



REPORT TO CITY COUNCIL

To: Honorable Mayor and Members of the City Council

**From: Grant Yates, City Manager
Jason Simpson, Assistant City Manager**

**Prepared by: Michael Bracken, Economic Development Consultant
to the City of Lake Elsinore**

Date: January 12, 2021

Subject: Adoption of Resolution Authorizing the City of Lake Elsinore Representatives to the Southwest Riverside County Energy Authority (SRCEA) to Approve the First Amendment to Solar Power Purchase Agreement, First Amendment to Sublease Agreement, and First Amendment to License Use Agreement; and Approving the Amended and Restated Guaranty of Solar Power Purchase Agreement by the City of Lake Elsinore and Authorizing Execution and Delivery of Same

Recommendation

Adopt A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, ACTING AS THE LEGISLATIVE BODY OF CITY OF LAKE ELSINORE AND AS A MEMBER OF THE SOUTHWEST RIVERSIDE COUNTY ENERGY AUTHORITY (SRCEA), APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY BY RESPONSIBLE OFFICERS OF THE FIRST AMENDMENT TO SOLAR POWER PURCHASE AGREEMENT, FIRST AMENDMENT TO SUBLEASE AGREEMENT, AND FIRST AMENDMENT TO LICENSE AGREEMENT, AND APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDED AND RESTATED GUARANTY OF POWER PURCHASE AGREEMENT.

Background and Overview

On October 17, 2017, the City Council of the City of Lake Elsinore approved the City, acting as a member of the Southwest Riverside County Energy Authority (SCREA), to enter into a Solar Power Purchase Agreement, Sublease Agreement, License Agreement and also authorized the City Manager to execute a guaranty of the Power Purchase Agreement. The City of Temecula approved similar documents at their May 10, 2016 meeting.

These Agreements provided the ability for the Cities of Temecula and Lake Elsinore to purchase power for a variety of City facilities from a solar power generation facility to be constructed on land in the Santa Margarita Ecological Reserve in Temecula.

The cost of the electricity from this solar power generating facility to the City was initially estimated to be approximately 10% less than the cost of electricity available to the City from Southern California Edison (SCE). As electricity rates increase over time, the savings to the City would increase correspondingly (as the City, acting through the SRCEA, entered into a fixed rate purchase agreement/arrangement).

The project has a significant background that predates the City's 2017 approval. The solar power generating facility is part of a leased property held by SMER Research 1, LLC pursuant to a ground lease with San Diego State University, the owner of the Santa Margarita Ecological Reserve for the land commonly known as the "Santa Margarita Ecological Reserve SOLAR Initiative Research Site." SMER Research and San Diego State University entered into the ground lease on October 21, 2014 for use of the site for solar projects.

Electricity will be generated by the collection of sunlight onto an array of photovoltaic (PV) cells that are ground-mounted onto posts. Sufficient electricity will be generated to serve several of the City of Lake Elsinore's facilities including City Hall, the Cultural Center, Launch Pointe, and the Maintenance Yard. The photovoltaic cells are similar to those now being used in home solar energy systems and in commercial scale solar fields that have been constructed in such places as Imperial, Riverside and San Bernardino counties.

Because the site is outside of Lake Elsinore's municipal boundaries, Public Utilities Code Section 2830 mandates that the City of Lake Elsinore be part of a joint powers authority (JPA) in which the site is within the boundaries of one of the JPA's member organization. This requirement was the impetus for the formation of the SRCEA.

The City's fundamental role (acting through the SRCEA) in this solar project is only as a purchaser of electricity. SMER Research was tasked with the design the solar project, obtaining all required permits from the California Public Utilities Commission, San Diego State University (and the California State University System), City of Temecula and any/all other regulatory/resource protection agencies at its sole cost, expense and time.

Discussion

Following the 2017 approvals, the project was sold to Biostar LLC. In working with Biostar on the completion of construction and preparing for operation, the parties determined the savings projection would fall short of what the original developer (Go-Green) had represented over the life of the project. Changes to the Power Purchase Agreement were proposed that would benefit both parties by maintaining significant savings – and, at least in the near term, offer greater savings to the City -- while also avoiding a potentially protracted legal dispute.

In short, the start rate for the Power Purchase Agreement will now be 8.42 cents per kWh, 15% lower than the current rate for energy (also known as generation charges), which are currently about 9.9 cents per kWh (kilowatt hour). Increases are capped at a flat 2% per annum. By way of comparison, SCE's average rate of increase on the utility generation tariff has exceeded 6% over the last five years.

Another issue also arose necessitating negotiations by the parties; the Renewable Energy Self-Generation Bill Credit Transfer Indifference Mechanism Amended Settlement Agreement between SCE and certain RES-BCT customers (the "Settlement Agreement") put limitations on the "grandfathering" or use of "Legacy - Time-of-Use " rate schedules. Due to the reduction in

value of solar credits at the end of the legacy period in year 2027, SRCEA has “opted-in” to receive certain mitigation payments. Under the Settlement Agreement SRCEA’s generating account and benefitting accounts will be reverted to a grandfathered tariff upon interconnection and energizing of the Generation Facility, and will remain on such grandfathered rate schedule through the indifference period which ends on July 31, 2027. SRCEA is entitled to receive a lump sum payment (the “Indifference Payment”) after the first year of generation has taken place that will be equivalent to the present value of 5-years worth of credits had the system been on the grandfathered rate schedule for another 5-years. Since the energy rate will be significantly lower at the end of the legacy rate period, SRCEA will pass through the Indifference Payment to Biostar. The Indifference Payment is estimated to be approximately \$1 Million. Additionally, the amendment also takes into account a “reset” of rates to a significantly lower figure at the end of a legacy rate period, whereby the tariff rate will be an estimated 7.65 cents per kWh while the City will be paying 15% less or 6.5 cents per kWh. Finally, the term of the Agreement will change from 20 years with two (2) five-year options to a fixed 30 year term.

To effectuate these new provisions, an Amendment to the Power Purchase Agreement has been prepared. As the final site layout for interconnection equipment modestly changed, a modification is needed to the Sublease Agreement and the fixed term requires an amendment to the License Agreement. Finally, as the Power Purchase period has changed, the City’s guaranty has been amended to reflect that change and will need new authorization.

Biostar continues to work with SCE to complete construction. The basic solar facility is now constructed and simply awaiting interconnection construction to “power-up.”

If the City Council for the City of Lake Elsinore approves the attached Resolution and the City of Temecula City Council take the same action (also scheduled for January 12, 2021), the SRCEA JPA will likely meet prior to the end of the month (January 2021) to consider similar actions. It is anticipated that the power generation facility will come online and begin producing power prior to the end of the first quarter of 2021 (March 31, 2021).

Fiscal Impact

The above-reference agreements do not impose any cost or expenses on the City or the SRCEA except with respect to the purchase of the generated electricity. The City will realize a savings in electrical energy costs by purchasing electricity generated by the solar generating facility. All costs related to the solar generating facility and the interconnection facilities to so that the generated electricity is credited towards the electricity used at various City facilities will be paid by SMER Research.

As noted above, savings to the City will increase to the extent SCE increases its rates. The City’s projected savings would be \$812,000 over the life of the project, using a very conservative 2% escalation for SCE energy rates. Looking at the 5-year trend based on SCE’s increases for utility generation, there has been a 6.98% average increase. Continuation of that trend would result in an estimated savings of \$4,475,000. Actual savings will likely be somewhere between those values.

While it is not possible to precisely predict how SCE and the California Public Utilities Commission will structure rates into the future, the benefit to the community stands firm at any overall average rate increase of just 2%. Further, looking at a variety of historic rate increase models, it appears

that increases have averaged between 3.2% and 6.98% over the last 5-10 years depending on rate/tariff type.

Exhibit

A – Resolution No. 2021-____

B – First Amendment to Solar Power Purchase Agreement

C – First Amendment to Sublease Agreements

D – First Amendment to License Agreement

E – Amended and Restated Guaranty (City of Lake Elsinore)