



## Travis County Commissioners Court Agenda Request

**Meeting Date:** 4/29/2014, 9:00 AM, Voting Session

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

**Elected/Appointed Official/Dept. Head:** Laroy Nellis, Acting County Executive, Planning and Budget

**Commissioners Court Sponsor:** Judge Samuel T. Biscoe

### AGENDA LANGUAGE:

Consider and take appropriate action to amend the economic development incentive agreement on the Fotowatio Renewable Ventures (FRV) solar farm

### BACKGROUND/SUMMARY OF REQUEST AND ATTACHMENTS:

Travis County signed an economic development agreement with FRV solar farm in April of 2009. The agreement would rebate 80% of ad valorem property taxes on the business personal property of the solar farm upon the completion of the facility. On December 20, 2011, the Commissioners Court approved an amendment that changed the original owner of the project and changed the location of the headquarters from the facility to downtown Austin.

PBO has completed the audit for the first year of compliance and has determined that the facility has met all current requirements outlined in the agreement. However, during the compliance audit, PBO learned the project had been sold again and another amendment is required in order for the company to receive the incentive. In addition, the new owners kept the employees on site and they are currently working at the facility. Upon approval of this amendment, PBO would ask the Auditor to issue their tax rebate payment. Please see attached compliance checklist for more information.

The attached amendment was written by the Travis County Attorney's Office, reviewed by FRV's legal counsel and signed by the company's president.

### STAFF RECOMMENDATIONS:

PBO recommends approval of this amendment which would change the ownership of the project and clarify the location of the employees.

### ISSUES AND OPPORTUNITIES:

N/A

### FISCAL IMPACT AND SOURCE OF FUNDING:

No new fiscal impact. PBO would recommend issuing the tax rebate as originally stipulated in the agreement with FRV Solar. The tax year 2012 rebate is \$244,692. This amount was accrued by the Auditor's Office as part of the FY 2014 budget process and is available for payment.

**REQUIRED AUTHORIZATIONS:**

Planning and Budget Office  
County Judge's Office

Jessica Rio  
Melissa Velasquez

## Compliance Checklist

### FRV Solar

<b>Requirement</b>	<b>Documentation Received</b>	<b>Did Company satisfy requirement?</b>
Produce 10MW power by 12/21/2011	Third party audit from Company Invoice to Austin Energy for power generation Confirmation from Austin Energy power generation (email received 4/10/14)	Yes- project was at full 30 MW capacity by end of 2011
Signed purchase power agreement with Austin Energy	Confirmation of PPA with Austin Energy received April 1, 2013	Yes
2-3 jobs at facility	Received affidavit from FRV April 1, 2013	Yes
1-2 jobs at headquarters	Jobs combined in 12/2011 amendment- all jobs are at facility. This will be clarified in amendment	Yes if agreement is amended
175-200 construction jobs created	Contract requires "commercially reasonable effort" to provide this information. While company could not get payroll information from the contractor they did confirm 210,911 man hours worked on the entire project	Yes
\$100 million in investment of construction and business personal property	Received independent audit report, bill of materials and rendition to TCAD	Yes
Local Labor and Materials	Contract requires "commercially reasonable effort" for local, state and USA labor and materials. Received updated BOM with country of origin in March 2014. Solar panels are made in China but other equipment is made in USA. Construction labor was local.	Yes
Develop training program with Del Valle ISD & ACC	TBD- Company does not need to satisfy this requirement until 12/31/2016	TBD- Company does not need to satisfy this requirement until 12/31/2016
Visitor Center	Picture of completed visitor center received April 1, 2013	Yes- requirement did not need to be met until 12/31/2014
Community Involvement- set up citizens committee	Received email of confirmation of meeting of citizens committee and contact with Park Springs Neighborhood Association in January 2014	Yes
Minority participation- good faith effort to use HUB vendors	Received MBE/WBE certification from seven sub-contractors March 2014	Yes

**AMENDMENT OF AGREEMENT AND  
APPROVAL OF CHANGE IN OWNERSHIP BETWEEN TRAVIS COUNTY AND  
FRV AE SOLAR, LLC**

**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 FRV AE Solar, LLC, a limited liability Delaware company ("FRV"). The effective date of this Amendment (the "Amendment Effective Date") shall be the date that this Amendment is executed by the Parties.

**RECITALS**

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

Under the Agreement, FRV agreed to construct a new 30 Megawatt Solar Farm 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 have previously amended the Agreement; and the Parties desire to amend the Agreement to reflect additional 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:

**1.0 CHANGE IN OWNERSHIP**

1.1 **Notice.** Pursuant to Section 5.7.1 of the Agreement ("Change in Ownership"), FRV has provided County with written notice of changes in ownership/management of FRV, with such changes being reflected in Exhibit 1 to this Amendment. County acknowledges the description of ownership/management of FRV as set forth in that Exhibit 1.

**2.0 APPROVAL**

2.1 **Transfer of Rights and Obligations.** The Parties agree that, regardless of the transfers of ownership/management set forth in this Amendment, FRV remains the project company that owns the project which is the subject of the Agreement and remains solely responsible for all rights, duties, obligations and responsibilities under the Agreement. FRV remains responsible for all performance under the Agreement and remains responsible for the day-to-day function of the Agreement obligations.

2.2 **Approval of Change in Ownership.** County approves the change in ownership referred to in this Amendment and acknowledges that the notice and this Amendment satisfies the related requirements set forth in the Agreement.

**3.0 OBLIGATIONS**

3.1 **Effect of Consent.** The Parties agree that the consent to the change in ownership contained in this Amendment does not increase the financial obligations of County or decrease or change the requirements or obligations of FRV as set forth in the original Agreement, as previously amended, unless specifically set forth in this Amendment.

**4.0 REGIONAL HEADQUARTERS**

4.1 **Facility/Headquarters Location.** The Parties agree that, pursuant to the terms of the previous amendment of the Agreement, the Facility and Headquarters are considered to be jointly located at the original site of the Facility (18580 FM 969, Manor, Texas), to be referred to as the "Facility/Headquarters."

4.2 **Jobs Requirements.** The Parties agree that the requirements of the Agreement for creation and maintenance of new full-time FTE's are combined to apply to the Facility/Headquarters. As a result, Sections 5.1.1(b)(i-b) and 5.1.1(b)(i-c) are understood to be consolidated to require that Company create and maintain 3-5 new full time equivalent jobs, as defined in the Agreement, at the single location of the Facility/Headquarters.

**5.0 INCORPORATION**

5.1 County and FRV hereby incorporate the Agreement into this Amendment. Except for the changes made in this Amendment, County and FRV 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: \_\_\_\_\_

**FRV AE Solar, LLC**

BY: \_\_\_\_\_ 

Authorized FRV Representative  
Printed Name: Javier Mellado

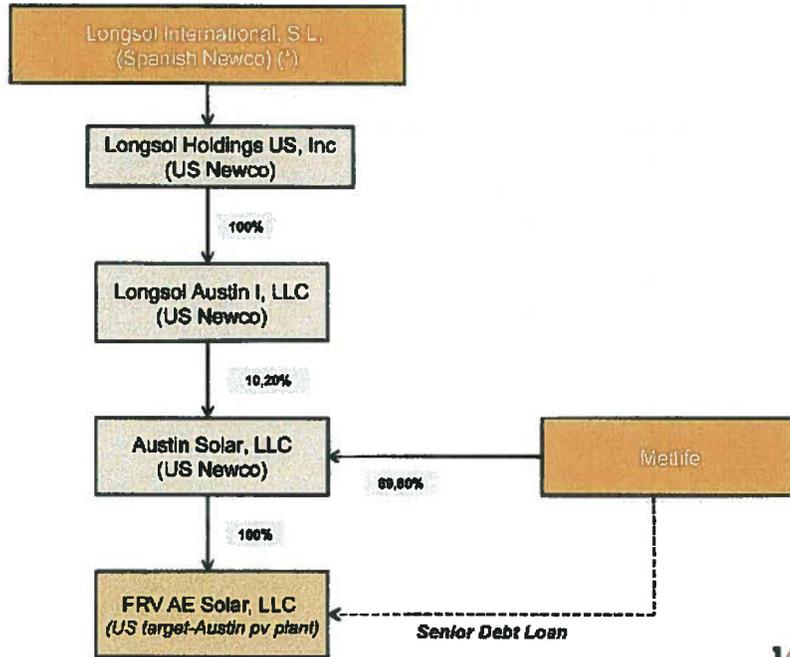
Title: President

Date: 4/22/2014

**EXHIBIT 1**

**LONGSOL INTERNATIONAL STRUCTURE**

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(\*) Previously called ABRAXA PV SUD, S.L.

