Board Agenda Item 33

DATE: September 6, 2022

TO: Board of Supervisors

SUBMITTED BY: Robert W. Bash, Director of Internal Services/Chief Information Officer

SUBJECT: Amendments to Agreements with ForeFront Power

RECOMMENDED ACTION(S):

1. **Approve and authorize the Chairman to execute Amendment No. 2 to Energy Services Agreement-Solar with ForeFront Power BTM Solar, LLC., effective upon execution, to extend the term by 90 days from March 24, 2045 to June 22, 2045, with no change to the compensation maximum; and,**

2. **Approve and authorize the Chairman to execute Amendment No. 1 to Energy Services Agreement-Energy Storage with ForeFront Power BTM Solar, LLC., to update provisions of the agreement to reflect the final overall size of the system, effective upon execution, with no change to the term of February 4, 2020 through June 22, 2045, or compensation maximum of $814,600.**

There is no additional Net County Cost associated with the recommended actions, which will amend the solar and energy storage Energy Service Agreements (ESA) for the Juvenile Justice Campus (JJC). The recommended amendments make minor updates to previously estimated amounts based upon a final energy study that could not be completed until the solar system went live. This item is countywide.

ALTERNATIVE ACTION(S):

There are no viable alternative actions. Completing the solar and energy storage project is necessary to fully realize the anticipated energy savings.

FISCAL IMPACT:

There is no Net County Cost associated with the recommended actions. It is anticipated both agreements will result in savings from the reduction in energy costs. The agreements require ForeFront Power BTM Solar, LLC. (ForeFront), to finance, design, construct, implement, operate, and maintain each system. By design, the Energy Services Agreements are cashflow positive year one, since it is anticipated that the purchase price per kilowatt hour generated will be less than the County is currently paying for energy from Pacific Gas and Electric Company (PG&E). As a result, the County is expected to realize savings in all years of the ESA term. The updated, anticipated gross cumulative savings for both ESAs, together, including the Solar PV System and the Energy Storage System, is up to $17,560,905 over the 20-year term of the ESAs

DISCUSSION:

On February 4, 2020, your Board approved ESA-Solar No. 20-064 and ESA-Energy Storage No. 20-065 with

ForeFront. The solar ESAs require ForeFront to finance, design, construct, implement, operate, and maintain a solar photovoltaic system at the JJC from which the County would purchase and receive energy at specified, pre-negotiated power purchase agreement rates. In addition, Forefront installed a battery storage system at the JJC that will reduce the County's peak electrical energy demand from PG&E, as well as electrically charge the system during off-peak hours and dispatch stored electric energy to the JJC during peak hours.

The ESA-Energy Storage agreement has an initial term of 10 years and includes an option for ForeFront to propose terms for extending through the end of the ESA-Solar agreement. This will allow both ForeFront and the County to evaluate the ongoing state of the battery system before continuing with any extensions. The proposed terms and the related extension would come back before your Board for approval prior to any extension of the ESA-Energy Storage agreement.

On July 13, 2021, your Board approved First Amendment ESA-Solar No. 20-064-1 and Amended and Restated ESA-Energy Storage No. 21-263. The amendment to the ESA-Solar agreement was necessary to account for delays in the project due to the COVID-19 public health emergency. The amendments included a revision to exchange liquidated damages owed to the County for excusing the County from paying for the first 90 days of owed energy produced by the system. The amendment and restatement of the ESA-Energy Storage agreement decreased the size of the storage system. This was necessary due to not being awarded Storage Equity Budget Self Generation Incentive Program (SGIP) incentives due to oversubscription by PG&E.

Approval of the first recommended action will amend the ESA-Solar agreement to increase the term so the County will fully utilize 20 years of the system, in addition to the 90 days of free power the County received in lieu of liquidated damages. Approval of recommended action two will update the ESA-Energy Storage agreement to account for final incentive program values and restore the energy storage system size to its originally intended size. This will allow the system to fully realize all anticipated savings in the original agreement due to unanticipated additional incentives awarded to the project.

REFERENCE MATERIAL:

BAI #39.1, July 13, 2021
BAI #5, February 4, 2020

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Amendment No. 2 to ESA-Solar
On file with Clerk - Amendment No. 1 to ESA-Energy Storage

CAO ANALYST:

Ahla Yang