



## Legislation Text

**File #:** 19-0640, **Version:** 1

HEARING - Chief Administrative Office, Facilities Division, recommending the Board:

- 1) Conduct a public hearing to adopt findings pursuant to Government Code 4217.12 regarding anticipated energy cost savings and other benefits the County shall receive as a result of the power purchase agreements and related agreements;
- 2) Find that the difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent is anticipated to be offset by below-market energy purchases or other benefits provided under the energy service contract, pursuant to Government Code 4217.12;
- 3) Authorize the Chair to sign the Renewable Energy Self-Generation Bill Credit Transfer (RES-BCT) Solar Facility Sublease Agreement and the Subordination, Non-Disturbance and Attornment Agreement, contingent upon USDA approval; and
- 4) Authorize the Chair to sign the Net Energy Metering Solar Facility Sublease Agreement and the Subordination, Non-Disturbance and Attornment Agreement, contingent upon USDA approval. (Est. Time: 30 Min.)

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

### **DISCUSSION / BACKGROUND**

On March 5, 2019, the Board was provided four Power Purchase Agreements (PPAs) and Cost Reimbursement Agreements (CRAs) 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.

On March 19, 2019, the Board approved the PPAs and CRAs regarding both the RES-BCT and NEM solar programs and adopted Resolution No. 031-2019 making the required finding pursuant to California Government Code sections 4217.10 to 4217.1: 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. It was also anticipated that the County and REC will enter into a sublease agreement for the solar project site and that staff would return to the Board for approval.

Execution of the RES-BCT and NEM Subleases Agreements and Subordination, Non-Disturbance and Attornment Agreements are needed so that REC Solar Commercial Corp. (who was awarded the respective PPAs and CRAs) may construct and maintain the solar programs over the 25 year terms of the PPAs and CRAs. In order to execute these agreements the Board is required to make further findings under Government Code 4217.12 that the difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent, is anticipated to be offset by below-market energy purchases or other benefits provided under the energy service contract. This finding is met by the following determining factors:

RESBCT: the majority of this location isn't suitable for construction due to the organic soil composition. Any leasing of this property would be difficult and potentially only suitable for livestock grazing. An approximate rental value of between \$24,000-\$36,000 is projected annually for that type of operation and the year one RESBCT solar net benefits are \$69,339 and gradually increases each year.

NEM: this solar program will be built atop the car port structures which will sit behind secured gates. There are no viable lease options.

The Division posted the required Government Code 4217.12 Public Notice on 4/16/19 and recommends the Board make these findings and authorize the Chair to execute the RESBCT and NEM Facility Sublease Agreements and the Subordination, Non-Disturbance and Attornment Agreements contingent upon USDA approval. The sublease agreements have been submitted to the USDA for review and approval.

### **ALTERNATIVES**

The RESBCT and NEM Facility Sublease Agreements and the Subordination, Non-Disturbance and Attornment Agreements are required elements of the PPAs and CRAs.

### **PRIOR BOARD ACTION**

March 19, 2019; File 19-0404; No. 31

March 5, 2019; File 19-0239; No. 19

October 30, 2018; File 18-1645; No. 5

September 11, 2018; File 18-1228; No. 35

### **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.

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

Return one original of each RESBCT and NEM Facility Sublease Agreements and the Subordination, Non-Disturbance and Attornment Agreements to the Division for processing.

### **STRATEGIC PLAN COMPONENT**

Infrastructure

### **CONTACT**

Russ Fackrell  
Facilities Division Manager