


CITY COUNCIL ACTION REQUEST

Department: Public Works	CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action.	Coordination: City Attorney's Office and City Manager's Budget Office	Dept. Approval: /s/ Matt Loesch
Council District: 7			CMO Approval:  10/11/23

SUBJECT: TERMINATING SOLAR POWER PURCHASE AGREEMENT AND DECOMMISSIONING THE SOLAR PANELS AT THE SAN JOSE MUNICIPAL WATER SYSTEM OFFICE

RECOMMENDATION:

Adopt a resolution authorizing the City Manager or designee to negotiate and execute an agreement terminating the solar power purchase agreement with Tesla (formerly SolarCity) that enables the removal of the solar photovoltaic system at the San José Municipal Water System Office and provides for the termination fee payment from the City in the amount of \$113,823.

BASIS FOR RECOMMENDATION:

On January 10, 2012, the City entered into a Power Purchase Agreement with SolarCity Corporation, now known as Tesla, to purchase solar energy at the San José Municipal Water System Office for a 20-year term. Under the terms of the agreement, if the City decides to end the contract before the 20-year term, the City is responsible to pay Tesla the termination value for the contract year, based upon an amortization schedule, based on the original date of system install, as set out in the agreement.

The construction started for the 9813 - San José Municipal Water System New Offices Project on September 25, 2023, which will include demolishing the current San José Municipal Water System Office buildings and surrounding structures. The carport where the Tesla solar photovoltaic system is located interferes with the demolition activities and needs to be removed to not delay the construction of the new offices. Additionally, the office buildings will have a larger solar photovoltaic system installed.

The agreement with Tesla provides for the payment by the City of \$113,823 for termination beginning October 2023, per the agreement's amortization schedule. Equipment will be returned to Tesla, who will arrange dismantling the array and review if it can be reused; if it cannot be reused, it will be sent for recycling.

Staff recommends that the City Manager or designee terminates the Power Purchase Agreement with Tesla at the San José Municipal Water System Office and authorize payment of the early termination fee of \$113,823, so as to not delay the progress of the construction of the new office buildings project.

Commission Recommendation/Input: No Commission recommendation or input is associated with this action.

COST AND FUNDING SOURCE:

1. Project Budget:

San José Muni Water New Offices Project Total Budget:	\$41,011,104.00
Estimated Total Construction Project Cost:	- \$37,900,000.00
Solar Panel Termination Fee	- \$ 113,823.00
Remaining Budget:	\$ 2,997,281.00

2. Source of Funding: 500 – Water Utility Capital Fund

Fund	Appn	Appn. Name	Total Appn.	Amt. for Fee	2023-2024 Proposed Capital Budget Page *	Last Budget Action (Date, Ord. No.)
500	421C	Water Resources Administration and Operations Facility	\$41,011,504	\$113,823	289	6/20/2023 30933

* The 2023-2024 Adopted Capital Budget was approved on June 13, 2023, by the City Council and adopted on June 20, 2023.

FOR QUESTIONS CONTACT: Walter Lin, Deputy Director, at (408) 535-1298