



Legislation Text

File #: 06110, **Version:** 1

Fiscal Note

No appropriation is required. The City will receive an annual credit against its MGE utility account in an amount equal to 10% of the photovoltaic system's electrical output (estimated at \$35 per year).

Title

Authorizing the execution of an Agreement for Installation Operation, Maintenance and Repair of Photovoltaic System with Madison Gas and Electric Company for the siting of a demonstration photovoltaic system at the Irwin A. and Robert D. Goodman Swimming Pool property located at 325 West Olin Avenue.

Body

WHEREAS, Madison Gas and Electric Company ("MGE") desires to install a photovoltaic system ("PV System") at the Irwin A. and Robert D. Goodman Swimming Pool property located at 325 West Olin Avenue; and

WHEREAS, the PV System will serve as a shade structure and the solar panels on top of the structure will generate electricity; and

WHEREAS, the PV System will be a source of clean renewable energy for Madison area electric customers and will serve to demonstrate MGE's and the City's commitment to renewable energy technology; and

WHEREAS, MGE and the City's Parks Division and Office of Real Estate Development have negotiated terms and conditions for an agreement to allow for the installation, repair and maintenance of the PV System by MGE.

NOW, THEREFORE, BE IT RESOLVED that the Common Council hereby authorizes the Mayor and City Clerk to enter into an agreement ("Agreement") with Madison Gas and Electric Company ("MGE") for the installation, operation, maintenance and repair of a photovoltaic system ("PV System") at the Irwin A. and Robert D. Goodman Swimming Pool property located at 325 West Olin Avenue (the "Property"), as shown on the attached site plan, on the following general terms and conditions:

1. The location of the PV System shall be generally as depicted on the attached site plan. Prior to installation, MGE and the City shall mutually agree on the plans and specifications for the PV System.
2. MGE shall be the sole and complete owner of the PV System and all components thereof. During the term of the Agreement, MGE shall have the right to install, operate, maintain and repair the PV System upon the terms and conditions set forth in the Agreement.
3. The initial term of the Agreement shall be for ten (10) years. At the expiration of the initial term of the Agreement, MGE shall have the option to: (a) extend the Agreement for a single additional term of 5 years; (b) remove the PV System and restore the Property to match the condition at the time of installation; or (c) offer the PV System for sale to the City at its then depreciated value. If the City declines to purchase the PV System, then MGE shall retain the right to exercise either of the remaining options.
4. During the term of the Agreement MGE shall pay an annual fee in an amount equal to ten percent (10%) of the PV System's AC electrical output. Such amount shall be credited against the City's utility account with MGE.
5. MGE shall have the right to erect and maintain, at its sole cost, an informational/educational display describing the operation of the PV System, which display shall be located immediately adjacent to the PV System. The size, design, location and contents of the display, as well as maintenance standards therefor, shall be subject to the City of Madison Park Superintendent's prior written approval.
6. The City and MGE shall promptly report to each other any problems with the PV System or its components that come to their attention. MGE shall have the right, upon reasonable advance notice to the City, to make any

necessary repairs to the PV System; provided, however, that in making such repairs, MGE, its authorized agents and employees shall use reasonable care to avoid undue interference or disruption to the City.

7. The City shall not: (a) plant any vegetation whose growth or care will interfere with the operation of the PV System; (b) install or construct any structure that will impair the functioning of the PV System or damage or shorten the useful life of such PV System; (c) take any other action that would tend to damage, impair, debilitate, shorten the useful life of, or otherwise work to the detriment of the PV System. The City shall provide prior notice to MGE of any intended repairs or maintenance to the Property that would have the potential to adversely impact the PV System and agrees to coordinate any such repairs or maintenance with MGE. The City's repairs or maintenance will be carried out in a manner that will avoid damage to or undue interference with the PV System.
8. The Agreement shall terminate upon the earliest to occur of the following: (a) the expiration of the initial term (or if extended, the extended term) of the Agreement; (b) the removal of the PV System in accordance with the terms of the Agreement; (c) the purchase of the PV System by the City from MGE; (d) at the election of the City, at its sole option, upon 180 days prior written notice given to MGE; (e) at the election of MGE, at its sole option, upon 180 days prior written notice given to the City; (f) upon MGE's election to terminate the Agreement following an event of default by the City; or (g) upon the City's election to terminate the Agreement following an event of default by MGE.
9. Provided the City does not elect to purchase the PV System, either the City or MGE shall be responsible for the removal of the PV System and restoration of the Property to match its preinstallation condition upon the expiration, termination, or event of default of the Agreement and any extension thereof, as provided below.
 - a) If the Agreement is terminated due to an event of default by the City, or if the City terminates the Agreement at its election at any time during the first year of the term, then the City shall pay for the costs of removal of the PV System and restoration of the Property to match its preinstallation condition and shall return the PV System to MGE in a condition which it can be reused.
 - b) If the Agreement is terminated due to an event of default by MGE, or if MGE terminates this Agreement at its election, or if the City terminates the Agreement at its election effective at any time after the first year of the term, then MGE shall pay for the costs of removal of the PV System and restoration of the Property to match its preinstallation condition.
10. The City shall pay the real property and personal property taxes, if any, pertaining to the Property and the City's personal property located thereon. MGE shall pay any tax assessed against the PV System by the State of Wisconsin Department of Revenue under Chapter 76 of the Wisconsin Statutes.
11. MGE shall be liable to and hereby agrees to indemnify, defend and hold harmless the City, and its officers, officials, agents, and employees, against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon the City or its officers, officials, agents or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, or caused by the negligent acts or omissions of MGE and/or its officials, officers, agents, employees, assigns, guests, invitees, or subcontractors, in the performance of the Agreement, whether caused by or contributed to by the negligent acts of the City, its officers, officials, agents, and employees. Additionally, MGE shall carry commercial general liability insurance including contractual liability with no less than the following limits of liability, as may be adjusted, from time to time, by the City's Risk Manager: bodily injury, death and property damage of \$1,000,000 per occurrence. The policy or policies shall name the City as an additional insured. As evidence of this coverage, MGE shall furnish to the City a certificate of insurance on a form provided by the City.

Description of the Property:

A parcel of land located in the East ½ of Section 26, T7N, R9E, and the SW ¼ NW ¼ and the NW ¼ SW ¼ of Section 25, T7N, R9E, City of Madison, Dane County, Wisconsin, bounded by the Southerly right-of-way line of

West Olin Avenue, the Easterly right-of-way line of the Union Pacific Railroad (formerly Chicago and Northwestern Railroad), and the Northwesterly right-of-way line of Wingra Creek Parkway.