



89035

**DATE:** March 20, 2018

**TO:** Board of Supervisors

**FROM:** Susan Gilbert-Miller, Director, Office of Sustainability

**SUBJECT:** Bay Area Regional Energy Network: 2018 Agreement with Association of Bay Area Governments

**RECOMMENDED ACTION**

Consider recommendations relating to the Bay Area Regional Energy Network.

Possible action:

- a. Approve Agreement with the Association of Bay Area Governments relating to implementation services for the Bay Area Regional Energy Network in an amount not to exceed \$235,468 for period January 1, 2018 through December 31, 2018, that has been reviewed and approved by County Counsel as to form and legality.
- b. Approve Request for Appropriation Modification No. 171 - \$235,468 increasing revenue and expenditures in the Office of the County Executive budget and transferring \$142,311 to the General Fund Contingency Reserve. (4/5 Roll Call Vote)

**FISCAL IMPLICATIONS**

The approval of the Recommended Actions would result in no net fiscal impact to the General Fund, as they increase both revenues and expenditures in the same amount of \$235,468. The Recommended Actions would reimburse the General Fund, \$142,311, for position costs for grant related activity in the form of a transfer from the Office of the County Executive's Office of Sustainability (OOS) to the General Fund Contingency Reserve.

The original budget for the FY 2017-18 General Fund Contingency Reserve was \$142,585,595. Board policy 4.3 states that the contingency reserve should be 5% of general revenues net of pass-through revenue. Since the use of contingency reserve impacts compliance with this policy, the midyear budget analysis included a \$11,785,561 replenishment of this reserve. The balance of this reserve as of March 6, 2018 was \$133,514,939 indicating that \$20,856,217 has been allocated for other purposes. This action will increase the reserve and offset other uses of the reserve. There may be additional pending actions that will impact this balance once they are approved and processed.

This Bay Area Regional Energy Network (BayREN) grant funding cycle covers the period January 1, 2018 through December 31, 2018. This new grant funding is sufficient to cover staffing costs necessary to carry out the scope of work under the agreement.

## **CONTRACT HISTORY**

On February 26, 2013, the Board approved a Memorandum of Understanding with the Association of Bay Area Governments (ABAG) relating to governance of the Bay Area Regional Energy Network (BayREN).

On June 4, 2013, the Board approved an Agreement between ABAG and the County in the amount of \$915,893 for services related to implementing BayREN. The Agreement's term was January 1, 2013 through December 31, 2014 and allowed for retroactive billing of services.

On December 17, 2013, the Board approved the First Amendment to the Agreement, decreasing the maximum contract amount by \$67,750 from \$915,893 to \$848,143 because BayREN did not receive approval for funding a Single Family Loan Loss Reserve.

On February 24, 2015, the Board approved a revised Memorandum of Understanding with ABAG relating to governance of BayREN, and this MOU remains in effect for 2017. The Board also approved a new Agreement with ABAG for services related to implementing BayREN in the amount of \$280,709 for the period January 1, 2015 through December 31, 2015. The Agreement allowed for retroactive billing of services.

On April 7, 2015, the Board approved the First Amendment to the Agreement, increasing the maximum contract amount by \$45,000 from \$280,709 to \$325,709 effective March 1, 2015 through December 31, 2015 to compensate the County for assuming a leadership role for the Codes and Standards Program. The Agreement allowed for retroactive billing of services.

On June 23, 2015, the Board approved the Second Amendment to the Agreement, increasing the maximum contract amount by \$5,500 from \$325,709 to \$331,209 effective May 31, 2015 through December 31, 2015 to pay for additional outreach to Building Departments to gauge their interest in a regional Plan Check program and the use of mobile compliance software. The Agreement allowed for retroactive billing of services.

On February 9, 2016, the Board approved a new Agreement with ABAG for services related to implementing BayREN in the amount of \$386,709 for the period January 1, 2016 through

December 31, 2016. The Agreement allowed for retroactive billing of services.

On November 15, 2016, the Board approved the First Amendment to the Agreement, increasing the maximum contract amount by \$7,000 from \$386,709 to \$393,709 through December 31, 2016 to compensate the County for participating in the development of the BayREN business plan at the CPUC, and for work on the Policy subcommittee of the Codes and Standards Program. The Agreement allowed for retroactive billing of services.

On February 28, 2017, the Board approved a new Agreement with ABAG for services related to implementing BayREN in the amount of \$341,728 for the period January 1, 2017 through December 31, 2017. The Agreement allowed for retroactive billing of services.

### **REASONS FOR RECOMMENDATION**

The Office of Sustainability has participated in the 9-county BayREN energy efficiency program since it was approved by the California Public Utilities Commission (CPUC) beginning in 2013. BayREN is funded by PG&E ratepayers under an Agreement with ABAG, which, in turn, subcontracts with its member counties to promote energy efficiency locally in their jurisdictions.

For the past four years the County has actively promoted the Single Family and Multifamily residential programs and associated incentives, participated in development of financing options, and successfully engaged city and county building officials under the Codes and Standards Program through regional forums, local trainings, and individualized assessments of energy efficiency building code compliance and enforcement.

The CPUC has begun implementing rolling funding cycles, by approving BayREN funding to ABAG for three additional years from January 1, 2017 through December 31, 2019. The County and ABAG will continue to enter into one-year agreements, as program budgets will shift annually. The longer funding cycle for ABAG should prevent the lengthy stops and starts inherent in its current funding structure, though. The County and ABAG are entering into a new Agreement for services for the period January 1, 2018 through December 31, 2018.

#### *Justification for Retroactive Start Date*

A retroactive start date is requested because the County did not receive a copy of the agreement from ABAG until late January, as this agreement is subordinate to ABAG's master agreement with Pacific Gas & Electric (PG&E) for overall BayREN funding. This master agreement between PG&E and ABAG was not fully executed until January 12, 2018, delaying Agreements between ABAG and the nine Bay Area counties and necessitating

retroactive billing effective January 1, 2018, through to the end of the agreement term on December 31, 2018. The documents were sent to County Counsel for review January 24, 2018. After a thorough review and subsequent conversations with Metropolitan Transportation Commission (MTC) attorneys, County Counsel signed the contract on February 27, 2018.

Under the Agreement, the County of Santa Clara will receive \$235,468 in direct funding for 2018 implementation activities. County residents and businesses will also have access to an array of incentives and resources to assist them in completing residential and commercial energy upgrades.

The revised Memorandum of Understanding between ABAG and the County that was signed in 2015 will remain in effect without changes.

### **CHILD IMPACT**

Activities and services by the County under the Agreement are targeted to generate multiple benefits including lower energy costs, reduced greenhouse gas emissions, local economic stimulus and job creation, and heightened social equity in program accessibility. These and other objectives provide economic, social and environmental impacts that benefit children and youth.

### **SENIOR IMPACT**

Activities and services by the County under the Agreement are targeted to generate multiple benefits including lower energy costs, reduced greenhouse gas emissions, local economic stimulus and job creation, and heightened social equity in program accessibility. These and other objectives provide economic, social and environmental impacts that benefit seniors.

### **SUSTAINABILITY IMPLICATIONS**

The recommended actions support a Program that balances public policy and program interests, and furthers the Board of Supervisors' sustainability objectives to foster a healthy environment, protect resources and public health and safety, promote a diverse economy, and to advance social equity.

### **BACKGROUND**

Funding for implementation of the BayREN Energy Efficiency Program in the 9-county region served by ABAG was approved and directed by the CPUC, and was provided under that direction through a fiscal agency agreement between ABAG and PG&E (the utility has

been directed by the CPUC to serve as a fiscal agent). The program includes four sub-programs:

- **Single-Family:** A residential retrofit program that provides for a Basic Upgrade Option and an Advance Upgrade Option for larger-scale retrofits, which is available to single-family detached homes and residential buildings of 2 to 4 units. This Subprogram includes home energy assessment incentives and PG&E-issued retrofit rebates for the Advanced Home Upgrade Option, and several retrofit rebates assigned to energy efficiency measures under the Basic Home Upgrade Option.
- **Multifamily Program:** A residential retrofit program tailored to reach owner- and tenant-occupied units in residential buildings of 5 or more units. This Subprogram includes retrofit incentives, as well as a credit enhancement under the Energy Efficiency Financing Portfolio.
- **Government Codes & Standards:** This provides direct funding and other resources to BayREN counties for code compliance and enforcement development and training, as well as development of “reach codes” (codes that expand beyond the requirements of existing local and State building codes, such as, Title 24); and
- **Energy Efficiency Financing Program:** This Subprogram provides administrative costs (including market research and analysis), marketing, education and outreach (ME&O), and credit enhancement funding to support Multifamily Subprogram. The Multifamily credit enhancement is in the form of a capital advance that reduces interest rates over the life of an energy upgrade loan. In addition, this Subprogram provides administration, market research and analysis, and financing-centric ME&O funds to support upgrades of commercial buildings, whether the building owner elects to secure a conventional bank loan or to engage a Commercial PACE loan option.

Each of the nine BayREN counties entered into funding/program services agreements with ABAG for activities and deliverables under the four sub-programs. Counties also have access to services, incentives, and other support as direct benefits to homeowners and businesses that undertake energy efficiency upgrades.

The establishment and funding of Regional Energy Networks by the CPUC is an unprecedented advance in the capacity of local governments to provide robust energy efficiency programs that promote jurisdictional emissions and energy use reductions goals, as well as generate localized economic stimulus and employment opportunities.

## **CONSEQUENCES OF NEGATIVE ACTION**

The County would not be able to implement or participate in the BayREN 2018 Energy Efficiency Program, and the County’s residential and business energy customers will not have access to incentives, financing mechanisms and other energy upgrade resources that are available to the public under the program.

## **STEPS FOLLOWING APPROVAL**

Due to the BayREN funding originating at the state level from the CPUC, and being passed down through ABAG as the prime contractor, upon execution of the associated documents, the Clerk of the Board of Supervisors will:

1. Expedite obtaining the signature of the President of the Board of Supervisors on the associated agreement documents due to the urgency of maintaining this already retroactive program.
2. Return two original copies of the Agreement executed by the Board to the Office of Sustainability, which will obtain ABAG signatures and return a fully executed original to the Clerk of the Board.

## **LINKS:**

- Linked To: 81882 : 81882

## **ATTACHMENTS:**

- Combined BayREN Implementation Agreement 2018-v2signed (PDF)
- F-85 171 LF 89035 Bay Area Regional Energy Network Grant (PDF)
- Updated Combined BayRen Implementation Agreement 2018-v2signed (PDF)