



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch

SUBJECT: See Below

DATE: August 18, 2025

Approved

Date:

8/21/2025

COUNCIL DISTRICT: 3

SUBJECT: Report on Bids and Award of Contract for the 10087 - Center for the Performing Arts Chiller, Cooling Tower and Boiler Replacement Project

RECOMMENDATION

- (a) Report on bids and award of contract for the construction of 10087 - Center for the Performing Arts Chiller, Cooling Tower and Boiler Replacement Project to the lowest responsive, responsible bidder, Mesa Energy Systems Inc., for the base bid and Bid Alternate No. 1 in the amount of \$5,940,284; and
- (b) Approve a 15% contingency in the amount of \$891,043.

SUMMARY AND OUTCOME

This memorandum summarizes the bids received and requests award of a contract to Mesa Energy Systems Inc. for the construction of the 10087 - Center for the Performing Arts Chiller, Cooling Tower and Boiler Replacement Project (Project). The Project will replace the existing aging chiller, cooling tower and boilers at the Center for the Performing Arts (Attachment A - Location Map – 10087 - Center for the Performing Arts Chiller, Cooling Tower and Boiler Replacement). Approval of a 15% contingency will provide funding for any unanticipated work necessary for the proper completion or construction of the Project.

BACKGROUND

The Project is located within the Center for Performing Arts facility at 255 South Almaden Boulevard, in San José California. Originally built in 1969, the facility's cooling

and heating systems are original to the building and have far exceeded their expected 20-year service life.

During the last five years, the main cooling systems' components, the chiller and the cooling tower have been out of operation numerous times and have required repeated repair due to a variety of issues.

In 2023, staff conducted an evaluation of the building's cooling and heating systems, as well as the condition of the main electrical switchboard. The assessment concluded that the cooling system and main switchboard required immediate replacement due to their poor condition and lack of reliability. In addition, replacement of the boilers was strongly recommended due to their age and inefficiency.

The base bid for the Project includes the installation of a new chiller, a new cooling tower, a main electrical switchboard, two chilled water pumps, two condenser water pumps, and a new control system.

To enhance system redundancy and address aging boiler infrastructure, Bid Alternate No. 1 was developed as an addition, should funding allow. This alternate includes a second chiller and two high-efficiency boilers, providing improved reliability and energy performance.

Project construction is expected to begin in October 2025, with completion estimated by September 2027. The extended timeline accounts for long-lead items, such as the electrical main switchgear and the chillers, both of which currently have an approximate lead time of nine months.

ANALYSIS

Bid Results

Bids were opened on June 26, 2025, with the following results:

<u>Contractor</u>	<u>Base Bid</u>	<u>Bid Alt. Total</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Environmental Systems, Inc. (Santa Clara) (non-responsive)	\$3,873,000	\$1,775,000	\$5,648,000	(\$602,000)	(10)

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<u>Contractor</u>	<u>Base Bid</u>	<u>Bid Alt. Total</u>	<u>Total Bid</u>	<u>Variance Amount</u>	<u>Over/(Under) Percent</u>
Mesa Energy Systems, Inc. (San Leandro)	\$3,703,935	\$2,236,349	\$5,940,284	(\$309,716)	(5)
Engineer's Estimate	\$4,250,000	\$2,000,000	\$6,250,000	--	--
Western Allied Mechanical (Union City) (non-responsive)	\$4,998,299	\$2,675,095	\$7,673,095	\$1,423,394	23

Procurement Issues

The bid submitted by Environmental Systems, Inc. was deemed non-responsive for failing to submit a California Air Resources Board (CARB) Off-Road Regulation Certificate(s) of Reported Compliance for any designated subcontractor with fleets subject to such regulations. Western Allied Mechanical was deemed non-responsive for failing to submit a CARB Off-Road Regulation Certificate(s) of Reported Compliance for its own fleet. Western Allied Mechanical's bid was also deemed non-responsive for failing to meet the City of San José's (City) experience requirements and for failing to provide unit prices for every line item in the Schedule of Quantities.

Since 2008, CARB has regulated certain types of construction vehicles through the In-Use Off-Road Diesel-Fueled Fleets Regulation (Off-Road Regulation). The Off-Road Regulation requires contractors and other fleet owners to reduce their emissions by retiring older vehicles and replacing the retired vehicles with newer vehicles, repowering older engines, or installing verified diesel emission control strategies in older engines; and by restricting the addition of older vehicles to fleets.

In 2022, the CARB approved amendments to the Off-Road Regulation aimed at "[establishing] a proactive check at the onset of a project or at contract renewal to encourage fleets to comply with the regulation...[and] also safeguard against the unfair monetary advantage of non-compliance and thus help level the playing field for all fleets.¹" The amendments, which went into effect January 1, 2024, require public agencies to obtain a valid Off-Road Certificate of Reported Compliance for the fleets and subcontractors that are listed in the contract. The certificates must be obtained by the public agency prior to entering into a public works contract.

¹ CARB Amendments to the In-Use Off-Road Diesel-Fueled Fleets Regulation website: <https://ww2.arb.ca.gov/resources/fact-sheets/fact-sheet-contracting-requirements>

In accordance with the Off-Road Regulation, the City has, since January 2024, required that bidders provide CARB compliance documentation with each bid.

On July 3, 2025, the City issued a notice of intent to award notifying Environmental Systems, Inc. that its bid was non-responsive and stating the City's intent to award the contract to the lowest responsive, responsible bidder, Mesa Energy Systems, Inc. On July 10, 2025, Environmental Systems, Inc. submitted a written protest to the City (Attachment B – Protest submitted by Environmental Systems, Inc.) requesting that the City waive the irregularities in its bid and deem Mesa Energy Systems, Inc.'s bid non-responsive. On July 16, 2025, Mesa Energy Systems, Inc. submitted a written response to Environmental Systems, Inc.'s protest (Attachment C – Mesa Energy System, Inc.'s response to Environmental Systems, Inc.'s Bid Protest). On July 22, 2025, the City's Public Works Department responded to Environmental Systems, Inc. by declining its request and stating that the City would continue to recommend award to Mesa Energy Systems, Inc. (Attachment D – City's response to Environmental Systems, Inc.'s Bid Protest).

Bid Price Analysis

Section 3-1.01D of the City of San José Special Provisions outlines the method for determining the low bid when bid alternates are included. Bid alternates are added to the base bid until reaching the specified ceiling price. The low bidder will be the bidder who's total either (1) includes the greatest number of bid alternates without exceeding the ceiling or (2) offers the same number of alternates at the lowest price. If adding the first alternate to the base bid exceeds the ceiling for all responsive bidders, the low bid is determined by the base bid alone.

For this Project, the ceiling price was set at \$6,750,000. The low bid was determined by adding the base bid and Bid Alternate No. 1. Two bidders, including Mesa Energy Systems, Inc., remained under the ceiling; one bidder exceeded it. Mesa Energy Systems, Inc. was the only responsive bidder under the provisions of Section 3-1.01D and was determined to be the low bidder. The bid was 5% below the Engineer's Estimate for the base bid plus Bid Alternate No. 1. Staff finds the bid submitted by Mesa Energy Systems Inc. competitive and reasonable for the scope of work.

Section 3-1.01D also specifies that the City, after identifying the low bidder, may elect to award the base bid and any combination of bid alternates to the low bidder, even if the resulting contract amount no longer represents the lowest total price for the particular items chosen. In this case, the City will award the base bid and Bid Alternate No. 1 to Mesa Energy Systems, Inc.

Contractor Responsibility Analysis

Mesa Energy Systems Inc. has successfully completed projects of similar scope for the City over the past 10 years including the 7458 - Police Administration and Communications Buildings (PAB/C) Chiller Replacements Project and the 7664 - Civic Auditorium Air Conditioning Project.

Contingency

San José Municipal Code Section 27.04.050 provides for a standard contingency of 15% on all Public Works contracts involving the renovation of a building or buildings. The standard 15% contingency is appropriate for this Project.

Wage Theft Prevention Policy Check

The Department of Public Works' Office of Equality Assurance reviewed the bidders for compliance with the City's Wage Theft Prevention Policy on June 26, 2025, and again on July 23, 2025. No wage theft issues were identified.

Project Labor Agreement Applicability

The City's Project Labor Agreement is applicable to this Project as the Engineer's Estimate is over \$1.21 million.

Local and Small Business Analysis

The recommended contractor is not a local or a small business enterprise. However, one local business is listed as a subcontractor. Statewide Roofing (San José) will be performing roofing work valued at approximately \$10,000.

EVALUATION AND FOLLOW-UP

No additional follow-up action with City Council is anticipated at this time.

COST SUMMARY/IMPLICATIONS

This Project supports the Strategic Support City Service Area goal to strategically invest in people, technology, and assets. The replacement chiller, boilers, pumps, cooling tower and controls will provide essential energy-efficient units and new controls to meet the current code and achieve energy savings goals. This Project will have no net operation and maintenance costs.

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1. TOTAL COST OF PROJECT:

Project Delivery*	\$1,075,000
Construction**	5,940,284
Contingency	891,043

TOTAL PROJECT COSTS	\$7,906,327
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Prior Years' Expenditures and Encumbrances	\$754,357
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TOTAL REMAINING PROJECT COSTS	\$7,151,970
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*Project delivery includes \$618,000 for design services and \$457,000 for construction management and inspection services.

**Total construction cost includes base bid and Bid Alternative No.1.

2. COST ELEMENTS OF AGREEMENT/CONTRACT AS RECOMMENDED AS PART OF THE MEMORANDUM:

General Requirements and Site Survey	\$446,744
Mobilization and Abatement	498,809
Chilled Water System Mechanical and Plumbing	1,895,302
Additional Chilled Water and Heating Hot Water System Mechanical and Plumbing (Bid Alternate #1)	2,236,349
Electrical, Controls and Lighting	824,892
Start-up, Testing, Commissioning	38,188
TOTAL CONSTRUCTION CONTRACT	\$5,940,284

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

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Fund #	Appn. #	Appropriation Name	Total Appropriation	Amt. for Contract	2025-2027 Proposed Biennial Capital Budget* Page	Last Budget Action (Date, Ord. No.)
001	434Q	Center For Performing Arts Chiller, Cooling Tower, and Boiler Replacement	\$7,350,000	\$5,940,284	901	06/17/2025 31230

* The 2025-2027 Adopted Biennial Capital Budget was approved on June 10, 2025, and adopted on June 17, 2025 by the City Council.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the Planning, Building and Code Enforcement Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the September 9, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Categorically Exempt, File No. ER25-085, CEQA Guidelines Section 15302 – Replacement or Reconstruction.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

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/s/

MATT LOESCH

Director of Public Works

For questions, please contact Sal Kumar, Public Works Deputy Director, at Sal.kumar@sanjoseca.gov.

ATTACHMENTS:

Attachment A - Location Map 10087- Center for The Performing Arts Chiller, Cooling Tower Replacement

Attachment B - Protest submitted by Environmental Systems, Inc.

Attachment C - Mesa Energy System, Inc.'s response to Environmental Systems, Inc.'s Bid Protest

Attachment D - City's response to Environmental Systems, Inc.'s Bid Protest