



**Contra
Costa
County**

To: Board of Supervisors
From: Brian M. Balbas, Public Works Director/Chief Engineer
Date: March 23, 2021

Subject: Approval of Consent and Agreement associated with SunPower Power Purchase Agreement.

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a Consent and Agreement, dated March 23, 2021, with Solar Star Co Co 1, LLC and ST TOTAL Strong Statutory Trust, consenting to and acknowledging Solar Star Co Co 1, LLC's pledge of its rights under four County power purchase agreements.

APPROVE and AUTHORIZE the Public Works Director, or designee, to execute a Consent and Agreement, dated March 24, 2021, with Solar Star Co Co 2, LLC and Wilmington Trust, National Association acknowledging a collateral assignment of Power Purchase Agreements for the solar provider's construction of the solar systems.

FISCAL IMPACT:

No fiscal impact.

BACKGROUND:

The County entered into 9 Power Purchase Agreements (PPAs) with Solar Star Co Co 1, LLC (SunPower's subsidiary) for solar photovoltaic systems at 2530 Arnold, 4545 Delta

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **03/23/2021** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: March 23, 2021

Monica Nino, County Administrator and Clerk of the Board of Supervisors

By: Laura Cassell, Deputy

Contact: Ramesh Kanzaria
925-957-2480

cc:

Fair, and 4549 Delta Fair, 1305 McDonald, 595 Center, 597 Center, 1000 Ward, 50 Douglas and 30 Muir. The PPAs obligate the County to reasonably cooperate with SunPower and its financing parties in connection with financing the solar projects, including the giving of a financing party acknowledgment form attached to the Power Purchase Agreement as Exhibit B. On March 26, 2020, the Contra Costa Public Works Department received a Notice of Assignment from SunPower advising an assignment of project assets from Solar Star Co Co 1, LLC to Solar Star Co Co 2, LLC for the purpose of SunPower obtaining construction financing for four of the solar projects – 50 Douglas, 595 Center, 597 Center, and 30 Muir. On September 22, 2020 the Board of Supervisors approved a Consent and Agreement consenting to Solar Star Co Co 1, LLC executing a collateral assignment of the four projects at 597 Center, 595 Center, 50 Douglas and 30 Muir, which allowed SunPower to obtain a construction loan for the projects.

Phase 1 Consent and Agreement

Solar Star Co Co 1, LLC is now entering into sale-lease back documents to finance the operation portion of the four projects at 50 Douglas, 595 Center, 597 Center, and 30 Muir. In connection with the sale-lease back financing, Solar Star Co Co 1, LLC requires the County to consent to its pledge of its rights in the four projects' power purchase agreements with the County to ST TOTAL Strong Statutory Trust. The Consent and Agreement with

respect to the sale-lease back transaction (1) permits ST TOTAL Strong Statutory Trust to become a party to the County's four power purchase agreements with Solar Star Co Co 1, LLC in the event Solar Star Co Co 1, LLC defaults under its finance documents with ST TOTAL Strong Statutory Trust; (2) provides County's consent to ST TOTAL Strong Statutory Trust curing Solar Star Co Co 1, LLC defaults under its power purchase agreement with the County for the four projects; and (3) memorializes the commercial operation date for the four Phase 1 projects, and the kilowatt hour rate to be paid under the PPAs. It is anticipated that the four Phase 1 projects will go into commercial operation at the end of April, 2021. Execution of the Consent and Agreement is one of the final steps to be completed before turning on the systems for the four Phase 1 projects.

Phase 2 Consent and Agreement

BACKGROUND: (CONT'D)

The originally executed PPAs (at 2530 Arnold, 4545 Delta Fair, and 4549 Delta Fair) established the County's obligation in Section 14.17 to reasonably cooperate with SunPower and its financing parties in connection with such financing including the giving of the Financing Party acknowledgment form attached in the Power Purchase Agreement, Exhibit B. On March 26, 2020, the County received from SunPower the Notice of Assignment. The assignment described in such notice assigned the project assets with respect to the projects at 2530 Arnold, 4545 Delta Fair, and 4549 Delta Fair from Solar Star Co Co 1, LLC to Solar Star Co Co 2, LLC. The now finalized Consent and Agreement, with respect to the construction loan financing for the projects located at 2530 Arnold, 4545 Delta Fair, and 4549 Delta Fair, is presented to the Board for approval and execution. In this Consent and Agreement, the County consents to Solar Star Co Co 2, LLC executing a collateral assignment of the projects located at 2530 Arnold, 4545 Delta Fair, and 4549 Delta Fair, which will allow SunPower to obtain a construction loan for the projects. This is the same form that was previously approved by the Board on September 22, 2020 except for site locations which reflect the second phase of construction.

CONSEQUENCE OF NEGATIVE ACTION:

Without approval of the Consent and Agreement, the County would not be in accordance with the original Power Purchase Agreements.

ATTACHMENTS

Consent and Agreement