

AGENDA FOR A SPECIAL MEETING
OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, NOVEMBER 6, 2019, AT 4:30 P.M.
AT THE DISTRICT OFFICE
201 VALLECITOS DE ORO, SAN MARCOS, CALIFORNIA

CALL TO ORDER – PRESIDENT MARTIN

PLEDGE OF ALLEGIANCE

ROLL CALL

In the case of an emergency, items may be added to the Agenda by a majority vote of the Board of Directors. An emergency is defined as a work stoppage; a crippling disaster; or other activity which severely imperils public health, safety, or both. Also, items which arise after the posting of the Agenda may be added by a two-thirds vote of the Board of Directors.

ADOPT THE AGENDA FOR THE SPECIAL MEETING OF NOVEMBER 6, 2019

PUBLIC COMMENT

Persons wishing to address a matter not on the Agenda may be heard at this time; however, no action will be taken until the matter is placed on a future agenda in accordance with Board policy. Public comments are limited to three minutes. A Request to Speak form is required to be submitted to the Executive Secretary prior to the start of the meeting, if possible. Public comment should start by stating name, address and topic. The Board is not permitted during this time to enter into a dialogue with the speaker.

NOTICE TO THE PUBLIC

All matters listed under the Consent Calendar will be voted upon by one motion. There will be no separate discussion of these items, unless a Board member or member of the public requests that a particular item(s) be removed from the Consent Calendar, in which case it will be considered separately under Action Items.

ACTION ITEM

- 1.1 RESOLUTION ADOPTING THE FINAL MITIGATED NEGATIVE DECLARATION FOR THE DISTRICT WIDE SOLAR PROGRAM AND APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM, AND AUTHORIZE THE GENERAL MANAGER TO ENTER INTO A COST REIMBURSEMENT AGREEMENT WITH SOLAR PROVIDER

Approved minutes become a permanent public record of the District.

Recommendation: Approve Resolution

- 2.1 ADJOURNMENT

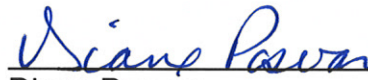
*****END OF AGENDA*****

If you have any disability which would require accommodation in order to enable you to participate in this meeting, please call the Executive Secretary at 760.744.0460 ext. 264 at least 48 hours prior to the meeting.

Audio and video recordings of all Board meetings are available to the public at the District website www.vwd.org

AFFIDAVIT OF POSTING

I, Diane Posvar, Executive Secretary of the Vallecitos Water District, hereby certify that I caused the posting of this Agenda in the outside display case at the District office, 201 Vallecitos de Oro, San Marcos, California by 4:30 p.m., Tuesday, November 5, 2019.



Diane Posvar

DATE: NOVEMBER 6, 2019
TO: BOARD OF DIRECTORS
SUBJECT: RESOLUTION ADOPTING THE FINAL MITIGATED NEGATIVE DECLARATION FOR THE DISTRICT WIDE SOLAR PROGRAM AND APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM, AND AUTHORIZE THE GENERAL MANAGER TO ENTER INTO A COST REIMBURSEMENT AGREEMENT WITH SOLAR PROVIDER

BACKGROUND:

The Board of Directors has expressed interest in exploring the possibilities for District wide solar power systems to be located at various District owned properties. This subject was delegated to the Engineering/Equipment Committee (Committee) to provide direction to staff and explore potential solar panel opportunities. The Committee's direction was to move forward with a consultant to study the development of various energy savings projects.

TerraVerde Renewable Partners (TerraVerde) was awarded a professional services agreement at the January 17, 2018 Board Meeting to serve as the District's technical advisor for a proposed District Wide Solar Program (Project). TerraVerde performed a study that identified three project options where solar facilities could be located:

- Net Energy Metering at Lift Station No. 1
- RES-BCT Project at Twin Oaks Reservoir Site
- Mahr Reservoir Floating Solar Project

DISCUSSION:

On September 19, 2018, staff and TerraVerde presented the feasibility study to the Board of Directors, and the Board decided to move the Net Energy Metering at Lift Station No. 1 and RES-BCT Project at Twin Oaks Reservoir Site options forward to the design and permitting phase. An evaluation of potential environmental impacts would need to be performed for each project per the California Environmental Quality Act (CEQA).

On March 21, 2019, staff authorized a purchase order for BRG Consulting, Inc. to prepare an Initial Study and Mitigated Negative Declaration for these two projects in the amount of \$33,630.00. BRG Consulting, Inc. compiled their environmental studies and completed an Initial Study to evaluate the effects of the proposed changes on the environment. Based on the reports contained in the Initial Study, staff determined that the proposed project may impact the environment. The proposed project scope has been revised to add specific measures to fully avoid or mitigate the potential impacts. Staff recommended, per CEQA Section 15070, that a Mitigated Negative Declaration be prepared.

Staff created a map and contact list for all properties within 500 feet of the project locations and submitted a copy of the Notice of Preparation for a Mitigated Negative Declaration to each of the property owners. The draft Mitigated Negative Declaration was also posted on the District's website.

CEQA Section 15073 requires that the Notice of Preparation, Initial Study, and draft Mitigated Negative Declaration be sent to agencies and interested parties concerned with the project. Staff initiated this public review process on August 22, 2019. Interested parties had until October 16, 2019 to respond with comments. A total of ten (10) comment letters were received from the following agencies and entities:

- Agua Caliente Band of Cahuilla Indians
- County of San Diego
- Pala Band of Mission Indians
- Rincon Band of Luiseno Indians
- City of San Marcos
- San Diego Archaeological Society Inc.
- Viejas Band of Kumeyaay Indians (2 letters)
- California Department of Toxic Substances Control
- State Clearinghouse

These comments letters are included in the Final MND appendices. The Final MND was posted and made publicly available on the District's website on November 1, 2019.

In order to approve the Project, the Board must adopt the Final MND as complete and consistent with CEQA's mandates. In addition, the Board must adopt the District Wide Solar Program Final MND Mitigation Monitoring and Reporting Program (MMRP). CEQA requires the lead agency approving a project to adopt a monitoring program for changes to the project that it adopts or makes a condition of project approval in order to mitigate or avoid significant effects on the environment and ensure compliance during project implementation. The MMRP that accompanies the Final MND has been prepared to serve this purpose.

Additionally, a Cost Reimbursement Agreement (CRA) is included in conjunction with the Power Purchase Agreement (PPA) which sets forth the terms and provisions under which the provider shall reimburse the District for its development costs, inspection costs, CEQA consultant costs, and legal costs. The Board must authorize the General Manager to enter into a CRA with the District Wide Solar provider, pending Board approval of the PPA.

RECOMMENDATION:

It is recommended the Board take the following actions:

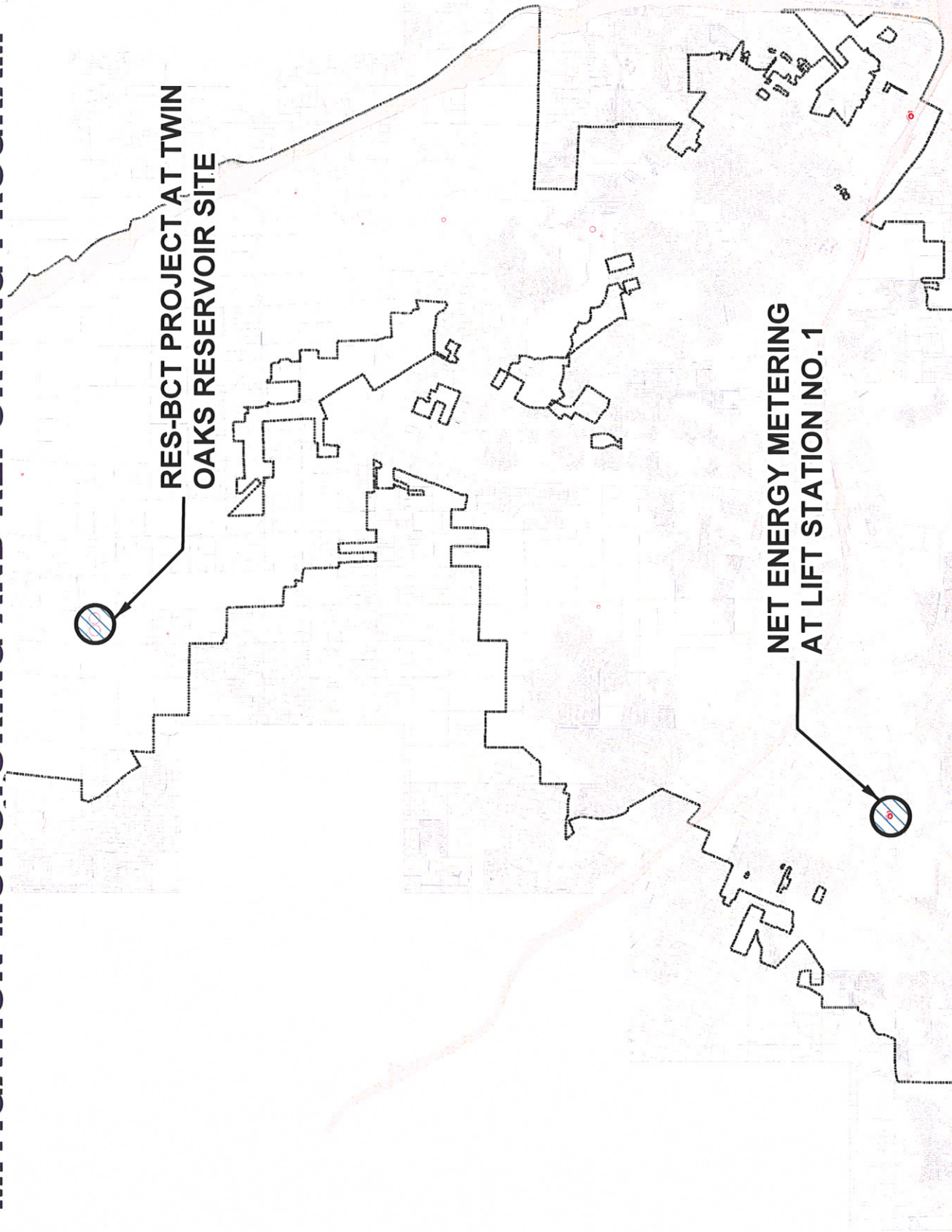
1. Adopt the Resolution which takes the following actions:
 - a) Adopts the Final MND for the District Wide Solar Program;
 - b) Approves the District Wide Solar Program Final MND Mitigation Monitoring and Reporting Program.

2. Authorize the General Manager to enter into a Cost Reimbursement Agreement with SSA Solar of CA 5, LLC, subject to approval of the PPA by the Board of Directors.

ATTACHMENTS:

- Resolution
- Mitigated Negative Declaration (available at www.vwd.org)
- Mitigation Monitoring and Reporting Program (attached as Exhibit A to the Resolution)
- Draft Cost Reimbursement Agreement by and between SSA Solar of CA 5, LLC and Vallecitos Water District

ADOPTION OF THE FINAL MITIGATED NEGATIVE DECLARATION FOR THE DISTRICT WIDE SOLAR PROGRAM, AND APPROVAL OF A MITIGATION MONITORING AND REPORTING PROGRAM



ADOPTION OF THE FINAL MITIGATED NEGATIVE DECLARATION FOR THE DISTRICT WIDE SOLAR PROGRAM, AND APPROVAL OF A MITIGATION MONITORING AND REPORTING PROGRAM



RES-BCT PROJECT AT TWIN
OAKS RESERVOIR SITE

NET ENERGY METERING
AT LIFT STATION NO. 1

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT MAKING FINDINGS, ADOPTING A MITIGATED NEGATIVE DECLARATION, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE DISTRICT-WIDE SOLAR PROGRAM (STATE CLEARINGHOUSE #2019089061)

WHEREAS, the Vallecitos Water District (“District”) provides potable, wastewater and reclaimed water services within northern San Diego County, including service to the City of San Marcos; parts of the cities of Carlsbad, Escondido, and Vista; and unincorporated areas in north San Diego County; and

WHEREAS, the District-Wide Solar Program (“Project”) consists of the construction and operation of fixed-tilt solar panel arrays at the site of two existing District facilities, including Lift Station #1 and the Twin Oaks Reservoir; and

WHEREAS, each site will include construction and operation of a fixed-tilt photovoltaic solar panel array and alternating current (“AC”) wire and conduit that will serve to provide solar-generated electrical power to the facilities thereon; and

WHEREAS, the Project will generate electrical energy from a renewable source to partially offset power purchases needed to operate existing District facilities at the Project sites; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 *et seq.*) (collectively, “CEQA”), the District is the lead agency for the proposed Project; and

WHEREAS, in accordance with State CEQA Guidelines section 15063, the District prepared an Initial Study to analyze whether the proposed Project may cause a potentially significant effect on the environment; and

WHEREAS, based on the information contained in the Initial Study, which concluded that the proposed Project could have potentially significant impacts but that those impacts could be reduced to less than significant levels with implementation of proposed mitigation measures, the District determined that a Mitigated Negative Declaration (“MND”) should be prepared for the proposed Project, and a MND was prepared pursuant to CEQA; and

WHEREAS, pursuant to Public Resources Code section 21081.6 and State CEQA Guidelines section 15074(d), the District prepared a program for reporting on or monitoring the changes which it has either required in the proposed Project or made a condition of approval to mitigate or avoid potential significant environmental effects

("Mitigation Monitoring and Reporting Program" or "MMRP"), a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the District provided copies of the Initial Study and MND to the public for a review and comment period beginning on August 22, 2019 and with an extended public review period ending on October 16, 2019, pursuant to State CEQA Guidelines section 15073, during which time the District received ten (10) comment letters; and

WHEREAS, during the public review and comment period, copies of the MND were available for review and inspection at the Vallecitos Water District, 201 Vallecitos de Oro, San Marcos, CA, and on the District's website; and

WHEREAS, on September 15, 2019 the District gave public notice of the District Board of Directors' public hearing on the proposed Project by advertisement in a newspaper of general circulation and to property owners within a 500-foot radius; and

WHEREAS, on November 6, 2019, commencing at 4:30 p.m., the District Board of Directors held a duly noticed public hearing at the District Office (201 Vallecitos de Oro, San Marcos, CA) at which time all persons wishing to testify in connection with the Project were heard; and

WHEREAS, all the requirements of the Public Resources Code and the State CEQA Guidelines have been satisfied or complied with by the District in connection with the preparation of the MND, which is sufficiently detailed so that all of the potentially significant environmental effects of the proposed Project, as well as feasible mitigation measures, have been adequately evaluated; and

WHEREAS, the MND prepared in connection with the proposed Project sufficiently analyzes the feasible mitigation measures necessary to avoid or substantially lessen the proposed Project's potentially significant environmental impacts; and

WHEREAS, prior to taking action, the Board of Directors has heard, been presented with, reviewed, and considered all of the information and data in the administrative record, including but not limited to the Initial Study, MND, MMRP, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the MND reflects the independent judgment of the District and is deemed adequate for purposes of making decisions on the merits of the proposed Project; and

WHEREAS, no comments made in the public hearing conducted by the Board of Directors, and no additional information submitted to the District, have produced substantial new information requiring substantial revisions that would trigger recirculation of the MND or additional environmental review of the proposed Project under State CEQA Guidelines section 15073.5; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE VALLECITOS WATER DISTRICT DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. RECITALS. The Board of Directors hereby finds that the recitals set forth above are true and correct and are incorporated herein as substantive findings of this Resolution.

SECTION 2. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. As the decision-making body for the proposed Project, the Board of Directors has reviewed and considered the information contained in the MND, the Initial Study, the administrative record, and all other written and oral evidence presented to the District for the proposed Project, on file with the District and available for review at the District Office, located at 201 Vallecitos de Oro, San Marcos, CA 92069, and on the District's website; and based on the Board of Directors' independent review and analysis, the Board of Directors finds that the MND, Initial Study, and administrative record contain a complete and accurate reporting of the environmental impacts associated with the proposed Project, and that the MND has been completed in compliance with CEQA and the State CEQA Guidelines.

SECTION 3. FINDINGS ON ENVIRONMENTAL IMPACTS. Based on the whole record before it, the Board of Directors finds and determines that evidence in the administrative record, including, without limitation, the analysis and conclusions set forth in the staff reports, responses to comments, testimony provided at the proposed Project's public hearings, the Initial Study, the MND and the supporting technical studies, demonstrate that, with incorporation of the identified mitigation as set forth in the MMRP, the proposed Project will not have any potential significant environmental impacts. The Board of Directors has considered all comments and other information submitted to the District in connection with the MND. The Board of Directors further finds and determines that there is no substantial evidence in the administrative record supporting a fair argument that the proposed Project may have a significant environmental impact. The Board of Directors finds that the MND contains a complete, objective, and accurate reporting of the environmental impacts associated with the proposed Project and reflects the independent judgment and analysis of the District.

SECTION 4. ADOPTION OF THE MITIGATED NEGATIVE DECLARATION. The District hereby approves and adopts the MND.

SECTION 5. ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM. In accordance with Public Resources Code section 21081.6, the Board of Directors hereby adopts the MMRP, which is hereby attached to this Resolution as Exhibit "A". In the event of any inconsistencies between the mitigation measures as set forth in the MND and the MMRP, the MMRP shall control.

SECTION 6. NOTICE OF DETERMINATION. The Board of Directors directs District staff to prepare, execute, and file a Notice of Determination with the San Diego County Clerk within five (5) working days of the passage and adoption of this Resolution.

SECTION 7. CUSTODIAN OF RECORDS. The documents and materials that constitute the record of proceedings on which these findings are based are located at the District Office, 201 Vallecitos de Oro, San Marcos, CA 92069.

SECTION 8. EFFECTIVE DATE. This Resolution shall be effective upon its adoption.

PASSED, APPROVED, AND ADOPTED by the Board of Directors of the Vallecitos Water District at a Special meeting held on this 6th day of November, 2019, by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Hal Martin, President
Board of Directors
Vallecitos Water District

ATTEST:

Glenn Prui, Secretary
Board of Directors
Vallecitos Water District

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN DIEGO)

I, Glenn Pruim, Secretary of the Board of Directors of the Vallecitos Water District, hereby certify that the foregoing is a full, true and correct copy of Resolution No. _____ duly adopted at a special meeting of the Board of Directors duly and specially held at the special meeting place thereof on November 6, 2019, of which meeting all of the members of the Board of Directors had due notice and at which a majority thereof were present; and that at the meeting Resolution No. _____ was adopted by the following roll call vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

An agenda of the meeting was posted at least 72 hours before the meeting at 201 Vallecitos de Oro, San Marcos, California, a location freely accessible to members of the public, and a brief general description of the Resolution appeared on the agenda.

I further certify that I have carefully compared the same with the original minutes of the meeting on file and of record in my office; that the foregoing Resolution No. _____ is a full, true and correct copy of the original Resolution adopted at the meeting and entered in the minutes; and that the Resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: _____

Glenn Pruim, Secretary
Board of Directors
Vallecitos Water District

8.0 MITIGATION MONITORING AND REPORTING PROGRAM

Vallecitos Water District District-Wide Solar Program

The Vallecitos Water District will adopt this Mitigation Monitoring and Reporting Program (MMRP) in accordance with Public Resources Code (PRC) Section 21081.6 and Section 15097 of the California Environmental Quality Act (CEQA) Guidelines. The purpose of the MMRP is to ensure that the District-Wide Solar Program, which is the subject of the Mitigated Negative Declaration (MND), complies with all applicable environmental mitigation requirements. The mitigation measures for the project will be adopted by the Vallecitos Water District, in conjunction with the adoption of the MND. The mitigation measures have been integrated into this MMRP. Within this document, the approved mitigation measures are organized and referenced by subject as presented on Table 7. The specific mitigation measures are identified, as well as the method and timing of verification and the responsible party that will ensure that each action is implemented.

Public Resources Code Section 21081.6 requires the Lead Agency, for each project that is subject to CEQA, to monitor performance of the mitigation measures included in any environmental document to ensure that implementation does, in fact, take place. The Vallecitos Water District is the designated lead agency for the MMRP. The Vallecitos Water District is responsible for review of all monitoring reports, enforcement actions, and document disposition. The Vallecitos Water District will rely on information provided by the monitor as accurate and up to date and will field check mitigation measure status as required.

A record of the MMRP will be monitored at Vallecitos Water District, 201 Vallecitos De Oro, San Marcos, CA 92069. All mitigation measures contained in the MND shall be made conditions of the project as may be further described below:

TABLE 7. MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Method of Verification	Timing of Verification			Responsible Party	Completed	
		Design	Pre Const.	During Const.		Post Const.	Initials
LIFT STATION #1 PV							
<p>Mitigation Measure CUL-1 Construction Monitoring for Unanticipated Discoveries.</p> <p>The project's grading and construction plans and specifications shall state that full-time monitoring by a qualified archaeologist and Native American Monitor shall be conducted during the initial grubbing and ground disturbance at the Lift Station #1 PV Project site. The VWD will offer representatives from a Luiseno Band, such as the Rincon Band, an opportunity to monitor construction activities.</p> <p>The project archaeologist, in coordination with the VWD, may re-evaluate the necessity for monitoring after the initial five feet of excavations have been completed. In the event that archaeological resources are inadvertently discovered during ground-disturbing activities, work must be halted within 50 feet of the find until it can be evaluated by a qualified archaeologist. Construction activities could continue in other areas. If the discovery proves to be significant, additional work, such as data recovery excavation or fossil recovery, may be warranted and would be discussed in consultation with the appropriate regulatory agency(ies).</p> <p>Native American tribes shall be given the opportunity to provide one or more certified cultural monitors for the Project during all excavation or earth-moving within the Project site in Holocene-aged deposits. The Construction Contractor shall give the tribe's Preservation Officer (PO) or other designated representative two weeks' notice and shall provide a copy of such notice to the VWD.</p>	Monitoring and Report Preparation		X	X	Vallecitos Water District		
<p>Mitigation Measure CUL-2: Human Remains.</p> <p>Procedures of conduct following the discovery of human remains on non-federal lands have been mandated by California Health and Safety Code §7050.5, California Public Resources</p>	Monitoring		X	X			

TABLE 7. MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Method of Verification	Timing of Verification			Responsible Party	Completed	
		Design	Pre Const.	During Const.		Post Const.	Initials
Code §5097.98, and California Code of Regulations (CCR) §15064.5(e). Should human remains be encountered, all work in the immediate vicinity of the burial must cease, and any necessary steps to ensure the integrity of the immediate area must be taken. The San Diego County Coroner will be immediately notified. The Coroner must then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner has 24 hours to notify the NAHC, who will, in turn, notify the person they identify as the most likely descendent (MLD) of any human remains. Further actions will be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.					Vallecitos Water District		
Mitigation Measure CUL-3: Avoid Potential Effects on Undiscovered Burials. The VWD shall implement the following measures to reduce or avoid impacts related to undiscovered burials. In accordance with the California Health and Safety Code, if human remains are uncovered during ground-disturbing activities, all potentially damaging ground-disturbance in the area of the burial and a 100-foot radius shall halt and the San Diego County Coroner shall be notified immediately. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, then Federal laws governing the disposition of those remain would come into	Monitoring and Report Preparation		X	X	Vallecitos Water District		

TABLE 7. MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Method of Verification	Timing of Verification			Responsible Party	Completed	
		Design	Pre Const.	During Const.		Post Const.	Initiails
<p>effect. Specifically, the Native American Graves Protection and Repatriation Act (NAGPR).</p> <p>California law also recognizes the need to protect Native American human burials, skeletal remains, and items associated with Native American burials from vandalism and inadvertent destruction. VWD shall ensure that the procedures for the treatment of Native American human remains contained in California Health and Safety Code Sections 7050.5 and 7052 and Public Resources Code Section 5097 are followed.</p>							
<p>Mitigation Measure GEO-1: Prepare Site-specific Geotechnical Investigation.</p> <p>Prior to construction of the proposed Projects, site-specific geotechnical investigations shall be conducted to determine whether geologic or other hazardous conditions exist and, if so, provide recommendations for construction that would reduce the potential for damage. Areas of liquefaction; static or ground shaking-induced landslides, lateral spreading, subsidence, liquefaction, soil collapse, expansive soils, and/or mudslide potential shall be identified as part of the geotechnical investigations. The investigations shall specifically address foundation and slope stability in liquefiable, landslide, expansive soils and mudslide areas proposed for construction. Recommendations made in conjunction with the geotechnical investigations shall be implemented during construction.</p>	Monitoring and Report Preparation		X		Vallecitos Water District		
<p>Mitigation Measure GEO-2: Prepare and Implement a Stormwater Pollution Prevention Plan.</p> <p>VWD or its approved construction contractor shall file a Notice of Intent (NOI) with the San Diego Regional Water Quality Control Board, to discharge in compliance with the statewide National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order 2009-009-DWQ, as amended by Order 2012-0006-DWQ). A certified</p>	Monitoring and Report Preparation		X		Vallecitos Water District		

TABLE 7. MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Method of Verification	Timing of Verification			Responsible Party	Completed	
		Design	Pre Const.	During Const.		Post Const.	Initials
<p>Qualified SWPPP Developer (QSD) shall prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement associated Best Management Practices (BMPs) that are specifically designed to reduce construction-related erosion. Impacts would be less than significant with mitigation incorporated.</p> <p>TWIN OAKS RESERVOIRS PV</p> <p>Mitigation BIO-1: Conduct Pre-Construction Surveys for Raptors and Migratory Birds.</p> <ul style="list-style-type: none"> If construction activities at the Twin Oaks Reservoir PV Project site occur between February 1 and August 15, VWD shall have a qualified biologist conduct preconstruction surveys of trees located immediately south and west of the Project site for active nests of raptors and MBTA protected birds within 10 days of construction. Surveys for nesting raptors shall be conducted in accordance with established CDFW raptor survey protocols. If no active nests are found, PV solar array installation and other construction-related activities may proceed without further studies or mitigative actions. If active nests are found, the biologist will establish avoidance buffers around nests that are sufficient so that breeding is not likely to be disrupted or adversely affected by construction. An avoidance buffer will constitute an area where project-related activities (i.e., vegetation removal, earth moving, and construction) shall not occur. Typical avoidance buffers during the nesting season shall be 100 feet for nesting passerine birds and 500 feet for nesting raptors unless a qualified biologist, in consultation with USFWS and/or CDFW, determines that smaller buffers will be sufficient to avoid impacts on nesting raptors and/or other birds. A qualified biologist shall monitor any active nests during construction, to ensure that the species is not being harmed or harassed by noise or other activities stemming from project-related construction. Buffer shall be maintained by 	Monitoring and Report Preparation		X		Vallecitos Water District		

TABLE 7. MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Method of Verification	Timing of Verification			Responsible Party	Completed	
		Design	Pre Const.	During Const.		Post Const.	Initials
VWD until a qualified biologist, in consultation with USFWS and/or CDFW, has determined that young have fledged and are no longer reliant on the nest or parental care for survival.							
<p>Mitigation Measure GEO-1: Prepare Site-specific Geotechnical Investigation.</p> <p>Prior to construction of the proposed Projects, site-specific geotechnical investigations shall be conducted to determine whether geologic or other hazardous conditions exist and, if so, provide recommendations for construction that would reduce the potential for damage. Areas of liquefaction; static or ground shaking-induced landslides, lateral spreading, subsidence, liquefaction, soil collapse, expansive soils, and/or mudslide potential shall be identified as part of the geotechnical investigations. The investigations shall specifically address foundation and slope stability in liquefiable, landslide, expansive soils and mudslide areas proposed for construction. Recommendations made in conjunction with the geotechnical investigations shall be implemented during construction.</p>	Monitoring and Report Preparation		X		Vallecitos Water District		

COST REIMBURSEMENT AGREEMENT BETWEEN DISTRICT AND PROVIDER

The Cost Reimbursement Agreement (“Agreement”) is entered into as of (“Effective Date”), by Vallecitos Water District, a California County Water District (“District”) and SSA Solar of CA 5, LLC a [California] (“Provider”). District and Provider are each referred to individually as a “Party” and together as the “Parties.”

RECITALS

- A. The District issued a Request for Proposals for Solar Power Purchase for Solar Photovoltaic dated July 18, 2019 (the “RFP”).
- B. The RFP requires that the successful Respondent reimburse the District for certain costs incurred, including: (1) the costs of consultant services (“**Development Costs**”); (2) the District’s inspection costs (“**Inspection Costs**”); (3) the District’s CEQA consultant costs (“**CEQA Consultant Costs**”); and (4) the District’s legal cost (“**Legal Cost**”).
- C. After District’s receipt of all proposals in response to the RFP, Provider was determined to be the successful respondent in connection with the RFP.
- D. This Agreement sets forth the terms and provisions under which Provider shall reimburse the District for its Development Costs, Inspection Costs, CEQA Consultant Costs and Legal Costs (collectively referred to herein as the “**Incurred Costs**”).

NOW, THEREFORE, in consideration of the covenants hereinafter contained and the foregoing recitals, which constitute a part of this Agreement, the Parties agree as follows:

AGREEMENT

1. Scope. The Parties have negotiated and entered into a solar power purchase agreement (“PPA”) for each project specified in Exhibit A, which is attached hereto and made part of this Agreement (each, a “Project”). As further consideration relating to the execution of the PPA and the development, construction and operation of the Project, Provider has agreed to reimburse and pay District the Incurred Costs in accordance with the terms and provisions of this Agreement.
2. Incurred Costs. The Incurred Costs, are described and calculated as follows:
 - a. Development Costs. The Development Costs are the amount payable by District to its third party energy advisor (“**Energy Advisor**”) in consideration for consultant services provided by the Engineers and Energy Advisor to the District, including, but not limited to: analyzing and designing aspects of the Projects, preparing the RFP and reviewing responses, facilitating the negotiation of the PPAs, and overseeing the performance and completion of the Projects. The total Development Costs payable by Provider to the District shall be equal to \$214,000 In no event shall the Development Costs payable by Provider to the District as reimbursement exceed such amount.

- b. Inspection Costs. The Inspection Costs consist of the District's actual costs incurred in hiring an Inspector of Record ("**IOR**") to oversee the Project. Provider shall reimburse the District for the Inspection Costs only to the extent the Inspection Services are performed, and only with respect to each Project that is built pursuant to PPA. In no case will Provider be responsible for reimbursing the District for more than \$ \$18,000 in Inspection Costs (the "**Maximum Inspection Costs**"). District shall present Provider with documents and invoices evidencing the amount of such Inspection Costs. The District shall be responsible for any Inspection Costs in excess of the Maximum Inspection Costs.
 - c. CEQA Consultant Costs. The CEQA Consultant Costs are the amount payable by District to its third party CEQA Consultants ("**Consultants**") regarding services provided by the Consultants to the District, including, but not limited to: analyzing and overseeing the CEQA study of this Project. The CEQA Consultant Costs payable by Provider to the District shall be equal to \$43,000 In no case will Provider be responsible for reimbursing the District for more than \$43,000 in CEQA Consultant Costs (the "**Maximum CEQA Consultants Costs**"). District shall present Provider with documents and invoices evidencing the amount of such CEQA Consultant Costs. The District shall be responsible for any CEQA Consultant Costs in excess of the Maximum CEQA Consultant Costs.
 - d. Legal Costs. The Legal Costs consist of the amounts billed to the District by a legal services provider for legal services incurred in connection with negotiating this Agreement and the PPAs. In no case will Provider be responsible for reimbursing the District for more than \$30,000 in Legal Costs (such not-to-exceed amount, the "**Maximum Legal Costs**"). The District shall be responsible for any Legal Costs in excess of the Maximum Legal Costs. Notwithstanding this section or any other provision of this Agreement, District retains the right to recover attorneys' fees from Provider in the event Provider is in default of any of Provider's obligations under this Agreement and District incurs attorneys' fees in enforcing this Agreement.
 - e.
3. Payment Schedule. Provider shall pay District as follows:
- a. 25% of the Development Costs within 15 days of the Effective Date of this Agreement and execution of the PPA (the "**Effective Date Milestone**"); and
 - b. 25% of the Development Costs within 15 days of the date on which the District issues Provider a Notice to Proceed to Construction with respect to all Projects as set forth in the PPA (the "**NTP Milestone**").
 - c. 50% of the Development Costs within 15 days of the Commercial Operation Date (as defined in the PPA) of the final Project to be constructed (the "**COD Milestone**").
 - d. 100% of the Inspection Costs within 30 days of the later of 1) the date on which the District presents Provider with reasonably detailed invoices from the District's Inspector, and 2) the Notice to Proceed to Construction, provided that in no case will Provider be required to pay any Inspection Costs in excess of the Maximum Inspection Costs.

- e. 100% of the CEQA Consultant Costs within 30 days of the later of 1) the date on which the District presents Provider with reasonably detailed invoices from the District's CEQA Consultant, and 2) the date in which the CEQA document is approved by the Vallecitos Water District Board of Directors., provided that in no case will Provider be required to pay any CEQA Consultant Costs in excess of the Maximum CEQA Consultant Costs.
- f. 100% of the Legal Costs within 30 days of the Effective Date Milestone, provided that in no case will Provider be required to pay any Legal Costs in excess of the Maximum Legal Costs.

4. Miscellaneous.

- a. Term. This Agreement shall be effective as of the Effective Date and shall remain in effect until each Party has fulfilled all of its obligations to the other hereunder.
- b. Limitation of Liability. Neither Party, or its directors, officers, shareholders, Governing Board or members thereof, agents, employees, subcontractors or suppliers shall be liable for indirect, special, exemplary, or consequential damages of any nature arising out of any act or omission hereunder. A Party's aggregate liability arising out of or in connection with this Agreement shall be limited to an amount equal to the sum of the Maximum Development Costs, Maximum Inspection Costs, and Maximum CEQA Consultant Costs.
- c. Dispute Resolution. Any dispute(s) between the Parties arising from or connected to this Agreement shall be handled in accordance with Section 15 of the applicable PPA.
- d. Governing Law; Choice of Forum. This Agreement shall be governed by the laws of the State of California. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of San Diego, subject to transfer of venue under applicable State law.
- e. No Partnership. This Agreement shall not be construed or represented as creating any partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither Party shall be considered or represented as the agent of the other.
- f. Full Agreement; Modification. This Agreement, together with any Exhibits and the PPA, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties.
- g. Execution in Counterparts. This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully executed Agreement.

- h. Severability. If any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

- i. Binding Effect; Assignment. Provider, by execution of this Agreement, acknowledges that Provider has read this Agreement, including any all Exhibits and attachments thereto, and understands them and agrees to be bound by their terms and conditions. Provider acknowledges and understands that Provider shall not assign this Agreement, in whole or in part, without prior written consent of the District. Assignment of this Agreement, or any rights, duties or obligations thereunder, without the express written consent of the District shall be void.

- j. Notices. All notices under this Agreement shall be in accordance with the provisions regarding notices set forth in Section 23 of the PPA, which Section is hereby incorporated by reference.

Each person executing this Agreement on behalf of a Party represents that he/she is authorized to execute on behalf of and to bind the Party to this Agreement.

VALLECITOS WATER DISTRICT

SSA SOLAR of CA 5, LLC

By: _____

By: _____

Name: Glenn Pruim

Name: _____

Title: General Manager, Vallecitos Water District

Title: _____

Exhibit A

Project Site / Meter	Site Address	PV System Size (kW DC)
Lift Station #1 NEM	1368 W San Marcos Blvd P, San Marcos, CA 92078	236.52
Twin Oaks Reservoir RES-BCT	3896 EL PASO ALTO, SAN MARCOS CA 92069	1892.16
<u>Portfolio Total</u>		