



# AGENDA REPORT

**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Ashleigh Kanat  
Economic and Workforce  
Development Director

**SUBJECT:** Oakland Ice Center Solar Energy  
System Improvement Project

**DATE:** April 29, 2024

City Administrator Approval   
Jestin Johnson (May 17, 2024 10:18 PDT)

Date: May 17, 2024

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution:**

- (1) Authorizing A Reallocation Of Redevelopment Bond Funds In An Amount Not To Exceed \$671,120 For The Sharks Ice, LLC, To Manage Capital Improvements Of The Solar Energy System At The Oakland Ice Center; And**
- (2) Waiving the City's Competitive Process and Local/Small Local Business Enterprise Program Requirements; And**
- (3) Adopting California Environmental Quality Act Exemption Findings**

## **EXECUTIVE SUMMARY**

Staff recommends the reallocation of redevelopment bond funds in an amount not to exceed \$671,120.00 of to reimburse Sharks Ice, LLC (Sharks" for managing critically needed capital improvements to the existing solar energy system at the Oakland Ice Center (OIC) owned by the City of Oakland (City) pursuant to an existing 2017 management agreement between the Sharks and the City. This will reduce the carbon footprint of the OIC, reduce operating expenses, and extend the lifespan of the existing solar energy system by another twenty years. Waiving the City's competitive process and Local/Small Local Business Enterprise (L/SLBE) program requirements will allow the City to leverage an existing warranty for the current solar energy system, thereby reducing project costs.

## **BACKGROUND / LEGISLATIVE HISTORY**

### ***Facility Overview***

The OIC is located at 519 18<sup>th</sup> Street in the Uptown area of Downtown Oakland. It is a three-level, steel and concrete building constructed between 1995 and 1996 with a loan from the Oakland Redevelopment Agency (Agency). The facility contains: two ice rinks, an Olympic-sized rink (200' by 100') and a National Hockey League L-sized rink (200' by 85'); two party rooms; meeting space for group events; a dancing studio; seating for 1,500 spectators, a sound

CED Committee  
May 28, 2024

system, a fully stocked snack bar (647 square feet) and full-service pro-shop (1,213 square feet) retailing ice hockey and skating equipment and accessories. The multi-purpose ice skating facility offers a variety of recreational activities including public skating, ice hockey, figure skating, broomball, curling, speed skating and ice dancing.

**Management Agreement History and Overview**

Since July 1, 2017, the Sharks have managed and operated the OIC under a management agreement with the City, pursuant to [Resolution No. 86850 C.M.S.](#). The initial five-year term of the management agreement expired in 2022, and the Sharks requested and the City granted the first five-year administrative option. The current term of the Sharks management agreement expires on June 30, 2027, unless the second five-year administrative option is exercised and the term is further extended through June 30, 2032. **Table 1** below provides a summary of the OIC’s development, ownership, and management history.

**Table 1: History of Oakland Ice Center – Development, Ownership & Management**

<b>April 1995</b>	Agency loan of \$11 million to US Ice Ventures to develop and construct the facility; Agency enters into a long-term ground lease with US Ice Ventures.
<b>March 1996</b>	OIC construction completed and fully operational.
<b>June 1996</b>	US Ice Ventures defaults on Agency loan.
<b>May 1997</b>	Title to the facility is transferred to the Agency.
<b>1997</b>	Recreational Management Services of California (RMS) is retained by Agency as manager of facility on a temporary basis until March 2000.
<b>March 2000</b>	Agency terminates management agreement with RMS and selects Ice Specialties Entertainment Inc. (ISE, dba Iceoplex) through a limited Request for Proposals (RFP) process. An initial 2-year management agreement expired in March 2002, then held over month-to-month until October 2007.
<b>April 2006</b>	Agency issues RFP for new facility manager.
<b>2007</b>	Agency selects San Jose Arena Management, LLC (SJAM) for a three-year agreement term ( <a href="#">Resolution No. 2007-0074 C.M.S.</a> ) with the following key terms: <ul style="list-style-type: none"> <li>• Term: October 29, 2007 to December 31, 2010</li> <li>• SJAM compensation from net revenue: 70 percent of first \$150,000; 60 percent between \$150,000 and \$200,000; 50 percent over \$200,000.</li> <li>• City share of net revenue: 30 percent of first \$150,000; 40 percent between \$150,000 and \$200,000; 50 percent over \$200,000.</li> <li>• SJAM contributes \$100,000 for capital improvements over term of agreement.</li> <li>• SJAM makes monthly lease payments to City (\$2,655/month or \$31,850/year) for the Snack Bar &amp; Pro Shop. The revenues and expenses of each business are excluded from OIC operations</li> </ul>

<p><b>Oct 2010 – Jul 2017</b></p>	<p>Agency renews management agreement with SJAM, now Sharks Ice, LLC (Sharks), but under new terms more favorable to City (<a href="#">Resolution No. 2010-0084 C.M.S.</a>):</p> <ul style="list-style-type: none"> <li>• Term: December 20, 2010 to December 20, 2015, then month-to-month.</li> <li>• Sharks compensation from net revenue: 50 percent of the first \$450,000; 65 percent over \$450,000.</li> <li>• City share of net revenue: 50 percent of the first \$450,000; 35 percent over \$450,000.</li> <li>• Sharks to contribute \$40,000 per year for capital improvements.</li> <li>• City to contribute at least \$150,000 per year for capital improvements.</li> <li>• Sharks makes monthly lease payments to City (\$3,141.67/month or \$37,700/year) for the Snack Bar &amp; Pro Shop. The revenues and expenses of business are excluded from OIC operations.</li> </ul>
<p><b>July 2017 – Present</b></p>	<p>City and Sharks enter into an amended and restated management and operations agreement with the following key terms (<a href="#">Resolution No. 86850 C.M.S.</a>):</p> <ul style="list-style-type: none"> <li>• Term: July 1, 2017 to June 30, 2022 with two options to extend by five years each or through June 30, 2032.</li> <li>• Net Revenue of OIC allocated in the following order:             <ul style="list-style-type: none"> <li>○ Appropriation of a one-time Capital Investment \$3,800,000 to fund replacement of obsolete refrigeration system that will be reimbursed to the City from future net revenue, subject to interest at the rate of 4.5% per year:                 <ul style="list-style-type: none"> <li>■ 1st term year: initial \$172,455 of net revenue paid back to City,</li> <li>■ Subsequent years: initial \$372,455 of net revenue paid back to City</li> </ul> </li> <li>○ Sharks receive a fixed annual management fee of \$325,000 from net revenue</li> <li>○ \$400,000 contribution to Capital Reserve Fund in the first term year, and \$200,000 in subsequent years</li> <li>○ City and Sharks equally split remaining net revenue</li> </ul> </li> <li>• Sharks makes monthly lease payments to City for the Snack Bar and Pro Shop:             <ul style="list-style-type: none"> <li>○ During initial term: equal to \$25,000 annually</li> <li>○ During each extension period: increased by the lower of 10% or the increase in the San Francisco Area CPI compared to previous five-year period</li> </ul> </li> </ul>

As enumerated in more detail later in this report, the management agreement with the Sharks requires that they provide a significant number of community benefits to help ensure that the facility is accessible to Oakland residents, public school students, and lower-income families. These benefits include a program offering free admission and equipment for students in the Oakland Unified School District, training scholarships for local students, and a 10% admission discount for Oakland residents, among other benefits.

**Refrigeration System and Solar System**

The OIC's current refrigeration system, which makes and maintains the ice on the rinks, relies on the refrigerant R-22, which is a greenhouse gas that has been banned by the U.S. Environmental Protection Agency (EPA). Resolution No. 86850 C.M.S. appropriated \$3.8 million in redevelopment bond funds to fund replacement of the refrigeration system, based on best-available cost estimates at the time. However, the City was subsequently unable to secure bids at or below this amount and, due to ongoing inflation, replacement is currently estimated to cost approximately \$10 million.

On April 16, 2024, pursuant to [Resolution 90189 C.M.S.](#), City Council authorized staff to seek a loan of up to \$3 million from the California Energy Commission, which if awarded would expand the existing solar system at the OIC and provide additional funding toward the refrigeration system replacement. Staff are evaluating additional strategies for addressing the remaining cost of replacing the refrigeration system and will return to City Council for further direction.

## **ANALYSIS AND POLICY ALTERNATIVES**

### ***OIC Solar Energy System and Warranty Replacement of Solar Modules***

The existing solar system at the OIC is a 372-kilowatt energy system installed by SunPower and initially energized in 2005. The system originally consisted of 1,960 Sanyo HIT 190-watt DC solar modules under 20-year warranties, and two Xantrex central inverters (100-kilowatt AC and 225-kilowatt AC) under 10-year warranties.

In 2008, Xantrex was acquired by Schneider Electric, and the following year, in 2009, Sanyo Electric was acquired by Panasonic. Following these acquisitions, neither acquiring company continued to manufacture the components utilized in the OIC's solar energy system. Defects in the original Sanyo solar modules led Panasonic to perform limited module replacements and related electrical and layout changes at the OIC in 2011, 2020, and in 2021. Panasonic has now confirmed it will be performing a final and comprehensive solar module replacement of any remaining 190-watt modules for newer 190-watt or 350-watt modules. Actual work will be performed by its warranty contractor, Photovoltaics California (PVCA).

### ***Severe Malfunctioning of Central Inverter***

Since neither Xantrex nor Schneider Electronics continue to manufacture these inverters, any repairs to the inverters required replacement parts purchased from third-party marketplaces, such as eBay. However, in May 2023, the Sharks notified City staff that one of the system's inverters (Inverter B) began to severely malfunction, which required taking Inverter B offline and reducing solar energy production to half-capacity. The Sharks contracted with PVCA to investigate the issue, who then determined that Inverter B will need to be replaced. In November 2023, the Sharks stated that these impacts have created a 334,146 kilowatt increase in billed energy usage corresponding to a \$116,691 in increased annual energy costs compared to the same period in 2022.

### ***Proposed Scope-of Work for Replacement of Critical Components***

The Sharks have proposed a two-phased approach to address the needed critical improvements to the OIC's existing solar energy system. The first phase will consist of an evaluation of the OIC's roof condition, warranty replacement of the existing solar modules and

associated DC combiner box, and installation of a new monitoring system. The second phase will consist of replacing both end-of-life central inverters with new string inverters.

*Phase I: Warranty module replacement, solar monitoring system, and roof waterproofing*

At no cost to the City, Panasonic plans to complete its final solar module replacement of defective modules and related DC wiring work at the OIC. As a requirement of the warranty agreement, Panasonic requires that PVCA perform this work as its sole authorized warranty service provider. Panasonic previously performed warranty-related module replacements and associated work in 2011, as well as between 2020 and 2021. To leverage the cost savings and efficiency of having PVCA on-site for the warranty work, the City and the Sharks seek to allow that PVCA also install a new solar monitoring system to replace the defunct system currently in place.

Prior to any construction activity, the Sharks also plan to engage a building envelope consultancy firm to evaluate existing conditions of the OIC's roof and provide recommendations for pre-/post-construction roof treatments to ensure the waterproof integrity of the roof during maintenance of the solar energy system. If the consultant recommends any additional measures prior to or following replacement of the modules, the monitoring system, or the inverters, a roofing contractor will then be engaged to perform the necessary roof treatment. It's expected that any roof treatment work will likely provide future benefit for contractors requiring roof access to the system components.

*Phase II: Replacement of both existing, end-of-life inverters with new string inverters*

Phase II involves replacement of both existing 600-volt DC central inverters with 20 new 1,000-volt DC string inverters, and completing related DC wiring, as needed. Along with bringing the OIC's solar energy generation back to full capacity, this replacement is likely to extend the life of the system by another 20 years, as well as provide significant hard cost savings over the duration of their lifetime. The string inverters are often more resilient, generally easier to maintain and less costly to replace or repair than central inverters.

The recommended action would ensure the existing system is operating effectively and would complement the City's parallel effort, pursuant to Resolution 90189 C.M.S., to expand the existing system.

***Waiver of Competitive Bidding Process and Local and Small Local Business Enterprise Program Requirements***

Oakland Municipal Code section 2.04.051.B permits the Council to waive advertising and the request for proposal/qualifications (RFP/Q) requirements upon a finding that it is in the best interest of the City to do so. As stated earlier in this report, the current critical malfunctions to the OIC's solar system have resulted in significant increases to the energy costs which will result in a growing reduction to the City's net revenue share generated by the OIC. The Sharks and their solar energy consultant have also recommended that Phase I work should begin as early as May 2024, to avoid drastically increased energy costs due to warmer weather and increased temperatures expected during Summer 2024 and should immediately be followed by Phase II work.

The Sharks also predict that a competitive bidding process will introduce a significant time lag between completion of the module replacement work and installation of a new solar monitoring system, delaying the City's ability to evaluate the effectiveness of this work and determine the need for any corrective work. This lag may delay commencement of corrective work to begin outside the warranty period and result with incurring additional costs to the City.

To avoid significant reductions to City revenue from the OIC, timing for this work is of the essence. Therefore, staff recommends that it is in the best interest of the City to waive the RFP/Q process due to the timing urgency of competing critical improvements to the solar energy system.

The L/SLBE Program, [Ordinance No. 13647 C.M.S.](#), requires a minimum 50-percent (50%) participation for all professional service contracts valued at or over Fifty Thousand Dollars (\$50,000) when there are at least three certified businesses listed in the industry, trade, or profession that constitutes a major category of work; and if at least three L/SLBEs are not certified, then the requirement is either waived, or the 50% requirement may be set at a percent from 50% to 0%, but not less than 20% if at least one LBE/SLBE is certified and available. The Council may waive the City's LBE/SLBE program requirements pursuant to Part I of the Program guidelines, adopted by Ordinance No. 13647 C.M.S.

Staff recommends that City Council waive the L/SLBE program requirements due to the Sharks existing OIC management duties to the City, its specialty in managing capital projects for ice rinks, and its community benefits provided, as outlined in its management agreement with the City, with completion of Phase I and II adding to the long-term longevity of the OIC. The services to be provided by the Shark's contractors, discussed below, are of a professional, scientific, or technical and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive service.

#### *Verdera Partners*

The Sharks have proposed that their energy consultant, Verdera Partners, Inc. (Verdera), an Oakland-founded and based local business enterprise, assist both the Sharks and the City with coordinating and overseeing the design and execution of both phases of the project. Verdera not only possesses a high-level of knowledge and experience of solar energy system technology, but also offers extensive institutional knowledge of the OIC's solar energy system. Verdera began working on the OIC's solar energy system in mid-2023 and has since become well-versed with the system's current conditions, issues, and the required scope-of-work for recovery. Specifically, Verdera would be responsible to:

- Provide preliminary budgeting and planning work on behalf of the City and Sharks
- Coordinate communications between the Sharks, the City, Panasonic, PVCA, and other relevant contractors and consultants
- Provide issuance of certain project design and scope requirements
- Conduct electrical and other inspections during construction phases and at Substantial Completion
- Develop and administer RFQ and RFP to select contractor, in the event that a competitive bidding process is required for Phase II work

#### *PVCA*

As stated above, Panasonic requires PVCA to perform replacement of the modules for the cost of the work to be covered under warranty. The Sharks and Verdera have informed staff that allowing PVCA to also install the new solar monitoring system is in the best interest to the City by providing the following benefits to accelerating Phase I timeline, compared to bidding out the work to another third-party contractor:

- PVCA conducted the initial investigation and identification of the malfunctioning equipment, demonstrating advanced knowledge of OIC's current solar system and its current issue
- PVCA possesses institutional knowledge of solar energy systems that are used at the OIC due to being the warranty contractor for the current modules
- PVCA will already be on-site completing the module replacements, so there would be significant cost and timing efficiencies to utilize them to complete replacement and installation work for both Phase I and II

Verdera and the Sharks have also recommended that Phase II work be completed by PVCA for the benefits stated above, subject to their overall performance on Phase I. In the event that Verdera, Sharks, and/or the City find the PVCA's performance of Phase I work inadequate or deficient, Verdera will administer an RFQ/RFP competitive bidding process to identify and secure an alternative contractor to complete Phase II.

#### *RDH Building Science*

RDH Building Science (RDH), is the proposed consultant to assess the roof for any needed pre-/post-project treatment to the roof to ensure its water-tight integrity. RDH has expertise and experience working with building envelopes and roofing systems similar to those at the OIC.

Approval of this item would advance the Citywide priority of **economic, and cultural security** by contributing to the operational longevity of a public recreational City asset that not only provides a valuable revenue stream for the City, but community benefits for Oakland residents.

#### **FISCAL IMPACT**

A breakdown of Phase I and Phase II tasks and budget items with their estimated costs are reflected below in **Table 2** and **Table 3**, respectively. As stated earlier in this report, the existing solar modules are covered under existing warranty with Panasonic, thus replacement of the modules will not incur a cost to the City.

**Table 2: Phase I Cost Estimate Breakdown**

Description	Estimated Cost
Module repowering and combiner replacement	No cost due to warranty
New solar monitoring system	\$20,000
Roof evaluation and waterproofing treatment	\$90,000
Project management and quality assurance (by Verdera)	\$66,000
Permitting	\$10,000
<b>Phase I Subtotal</b>	<b>\$186,000</b>

**Table 3: Phase II Cost Estimate Breakdown**

Description	Estimated Cost
New inverter repowering	\$205,000
Escalation, expanded scope, quality standard allowance	\$51,200
Prevailing wage requirements	\$33,800
Owner's contingency	\$58,000
Permit fees	\$10,000
Business risk/ course of construction insurance	\$7,500
Project management and quality assurance (by Verdera)	\$87,720
RFQ/RFP competitive bidding administration (conditional on Phase I performance)	\$31,900
<b>Phase II Subtotal</b>	<b>\$485,120</b>

As reflected below in **Table 4**, the estimated cost for both phases of this work comes out to \$671,120.

**Table 4: Phase I & II Total Cost Estimate**

Description	Estimated Cost
Phase I	\$186,000
Phase II	\$485,120
<b>Phase I &amp; II Total</b>	<b>\$671,120</b>

*Redevelopment Bond Funds*

Per Section 15.4(c) of the existing Management Agreement, any project to overhaul or replace the solar panels will need to be funded from sources other than the OIC's Capital Reserve Fund.

Therefore, funding for this work will be reallocated within the Central District: TA Bonds Series 2003 Fund (5611), CIP Central District Organization (94889), from the Basement Backfill Program Project (1001677) into an Oakland Ice Center Project (number to be determined), in an amount not to exceed \$671,120. The Basement Backfill Project was established to assist Property owners with repairs to sub-sidewalk basement spaces. Since its inception in 2008, the program has experienced declines in its activities and expenditures. Staff has confirmed that the proposed \$671,120 reallocation will still leave sufficient funds in the project to ensure there are



no impacts to its delivered services or scope to meet current demands for this program. This work will have no impact on the General Purpose Fund.

By reducing operating costs, the recommended action should increase net operating income at the OIC, a portion of which is shared with the City, as described in Table 1.

There are indirect benefits from sales tax generated at the Snack Bar and Pro Shop, as well as sales taxes generated at neighboring businesses frequented by patrons of the OIC.

### **PUBLIC OUTREACH / INTEREST**

No direct public outreach was conducted in the completion of this report.

### **COORDINATION**

Economic Workforce and Development Department staff have coordinated on this agenda with the City Administrator's Office, the Office of the City Attorney, and the Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Capital improvements to the solar energy system will result in significantly reduced energy costs for the OIC, which will ultimately result in higher net revenue generated by the OIC. The OIC generates sales tax revenues to the City from food, beverage and merchandise sales. Capital improvements to the OIC will improve the functioning, appearance, and safety of the facility, which will benefit existing users and potentially attract new users who could contribute to the growth of the downtown Oakland economy.

***Environmental:*** Capital improvements to the solar energy system will create energy efficiencies and reduce greenhouse gases and other harmful emissions.

***Race & Equity:*** The OIC offers a variety of recreational services to a broad range of Oakland residents and youth who may otherwise not have access to these opportunities. The closest alternative ice sport facilities are located in Fremont and in San Francisco. In addition, the management agreement with the Sharks requires that they provide and report annually on a significant number of community benefits to ensure that use of the facility is available at lower cost to Oakland residents, public school students, and lower-income families. These benefits are described below, drawing upon data from the last seven years:

- Oakland residents receive a 10% discount on all fees and rentals. Residents take advantage of this discount roughly 22,500 times annually;
- Nearly 5,000 Oakland Unified School District (OUSD) students are served annually at the facility. Of these, at least 1,000 OUSD students get free admission and equipment, in addition to other financial and in-kind assistance (e.g., transportation);
- OIC provides free skating and rental equipment for local after-school programs at least 12 times annually;
- The facility offers scholarships for students, with 235 recipients over the seven-year period;

- OIC serves as a game venue for the local high school hockey league, and sponsors at least one OUSD high school hockey team.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

City staff have determined, after independent review and consideration, that this proposed funding agreement between the Sharks and the City to complete both Phase I and Phase II work is exempt from CEQA pursuant to Section 15301 (existing facilities) of the CEQA Guidelines.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution 1) Authorizing A Reallocation of Redevelopment Bond Funds In An Amount Not To Exceed \$671,120 For The Sharks Ice, LLC To Manage Capital Improvements Of The Solar Energy System At The Oakland Ice Center; 2) Waving the City's Competitive Process and Local/Small Local Business Enterprise Program Requirements; And 3) Adopting CEQA Exemption Findings

For questions regarding this report, please contact Brandon Wolinsky, Urban Economic Analyst IV, at (510) 238-3250.

Respectfully submitted,

Ashleigh Kanat

Ashleigh Kanat (May 15, 2024 13:58 PDT)

ASHLEIGH KANAT

Director, Economic & Workforce Development  
Department

Reviewed by:

Theresa Lopez, Development Manager  
Public/Private Development

Brendan Moriarty, Real Property Asset  
Manager

Prepared by:

Brandon Wolinsky, Urban Economic Analyst IV  
Public/Private Development