



County of San Mateo

Inter-Departmental Correspondence

Department: PUBLIC WORKS

File #: 16-158

Board Meeting Date: 5/16/2017

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: James C. Porter, Director of Public Works

Subject: Amendment to the Takeover Agreement between the County and Atlantic Specialty Insurance Company ("Surety")

RECOMMENDATION:

Adopt a resolution authorizing an amendment to the Takeover Agreement with Atlantic Specialty Insurance Company, that includes:

A) Correcting the Takeover Agreement's recital of the original Team-Solar, LLC contract amount from \$3,615,493 to \$3,977,042, which includes the \$3,615,493 in project costs and \$361,549 in contingency funds; and

B) Extending the term to September 30, 2017; and

C) Increasing the project's maximum fiscal obligation by \$50,000, for a new not-to-exceed amount of \$4,027,042.

BACKGROUND:

On July 15 2014, your Board adopted Resolution 073291, which authorized an agreement with Team-Solar, LLC, in the amount of \$3,977,042, to design, furnish, and install a solar photovoltaic carport at the San Mateo Medical Center (SMMC). Total Board approved funding included: \$3,615,493 as the agreed upon contract amount and \$361,549 in contingency funding.

This project was executed in furtherance of the goals of the County's Strategic Energy Master Plan approved on December 11, 2012, which recommends acquisition of solar photovoltaic systems as a means to accomplish the goals of generating 25 percent of energy demand from renewable sources and reducing greenhouse gas emissions from County facilities by 15 percent by 2020.

In September 2015, the County was required to enter into a separate agreement with Pacific Gas and Electric Company (PG&E) for \$228,068 to complete the interconnection of the carport's photovoltaic system to PG&E's electrical grid. This work was included in the original contract with Team-Solar, LLC; however, Team-Solar was unable to meet its financial obligation.

Team-Solar, LLC filed for bankruptcy on April 21, 2016. The County, in exercising its rights under the Performance and Payment Bonds provided for in Exhibit A, Item 3 of the agreement with Team-Solar, executed a Takeover Agreement with Atlantic Specialty Insurance Company (Surety) on October 18, 2016, to complete the project under the terms and conditions of the contract with Team-Solar, LLC.

Since the beginning of the project, the following Change Orders and separate agreements have been authorized and charged against the contingency funds and completed in the aggregate amount of \$371,777.90.

Change Order No. 1: Installation of security cameras, lighting, and the drilling of rocks and pumping of water in the amount of \$120,868.35.

Change Order No. 2: Additional parking area lights and electrical pad for Johnson Controls security system in the amount of \$20,013.45.

Change Order No. 3: Solar panel cleaning on weekends to minimize impacts to hospital patients and visitors in the amount of \$2,360.10.

Change Order No. 4: Change main gate from a double swing to a sliding gate in the amount of \$468.00.

Change Order No. 5: Change the payment terms from 15 days to 30 days and extend the contract term from July 1, 2017 to September 30, 2017.

Agreement with PG&E: Agreement to pay PG&E directly for the connection of the solar photovoltaic carport at SMMC to the PG&E grid in the amount of \$228,068.

The original project contingency allowance was for \$361,549. The above listed change orders and separate agreement with PG&E exceeds the Board's approved contingency allowance by \$10,228.90.

DISCUSSION:

Under the Takeover Agreement the "Surety" has subcontracted with Vertex Companies, Inc. (Completion Contractor), who is acceptable to the County, to resume completion of the project, subject to the terms of the Bonds and the Takeover Agreement.

The Takeover Agreement with Atlantic Specialty Insurance Company was executed on October 18, 2016, in the amount of \$3,615,493. Your Board's approval of the amendment will correct the Takeover Agreement's recital of the original Team-Solar contract amount from \$3,615,493 to \$3,977,042, which includes the \$3,615,493 in project costs and \$361,549 in contingency funds.

Your Board's approval of an additional \$50,000 will cover the cost of the remaining work to complete the project, estimated at \$10,228.90, and provides \$39,771.10 in contingency funds. If approved, the project's new not-to-exceed amount is \$4,027,042.

County Counsel has reviewed and approved the resolution and amendment as to form.

Approval of this project contributes to the Shared Vision 2025 outcome of an Environmentally Conscious Community through the generation of clean and renewable energy.

FISCAL IMPACT:

The amended term of the Takeover Agreement is October 18, 2016 through September 30, 2017. The project's not-to-exceed amount will increase by \$50,000, for a new not-to-exceed amount of \$4,027,042. Funding is included in the FY 2016-17 Adopted Capital Projects budget and FY2017-18 Recommended Capital Projects budget.

There is no impact to the General Fund.