

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Greg Butler, Assistant City Manager

DATE: January 12, 2021

SUBJECT: Approve First Amendment to Solar Power Purchase Agreement, First Amendment to Sublease Agreement, First Amendment to License Use Agreement, and Amended and Restated Guaranty of Solar Power Purchase Agreement; all with SMER Research 1, LLC

PREPARED BY: Patrick Thomas, Director of Public Works/City Engineer

RECOMMENDATION: That the City Council adopt a resolution entitled:

RESOLUTION NO. 2021-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA, ACTING AS THE LEGISLATIVE BODY OF CITY OF TEMECULA AND AS A MEMBER OF THE SOUTHWEST RIVERSIDE COUNTY ENERGY AUTHORITY (SRCEA), APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY BY RESPONSIBLE OFFICERS OF FIRST AMENDMENT TO SOLAR POWER PURCHASE AGREEMENT, AND 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: On May 10, 2016, the City Council approved a Solar Power Purchase Agreement, Sublease Agreement, License Agreement and an authorization for the City Manager to execute a guaranty of the Power Purchase Agreement. On October 24, 2017 the City Council of the City of Temecula, rescinded the May 10, 2016 agreements and approved similar agreements as a member of the newly formed Southwest Riverside County Energy Authority, a Joint Powers Authority (JPA) formed with the City of Lake Elsinore. The City of Lake Elsinore, as a member of the SRCEA, approved similar documents at their October 17, 2017 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.

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

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 Temecula facilities including City Hall, Ronald H. Roberts Temecula Public Library, Temecula Community Theatre, Field Operations Center and several other city facilities. The photovoltaic cells are similar to those used in home solar energy systems and in commercial scale solar fields constructed in such places as Imperial, Riverside and San Bernardino counties.

The solar generation site is located within the City of Temecula incorporated boundary. 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 organizations. This requirement was the impetus for the formation of the SRCEA.

In addition to the public benefits of lower electricity rates and obtaining electricity from a renewable source of power; SMER Research and San Diego State University have agreed to conduct substantial academic research at the solar power generating facility that will study solar radiation, solar energy, soils and other meteorological and geotechnical data as well as habitat and habitat restoration.

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 of 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 initial Agreement approvals, the project was sold to Biostar LLC. In working with Biostar on 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 (RES-BCT) 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 in the Year 2027 (also known as 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 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 approves the attached Resolution and the City of Lake Elsinore City Council takes 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 referenced 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 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 roughly \$2,000,000 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 just over \$11,000,000. 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.

ATTACHMENTS:

1. Resolution
2. First Amendment to Solar Power Purchase Agreement
3. First Amendment to Sublease Agreement
4. First Amendment to License Agreement
5. Amended and Restated Guaranty (City of Temecula)