
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: SCOTT KOEPPPEL, VILLAGE ADMINSTRATOR
SUBJECT: RESOUTION APPROVING AN EPC CONTRACT FOR
TURNKEY SOLAR INSTALLATION WITH GENEREAL
ENERGY CORP
AGENDA: DECEMBER 5, 2023 REGULAR BOARD MEETING
DATE: NOVEMBER 11, 2023

ISSUE

Shall the Village Board approve a resolution approving a contract with General Energy for a turnkey solar installation.

DISCUSSION

The Village Board had a presentation on a possible solar field on Village property. The consensus from the Village Board was to move forward and requested staff to negotiate a contract with General Energy for a solar field located at 455 Arbor St. Finance and legal reviewed the contract and General Energy accepted all of the changes the Village requested.

Two concerns were raised by Trustees during a discussion of the project. After the life of the project how will the Village pay to de-commission the solar field? Finance staff will create a line in the water capital fund using the savings from the project to ensure there isn't a future liability for the Village. Additionally, Public Works researched the scrap value and estimated the total at \$43,185. Secondly, there was a concern about the disposal of the panels. When a field is de-commissioned, the panels can be recycled (at a cost) or could end up in a landfill. To avoid adding waste to a landfill, staff will ensure the water capital fund can cover the cost of recycling in the future.

Staff met with Jim Eckert from the Planning Commission to review the contract and take advantage of his expertise. Jim raised several valid concerns and brought forth ideas to improve the project. Staff researched Jim's concerns and worked with General Energy to improve the overall project.

COSTS

The cost for the project is \$1,043,345.

Payment Terms

- 30% of the contract price upon signing this contract by both parties
- 30% of the contract price upon substantial material delivery to the Project site
- 30% of the contract price upon Mechanical Completion
- 10% of the solar portion upon Final Completion

RECOMMENDATION

That the Village Board approve the contract with General Energy.



**VILLAGE OF SUGAR GROVE
KANE COUNTY, ILLINOIS**

RESOLUTION No. 20231205B

**RESOLUTION AUTHORIZING EXECUTION OF EPC CONTRACT FOR TURNKEY
SOLAR INSTALLATION WITH GENERAL ENERGY CORP.**

WHEREAS, the Village of Sugar Grove wishes to install a solar field on municipal property located at 455 Arbor Street; and

WHEREAS, staff and Progressive Energy issued a request for proposals to find the best partner for the Village; and

WHEREAS, the proposed solar field will generate clean energy and reduce energy costs over 25 years; and

WHEREAS, the Village of Sugar Grove Board of Trustees finds that it is in the best interest of the Village hire General Energy Corp to design and install the solar field;

NOW, THEREFORE, BE IT RESOLVED, by the President and the Board of Trustees for the Village of Sugar Grove, Kane County, Illinois, as follows:

The Village President and Village Clerk are hereby authorized to execute said agreements on behalf of the Village and to take such further actions as are necessary to fulfill the terms of said agreement.

The EPC Contract for Turnkey Solar Installation with General Energy Corp. is attached as Exhibit A

PASSED AND APPROVED by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois on this 5th day of December, 2023.

Jennifer Konen
President of the Board of Trustees
of the Village of Sugar Grove, Kane
County, Illinois

ATTEST:

Rachel Wortham
Deputy Clerk, Village of Sugar Grove

	Aye	Nay	Absent	Abstain
Trustee Matthew Bonnie	_____	_____	_____	_____
Trustee Sean Herron	_____	_____	_____	_____
Trustee Heidi Lendi	_____	_____	_____	_____
Trustee Michael Schomas	_____	_____	_____	_____
Trustee Sean Michels	_____	_____	_____	_____
Trustee James F. White	_____	_____	_____	_____

EPC CONTRACT FOR TURNKEY SOLAR INSTALLATION

THIS CONTRACT is entered into as of 11/22/2023 (“Effective Date”) by and between the **Village of Sugar Grove**, an Illinois municipal corporation (“Owner”), having an address for notices hereunder of 160 S. Municipal Drive, Suite 110, Sugar Grove, IL, 60554 and **General Energy Corp.**, an Illinois corporation (“Contractor”), having an address for notices hereunder of 400 E State Pkwy, Suite 121, Schaumburg, IL 60173, with respect to Engineering, Procurement & Construction for an On-Grid Solar Power Project at the Sugar Grove Water Treatment Plant (the “Project”) at

Sugar Grove Water Treatment Plant

Address: 455 Arbor Street, Sugar Grove, IL

The parties hereto, intending to be legally bound, for good and sufficient consideration, the receipt and sufficiency which is hereby acknowledged, agree as follows:

1. Scope of Contract

The Contractor, for the Solar Turnkey Price, shall furnish all of the materials and perform all of the solar facility engineering, procurement, and construction/installation work to complete the Project. The Contractor shall fully enclose the Project with a spike-top meal security fence, or other such fence as may be approved by Owner in Owner’s reasonable discretion. The Contractor shall manage the construction of the Project in a manner such that the Owner may continue to operate its facility in the ordinary course of business without unreasonable disruption. Any repairs or actions required to correct system malfunction or damage which are not specifically covered under the warranties given by this Contract are not covered under this Contract. Warranties related to roof replacement or repairs are not given under this Contract.

Solar PV

455 Arbor Street, Sugar Grove, IL

System Size (DC)	494 kW
Panel Performance Warranty (From Manufacturer)	30 Years
Estimated Annual kWh production from Solar System	613,281 kWh

Panel Type: E-Series: QCells 490W or equivalent Tier 1

Racking System Type: Terrasmart or equivalent Tier 1

Proposed Inverter: SMA Core 1 or equivalent Tier 1

TURNKEY SOLAR EPC CONTRACT

Project will be delivered full turnkey by Contractor, and shall include, but is not limited to, the following work:

- Design and engineering required to obtain all permits and approvals for construction, interconnection, and operation.
- Materials including solar modules, inverters, panel boards, disconnects, conduit, wiring, junction boxes, roof mount racking system, and any hardware required to install these materials.
- Materials and construction of a spike-top metal security fence, or other such fence as may be approved by the Village, enclosing the solar facilities
- Construction related activities to install the system and interconnect to utility
- Construction permit
- Net Metering Application with utility
- Registration with SRECTrade (Setup to receive SRECs)
- Utility Inverter Rebate Document Pre and Post (Inverter Rebate to go to Contractor)
- This Contract is independent of acceptance into the Adjustable Block Program
- Contractor will adhere to Illinois ABP standards and receive sign-off by end user on disclosure form
- This Contract scope complies with the prevailing wage requirements stipulated in the Prevailing Wage Act

2. Owner Requirements

This Contract has been duly authorized, executed and delivered by or on behalf of Owner and is, upon execution and delivery, the legal, valid, and binding obligation of Owner, enforceable against Owner in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance by Owner of this Contract will not conflict with or cause any default under: (a) its organizational documents; (b) any indenture, mortgage, chattel mortgage, deed of trust, lease, conditional sales contract, loan or credit arrangement, or if applicable, the Real Property Agreement (defined below), if applicable, to which it is a party or by which it or its properties may be bound or affected; or (c) any applicable laws.

Owner Prerequisites:

- (a) Clear shadow free area for the installation of Photo-Voltaic ("PV") panels,
- (b) Provide reasonable space for the installation, including electrical panels, and
- (c) Provide exterior area for storage of supplied equipment. Contractor to provide and deliver two, 40ft x 8ft storage containers for storage on-site

Owner agrees to cooperate with Contractor during the term of this Contract and provide all such assistance, information, and support, at its own cost, as is reasonably necessary to enable Contractor to complete the Project.

Owner represents and warrants that the Owner is the owner of the real estate on which the Project is sited.

TURNKEY SOLAR EPC CONTRACT

3. Contract Price

The Solar Turnkey Price for the entire solar scope of the Project under this Contract shall be \$1,043,345. The Solar Turnkey Price is considered complete and includes (i) all materials, equipment, labor, delivery, installation, overhead, and profit and (ii) any other costs or expenses in connection with, or incidental to, the performance of the Project.

The utility inverter rebate of \$123,480 will be assigned to the contractor and has been reduced from the total Contract price above.

This Contract authorizes the Contractor to proceed with the necessary applications, on behalf of the Owner to the IPA for SRECs and an application to utility for interconnection/net metering.

4. Commencement and Performance of Work

A. Commencement; Schedule. Contractor shall commence performance of the Project immediately upon the Effective Date, time being of the essence. Contractor shall commence construction of the Project at the earliest reasonable time (the "Construction Commencement Date") but no later than 30 days following the last to occur of the following: (a) issuance of any authorizations, including electric system interconnection pre-approval, required for the Project, and (b) availability of suitable weather conditions for the commencement of construction. Notwithstanding the foregoing, in the event the Construction Commencement Date has not occurred within 90 days of the Effective Date, Owner shall have the option to terminate this Contract at any time thereafter. The Contractor shall further comply the requirements of the Prevailing Wage Act in that all laborers, mechanics and other workers performing public works under this Agreement shall be paid not less than the general prevailing rate of hourly wage as provided for in 820 ILCS 130/1 *et seq.* Contractor shall submit certified payroll directly to the Illinois Department of Labor as required by the Act.

B. Mechanical Completion. "Mechanical Completion" shall occur when, except for minor items of the Project that would not affect the performance or operation of the Project such as site cleanup, (a) all materials and equipment for the Project have been installed, including the security fence (b) all systems required to be installed by Contractor have been installed and tested, (c) all the equipment and systems can be operated in a safe and prudent manner, and (d) the Project is ready to commence start-up.

C. Commercial Operation. "Commercial Operation" shall be deemed to have occurred as of the first point in time after (i) Mechanical Completion of the Project has occurred, (ii) final interconnection approval including any necessary modifications has been provided by the local electricity provider, and (iii) physical interconnection has been made to the electricity provider's system.

D. Final Completion. "Final Completion" occurs after Commercial Operation has occurred and any remaining punch list items as agreed in writing between the parties have been completed and

there is full acceptance by the Owner. Contractor will notify Owner of the date when it considers that Final Completion has occurred.

5. Payment Terms

The terms of payment for the Contract shall be as detailed hereunder:

- 30% of the contract price upon signing this contract by both parties
- 30% of the contract price upon substantial material delivery to the Project site
- 30% of the contract price upon Mechanical Completion
- 10% of the solar portion upon Final Completion

Contractor shall submit an invoice to Owner in relation to each of the foregoing payments. Payments will be made in compliance with the Illinois Local Government Prompt Payment Act.

6. Time for Completion

Contractor shall achieve Final Completion within (360) days after the Construction Commencement Date. Prior to any installment payment by Owner Contractor shall submit partial lien waivers for itself and all subcontractors. Prior to final payment by Owner, Contractor must submit final lien waivers for itself and all subcontractors.

The time for completion by the Contractor shall be extended as reasonably required in the case of Force Majeure (defined below), provided further that there are no delays in obtaining required permits, approvals or clearances, which delays are not caused by Contractor's acts or omissions.

7. Work Quality; Warranties; Limitations on Liabilities

All work shall be completed in a good, quality, and workman like manner and in compliance with all building and electrical codes, all other applicable laws, and all applicable utility requirements, including appropriate utility interconnection obligations. The Contractor shall promptly correct any work at the Project which is rejected by Owner as failing to conform with the requirements of this Contract, bearing all costs of correcting the rejected work. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Project.

Contractor shall guaranty and warrant the Project against defects in workmanship and labor, or any nonconformity with the requirements of this Contract, for a period of one (1) year from the date of Final Completion ("Warranty Period"). If during the Warranty Period, any faulty defects occur or are found in Contractor's workmanship or labor, Contractor agrees to promptly replace, repair and/or correct such defects at no additional expense to Owner.

Contractor shall have no obligation for breach of contract under this Section or breach of warranty to the extent any deficiencies are the result of normal wear and tear, misuse or negligence by Owner or someone other than Contractor acting on Owner's behalf with Owner's express permission. All equipment and materials shall be provided with original manufacturers' warranties where and as applicable. Contractor shall provide the express limited warranty hereto upon Owner performing all of the Owner's duties under this Contract, including all payment obligations hereunder.

DISCLAIMER OF OTHER WARRANTIES. EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN THIS CONTRACT, CONTRACTOR EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED CONDITIONS AND WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, CORRESPONDENCE WITH DESCRIPTION OR QUALITY, TITLE, QUIET POSSESSION AND NON-INFRINGEMENT.

LIMITATIONS OF LIABILITIES. IN NO CASE SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS, ANY LOSS OF USE, OR INTERRUPTION OF BUSINESS) BASED UPON BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY IS NOTIFIED OF THE POSSIBILITY OF SUCH DAMAGES. CONTRACTOR SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, DETENTION OR DELAY DUE DIRECTLY OR INDIRECTLY TO CAUSES BEYOND ITS REASONABLE CONTROL, SUCH AS ACTS OF GOD, ACTS OF OWNER, ACTS OF CIVIL OR MILITARY AUTHORITY, FIRES, STRIKES, FLOODS, EPIDEMICS, WAR, RIOT, DELAYS IN TRANSPORTATION, GOVERNMENT RESTRICTIONS OR EMBARGOES, OR DIFFICULTIES IN OBTAINING NECESSARY LABOR, MATERIALS, MANUFACTURING FACILITIES OR TRANSPORTATION DUE TO SUCH CAUSES (THE FOREGOING ARE DEFINED HEREIN AND UNDER THE EXPRESS WARRANTY AS “FORCE MAJEURE”). NOTWITHSTANDING THE FOREGOING, THE PARTIES AGREE THE COVID-19 PANDEMIC SHALL NOT BE CONSIDERED A FORCE MAJEURE EVENT UNDER THIS CONTRACT. THE FOREGOING LIMITATIONS OF LIABILITY ARE INDEPENDENT OF ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY SET FORTH IN THIS CONTRACT. OWNER SHALL ASSUME AND RETAIN ALL LIABILITY, INCLUDING CLAIMS, DEMANDS, LOSSES, COSTS, DAMAGES AND EXPENSES OF EVERY KIND AND DESCRIPTION, OR DAMAGES TO PERSONS OR PROPERTY ARISING OUT OF OR IN CONNECTION WITH OR OCCURRING DURING THE COURSE OF THIS CONTRACT, WHERE SUCH LIABILITY IS PROXIMATELY CAUSED BY THE ACTS OR OMISSIONS OF ANY OF THE OFFICERS, EMPLOYEES OR AGENTS OF OWNER WHILE ACTING WITHIN THE SCOPE OF THEIR OFFICE, EMPLOYMENT, OR AGENCY.

8. Permits, Approvals & Clearances

Contractor shall comply with and secure any applicable licensing, permitting, approvals, inspection, and similar requirements in the jurisdiction where the Project is located. Any cost for permits, approvals and clearances, including but not limited to utility interconnection approval, municipal permits, and electrical inspections are included in the Contract Price and shall be paid for by the Contractor. The Owner shall provide all reasonable cooperation to Contractor in obtaining all permits, approvals and clearances.

9. Insurance. The Contractor shall maintain insurance during construction as follows:

Contractor shall purchase and maintain a performance and payment bond as required by the Illinois Public Construction Bond Act, 30 ILCS 550/1.

Contractor shall purchase and maintain and cause its subcontractors to maintain the following types and amounts of insurance for the duration of the Project:

Comprehensive third-party legal liability insurance and other such insurance as is appropriate for performance of this Contract. Such insurance shall include, but not be limited to, protection from the following occurrences:

Claims arising from worker's compensation statutes or similar employee benefit acts, or third-party legal liability claims arising from bodily injury, sickness and disease, or death of employees. The minimum limits of such coverage shall be as required by law.

Third-party legal liability claims against Contractor arising from its operations and the operations of subcontractors. The minimum combined limit for personal injury and property damage liability shall be \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

To the fullest extent permitted by law, the Contractor shall cause is commercial general liability coverage, and any excess or umbrella liability policy to include the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations and for which loss occurs during the Contractor's completed operations. Contractor shall provide its certificate of insurance to Owner prior to commencement of the Project and any time upon request of Owner.

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, and its directors, managers, agents and employees, from and against all claims, damages, suit, losses and expenses for death, injury, sickness, destruction to property ("Claims"), including but not limited to attorneys' fees and costs, arising out of or resulting from performance of work for the Project to the extent caused by the negligent acts or omissions of the Contractor, subcontractor or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such Claims are caused in part by a party indemnified hereunder.

10. Defaults; Remedies; Termination

A. Contractor's Default. A Contractor default occurs if Contractor shall have defaulted in its performance under any material provision of this Contract and shall have failed to cure such default within 30 days following delivery to Contractor of written notice from Owner to cure such default, or if a cure cannot be effected within such 30 day period, such period shall extend for a reasonable period of time, but not to exceed a total of 60 days, so long as Contractor is proceeding diligently to cure such default throughout such period.

B. Owner's Remedies for Contractor's Default. If a Contractor default shall have occurred and be continuing beyond applicable cure periods stated herein, Owner shall have the right to terminate

this Contract by written notice to Contractor. In the event of such termination, if requested by the Owner, Contractor shall withdraw from the site, shall assign to the Owner (without future recourse to Contractor) such of Contractor's subcontracts as Owner may request, and shall remove such materials, equipment, tools and instruments used and any debris or waste materials generated by Contractor in the performance of the work as Owner may direct, and Contractor shall promptly deliver to Owner all designs, drawings, and other documents related to the Project. In the event of such termination, Contractor shall deliver to Owner all materials and data for which title has passed to Owner. Upon termination of the work pursuant to this Section, Contractor shall promptly submit to Owner an accounting of Contractor's actual costs for the work performed for the period from the completion of the prior stage of the Contract to the date of termination, and Owner shall pay such costs, but shall not be liable for the rest of the payment related to that stage of the Contract or any future stage (if any), provided however, that Owner shall not pay for any deficient or faulty work completed on the Project by the Contractor. In exercising the foregoing remedies, the Owner shall use reasonable efforts to mitigate its damages.

C. Owner's Default. An Owner default occurs if Owner shall have defaulted in its performance under any material provision of this Contract and shall have failed to cure such default within 30 days following delivery to Owner of written notice from Contractor to cure such default, or if a non-monetary default cure cannot be effected within such 30 day period, such period shall extend for a reasonable period of time, but not to exceed a total of 60 days, so long as Owner is proceeding diligently to cure such non-monetary default throughout such period.

D. Contractor's Remedies for Owner's Default. If an Owner default shall have occurred and be continuing, Contractor shall have the right to terminate this Contract by written notice to Owner. Contractor shall have the right to order all Subcontractors to stop work and remove all their tools and equipment from the site. In addition, and without limiting the foregoing remedies, Owner shall pay to Contractor the entire amount payable under this Contract for work completed through the termination date. Upon such payment by Owner, Owner shall have exclusive ownership of the Project and the work completed through the date of termination, and Contractor shall have no further obligations with respect thereto.

11. Amendments

This Contract may not be modified except in writing executed by Owner and Contractor. Such change orders shall be incorporated in and become a part of the contract.

12. Assignment; Third Parties

No right, benefit, interest or obligation under this Contract may be assigned or transferred by either party without the prior written consent of the other party. This Contract and all rights hereunder are intended for the sole benefit of the parties hereto and shall not imply or create any rights on the part of, or obligations to, any other person.

13. Intentionally Omitted.

14. Governing Law and Venue

This Contract will be interpreted and enforced according to the laws of the state of Illinois and any proceeding is to be brought against any of the parties in Kane County in the State of Illinois and

each of the parties consents to the jurisdiction of such court (and of the appropriate appellate court) in any such action or proceeding and waives any objection to such venue.

15. Notices

Any notice shall be in writing and delivered in person or mailed, properly addressed and postage prepaid, to a party at the address first specified above and to the attention of the person executing this Contract on behalf of such party. Notices are deemed to have been given upon personal delivery or, if mailed, at the expiration of the third (3rd) day after date of deposit in the U.S. mail. Either party may notify the other of a new notice address or attention person at any time, in accordance with this Section.

16. Attorney's Fees and Costs; Late Fees

In the event that any party initiates proceedings to enforce this Contract or enjoin its breach, the prevailing party will be awarded its or their reasonable attorney fees and costs at trial, and on any appeal, as set by the trier of fact, including any bankruptcy proceedings. Any late fees shall be as provided in the Illinois Local Government Prompt Payment Act.

Intending to be legally bound, the parties have executed this Contract on the dates set forth below.

OWNER:

Village of Sugar Grove

By: _____ Date of Signature: _____

Name:

Title:

Acceptance of Contract by CONTRACTOR:

General Energy Corporation

By: Tony Jaswal Date of Acceptance: 11/22/2023
[Tony Jaswal], VP