

**THE UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY
COMMISSION AGENDA ITEM**

SUBJECT: SPLOST 2020 Project 03, Classic Center Arena – Solar Energy Procurement Agreement (SEPA) Construction Services

DATE: August 22, 2022

BUDGET INFORMATION:

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| | | |
|----------|----------------|--------------------------------|
| REVENUE: | \$ 33,320,000 | SPLOST 2020 Project 03 Funding |
| | \$ 49,425,110 | Revenue Bond Series 1 |
| | \$ 19,700,000 | Private Funding Sources |
| | \$ 30,000,000 | Revenue Bond Series 2 |
| | <hr/> | |
| | \$ 132,445,110 | Total Revenue Available |

EXPENSES:

| | | |
|----------|----------------|---|
| CAPITAL: | \$ 112,054,678 | Expensed or Encumbered |
| | \$ 4,170,846 | Designated Fixtures, Furnishings & Equipment |
| | \$ 2,675,000 | Designated Classic Center Portion of Parking/ Plaza |
| | \$ 8,950,000 | Designated Construction |
| | \$ 1,548,399 | Designated Testing, Misc., Commissioning & PM Fees |
| | \$ 320,846 | Designated Public Art |
| | \$ 2,505,341 | Designated Design & Construction Contingency |
| | \$ 220,000 | Designated Design and Construction Admin. Services |
| | <hr/> | |
| | \$ 132,445,110 | Total Project Budget |

FUNDING SOURCE: SPLOST 2020 Project 03, Revenue Bond Financing, and Private Funding

COMMISSION ACTION REQUESTED ON: October 4, 2022

PURPOSE:

To request that the Mayor and Commission:

- a. Approve the selection of Cherry Street Energy to provide Solar Energy Procurement Agreement (SEPA) Construction Services at an amount not to exceed \$(*To be Determined*); and
- b. Authorize the Mayor and appropriate staff to execute all related documents.

HISTORY:

1. On November 11, 2018, the Classic Center Authority (CCA) submitted to ACCGov a Project Proposal for consideration as part of the SPLOST 2020 Program.

2. On January 28, 2019, the Classic Center Arena Project 81, was presented to the SPLOST 2020 Citizen Advisory Committee with a funding request of \$58,879,000.
3. On June 4, 2019, CCA presented a revised Classic Center Arena Project. The revised project included potential private funding partnerships with a Hotel, a Senior Condominium, and Parking Deck. SPLOST 2020 funding request was reduced to \$37,000,000.
4. On July 10, 2019, at a regularly scheduled work session, Classic Center Authority representatives presented a revised Classic Center Arena Project to the Mayor & Commission (M&C), which included a reduced SPLOST 2020 request of \$34,000,000.
5. On July 18, 2019, the M&C approved the Proposed Referendum Project List, including the Classic Center Arena at a reduced project value of \$34,000,000 with the remaining needed project funds coming from Revenue Bonds backed by the Unified Government of Athens-Clarke County (ACCGov) and the revenue from future development of ACCGov property adjacent to the Classic Center.
6. On August 6, 2019, the M&C approved the SPLOST 2020 Program Referendum, which included the Classic Center Arena (Project 03) as a component. On November 5, 2019, Athens-Clarke County voters approved the SPLOST 2020 Program Referendum. This Referendum included the Classic Center Arena (Project 03). The Referendum also included the approval of the issuance of general obligation debt to help fund the Classic Center Arena (Project 03) and to facilitate the construction of the Project within the first few years of the SPLOST 2020 Program.
7. On January 7, 2020, a lease agreement between ACCGov and CCA was presented to the M&C for consideration. The proposed lease outlined a 50 year extension of the CCA's lease to include the land for the new Arena as well as the transfer of land and air rights above the Classic Center auto-bridge to ownership by the CCA for the purpose of developing a hotel.
8. On February 4, 2020, M&C approved a resolution to regulate and provide for the issuance of \$26,660,000 in aggregate principal amount general obligation bonds, as authorized by a vote of the qualified voters in a referendum held November 5, 2019. M&C also established the SPLOST 2020 Capital Projects Fund and amended the FY20 operating and capital budget of ACCGov to establish the budget for the following three SPLOST 2020 projects:
 - Project 01, Facilities Space Modernization
 - Project 02, Affordable Housing
 - Project 03, Classic Center Arena
9. On February 18, 2020, the Intergovernmental Agreement for the land lease between ACCGov and the CCA was approved by the M&C. Included in this agreement was an "Exhibit E" – Office of Sustainability Renewable Energy Recommendations that details the Solar Power requirements for the Classic Center Arena. This recommendation was generated and

signed off by Andrew Saunders, then ACCGov Sustainability Officer, page 21 of **Attachment 1**.

10. In September 2020, ACCGov Manager Williams selected the User Group Members to help ensure ACCGov long terms goals are promoted during the Project Development process. The User Group Members are:
 - David Barbe
 - Dexter Fisher
 - Chantel Dunham
 - Andrew Saunders
 - Smith Wilson
 - Paul Cramer
 - Robert Cheshire (ex-officio)
11. On December 1, 2020, M&C approved combining the Program Management budgets from all projects into a single Program Management Budget, setting the Classic Center Arena SPLOST 2020 budget at \$33,320,000.
12. On February 2, 2021, M&C approved the Tier Funding Schedule thereby establishing the SPLOST 2020 funding schedule for the Classic Center Arena project.
13. On February 2, 2021, M&C approved Perkins & Will / Smallwood Design as the selected Project Designer for the Classic Center Arena project.
14. On April 6, 2021, M&C approved JE Dunn Construction Company as the selected Construction Manager at Risk Contractor for the Classic Center Arena project.
15. On April 16, 2021, Southface Institute responded to ACCGov's solicitation for a proposal for technical and procurement services to aid in pursuit of solar energy facilities for the Classic Center Arena.
16. On April 23, 2021, the Southface proposal was reduced to allow CCA procurement to work with Southface as a technical consultant to ACCGov and CCA on solar for the Classic Center Arena , and the decision was made to issue a SEPA solicitation under this more economical structure.
17. On May 10, 2021, the ACAC approved a recommendation to the M&C in accordance with Athens-Clarke County Code Ordinance, Section 1, Title I, Chapter 1-25-6, additional Funding for Public Art, that SPLOST 2020 Project 03 - Classic Center Arena is appropriate for public art.
18. On June 1, 2021, the M&C unanimously approved the Project Concept and updated budget with order of magnitude pricing of \$109,441,278 for the SPLOST 2020 - Project 03 Classic Center Arena.

19. On July 16, 2021, a Request for Qualifications (RFQ) for Solar Energy (SEPA) Construction Services for the Classic Center Arena was released by the Classic Center Authority and ACCGov in accordance with the ACCGov procurement process.
20. On August 3, 2021, the M&C approved conveyance and incorporation for 1.08 acres between Hickory and Willow streets into the existing Intergovernmental Agreement between ACCGov and The Classic Center Authority that had been approved by the M&C on Feb. 18, 2020 (History # 9).
21. On August 13, 2021, Statements of Qualifications were received from the following firms for the Solar Energy (SEPA) Construction Services RFQ:
 - Cherry Street Energy;
 - Creative Solar;
 - Johnson Controls;
 - TRANE US; and
 - Velo Solar.
22. The evaluation criteria utilized by the Evaluation Team included the following:
 - Stability and resources of the submitting firm;
 - Firm's relevant experience and qualifications; and
 - Firm's apparent suitability to provide services for project.
23. On August 20, 2021, the CCA issued finalist notifications to the following firms:
 - Cherry Street Energy;
 - Johnson Controls; and
 - TRANE US.
24. On September 7, 2021, the M&C approved the schematic design, the updated total project budget of \$116,705,055, proposed A/E contract amendment, bond financing, and authorized an early Guaranteed Maximum Price (GMP) based on 75% construction drawings.
25. On September 9, 2021, the ACC/CCA Selection Committee chose Cherry Street Energy as the highest scoring finalist to pursue SEPA Proposal for the CCA & Arena.
26. On October 5, 2021, the M&C approved the initial bond financing issuance of \$55,000,000 and associated Intergovernmental Agreement. During the work session for the October vote, the M&C was made aware that a 2nd bond issuance would be coming in the future.
27. On January 4, 2022, the M&C approved the following actions:
 - Increased the Classic Center Arena Project Budget to \$135,655,498, assuming a second bond issuance;

- Moved the Future Energy/HVAC System financing of approximately \$10M into the new budget amount; and,
 - Authorized staff to negotiate the GMP contract with JE Dunn for a Not to Exceed amount of \$107M (based on 75% complete design).
28. On January 12, 2022, JE Dunn submitted their GMP for the cost of construction for the Classic Center Arena based on the 75% CDs.
 29. On January 14, 2022, Cherry Street Energy submitted its SEPA proposal for the CCA and Arena, after weeks of detailed studies and review of facilities and plans.
 30. Prior to the award of the JE Dunn GMP, based on the reductions in anticipated private funding and the rise in interest rates, CCA staff began working under a self-imposed total project budget reduction from the M&C approved (History #18) budget of \$135,655,498 to \$132,445,110 in an effort to reduce the total project cost.
 31. On February 2, 2022, JE Dunn was issued a Notice to Proceed for the Classic Center Arena project, and the GMP Amendment was executed for \$102,400,000.
 32. In February 2022, JE Dunn mobilized to the site.
 33. On March 11, 2022, additional geo-technical work began by JE Dunn's civil contractor to more closely identify the depth of and thereby quantity of rock to be excavated. A portion of the additional geo-technical work was needed for additional areas as a result of design changes made during the value engineering efforts (e.g. revised service drive from Foundry Street to Willow Street and revised stormwater design locations).
 34. On March 22, 2022, the additional geo-technical work was completed and the extent of rock needing to be removed from the site was estimated and determined to be approximately 9,900 cubic yards. Because the cost and time of rock excavation had been moved out of the GMP to the allowances, JE Dunn notified ACCGov that the rock excavation would create an increase in contract time and cost.
 35. Between March 14, 2022 and April 14, 2022, the design team worked through design revisions to reduce the amount of rock excavation required by approximately 34% to 6,500 cubic yards.
 36. On March 28, 2022, JE Dunn notified ACCGov that schedule and cost impacts would be incurred due to the amount of rock that had been identified during additional borings by the civil contractor. Since this notification, JE Dunn, their subcontractors, and the design team have worked collaboratively to mitigate the amount of rock that would need to be blasted and removed from the jobsite.
 37. On March 30, 2022, JE Dunn presented their updated pricing based on the 100% CD's. The

100% pricing increased the construction cost by a net of \$2.7 million, mainly due to not achieving the targeted Value Engineering for the HVAC, plumbing, and sitework trades, and cost escalation.

38. On April 4, 2022, JE Dunn began the pre-blast survey work and drilling rock in anticipation of blasting.
39. On May 27, 2022, JE Dunn presented a delay claim notice in the amount of \$490,325 for delays caused by the additional rock and contaminated soil encountered. This portion of the claim has been reviewed and settled for the amount of \$450,859. A subsequent delay claim will likely be submitted for an additional \$400,000 +/-.) The cost of this claim for extended general conditions is included in the requested Change Order #1 amount for increasing the Owner Controlled Contingencies. The final amount of this claim is being reviewed and evaluated against the terms of the contract by staff and outside counsel.
40. On June 8, 2022, rock blasting work began on the project and was completed in mid-September 2022.
41. On June 14, 2022, CCA Executive Director Paul Cramer presented the proposed Change Order #1, proposed second revenue bond issuance, and a proposed Special District Tax related to hotels to the M&C at the regularly scheduled Work Session. The change order as presented included all anticipated costs for rock and dirt removal, disposal, and delays, as well as the cost referenced in item 9 above.
42. On June 24, 2022, ACCGov Manager Williams issued a Notice of Proposed Administrative Action (NOPAA) to the M&C providing detailed information on the project status, pending use of the Owner Controlled Contingency, and required activities to continue construction to avoid costly delays.
43. On July 5, 2022, a Special Called Meeting with the M&C took place, and the JE Dunn Change Order Agenda Report was approved.

FACTS & ISSUES:

1. To meet the operational and business needs of the CCA, the CCA highly desires that the SPLOST 2020 Project 03 - Classic Center Arena to be completed by no later than fall of 2023, but delays may push substantial completion to early Spring 2024. This schedule is critical as funding sources are connected to the date, and it is required to accomplish the promises of room nights, and economic generation to the small businesses of the community. The approval of Solar Energy (SEPA) Construction Services, during this M&C Agenda Cycle is critical to the project staying on schedule.
2. The Solar Energy Procurement Agreement (SEPA) is a long-term agreement in which the provider owns, the (appx. \$1.7M) system and is responsible for all permitting, installation,

maintenance and decommissioning, and ACCGov/CCA buys the solar power for a specified term.

3. Statements of Qualifications were received (History #21) from the following firms for the Solar Energy (SEPA) Construction Services RFQ:
 - Cherry Street Energy;
 - Creative Solar;
 - Johnson Controls;
 - TRANE US; and
 - Velo Solar.

4. The evaluation criteria utilized by the Evaluation Team included the following:
 - Stability and resources of the submitting firm;
 - Firm’s relevant experience and qualifications; and
 - Firm’s apparent suitability to provide services for project.

5. Based on the above scoring criteria, Cherry Street Energy was the highest scoring firm. Therefore, the Evaluation Team recommends Cherry Street Energy being awarded the SEPA with a not to exceed buydown of (*\$To be Determined*)>

6. The Cherry Street Solar Energy proposal for a SEPA outlines extensive coverage of both the Arena roof and that of the existing Grand Hall roof.

7. The total energy generation is estimated at 1,221 MWh per year, or a 10.2% energy offset per year. This would have an operational financial savings of \$1.2 million over the 30-year life of the solar panels. In order to fully achieve these savings, an initial capital investment buydown (under an Advanced Payment Option of the SEPA arrangement) could help the CCA to offset the difference between the per kilo-watt hour rate that would be purchased from Cherry Street Energy versus energy from Georgia Power over the 30 years of the project. The project would represent the one of the largest public solar facility construction projects in the history of Athens-Clarke County.

8. Below is a brief overview of the current proposed project schedule, actual where completed, and proposed current revisions with no acceleration:

| | |
|---------------------------------------|---------------|
| • GMP Pricing on 75% CDs | January 2022 |
| • GMP Approval | January 2022 |
| • Start of Construction | February 2022 |
| • Construction Substantial Completion | March 2024 |
| • Anticipated Start of Booked Events | May 2024 |

9. This recommendation supports the following ACCGov Strategic Plan Goal & Strategy: Identify and Close Gaps in Partnership with the Community Goal, Strategy A:
 - *Follow through on commitment to 100% Clean and Renewable Energy resolution*

- *Embed recommendations from the adopted 100% Clean and Renewable Energy*
 - *Expand the use of solar in order to reduce reliance on non-renewable energy sources.*
 - *Assess feasibility of renewable or regenerative deployments for ACCGov facilities.*
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OPTIONS:

1. Mayor and Commission:
 - a. Approve the selection of Cherry Street Energy to provide Solar Energy Procurement Agreement (SEPA) Construction Services at an amount not to exceed \$(*To be Determined*); and
 - b. Authorize the Mayor and appropriate staff to execute all related documents.
 2. Mayor and Commission deny approval of selection of Cherry Street Energy to provide Solar Energy (SEPA) Construction Services at an amount not to exceed \$(*To be Determined*).
 3. Mayor and Commission defined option.
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DEPARTMENT RECOMMENDED ACTION: Option #1a & b

DEPARTMENT: Office of the Manager – SPLOST Program Management
Prepared by: Ryan Moot, SPLOST Project Administrator



**Robert Cheshire, SPLOST
Capital Projects Director**

September 15, 2022

Date:



**Paul Cramer, Classic Center
President & CEO**

September 15, 2022

Date:

ADMINISTRATIVE COMMENTS:

ADMINISTRATIVE RECOMMENDATION: Option #1 a & b



Manager

September 13, 2022

Date:

ATTACHMENTS:

Attachment 1