



# County of El Dorado

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## Legislation Details (With Text)

**File #:** 19-0404 **Version:** 1

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**File created:** 3/7/2019 **In control:** Board of Supervisors

**On agenda:** 3/19/2019 **Final action:** 3/19/2019

**Title:** HEARING - Chief Administrative Office, Facilities Division, recommending the Board:  
1) Conduct a public hearing to adopt and authorize the Chair to sign the Solar Power Purchase Agreement RES-BCT and the Solar Power Purchase Agreement NEM (PPA) and related Cost Reimbursement Agreement (CRA) concerning the County's Solar Project;  
2) Adopt and authorize the Chair to sign Resolution 031-2019 making the required findings pursuant to Government Code 4217; and  
3) Authorize the Chief Administrative Officer, or designee, to execute further documents relating to the PPA/CRA agreements, including Change Orders which do not impact the overall monetary value more than 10%. (Est. Time: 10 Min.)

**FUNDING:** Components of the PPA and CRA provide cost reimbursement to the County over a 25 year period.

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. A - 4217 Board Resolution, 2. B - PPA -NEM, 3. C - PPA -RESBCT, 4. D - Cost Reimbursement Agreement, 5. E - EDC BOS Meeting Presentation 3.19.19, 6. F - Resolution Blue Route Approval, 7. G - PPA & CRA Blue Route Approval, 8. H - Pro Forma #2 Feasibility Study, 9. Public Comment Rcvd 3-19-19 BOS 3-19-19, 10. Executed Solar Power Purchase Agreement for the NEM Solar Facility, 11. Executed Solar Power Purchase Agreement RES-BCT Solar Facility, 12. Executed Resolution 031-2019, 13. Executed Cost Reimbursement Agreement Between County and Provider

Date	Ver.	Action By	Action	Result
3/19/2019	1	Board of Supervisors	Approved	Pass

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**FUNDING:** Components of the PPA and CRA provide cost reimbursement to the County over a 25 year period.

### DISCUSSION / BACKGROUND

On March 5<sup>th</sup>, 2019, the Board was provided four PPA/CRA options regarding the County's Solar Project. The Board directed staff to implement Option C which preserves the northerly buildable approximate 2 ½ acres for a County building not presently identified and construct a smaller solar farm on the southerly portion including additional carport arrays on the Public Safety Facility southern

parking lot.

RES-BCT Option C - 25-year economic benefit approximately \$1,850,000 (as a result of final engineering to accommodate Public Safety Facility operational requirements, the projected economic benefit has decreased slightly to \$1,626,000 from the March 5<sup>th</sup>, 2019 presentation to the Board).

Public Safety Facility NEM - - 25-year economic benefit approximately \$1,669,000 (as a result of final engineering to accommodate Public Safety Facility operational requirements, the projected economic benefit has decreased slightly to \$1,600,000 from the March 5<sup>th</sup>, 2019 presentation to the Board).

Highlights concerning the PPA/CRA's output guarantee, purchase option (i.e., buyout rights) and the County's early termination rights are outlined as follows:

Provider's Output Guarantee: The PPA contract includes an output guarantee that 95% of the expected solar energy production is in fact produced and delivered to the County. Every three years a true-up process will take place where Provider is to issue payment to County for all solar energy not produced under the 95% guarantee. Given that the PPA has a 25-year term the last four years of the contract will be broken up into two, two year true up periods.

Purchase Option: Unless County is in default of its obligations under this Agreement, County shall have the option to purchase all of Provider's right, title, and interest in and to the Solar Facility on the sixth (6th), tenth (10th) and fifteenth (15th) anniversaries of the Commercial Operation Date or upon expiration of the Term hereof.

County's Early Termination Rights: County may, upon payment to Provider of the Termination Value without further penalty hereunder, terminate this Agreement. Within one-hundred eighty (180) calendar days of the notice of termination from County, Provider shall remove the Solar Facility and shall remediate and restore the Site to the condition preceding the installation of the Solar Facility as set forth in Section 3 of the PPA. Notwithstanding any provisions to the contrary, County is not obligated to pay the Termination Value in the event termination by County is due to the following circumstances: (i) termination for Provider's default (Section 14); (ii) termination for Force Majeure; or (iii) County exercising the Purchase Option pursuant to Section 9.

The proposed solar layout was compared to what was anticipated in the Public Safety Facility Environmental Impact Report (EIR). Based on this review, the proposed modifications are in substantial conformance with the conceptual design in the EIR, and there is no need to prepare an addendum to evaluate the effects of these changes. An addendum to an EIR is often prepared to evaluate changes to a project, changed circumstances, or new information, and to document an agency's determination that a subsequent or supplemental EIR is not required. In this case, it can easily be demonstrated that a subsequent or supplemental EIR is not required, pursuant to the criteria in California Environmental Quality Act (CEQA) Guidelines 15162

Some of the reasons for making the determination that none of the 15162 criteria area triggered (i.e., project changes would not create a new significant effect, or cause a substantial increase in the severity of a previously identified significant effect), are as follows:

- ☐ The EIR identified two areas for solar-generating facilities: the area west of the Public Safety Facility, and the southerly secured parking lot. The latest proposed layout would not change these locations.

- ☐ The latest layout would not increase the overall on-site disturbance area evaluated in the EIR.
- ☐ While the amount of solar arrays in the southerly secured parking area appears to be greater than what was anticipated in the EIR for the same area, the overall amount of on-site solar would not be increased given the westerly solar farm would be decreased from seven acres (EIR) to approximately 3.3 acres (current layout).
- ☐ Even if the overall amount of on-site solar was being increased, there is no compelling reason to suggest that this would lead to a new significant effect, not previously identified in the EIR, or a substantial increase in the severity of a previously identified significant effect. For example, the on-site drainage system was designed to account for a 7-acre solar farm west of the public safety facility building, and a fully impervious southerly parking lot. Increasing the amount of panels over the southerly parking lot would not increase overall site runoff, given that the underlying parking lot surface would be fully impervious.
- ☐ The reorientation of the proposed secured parking lot arrays from a north-south direction (EIR) to an east-west direction (current proposal), would not generate a new significant effect.

California Government Code sections 4217.10 to 4217.18 allow public agencies to enter into energy services contracts, which include energy services contracts for the purchase of energy from solar systems installed on the County's property, without using a formal competitive bid process. In October of 2018, the County of El Dorado issued a request for proposal (RFP) and conducted a selection process with the help of TerraVerde Energy, LLC (TerraVerde) to obtain proposals for the purchase of energy from solar photovoltaic systems, all to be installed on the County's property ("Project").

California Government Code section 4217.12 allows the County to select the proposal that is in the County's best interests. Following the RFP process and additional due diligence and reference checks, REC Solar Commercial Corporation is being recommended as the selected provider to install, operate and retain ownership of the solar photovoltaic systems.

Prior to approving the PPA/CRA, the County of El Dorado Board of Supervisors must fulfill two requirements under Government Code section 4217.12:

1) Find that the anticipated cost to the County for thermal or electrical energy or conservation services provided by the Project under the Power Purchase Agreement will be less than the anticipated marginal cost to the County for thermal, electrical, or other energy that would have been consumed by the County in the absence of those purchases. Based on the Cash Savings Pro Forma that TerraVerde has provided the County (included in the attached Board Resolution as Exhibit A), there is support for this finding.

2) Hold a regularly scheduled public hearing on the Power Purchase Agreement and Cost Reimbursement Agreement, public notice of which must be given at least two weeks prior to the public hearing. The notice of the public hearing was posted on March 5<sup>th</sup>, 2019.

Upon execution and adoption of the resolution and PPA/CRA the construction activities concerning the project will begin immediately. The due diligence and design phase will include activities for REC Solar on site as well as their engineering services. The County will also be working to finalize with bond counsel and the USDA regarding the approval of the lease. Heavy construction is scheduled to begin in May with the structural components of the system, module installation and electrical work proceeding directly after structural in a rolling mobilization. The anticipated completion date for the NEM system is August 1st which will coincide with the Sheriff Department's occupation of the facility. The RES-BCT completion date is anticipated for late December 2019 but will be finalized during the

due diligence and design phase of the project.

## **ALTERNATIVES**

The Board could decline to adopt the resolution and agreements and the solar project would not move forward.

## **PRIOR BOARD ACTION**

19-0239 3/5/19 - Receive a presentation and provide direction concerning the PPA/CRA options.

18-1645 10/30/18 - PG&E Interconnection agreement for potential Solar Project.

18-1228 9/11/18 Receive and file solar presentation; Amendment III to Agreement for Services No. 317-S1810 with TerraVerde Energy, LLC (TerraVerde) to increase compensation by \$95,950 and extend the term an additional two years. Amendment III provided the additional services necessary to assist in the development, solicitation and review/analysis of a Request for Proposal (RFP) process.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

NA

## **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve this item.

## **FINANCIAL IMPACT**

It is anticipated that the cost of the solar systems will be less than the anticipated marginal cost to the County for thermal, electrical or other energy that would have been consumed by the County. As a result, the Project will result in a net savings. The cost per kilowatt hour for the electricity produced by the solar project is specified in the PPA for each site. The negotiated PPA rate guarantees the County fixed pricing by site over the 25 year life of the PPA. The cost savings are based on the PPA pricing in Exhibit A to the Resolution and annualized PG&E escalation rate assumption of 3%.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

Return one original of each PPA and CRA agreements and one copy of the resolution to the Division for processing.

## **STRATEGIC PLAN COMPONENT**

Infrastructure

## **CONTACT**

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