

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY
AND RECORD OF ACTION**

August 20, 2024

FROM

DON DAY, Director, Project and Facilities Management Department

SUBJECT

Net Energy Metering and Renewable Electrical Generating Facility Interconnection Agreement with Southern California Edison Company

RECOMMENDATION(S)

Approve non-financial Net Energy Metering and Renewable Electrical Generating Facility Interconnection **Agreement No. 24-781**, including non-standard terms, with Southern California Edison Company for the Energy Efficiency Solutions Project, continuing perpetually until terminated by either party.

(Presenter: Don Day, Director, 387-5000)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Ensure Development of a Well-Planned, Balanced, and Sustainable County.

Pursue County Goals and Objectives by Working with Other Agencies and Stakeholders.

FINANCIAL IMPACT

Approval of this item will not result in the use of additional Discretionary General Fund (Net County Cost) as the Southern California Edison Company Net Energy Metering (NEM) and Renewable Electrical Generating Facility Interconnection Agreement (Agreement) is non-financial in nature.

BACKGROUND INFORMATION

On October 24, 2023 (Item No. 90), the Board of Supervisors (Board) approved the Energy Efficiency Solutions Project (Project) (WBSE 10.10.1566). This ongoing construction initiative aims to align with California's state-wide sustainability efforts by installing energy-efficient measures, including lighting, heating, ventilation, air-conditioning system controls, and solar photovoltaic (PV) energy systems. The Project consists of various energy-efficient improvements at County-owned facilities located at 385 North Arrowhead Avenue and 268 West Hospitality Lane (268 Hospitality) in San Bernardino. The improvements to 268 Hospitality include the installation of a 500-kilowatt solar carport system with a battery energy storage system.

Approval of this Agreement is required before the solar PV system can be authorized to operate by Southern California Edison Company (SCE). Once the Agreement is signed by the County and SCE, SCE will provide the County with written authorization to operate the solar PV carport system located at 268 Hospitality and connect it to SCE.

**Net Energy Metering and Renewable Electrical Generating Facility
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August 20, 2024**

The recommended Agreement is based on SCE's standard contract template and contains the following non-standard County contract terms:

1. The Agreement does not prohibit SCE from assigning the Agreement without notice to the County and without the County's approval.
 - The County standard contract requires that the County must approve any assignment of the contract.
 - Potential Impact: SCE could assign the Agreement to a third party or business without the County's knowledge, including a business with which the County is legally prohibited from doing business due to issues of Federal debarment or suspension and conflict of interest.
2. The term of the Agreement continues until terminated by either party with 30 days written notice.
 - County Policies 11-05 and 11-06SP1 do not permit indefinite term or automatically renewing contracts except for end user license agreements, software/hardware license and subscriptions, and master service agreements or unless approved by the Board.
 - Potential Impact: There is no end term to the Agreement and the County is indefinitely bound to the terms and conditions of the Agreement until terminated by either party.
3. Per the agreement, each party is required to defend, indemnify or hold the other party harmless to the extent arising out of the respective party's breach of the agreement and negligent or wrongful acts or omissions in connection with its performance under the agreement.
 - County Policy 11-07 requires the contractor to indemnify the County against all claims arising out of the contract from any cause whatsoever.
 - Potential Impact: By agreeing to indemnify SCE, the County could be contractually waiving the protection of sovereign immunity. If the County is sued for any claim resulting from its own breach of the agreement and negligent or wrongful acts or omissions in connection with its performance under the agreement, the County may be solely liable for the costs of defense and damages.
4. The Agreement does not require SCE to meet the County's insurance standards as required pursuant to County Policies, 11-05, 11-07 and 11-07SP.
 - County policy requires contractors to carry appropriate insurance at limits and under conditions determined by the County's Risk Management Department and as set forth in County policy and in the County standard contract.
 - Potential Impact: The County has no assurance that SCE will be financially responsible for claims that may arise under the Agreement.

The Project and Facilities Management Department recommends the approval of the Agreement, including the non-standard terms, as necessary to obtain SCE permission to operate the solar PV carport in connection with the Project.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

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This item has been reviewed by County Counsel (Julie Surber, Principal Assistant Counsel) on June 21, 2024; Purchasing (Ariel Gill, Supervising Buyer, 387-2148) on July 1, 2024; Project and Facilities Management (Robert Gilliam, Chief of Project Management, 387-3072) on July 29, 2024; Risk Management (Loretta Acuña, Staff Analyst II, 387-9039) on August 9, 2024; Finance (Garrett Baker, Administrative Analyst, 387-3077) on August 2, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387-5423) on August 5, 2024.

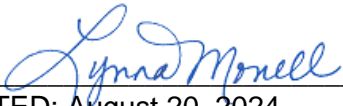
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Record of Action of the Board of Supervisors
San Bernardino County

APPROVED (CONSENT CALENDAR)

Moved: Curt Hagman Seconded: Joe Baca, Jr.
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY  _____
DATED: August 20, 2024



cc: PFMD - Day w/agree
Contractor - c/o PFMD w/agree
File - w/agree
MBA 08/22/2024