



Travis County Commissioners Court Agenda Request

Meeting Date: 10/23/2012, 9:00 AM, Voting Session

Prepared By/Phone Number: Katie Petersen Gipson, Planning and Budget Office, 854-9346

Elected/Appointed Official/Dept. Head: Leslie Browder, County Executive
Planning and Budget

A handwritten signature in black ink, appearing to be "LB", located to the right of the text for the Elected/Appointed Official/Dept. Head.

Commissioners Court Sponsor: Judge Samuel Biscoe

AGENDA LANGUAGE:

Consider and take appropriate action to amend the Chapter 381 agreement with RRE Solar, LLC.

BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

On January 10, 2012, Commissioners Court approved an amendment to the Chapter 381 Economic Development agreement with RRE Solar, LLC. Attached is the signed amendment with the new timeline on the agreement.

STAFF RECOMMENDATIONS:

Planning and Budget recommends the amendment. RRE Solar, LLC is currently in negotiations for new power contracts that should fulfill the requirements of the contract. This amendment would allow all power generation, employment and investment requirements to shift by 18 months. Some dates in the agreement relating to the payment term shifted two years due to the yearly schedule that the Travis Central Appraisal District releases property valuations. Please see attached amendment for updated timeline.

ISSUES AND OPPORTUNITIES:

Please see attached memo

FISCAL IMPACT AND SOURCE OF FUNDING:

No tax rebate would be paid until FY15 if the Company meets all terms of the agreement for compliance.

REQUIRED AUTHORIZATIONS:

Planning and Budget Office

Jessica Rio




**PLANNING AND BUDGET OFFICE
TRAVIS COUNTY, TEXAS**

700 Lavaca, Ste 1560
P.O. Box 1748
Austin, Texas 78767

MEMORANDUM

TO: Commissioners Court

FROM: Katie Petersen Gipson, Sr. Planning and Budget Analyst 

DATE: September 25, 2012

RE: Amendment to Chapter 381 agreement with RRE Solar, LLC

Attached is an amendment that extends the construction, investment, payment, and completion dates for the 60 Megawatt Solar Farm to be built in Pflugerville by RRE Solar, LLC. The agreement gives an 80% rebate on ad valorem taxes paid on business personal property for a twenty year term. The Commissioners Court approved an amendment to the agreement on January 10, 2012. The Company had an unexpected construction delay due to the loss of power contracts with Austin Energy and CPS Energy. The Company will not be in compliance with the current agreement unless a final amendment is signed. However, the Company is in negotiations with San Antonio CPS and other companies to purchase solar power.

The initial date to generate 25 MW of power and create \$25 million has moved from 12/31/11 to 6/30/13. All other dates were similarly delayed 18 months. Much of the compliance and rebate calculations align with the Travis Central Appraisal District schedule. PBO calculates the rebate amounts in May after TCAD releases their property valuations. Throughout the summer those rebate amounts are corrected for updated tax rates and any valuation changes that may occur through a protest process. Therefore, dates relating to payment terms in the amendment needed to be pushed by two years.

The Company has contacted PBO and has informed them that they have not yet signed any additional contracts but are still in the negotiation process to sell power. If, for any reason, the Company fails to meet the new power creation and investment dates, PBO would recommend ending this Chapter 381 agreement. No rebate will be paid to the Company unless they meet all terms of the agreement. PBO recommends approval of this amendment because it would allow the project to continue and property to be developed. This current property has few improvements and if the agreement is canceled today, no additional investment and no additional revenue would come to Travis County.

Please note, the Company may request an additional amendment to the agreement in the next couple of months that would expand this project from 60 MW to 200 MW if additional power contracts can be secured.

cc: Mary Etta Gerhardt, County Attorney's Office
Leslie Browder, PBO
Diana Ramirez, PBO
Jessica Rio, PBO
Leroy Nellis, PBO

DAVID A. ESCAMILLA
COUNTY ATTORNEY

STEPHEN H. CAPELLE
FIRST ASSISTANT

JAMES W. COLLINS
EXECUTIVE ASSISTANT

314 W. 11TH, STREET
GRANGER BLDG., SUITE 420
AUSTIN, TEXAS 78701

P. O. BOX 1748
AUSTIN, TEXAS 78767

(512) 854-9513
FAX: (512) 854-4808



TRANSACTIONS DIVISION

JOHN C. HILLE, JR., DIRECTOR †

BARBARA J. WILSON

MARY ETTA GERHARDT

TAMARA ARMSTRONG

JAMES M. CONNOLLY

TENLEY A. ALDREDGE

DANIEL BRADFORD

† Member of the College
of the State Bar of Texas

September 15, 2012

Valerie Harkins
RRE Power
120 Wood Ave. S.
Iselin, NJ 08830

RRE: Amendment of Economic Development
Agreement With Travis County, Texas

Dear Valeria:

Enclosed are three originals of the amendment to the agreement with Travis County which extends the performance requirements of the agreement an additional eighteen months.

Thank you for your assistance with this matter. Please return all three signed originals to me at your earliest convenience, and we will set this for the Commissioners Court agenda. If you have any questions, feel free to contact me at 512/854-9176.

Sincerely,

Mary Etta Gerhardt
Assistant County Attorney

AMENDMENT OF ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN TRAVIS COUNTY AND
RRE AUSTIN SOLAR L.L.C.

PARTIES

This Amendment ("Amendment") of Agreement is entered into by the following Parties: Travis County, a political subdivision of the State of Texas ("County") and RRE Austin Solar LLC, a Texas Limited Liability Company duly authorized to transact business in Texas, its successors and assigns ("Company").

RECITALS

County and Company entered into an agreement to provide for economic incentives in the form of property tax rebates ("Agreement").

Under the Agreement, Company agreed to construct a new 60 Megawatt Solar Farm ("Facility") which would generate clean renewable energy and maintain regional offices in Travis County.

The Agreements provides for changes by written document signed by both Parties; and the Parties desire to amend the Agreement to reflect mutually agreed to changes.

NOW, THEREFORE, in consideration of the mutual benefits received by these changes, and other good and adequate consideration as specified herein, the Parties agree to amend the Agreement as follows:

ARTICLE I. - CHANGE IN OWNERSHIP

1.0 EXTENSION

1.1 The Parties agree to extend the time allowed for completion of certain obligations under the Agreement as follows:

AGREEMENT SECTION	ORIGINAL REQUIREMENT	AMENDED REQUIREMENT
1.4 Agreement Term	Begins date signed – 1/14/11 Ends Termination date	No change
1.6 Completion Date – issuance of Certificate of Occupancy/ completion of Project	On or before 12/31/14	On or before 6/30/16
1.9 Effective Date – date both parties sign the agreement	1/14/11	No change
1.10 Effective Year Value – taxable value assessed by TCAD for year agreement signed	2011	No change

1.17 Payment Term	Begins 1/1/13, ends termination date; First payment made in 2013 based on compliance and taxes paid for 2012	Begins 1/1/15, ends termination date First payment made in 2015 based on compliance and taxes paid for 2014
1.27 Termination Date	12/31/32 or when terminated according to terms	No change
2.4.1 Agreement Term	Begins 1/14/11, ends 12/31/32	No change
2.4.2 Payment Term	Begins 1/1/12 (first payment in 2013; continues through 12/31/32	Begins 1/1/15 (first payment in 2015); continues through 12/31/32
4.2.1 Reporting/Completion/Payment Dates:		
	1/1/10 – 12/31/10 – Effective Year Value determined by TCAD	No change
	1/14/11 – Effective Date	No change
	1/1/11 – Construction begins	3/1/13 – Construction begins
	12/31/11 - \$25 million investment; 5 MW power production	6/30/13 - \$25 million investment; 5 MW power production
	6/30/12 – first list of purchase agreements, service providers and customers due	12/31/13 – first list of purchase agreements, service providers and customers due
	12/31/12 - \$76 million investment; 20 MW power production	6/30/14 - \$76 million investment; 20 MW power production
	1/1/13 – Payment term begins	1/1/15 – Payment term begins
	3/31/13 – Annual report due for 2011 performance	3/31/14 – Annual report due for 2013 performance
	4/30/13 – County response to report due	4/30/14 – County response to report due
	9/30/13 – 10/31/13 – County budget process for FY 2014	9/30/14 – 10/31/14 – County budget process for FY 2015
	10/31/13 – County payment due if compliance	10/31/15 – County payment due if compliance
	12/31/13 - \$133 million investment; 40 MW power production	6/30/15 - \$133 million investment; 40 MW power production
	1/1/14 – Second payment year begins	1/1/16 – Second payment year begins
	3/31/14 – Annual report due for 2013 compliance	1/1/15 – Annual report due for 2014 compliance
	7/31/14 – 9/30/14 – County budget process for FY15	7/31/15 – 9/30/15 – County budget process for FY 16
	10/31/14 – County payment due if compliance achieved	10/31/16 – County payment due if compliance achieved

	12/31/14 – Completion date for Facility; \$210 million investment; 60 MW power production	6/30/16 – Completion date for Facility; \$210 million investment; 60 MW power production
	12/31/15 – 25 FTEs: at Facility – 5, at Headquarters – 20	6/30/17 – 25 FTEs: at Facility – 5; at Headquarters – 20
	12/31/32 – End of 20 year term	No change
5.1.1(b) – Jobs	25 by 12/31/15(5 at Facility, 20 at Headquarters)	25 by 6/30/17 (5 at Facility, 20 at Headquarters)
5.1.1(c) - Investment	12/31/11 - \$25 million 12/31/12 - \$76 million 12/31/13 - \$133 million 12/31/14 – \$210 million	6/30/13 - \$25 million 6/30/14 - \$76 million 6/30/15 - \$133 million 6/30/16 - \$210 million
5.1.1(d)(i) – Notice to Proceed with Construction	By 1/1/11 Completion by 12/31/14 % completion requirements	By 3/1/13 Completion by 6/30/16 % completion requirements – no change
5.1.1(d)(ii) - Completion	Certificate of Occupancy no later than 12/31/14	Certificate of Occupancy no later than 6/30/16
5.1.1(d)(iii) - Production	2011 – 5 MW 2012 – 20 MW 2013 – 40 MW 2014 – 60 MW	2013 – 5 MW 2014 – 20 MW 2015 – 40 MW 2016 – 60 MW
5.1.1(f) – Purchase Agreements	List of providers and customers beginning no later than 6/30/12	List of providers and customers beginning no later than 12/31/15
5.2	Annual Report	Begins 3/31/14

1.2 County and Company understand and agree that the above extension will be the final extension granted. If Company cannot meet the above requirements, the Agreement will be subject to termination by County according to the Agreement terms.

2.0 INCORPORATION

2.1 County and Company hereby incorporate the Agreement into this Amendment. Except for the changes made in this Amendment, County and Company hereby ratify all the terms and conditions of the Agreement as amended. The Agreement with the changes made in this Amendment constitutes the entire agreement between the Parties and supersedes any prior undertaking or written or oral agreements or representations between the Parties. All provisions in the Agreement not specifically amended herein remain the same and in full force and effect.

TRAVIS COUNTY

BY: _____
Samuel T. Biscoe
Travis County Judge
Date: _____

RRE AUSTIN SOLAR L.L.C.

BY: *Daven Mehta*
Authorized RRE Representative
Printed Name: DAVEN MEHTA
Title: C.E.O
Date: 9/20/12



RRE Austin Solar, LLC

December 27, 2011

Honorable Sam Biscoe
Travis County Judge
P.O. Box 1748
Austin, TX 78767

Honorable Judge Biscoe:

I wanted to inform the Travis County Court that RRE Austin Solar will not be able to meet its obligations under its "Chapter 381" contract provisions with Travis County to install 5MW of solar panels by the end of 2011.

The reason for this is that the two projects which our company was actively pursuing were either cancelled or did not materialize. They were:

1. Austin Energy's recent purchase of only wind and not solar power as originally stated in their RFP.
2. San Antonio's CPS cancelled our winning bid for the 50MW of solar they issued in April of 2011.

We are determined more than ever to construct the Pflugerville Solar Farm and are redoubling our efforts to find Clients to purchase the electricity from it.

We are pursuing several new opportunities in 2012 which makes us optimistic that the solar farm will be constructed in 2012-2013 timeframe. They are as follows:

1. We have submitted a bid on the new RFP issued from San Antonio's CPS for 400 MW of solar power and are optimistic of a successful outcome.
2. We are also in serious discussions with two other major utilities which have expressed an interest in purchasing all the power from our Pflugerville Solar Farm in the 2012 – 2013 timeframe.

Therefore, we cordially ask the Travis County Court to amend the Chapter 381 agreement contract terms schedule (section 4.2) to extend the first phase of our project schedule which requires an investment of \$25 million and installation of 5MW by the end of 2011 to June 30, 2013.

We appreciate in advance your support and understanding as we look forward to the successful build out of the Pflugerville Solar Farm.

Sincerely,

Daven Mehta
CEO

CC: Commissioners: Ron Davis, Karen Huber, Sarah Eckhardt and Margaret Gomez