, the City's Energy and Climate Action Plan calls upon Oakland to use 62 million kilowatt-hours of electricity from renewable sources to help achieve the goal of reducing community-wide greenhouse gas emissions by 36% below 2005 levels by 2020; and

WHEREAS, the County of Alameda, in association with Joint Venture Silicon Valley and Contra Costa Economic Partnership, has established the Regional Renewable Energy Procurement (R-REP) project with the intention of installing solar panels at approximately 170 sites owned by public agencies throughout Alameda, Contra Costa, San Mateo, and Santa Clara Counties totaling up to 40 megawatts of solar energy; and

WHEREAS, the City has viable sites for renewable energy projects, capable of generating approximately ~~376~~ 300 kilowatts of power and approximately 500,000 kilowatt-hours of electricity annually; and

WHEREAS, a Power Purchasing Agreement (PPA) including related roof access agreements, will allow the City to purchase renewable energy from a contractor with maintenance provided by the contractor, at prices that may result in annual electricity costs that are less than the amount the City would otherwise pay Pacific Gas and Electric Company (PG&E), and with the option for the City to purchase the associated generation systems at fair market value at the end of the agreement; and

WHEREAS, R-REP provides participants with access to many County-solicited contractors, reduced project management cost, free technical and financial consultant assistance through the contract negotiations, reduced PPA cost by bundling projects with other participants' sites; and

WHEREAS, ~~the Oakland Municipal Code (OMC), Section 2-04.080—Cooperative Purchasing Agreement states, "Where advantageous for the city, the City Administrator may purchase supplies or services as defined in Section 2-04.010, through legal contracts of other governmental jurisdictions or public agencies without further contracting, solicitation, or formal bidding"; and~~

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 \$60,000 from the California Solar Initiative or assign them to a PPA contractor, PPA Contractors will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; therefore, now be it

RESOLVED: That it is in the best interest of the City to enter into an MOU with the County to participate in the R-REP program; and be it

FURTHER RESOLVED: the City Administrator or her designee is authorized to sign the MOU with the County; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into a PPA, in an amount not to exceed \$3,225,000 during the term of the agreement provided that annual payments are less than the amount that the City would otherwise pay PG&E and less than \$120,000 in the first year, with Contractors selected through the R-REP process without returning to Council; and be it

FURTHER RESOLVED: That related incentives be appropriated to energy projects; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized and empowered to approve any subsequent amendments, to or extensions of said agreement with the exception of those related to an increase in total compensation or the allocation of additional funds, provided that such amendments or extensions shall be reviewed by the City Attorney and filed with the City Clerk's Office; and be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be approved by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

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OAKLAND CITY COUNCIL

Option B

Approved as to Form and Legality

DRAFT

City Attorney

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO: (A) WAIVE THE COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION REQUIREMENTS; AND ENTER INTO AN EXCLUSIVE NEGOTIATION AGREEMENT FOR A SOLAR POWER PURCHASE AGREEMENT WITH NRG SOLAR LLC; AND (B) ENTER INTO A SOLAR POWER PURCHASE AGREEMENT WITH NRG SOLAR LLC IN AN AMOUNT NOT TO EXCEED THREE-MILLION TWO-HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$3,225,000) DURING THE TERM OF THE AGREEMENT; AND (C) ENTER INTO PROFESSIONAL SERVICES AGREEMENTS WITH SOLAR POWER CONSULTANTS IN AN AMOUNT NOT TO EXCEED SEVENTY FIVE THOUSAND DOLLARS (\$75,000); AND WAIVE THE FORMAL COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION PROCESS REQUIREMENTS, SMALL AND LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS FOR PROFESSIONAL SERVICES; AND (D) APPROPRIATE RELATED INCENTIVES; ALL WITHOUT RETURNING TO COUNCIL

WHEREAS, the City's Energy and Climate Action Plan calls upon Oakland to use 62 million kilowatt-hours of electricity from renewable sources to help achieve the goal of reducing community-wide greenhouse gas emissions by 36% below 2005 levels by 2020; and

WHEREAS, the City has viable sites for renewable energy projects, capable of generating approximately 376 kilowatts of power and approximately 500,000 kilowatt-hours of electricity annually; and

WHEREAS, a Power Purchasing Agreement (PPA), including related solar roof access agreements, will allow the City to purchase renewable energy from a contractor with maintenance provided by the contractor, at prices that may result in annual electricity costs that are less than the amount the City would otherwise pay Pacific Gas and Electric Company (PG&E), and with the option for the City to purchase the associated generation systems at fair market value at the end of the agreement; and

WHEREAS, NRG Solar LLC delivered an unsolicited Indicative Proposal for the City of Oakland, dated September 25, 2012 to the City for a PPA at numerous undisclosed City facilities; and

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 from the California Solar Initiative or assign them to NRG Solar LLC, and NRG Solar LLC will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; and

WHEREAS, Section 2.04.040 B 4 and 2.04.051 A, respectively of the Oakland Municipal Code (the "OMC") require the City to conduct a formal advertising and competitive Request For Qualifications/Proposals ("RFQ/RFP") selection process for professional services agreements over \$25,000; and

WHEREAS, Section 2.04.051 B of the OMC authorizes the City Council to waive the advertising and competitive RFQ/RFP selection requirement if it finds that it is in the City's best interests to do so; and

WHEREAS, the Report accompanying this Resolution provides details of minimum terms for negotiation with NRG Solar LLC; and

WHEREAS, the City can negotiate an agreement with NRG Solar LLC that is of a higher quality, with faster speed, by quickly obtaining professional services from consultants with expertise in solar power project contracting and financing to supplement the expertise of City Staff; and

WHEREAS, the most suitable consultants with the necessary expertise may not meet the requirements of the Small and Local Business Enterprise Program requirements for professional services, and

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 from the California Solar Initiative, NRG Solar LLC will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; therefore, now be it.

RESOLVED: That the Council pursuant to OMC Section 2.04.051 B, hereby finds and determines that it is in the best interests of the City to waive the formal advertising and competitive RFQ/RFP selection requirement of the OMC for a Solar Power Purchase Agreement because negotiations with NRG Solar LLC may result in better electricity pricing for the City; and be it

FURTHER RESOLVED: That the Council pursuant to OMC Section 2.04.50 1.5 and Section 2.04.051 B, hereby finds and determines that it is in the best interests of the City to waive the formal advertising and competitive RFQ/RFP selection requirements of the OMC, and the Small and Local Business Enterprise program requirements for professional services to acquire specialized technical and financial expertise in time and to support timely application to the California Solar Initiative to improve certainty of receiving incentives; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into exclusive negotiations for a power purchase agreement with NRG Solar LLC and its affiliates; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into professional services agreements in an amount not to exceed \$75,000, with consultants as necessary to support negotiations with NRG Solar LLC for power purchase agreements without returning to Council; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into a power purchase agreement with NRG Solar LLC or its affiliate in an amount not to exceed \$3,225,000 during the term of the agreement provided that annual payments are less than the amount that the City would otherwise pay PG&E and less than \$120,000 in the first year, and according to the negotiating goals in the Report accompanying this Resolution; and be it

FURTHER RESOLVED: That related incentives shall be appropriated for use in energy projects or assigned to the PPA contractor; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in the total dollar amount of the agreement; and, be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be reviewed and approved for form and legality by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to Form and Legality

DRAFT

2013 JAN 31 PM 1:33

OAKLAND CITY COUNCIL

City Attorney

RESOLUTION No. _____ C.M.S.

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO: (A) ENTER INTO PROFESSIONAL SERVICES AGREEMENTS WITH SOLAR POWER CONSULTANTS IN AN AMOUNT NOT TO EXCEED NINETY THOUSAND DOLLARS (\$90,000); AND WAIVE THE FORMAL COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION PROCESS REQUIREMENTS, SMALL AND LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS FOR PROFESSIONAL SERVICES; AND (B) ENTER INTO A POWER PURCHASING AGREEMENT WITH A DESIGN-BUILD CONTRACTOR SELECTED ACCORDING TO A FORMAL COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATIONS PROCESS IN AN AMOUNT NOT TO EXCEED THREE-MILLION TWO-HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$3,225,000) DURING THE TERM OF THE AGREEMENT; AND (C) APPROPRIATE RELATED INCENTIVES; ALL WITHOUT RETURNING TO COUNCIL

WHEREAS, the City's Energy and Climate Action Plan calls upon Oakland to use 62 million kilowatt-hours of electricity from renewable sources to help achieve the goal of reducing community-wide greenhouse gas emissions by 36% below 2005 levels by 2020; and

WHEREAS, the City has viable sites for renewable energy projects, capable of generating approximately 376 kilowatts of power and approximately 500,000 kilowatt-hours of electricity annually; and

WHEREAS, a Power Purchasing Agreement (PPA), including related roof access agreements, will allow the City to purchase renewable energy from a contractor with maintenance provided by the contractor, at prices that may result in annual electricity costs that are less than the amount the City would otherwise pay Pacific Gas and Electric Company (PG&E), and with the option for the City to purchase the associated generation systems at fair market value at the end of the agreement; and

WHEREAS, numerous contractors are available and interested in participating in a competitive solicitation for power purchase agreements; and

WHEREAS, the City can solicit proposals and execute agreements of a higher quality with faster speed by quickly obtaining professional services from consultants with expertise in solar power project contracting and financing to supplement the expertise of City Staff; and

WHEREAS, the most suitable consultants with the necessary expertise may not meet the requirements of the Small and Local Business Enterprise Program requirements for professional services, and

WHEREAS, Section 2.04.040 B 4 and 2.04.051 A, respectively of the Oakland Municipal Code (“the OMC”) require the City to conduct a formal advertising and competitive Request For Qualifications/Proposals (“RFQ/RFP”) selection process for professional services agreements over \$25,000.00; and

WHEREAS, Section 2.04.051 B of the OMC authorizes the City Council to waive the advertising and competitive RFQ/RFP selection requirement if it finds that it is in the City’s best interests to do so; and

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 from the California Solar Initiative or assign them to a PPA contractor, and PPA Contractors will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; therefore, now be it

RESOLVED: That the Council pursuant to OMC Section 2.04.50 1.5 and Section 2.04.051 B, hereby finds and determines that it is in the best interests of the City to waive the formal advertising and competitive RFQ/RFP selection requirements of the OMC, and the Small and Local Business Enterprise program requirements for professional services to acquire specialized technical and financial expertise in time and to support timely application to the California Solar Initiative to improve certainty of receiving incentives; and be it

FURTHER RESOLVED: That the City Administrator is authorized to enter into professional services agreements in an amount not to exceed \$90,000 with consultants as necessary to conduct a solicitation for power purchase agreements without returning to Council; and be it

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to enter into a power purchasing agreement in an amount not to exceed \$3,225,000 during the term of the agreement provided that annual payments are less than the amount that the City would otherwise pay PG&E and less than \$120,000 in the first year, without returning to Council; and, be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized and empowered to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in total compensation or the allocation of additional funds, provided that such amendments or extensions shall be reviewed by the City Attorney and filed with the City Clerk’s Office; and be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be reviewed and approved for form and legality by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California