



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: 23-509, Version: 1

- a. Adopt a Resolution making certain findings in accordance with California Government Code Sections 4217.10 et seq. and authorize the County Contracts Purchasing Officer to enter into a Master Energy Services Agreement, including the Power Purchase Agreement (PPA) Template, and other related agreements with Mynt Systems and their affiliates to implement and complete the proposed energy-related improvements to County facilities;
- b. Authorize non-standard indemnification and insurance provisions in those documents; and
- c. Provide other direction to staff as appropriate.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a) Adopt a Resolution making certain findings in accordance with California Government Code Sections 4217.10 et seq. and authorize the County Contracts Purchasing Officer to enter into a Master Energy Services Agreement, including the Power Purchase Agreement (PPA) Template, and other related agreements with Mynt Systems and their affiliates to implement and complete the proposed energy-related improvements to County facilities;
- b) Authorize non-standard indemnification and insurance provisions in those documents; and
- c) Provide other direction to staff as appropriate.

SUMMARY:

Staff recommends that the County install solar plus battery storage at 1410 Natividad Road and 1441 Schilling Place and perform energy efficiency upgrades at both facilities financed through an energy services contract. In future Energy Service System Confirmations, staff recommends also using PGE's On Bill Finance (OBF) program, however, OBF will not be used for today's Board Action.

DISCUSSION:

On October 27, 2020, the Board of Supervisors recommended entering into a Program Services Agreement with Mynt Systems, Inc. to undertake an Energy Assessment at both the Natividad Jail Complex and Schilling Place with the goal of reducing energy costs and emissions while increasing resiliency. Staff received the following project recommendations and presented them to the Budget Committee on May 18, 2021 and recommended the project move forward. The Capital Improvements Committee Chair was informed via memo due to meeting cancellations. The project is included as part of the Draft Capital Improvement Plan FY 23-24 that received support by the Capital Improvement Committee on March 6, 2023, which is scheduled to be adopted by the Board in June 2023.

Committee Recommendations:

1. 1410 Natividad Rd, including the Jail Complex and the Sheriff's Public Safety Building: Install a 1,285.9kW rooftop solar array with a 2,145.6kWh battery at the New jail building along with a 372.7kW rooftop solar array on the public safety building as well as energy efficiency upgrades resulting in a reduction of 127,895 kWh of energy.
2. 1441 Schilling Place Building: Install A 1,010.7kW rooftop solar array with a 2,536.8kWh battery and

energy efficiency upgrades resulting in a reduction of 311,950 kWh of energy.

Due to certain changes in operations that are taking place at the “new” jail, staff is only recommending that the County not install improvement on the new jail, but, instead, move forward with the improvements at the Sheriff’s Public Safety Building and Schilling Place.

These projects are not only expected to save greater than \$10M in expenditures over their lifetime, but they will also reduce the County’s emissions and are part of the overall pathway to Net Zero emissions in our buildings. The Jail Complex and Schilling Place are the number 2 and number 6 energy users respectively. Further, the Schilling Place project also includes battery storage providing some resiliency to the building in the event of an outage.

This project is contemplated as a pilot project that demonstrates the feasibility of achieving emissions reductions, energy savings, and resiliency for our County facilities without incurring upfront costs and is meant to be scaled across the County. To achieve this, staff is proposing entering into a Master Energy Services Agreement, that could govern future similar efforts. This master agreement serves to standardize agreement terms for the County’s sustainable infrastructure efforts and allows the County to bundle savings and reapply those savings across other decarbonization efforts thereby funding those efforts over time through the utility allocations. The Master Energy Services Agreement will allow the County to position itself for infrastructure funding and improvements that require a quick turnaround time for shovel ready projects when they involve energy savings through energy efficiency and renewable energy.

Next Steps

With County approval and authorization via the Master Energy Services Agreement, Power Purchase Agreements, and Site Lease Agreements, Mynt Systems Services will prepare design plans and specifications, bid the project, and hire contractors to construct energy improvements. All project design, construction, construction administration, and profits are built into the total project costs to the County and paid for through energy cost savings as specified in Power Purchase Agreements, attached to this staff report as “Exhibit C-1 Power Purchase Agreement Solar PV & Storage Schilling Place” and “Exhibit C-2 Power Purchase Agreement Solar PV Sheriff Public Safety Building”. The Power Purchase Agreements establish schedules over their 25-year terms that determine the price of electricity the County is purchasing from the project, which can be seen on Exhibit 1 of each Power Purchase Agreement. This price escalates for the first 10 years of the agreement and then is capped at a fixed rate for the remainder of the term. The Power Purchase Agreements also contain a Performance Guarantee that energy efficiency improvements will generate energy cost savings equal to or greater than project costs. In this arrangement, the vendor will measure and verify the actual energy savings and if the actual energy savings are not realized as estimated, the shortfall is reimbursed to the County. In addition to a performance guarantee, this project also allows the County to retain the Renewable Energy Credits in order to avoid double counting of emissions reductions and contractually provides the County with the option to purchase (buyout) the systems from Monterey Solar 1, LLC at five (5) specified points in time; these opportunities to purchase the systems scheduled for the first day of years 7, 9, 11, 16, and 20 of operation. The County may not purchase the systems before year 6 due to tax equity liability concerns.

The Master Energy Services Agreement provides a negotiated governing framework for future sustainability upgrades that may be added as exhibits in the form of Energy Service Systems. Energy Service Systems are defined as “solar systems, battery storage systems, energy efficiency devices, electric vehicle charging stations, and other products and mechanisms to reduce emissions or energy use in buildings”. Exhibits D-G of the Master Energy Services Agreement are placeholder exhibits to illustrate where additional Energy Services Agreements can be collated. Each of these future projects would return to the Board for approval. Similarly, each new project would require an additional Energy Service System Confirmation and a Site Lease Agreement even though the terms of the Master Energy Services Agreement will generally apply to each new project.

Government Code Requirements to Enter into an Energy Services Contract

California Government Code Section 4217.12(a) for Energy Conservation Contracts states that:

(a)[...] a public agency may enter into an energy service contract and any necessarily related facility ground lease on terms that its governing body determines are in the best interests of the public agency if the determination is made at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, and if the governing body finds:

- (1) That the anticipated cost to the public agency for thermal or electrical energy or conservation services provided by the energy conservation facility under the contract will be less than the anticipated marginal cost to the public agency of thermal, electrical, or other energy that would have been consumed by the public agency in the absence of those purchases.
- (2) That the difference, if any, between the fair rental value for the real property subject to the facility ground lease and the agreed rent, is anticipated to be offset by below market energy purchases or other benefits provided under the energy service contract.

The County provided public notice on May 30, 2023, two weeks in advance of the June 13 public hearing at the Board of Supervisors meeting. The cost to the County for thermal, electrical energy, or conservation services provided by the energy conservation project in the proposed Master Energy Services Agreement and Energy Systems Service Confirmation is projected to be less than the County’s cost for thermal, electrical energy, or other energy that would have been consumed by the County in the absence of the proposed project.

The difference between the estimated costs of the proposed project is anticipated to be offset by energy cost savings over the project life and it is in the best interests of the County to enter into this energy services contact. As such, these conditions have been met and the Board can make the required findings in order for the County

to enter into the agreements with Mynt Systems, Inc. and Monterey Solar 1, LLC.

OTHER AGENCY INVOLVEMENT:

The County Sustainability Program and the Office of County Counsel negotiated the Master Energy Services Agreement and related agreements. The following County departments had opportunities to provide feedback, Public Works, Facilities and Parks (PWFP), Sheriff's Department, County Counsel including Risk Management, CAO Budget and Contracts and Purchasing.

The project is included as part of the Draft Capital Improvement Plan FY 23-24 that received support by the Capital Improvement Committee on March 6, 2023, which is scheduled to be adopted by the Board in June 2023.

FINANCING:

Should the County decide not to move forward with any of the above recommendations, the County will owe Mynt Systems, Inc. a \$25,000 Assessment Fee per site as required per the Program Service Agreement. If the County is required to pay the \$50,000 Assessment Fee, funds could be allocated from General Fund, Fund 001, Public Works, Facilities, and Parks Department 3200, Utilities Appropriation Unit PWFP055 as outlined in the Board Order approving the Program Services Agreement. However, this cost is not included in the fiscal year (FY) 2022-23 adopted budget or the FY 2023-24 recommended budget. A funding source would need to be identified in the event the County was required to pay these assessment fees.

Mynt Systems Inc, in conjunction with the County Budget Office and the County public finance partner, KNN Public Finance, LLC have evaluated various financing pathways for these projects and both the Budget Committee and Debt Advisory Committee have recommended utilizing a Power Purchase Agreement structure to finance the renewable energy generation and battery storage portions of this project which is being recommended today.

For future Energy Service System Confirmation projects, under the Master Energy Services Agreement may be funded through the On Bill Finance (OBF) program. Under the direction of the California Public Utilities Commission, PG&E developed a financing program to provide incentives for jurisdictions to undertake energy efficiency projects. This financing program provides 0% loan financing that is anticipated to be paid back through the savings that is realized from the efficiency projects. The debt service will appear on the monthly PG&E bills at a rate that is estimated to be equal to the new monthly energy savings, so operational costs do not increase for the jurisdiction. The 0% financing offers a maximum ten year pay-back period has been utilized successfully by many jurisdictions in the Association of Monterey Bay Agency Governments (AMBAG). Should the County opt to pursue the OBF program, total project cost being funded through OBF would be \$786,951. Pursuant to the Constitution of the State of California, the CAO Sustainability Program must budget the total outstanding on-bill finance liability for the projects each year until the end of the pay-back period. Sustainability Program staff will return via this Board's Budget Committee to add the OBF energy efficiency upgrades to the Master Energy Services Agreement as an additional Energy Services System once PG&E has made the final OBF terms available. The OBF component of this project is an option to be considered by the Board, but is not required for the advancement of the project.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The Sustainability Program is designed to support the environmental, social, and economic well-being of the County.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Ashley Paulsworth, Sustainability Program Manager, x 5344 & Cora Panturad, Sustainable Infrastructure Analyst, x 5338

Approved by: Nicholas E. Chiulos, Assistant County Administrative Officer, Ext. 5145

Attachments:

Master Energy Services Agreement

Exhibit C-1 Power Purchase Agreement Solar PV & Storage Schilling Place

Exhibit C-2 Power Purchase Agreement Solar PV Sheriff Public Safety Building

Site Lease Agreement Schilling Place

Site Lease Agreement Sheriff Public Safety Building

Draft 4217 Resolution

Vendor Signed Master Energy Services Agreement, Power Purchase Agreements, and Site Leases