



San Bernardino County

Legislation Text

File #: 8070, Agenda Item #: 32

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

May 23, 2023

FROM

LEONARD X. HERNANDEZ, Chief Executive Officer, County Administrative Office

SUBJECT

Membership Agreement with University of California Riverside - Southern California Research Initiative for Solar Energy/Solar Valley Consortium for 2023-24

RECOMMENDATION(S)

1. Approve the Membership Agreement, which includes the Intellectual Property Rights and Confidentiality Agreement and Membership Form, including non-standard terms, with the University of California Riverside - Southern California Research Initiative for Solar Energy/Solar Valley Consortium for 2023-24, at a cost of \$5,000, for an agreement period of July 1, 2023 through June 30, 2024.
2. Designate Supervisor Paul Cook as the designee to represent the County as part of the University of California Riverside - Southern California Research Initiative for Solar Energy/Solar Valley Consortium.
3. Authorize the Chair of the Board of Supervisors to execute and deliver to the University of California Riverside - Southern California Research Initiative for Solar Energy/Solar Valley Consortium any assignment or other documents that the University of California Riverside - Southern California Research Initiative for Solar Energy/Solar Valley Consortium may reasonably request to evidence or perfect title to any Subject Intellectual Property as defined in the Intellectual Property Rights and Confidentiality Agreement, subject to review by County Counsel, provided that any such documents do not result in additional costs to be incurred by the County, and do not extend the duration of the Membership Agreement.

(Presenter: Leonard X. Hernandez, Chief Executive Officer, 387-4811)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

Improve County Government Operations.

Operate in a Fiscally-Responsible and Business-Like Manner.

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 Funding (Net County Cost). The annual cost of membership for participation in the University of California Riverside (University) - Southern California Research Initiative for Solar Energy/Solar Valley Consortium (Consortium) is \$5,000 for a membership period of July 1, 2023 through June 30, 2024. Sufficient appropriation exists in the County Administrative Office's 2023-24 budget. Should the Membership Agreement, which includes the Membership Form and Intellectual Property Rights and Confidentiality Agreement, be renewed annually, the cost will be included in future recommended budgets.

BACKGROUND INFORMATION

The Consortium is a group that consists of governmental organizations, regional stakeholders in energy, and educational institutions such as the University. The Consortium is part of the University of California Riverside - Center for Environmental Research & Technology as part of the Marian and Rosemary Bourns College of Engineering. The purpose of the Consortium is to:

- Establish a valuable source of data on solar projects and installations.
- Advocate for policies which increase the use of solar in residential and commercial buildings and in utility-scale projects.
- Assist with efforts to attract companies to this region who are involved in all aspects of solar energy and storage.
- Promote the creation of clean energy jobs and the advancement of job training.
- Contribute to education within the region as to the value of solar energy.

On March 9, 2021 (Item No. 19), the Board of Supervisors (Board) approved Membership Agreement No. 21-192, which includes the initial Membership Form, and Intellectual Property Rights and Confidentiality Agreement with the Consortium for 2020-22, for a period of March 9, 2021 through June 30, 2022.

On October 25, 2022 (Item No. 37), the Board approved the renewal of Membership Agreement No. 22-1066, which includes the Membership Form, and Intellectual Property Rights and Confidentiality Agreement with the Consortium for 2022-23, for a period of July 1, 2022 through June 30, 2023.

Approval of the Membership Agreement, as provided in Recommendation No. 1, will allow the County to receive certain benefits, such as complementary attendance at all events sponsored by the Consortium, including workshops and receipt of member publications. Along with these benefits, the County is able to provide feedback on solar and renewable energy projects, learn about technological advancements in the industry, and provide feedback on solar-related policies.

Organizations have an opportunity to join the Consortium as a member and serve on the Leadership Council to help guide the Consortium's future priorities. The Leadership Council is advisory to the Consortium. Membership in the Consortium allows the County to participate and appoint one designee to the Leadership Council. Approval of Recommendation No. 2 will designate Supervisor Paul Cook as the County's designee.

Approval of Recommendation No. 3 will allow the Chair of the Board to execute certain documents that may, in the future, be required pursuant to the Intellectual Property Rights and Confidentiality Agreement. This may include any assignment of potential rights or other documents that the University may reasonably request to evidence or perfect title to any Subject Intellectual Property as defined in the Intellectual Property Rights and Confidentiality Agreement. Such execution of other documents in the future will be subject to review by County Counsel.

Per County Policy 11-05, contracts containing non-standard contract language must be approved by the Board. The Consortium Membership Agreement includes an Intellectual Property Rights and Confidentiality Agreement, which contains the following non-standard County contract terms:

1. All Subject Intellectual Property (as defined in the Membership Agreement) is the property of the Consortium through the University and this includes any and all inventions, discoveries, processes, machines, useful or ornamental designs, creations, ideas, or improvements thereof, and any and all materials for which patent, copyright, or other protection may be sought, and all rights in and to any of the foregoing that are made by the County and/or contributed to the Consortium project as a result of the County's participation. Additionally, this provision survives the termination of the Membership Agreement indefinitely.

- The County's standard contract language provides that the County shall have ownership of the contractor's work product, primarily due to the use of public funds to pay for such work product.
 - Potential Impact: The County will not have rights to any work product developed as part of the Consortium and will have no ability to seek ownership of this information, if desired. After termination of the Membership Agreement, the County will not gain rights to ownership of this information and therefore this provision lasts indefinitely. This waiver of ownership includes any work product produced by a County employee, within the scope of his/her employment.
2. The County is required to comply with the confidentiality terms as listed in the Membership Agreement and the Intellectual Property Rights and Confidentiality Agreement which is attached to the Membership Agreement and includes safeguarding and non-disclosure of confidential information, and not using confidential information except for the benefit of the University or the Consortium.
- The County's standard contract requires the contractor to keep County information confidential, but the County does not typically agree to maintain information or documents as confidential because of California's government transparency laws and policies, including County Code sections 19.0101 through 19.0109.
 - Potential Impact: To comply with the confidentiality provisions, the County Administrative Office will need to advise County participants of the Consortium to abide by the confidentiality terms of this Membership Agreement including strictly limiting access to and dissemination of materials, both paper and electronic, strictly limit sharing of information deemed confidential, and marking paper and electronic files as appropriate as "confidential" and which should not be placed in files with public records. These efforts should minimize inadvertent disclosure of information. In the event that a disclosure of such documents is requested, for example, through a Public Records Act request, the County may be relieved of its confidentiality obligations if disclosure is required by applicable law, court order, or subpoena. However, the County will bear the cost of litigation to contest or prevent disclosure.
3. The County is required to continue compliance with the confidentiality provisions of the Membership Agreement even after termination for a period of three years.
- The County's standard contract requires the contractor to keep County information confidential and does not require the County to maintain confidentiality for any period of time.
 - Potential Impact: The County will need to continue to abide by the confidentiality provisions of this Membership Agreement, even after termination, and will need to ensure all records are maintained as confidential documents and not inadvertently disclosed. This can be accomplished through proper storage of paper and electronic documents.

The County Administrative Office recommends approval of the Membership Agreement, including the non-standard terms, as membership in the Consortium provides the County the ability to be involved in and promote clean energy and solar projects throughout the region.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Julie Surber, Principal Assistant County Counsel) on May 11, 2023; Finance (Erika Rodarte, Administrative Analyst, 387-4919, and Stephanie Maldonado, 387-4378) on May 15, 2023; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, and Matthew Erickson, County Chief Financial Officer, 387-5423) on May 15, 2023.