

DRAFT

CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION (1) AUTHORIZING A REALLOCATION OF REDEVELOPMENT BOND FUNDS IN AN AMOUNT NOT TO EXCEED SIX HUNDRED SEVENTY-ONE THOUSAND ONE HUNDRED TWENTY DOLLARS (\$671,120) FOR THE SHARKS ICE, LLC, TO MANAGE CAPITAL IMPROVEMENTS TO 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

WHEREAS, the City of Oakland (the "City") owns the Oakland Ice Center ("OIC"), which is located at 519 18th Street in the Central District Redevelopment Project Area; and

WHEREAS, on December 20, 2010, the City entered into a five-year Management Agreement ("2010 Agreement") with San Jose Area Management, LLC ("SJAM"), a wholly-owned subsidiary of Sharks Sports & Entertainment, LLC ("SSE") for the operation and management of the OIC, which expired on December 20, 2015, but pursuant to its terms, the 2010 Agreement remained in effect on a month-to-month basis under the same terms; and

WHEREAS, SJAM successfully managed the OIC since first assuming management in October 29, 2007, generating an annual cash flow to the City from the Oakland Ice Center ("OIC") operations, and maintaining community outreach and accessibility to OIC programs and services; and

WHEREAS, during the year ending June 30, 2014, SJAM assigned its rights and obligations under the 2010 Agreement to Sharks Ice, LLC (the "Sharks"), another wholly owned subsidiary of SSE; and

WHEREAS, effective on July 1, 2017, the City and the Sharks entered into a new Management Agreement ("2017 Agreement"), for the OIC; and

WHEREAS, the initial term length of the 2017 Agreement was five years and provided for two administrative five-year extension options; and

WHEREAS, on December 9, 2021, the Sharks requested and the City granted the first five-year option, thereby extending the term of the 2017 Agreement to June 30, 2027; and

WHEREAS, the OIC possesses a 372-kilowatt solar energy system that was initially installed and energized in 2005; and

WHEREAS, the solar energy system originally consisted of 1,960 190-watt Sanyo HIT DC solar modules that are under a 20-year warranty, and two Xantrex central inverters under a 10-year warranty; and

WHEREAS, following the acquisition of Xantrex by Schneider Electric and Sanyo Electric by Panasonic in 2008 and 2009, respectively, neither acquiring company continued to manufacture the components utilized by the OIC's solar energy system; and

WHEREAS, defects in the original Sanyo solar modules, which are still covered under their 20-year warranty, led Panasonic to perform limited module replacements and related electrical layout changes at the OIC in 2011, 2020, and in 2021; and

WHEREAS, Panasonic has confirmed it will be performing its final warranty replacement of the remaining original 190-watt Sanyo solar modules; and

WHEREAS, per the warranty agreement, replacement of the modules is to be performed by Photovoltaics California ("PVCA"), Panasonic's warranty contractor; and

WHEREAS, in 2023, one of the two original central inverters experienced a severe malfunction and was taken offline, which caused a reduction of energy production to half-capacity, significantly increased billed energy usage and corresponding energy costs, and ultimately reduced the City's share of net revenue generated by the OIC; and

WHEREAS, the Sharks contracted with PVCA to investigate the issue, who then determined that the malfunctioning inverter would need to be replaced; and

WHEREAS, to address these critical capital improvements to the solar energy system, the Sharks has proposed completing the warranty replacement of the remaining original 190-watt modules, installing a new solar monitoring system to replace the existing obsolete system, and evaluating the current condition of the OIC's roof, which may result in additional roof treatments if recommended prior to any additional work to the solar energy system ("Phase I"); and

WHEREAS, following the completion of Phase I, the Sharks has proposed replacement of both original, end-of-life Xantrex central inverters with 20 new string inverters along with performing as-need DC wiring associated with installation of the new string inverters ("Phase II"), which is expected to extend the life of the OIC's solar energy system by 20 years, as well as provide significant hard cost savings over the duration of its lifetime; and

WHEREAS, it is in the best interest to the City to complete both Phase I and Phase II (together the "OIC Solar Project") prior to the Summer 2024 season, as the increased temperature is expected to significantly increase energy usage and costs, which will further reduce net revenue to the City; and

WHEREAS, Oakland Municipal Code section 2.04.051.B permits the City 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; and

WHEREAS, in order to avoid significant delays given the timing urgency for completing the OIC Solar Project, staff recommends that it is in the best interest of the City to waive the RFP/Q process and allow selection of the contractor required for warranty coverage, as well as to allow contractors and consultants possessing in-depth knowledge of the existing conditions and recovery plan to immediately begin work; and

WHEREAS, the Local /Small Local Business Enterprise (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 L/SLBE is certified and available; and

WHEREAS, the City Council may waive the City’s L/SLBE program requirements pursuant to Part I of the Program guidelines, adopted by Ordinance No. 13647 C.M.S.; and

WHEREAS, staff also recommend that the City Council waive the L/SLBE program requirements, based on the Sharks specialized experience in managing capital projects for ice rinks and its notable community benefits to the Oakland community. Completion of the OIC Solar Project contributes to the operational longevity of the OIC; and

WHEREAS, the services to be provided by the Sharks contractors 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; and

WHEREAS, the 2017 Agreement contemplated that any project to overhaul or replace the solar panel will need to be funded from sources other than the OIC’s Capital Reserve Fund; now, therefore, be it

RESOLVED: That the City Council hereby reallocates Central District Redevelopment bond funds in an amount not to exceed Six Hundred Seventy-One Thousand One Hundred Twenty Dollars (\$671,120) to fund the OIC Solar Project; and be it

FURTHER RESOLVED: That the funding is being reallocated from the Central District: TA Bonds Series 2003 Fund (5611), CIP Central District Organization (94889), Basement Backfill Program Project (1001677) into an Oakland Ice Center project to be determined within the same Fund and Organization, in an amount not to exceed Six Hundred Seventy-One Thousand One Hundred Twenty Dollars (\$671,120) for the purposes of funding the OIC Solar Project; and be it

FURTHER RESOLVED: That the City finds and determines, after independent review and consideration, that the authorization to enter into a funding agreement with the Sharks, its contractors and subcontractors for completion of the OIC Solar Project is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 21080.35 of the California Public Resources Code and CEQA Guidelines Section 15301 (existing facilities) and Section 15308 (protection of the environment); and be it

FURTHER RESOLVED: That any and all documents necessary to effectuate the intent of this Resolution shall be reviewed and approved as to form and legality by the City Attorney prior to execution by the City Administrator and a copy shall be filed with the City Clerk; and be it

FURTHER RESOLVED: That the City Administrator is authorized to complete all required negotiations, certifications, assurances, and documentation required with respect to funding the OIC Solar Project, except for any increase in the reallocated amount without returning to the City Council.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California