

**PURSUANT TO EXECUTIVE ORDER N-25-20 ISSUED BY GOVERNOR NEWSOM,
ONE OR MORE BOARD MEMBERS MAY PARTICIPATE IN THE MEETING
VIA TELECONFERENCE**

AGENDA FOR A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, DECEMBER 2, 2020, AT 5:00 P.M.
VIA TELECONFERENCE

NOTICE TO THE PUBLIC

Due to the evolving situation with the COVID-19 Novel Coronavirus and Executive Order N-35-20, so long as state or local public health officials have imposed or recommended social distancing measures Vallecitos Water District will hold future meetings via teleconferencing and allow members of the public to observe and address the meeting telephonically or otherwise electronically. During this period of time, Vallecitos Water District will not be making any physical location available for members of the public to observe the meeting and offer public comment. The public is encouraged to watch and participate in the meeting from the safety of their homes. The meeting can be viewed on the agenda page located on the main page of the District's website. Public comments or questions can be submitted to the following email address: PublicComment@vwd.org. All written comments that are received at least 90 minutes before the meeting will be provided to the Board, and a record of the receipt of comment will be noted during the meeting. Members of the public viewing the meeting via the Zoom videoconferencing platform can express their desire to provide input at the appropriate time by utilizing the "Raise Hand" function. Additional instructions for online participation will be posted on the District's website. www.vwd.org/meetings

CALL TO ORDER – PRESIDENT EVANS

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 AGENDA FOR THE REGULAR MEETING OF DECEMBER 2, 2020

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. Alternatively, persons wishing to address the Board at this time may utilize the "Raise Hand" feature of the Zoom videoconferencing platform. 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.

CONSENT CALENDAR

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.

1.1 APPROVAL OF MINUTES (pp. 5-16)

- A. FINANCE/INVESTMENT COMMITTEE MEETING – NOVEMBER 16, 2020
- B. CLOSED SESSION BOARD MEETING – NOVEMBER 18, 2020
- C. REGULAR BOARD MEETING – NOVEMBER 18, 2020

Approved minutes become a permanent public record of the District.

Recommendation: Approve Minutes

1.2 APPROVAL OF CONSTRUCTION AGREEMENT FOR KAISER PERMANENTE HOSPITAL - SAN MARCOS MEDICAL CENTER (KAISER FOUNDATION HOSPITALS) APNS: 221-091-24 & 221-091-25 (pp. 17-40)

The hospital site is located north of Craven Road between Echo Lane and Rush Drive.

Recommendation: Approve Construction Agreement

1.3 AWARD OF CONSTRUCTION CONTRACT FOR THE MEADOWLARK RECLAMATION FACILITY UNINTERRUPTIBLE POWER SUPPLY INSTALLATION PROJECT (pp. 41-61)

An uninterruptible power supply will be installed to feed backup power to Panel "B" which feeds power to the Meadowlark Reclamation Facility lab area and equipment.

Recommendation: Award Contract to Southern Contracting Company

*****END OF CONSENT CALENDAR*****

ACTION ITEM(S)

2.1 CALIFORNIA PUBLIC UTILITIES COMMISSION'S (CPUC) SELF-GENERATION INCENTIVE PROGRAM (pp. 62-115)

The CPUC's Self-Generation Incentive Program promotes the use of energy storage through incentives to install battery storage systems to a customer's utility.

Recommendation: 1) Approve two no-cost agreements for battery storage Power Pack Systems with Tesla, Inc. for two site locations; 2) Find that the project is exempt from Section 21000 et seq. of the California Public Resources Code; and 3) Authorize the General Manager to approve additional sites and changes, inserts and omissions to the contract and thereafter execute the contract

2.2 PROJECT ACCEPTANCE OF NORTH TWIN OAKS TANK NO. 1 REFURBISHMENT
(pp. 116-119)

The tank's existing interior lining and exterior coating had deteriorated and required full refurbishment.

Recommendation: **1) Accept project; and 2) Authorize the General Manager to file a Notice of Completion and release of retention funds**

2.3 ADJUSTMENT TO GENERAL MANAGER'S COMPENSATION (pp. 120)

The Board recently conducted an annual performance evaluation of the General Manager.

Recommendation: **1) Approve one-time lump sum bonus**

*****END OF ACTION ITEMS*****

REPORTS

3.1 GENERAL MANAGER

3.2 DISTRICT LEGAL COUNSEL

3.3 SAN DIEGO COUNTY WATER AUTHORITY

3.4 ENCINA WASTEWATER AUTHORITY
- Capital Improvement Committee
- Policy and Finance Committee

3.5 STANDING COMMITTEES

3.6 DIRECTORS REPORTS ON MEETINGS/CONFERENCES/SEMINARS ATTENDED

*****END OF REPORTS*****

OTHER BUSINESS

4.1 MEETINGS

*****END OF OTHER BUSINESS*****

5.1 DIRECTORS COMMENTS/FUTURE AGENDA ITEMS

*****END OF DIRECTORS COMMENTS/FUTURE AGENDA ITEMS*****

6.1 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 5:30 p.m., Wednesday, November 25, 2020.

Diane Posvar

MINUTES OF A MEETING OF THE
FINANCE/INVESTMENT COMMITTEE
OF THE VALLECITOS WATER DISTRICT
MONDAY, NOVEMBER 16, 2020 AT 4:00 P.M.
VIA TELECONFERENCE

Director Martin called the meeting to order at the hour of 4:00 p.m. The meeting was held via teleconference.

Present: Director Sannella
 Director Martin
 General Manager Pruum
 Finance Manager Owen
 Principal Financial Analyst Arthur
 Executive Secretary Posvar

Others Present: Shannon Ayala, DavisFarr LLP
 Genny Lynkiewicz, Chandler Asset Management

ITEM(S) FOR DISCUSSION

AUDIT RESULTS AND COMPREHENSIVE ANNUAL FINANCIAL REPORT

Finance Manager Owen introduced Shannon Ayala of DavisFarr LLP. Ms. Ayala provided a presentation on the audit result for Fiscal Year (FY) Ended June 30, 2020 as follows:

- Audit Reports
- Internal Controls
- Audit Results
- Compliance Results
- Areas of Audit Focus
 - Construction in Progress
 - Other Post Employment Benefit Obligations
 - Disbursement Testing
- Upcoming GASBs (Governmental Accounting Standards Board)

Ms. Ayala stated the auditors issued an unmodified opinion dated November 12, 2020 on the District's Comprehensive Annual Financial Report which is the highest level of audit opinion that can be received. The financial statements and footnotes are presented fairly, in all material respects, in accordance with generally accepted accounting principles. A recommendation was made to review capital asset projects in construction to ensure they are properly reported.

General discussion took place regarding the tracking of expenses for various types of construction projects and steps staff is taking to improve the tracking process.

General Manager Pruim stated this information will be presented to the Board at their Regular Board meeting on November 18, 2020.

ANNUAL INVESTMENT POLICY

Finance Manager Owen stated staff is required to provide the Board an annual update on the District's investment policy. He introduced Jenny Lynkiewicz of Chandler Asset Management. Ms. Lynkiewicz discussed changes in California government code and Chandler's best practices, and recommendations for revisions to the investment policy. The recommendations for consideration include adding broker/dealers to the list of authorized financial institutions, increasing the limit per U.S. agency from 25% to 30%, allowing the purchase of commercial paper offered by limited liability corporations, possibly increasing the amount of commercial paper purchases allowed in the portfolio from 25% to 40%, purchasing securities with a 0% or negative interest rate, and clarifying language pertaining to money mutual funds, money market mutual funds, and the downgrade policy.

Finance Manager Owen stated this information will be presented to the Board at the December 2 Regular Board meeting.

INVESTMENT PORTFOLIO UPDATE

Ms. Lynkiewicz facilitated a presentation on the investment report which included the following:

- Economic Update
- Account Profile
- Consolidated Information
- Portfolio Holdings
- Transactions

CALPERS ADDITIONAL DISCRETIONARY PAYMENT UPDATE

Finance Manager Owen stated that in accordance with the District's Unfunded Accrued Liability (UAL) funding policy approved by the Board on June 3, 2020, an additional discretionary payment in the amount of \$4,027,000 was made to CalPERS on October 29, 2020. The UAL balance for FY 2022 was projected to be \$7,273,000; however, after the October payment, the balance is now projected to be \$7,690,483.

Finance Manager Owen provided a brief overview of the District's UAL funding policy. The unpaid UAL balance will be addressed next year during the budget process.

OTHER BUSINESS

None.

PUBLIC COMMENT

None.

ADJOURNMENT

There being no further business to discuss, the meeting was adjourned at the hour of 4:58 p.m.

MINUTES OF A CLOSED SESSION MEETING
OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, NOVEMBER 18, 2020, AT 4:00 PM, VIA TELECONFERENCE

Vice President Sannella called the Closed Session meeting to order at the hour of 4:06 p.m.

Present: Director Elitharp
Director Hernandez
Director Martin
Director Sannella
Director Evans

Staff Present: General Manager Pruiam
Legal Counsel Gilpin
Executive Secretary Posvar

ADOPT AGENDA FOR THE CLOSED SESSION MEETING OF NOVEMBER 18, 2020

20-11-07 MOTION WAS MADE by Director Martin, seconded by Director Hernandez, and carried unanimously, to adopt the agenda for the Closed Session Meeting of November 18, 2020 as amended.

PUBLIC COMMENT

None.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION

Per Government Code Section 54956.9(a) – Vallecitos Water District vs. San Diego County Water Authority Case No. 37-2020-00034563-CU-BC-NC

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Per Government Code Section 54957 – Title: General Manager

20-11-08 MOTION WAS MADE by Director Martin, seconded by Director Hernandez, and carried unanimously, to move into Closed Session pursuant to Government Code Sections 54956.9(a), 54957, and 54956.9(1).

REPORT AFTER CLOSED SESSION

The Board reconvened to Open Session at 4:49 p.m. There was no reportable action from the Closed Session Meeting.

ADJOURNMENT

There being no further business to discuss, Vice President Sannella adjourned the Closed Session Meeting of the Board of Directors at the hour of 4:50 p.m.

A Regular Meeting of the Vallecitos Water District Board of Directors has been scheduled for Wednesday, December 2, 2020 at 5:00 p.m. via teleconference.

Michael A. Sannella, Vice President
Board of Directors
Vallecitos Water District

ATTEST:

Glenn Pruij, Secretary
Board of Directors
Vallecitos Water District

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS
OF THE VALLECITOS WATER DISTRICT
WEDNESDAY, NOVEMBER 18, 2020, AT 5:00 PM, VIA TELECONFERENCE

Vice President Sannella called the Regular meeting to order at the hour of 5:00 p.m.

Present: Director Elitharp
Director Hernandez
Director Martin
Director Sannella
Director Evans

Staff Present: General Manager Pruim
Legal Counsel Gilpin
Administrative Services Manager Emmanuel
District Engineer Gumpel
Finance Manager Owen
Operations & Maintenance Manager Pedrazzi
Asset Management Supervisor Bowman
Wastewater Treatment Plant Supervisor McDougle
Executive Secretary Posvar

Others Present: Jennifer Farr, Partner, Davis Farr LLP

ADOPT AGENDA FOR THE REGULAR MEETING OF NOVEMBER 18, 2020

20-11-09 MOTION WAS MADE by Director Martin, seconded by Director Hernandez, and carried unanimously, to adopt the agenda for the Regular Board Meeting of November 18, 2020.

PUBLIC COMMENT

None.

PRESENTATION

General Manager Pruim presented a video honoring employees who achieved milestone service anniversaries. General Manager Pruim also recognized Eileen Koonce, Robert Salazar, Jeanna Kirby, and Eric Garcia who are retiring from the District.

CONSENT CALENDAR

20-11-10 MOTION WAS MADE by Director Martin, seconded by Director Evans, and carried unanimously, to approve the Consent Calendar as presented.

1.1 Approval of Minutes

A. Closed Session Board Meeting – November 4, 2020

- B. Regular Board Meeting – November 4, 2020
- 1.2 Warrant List through November 18, 2020 - \$1,070,765.89
- 1.3 Financial Reports
 - A. Water Meter Count – October 31, 2020
 - B. Water Production/Sales Report – 2020/2021
 - C. Per Capita Water Consumption – October 31, 2020
 - D. Water Revenue and Expense Report – October 31, 2020
 - E. Sewer Revenue and Expense Report – October 31, 2020
 - F. Reserve Funds Activity – October 31, 2020
 - G. Investment Report – October 31, 2020
 - H. Legal Fees Summary – October 31, 2020
- 1.4 Resolution Adopting the Annual Pay Schedule with Adjustments for Rounding Revisions

ACTION ITEM(S)

FISCAL YEAR 2020 AUDIT RESULTS AND COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFER)

Finance Manager Owen stated he completed the audit in September and have been working on the CAFER since then. Jennifer Farr, with DavisFarr, will present the audit results.

The audit has been completed for the FY June 30, 2020 and includes the CAFR. Also included is the report and the unmodified audited opinion dated November 12, 2020. The unmodified opinion means the financial statements and footnotes are presented fairly in accordance with accounting standards. Also issued two additional letters, one to those in governance that summarizes the audit results and the other is the government auditing standards opinion which includes compliance issues and internal control recommendations.

Finance staff were prepared for the audit; had no material adjustments detected during the audit; did identify a few immaterial errors in the accounting numbers; reported to correct those amounts; reviewed the internal controls; and no significant deficiencies or material weaknesses and internal controls as well. Had one best practice recommendation related to accounting for construction in progress, however, the issues noted were very minor. Are required to test for compliance with certain laws and regulations. Included a few of the compliance areas that they test.

Standard audit approach changes every year and is required to test for compliance with laws and regulations. It included a few of those compliance areas that they test: investment compliance, debt compliance, and compliance with the purchasing policy. Their standard approach is to test all material asset and liability.

Jennifer Farr provided a presentation as follows:

Audit Reports

- Comprehensive Annual Financial Report
 - Unmodified opinion dated November 12, 2020
 - The Financial statements and footnotes are presented fairly, in all material respects, in accordance with generally accepted accounting principles
- Communication to Those in Governance
- Government Auditing Standards Opinion

Audit Results

- Finance staff was prepared for the audit
- No material audit adjustments detected during the audit
- No significant deficiencies or material weaknesses in internal controls

Compliance

- No instances of noncompliance with certain provisions of laws, regulations, contracts, and grant agreements that have a material effect on the determination of financial statement amounts
- Tested investment compliance with District's policy and CA Government Code
- Tested debt compliance
- Tested compliance with Procurement Policy

Areas of Audit Focus

- Construction in Progress
- Other Post Employment Benefit Obligations
- Disbursement Testing

Upcoming GASBs

- GASB 84 – Fiduciary Activities
- GASB 87 – Fiduciary Activities

Wes Owen provided a presentation as follows:

The financial statements are the responsibility of management. Staff works hard during the year to make sure they record all the transactions and prepare the financials to insure they are accurate, complete and fairly presented so there are no errors or discrepancies or material weaknesses found during the audit.

Contents

- Introductory Section
- Financial Section
- Statistical Section

Financial Section

- Independent Auditor's Report
- Management's Discussion and Analysis (MD&A)
- Financial Statements
 - Statements of Net Position
 - Statements of Revenues, Expenses and Changes in Net Position
 - Statements of Cash Flows
- Notes to the Financial Statements
- Supplementary Information

Financial Highlights

- Water Sales
- Capacity Fees
- Capital Asset Acquisitions
- Net income of \$2.6 million
- Net position increased by \$11 million after capital contributions of \$8.4 million
- The District paid down \$3.5 million in long-term debt
- CalPERS Unfunded Accrued Liability (UAL)
 - Additional Discretionary Payment (ADP) - \$8,054,000
 - Estimated Interest savings of \$10,368,000

Current Year to Prior Year Analysis

- Vallecitos Water Districts Net Position
- Vallecitos Water Districts Revenues
- Vallecitos Water Districts Expenses

Restrictions, Commitments, and Limitations

- \$52.5 million in long-term debt
- Capital projects contracted through design (note 11)

Next Year's Budget and Rates

- Increases in residential water usage and decreases in commercial water usage due to the COVID-19 pandemic
- Decreases in customer's ability to pay bills due to COVID-19
- Decline in construction and development as a result of the COVID-19 pandemic
- Increasing regulatory compliance

Introductory Section

- Letter of Transmittal
- GFOA
- Organization Chart
- List of Principal Officials
- Services Area Map

Statistical Section

- Financial Trends
- Revenue Capacity
- Debt Capacity
- Demographic and Economic Information
- Operating Information

CAFR Process

- 79 Page Checklist detailing Requirements
- Address all GFOA prior year comments

Staff recommends that the Board consider and accept the 2020 Comprehensive Annual Financial Report

20-11-11 MOTION WAS MADE by President Evans, seconded by Director Martin, and carried unanimously, to accept the 2020 Comprehensive Annual Financial Report.

REPORTS

GENERAL MANAGER

General Manager Pruim stated that this Saturday staff will be working along San Marcos Boulevard and will be repairing a variety of patches that were put in place after some valve work or mainline repairs. Will then come back with a contractor for permanent repairs.

The second project is in the area of Pacific St. which will consist of construction on the San Marcos sewer interceptor project. The sewer line needs to go across San Marcos Boulevard between now and January 4th which will have significant impacts along San Marcos Blvd. in both directions, working in the day and night. During the night detours will be in place. Will be narrowing down to one lane in each direction. Everything being done is in coordination with the City of San Marcos and their traffic department.

DISTRICT LEGAL COUNSEL

Legal Counsel Gilpin stated under the election code, new directors from the district would take office the afternoon on December 4. Certified election results are expected by December 3rd. If they don't occur by the 3rd then they will not take office until those results are certified. Before taking office, they are required to take the oath and executing the bond required by the Act.

Staff has updated their public integrity pocket guides. Will be sent to General Manager Pruim for distribution.

SAN DIEGO COUNTY WATER AUTHORITY

Director Evans stated there is a meeting tomorrow at 9:00 a.m. Will be having a discussion and a vote on possibilities of moving to Phase B on the alternative regional conveyance system.

ENCINA WASTEWATER AUTHORITY

None

STANDING COMMITTEES

None.

DIRECTORS REPORTS ON TRAVEL/CONFERENCES/SEMINARS ATTENDED

Directors Evans, Martin, Hernandez, Elitharp and Sannella attended the COWU meeting on the 17th.

OTHER BUSINESS

None.

DIRECTORS COMMENTS/FUTURE AGENDA ITEMS

None.

ADJOURNMENT

There being no further business to discuss, Vice President Sannella adjourned the Regular Meeting of the Board of Directors at the hour of 5:56 p.m.

A Regular Meeting of the Vallecitos Board of Directors has been scheduled for Wednesday, December 2, 2020, at 5:00 p.m. via teleconference.

Michael A. Sannella, Vice President
Board of Directors
Vallecitos Water District

ATTEST:

Glenn Pruim, Secretary
Board of Directors
Vallecitos Water District

DATE: DECEMBER 2, 2020
TO: BOARD OF DIRECTORS
SUBJECT: APPROVAL OF CONSTRUCTION AGREEMENT FOR KAISER PERMANENTE HOSPITAL – SAN MARCOS MEDICAL CENTER (KAISER FOUNDATION HOSPITALS) APNs: 221-091-24 & 221-091-25

BACKGROUND:

The Kaiser Foundation Hospitals, owner of the project, has completed the plan check process with the District. The hospital site is located north of Craven Road between Echo Lane and Rush Drive. The site is located on the same parcel and behind the existing Kaiser Permanente Medical Center on Craven Road in San Marcos. The off-site improvements are on Craven Road west of Santa Barbara Drive.

DISCUSSION:

A Construction Agreement is typically entered into between a developer and the District to ensure that the required public facilities are constructed to support the demands of the development.

The project will construct approximately 653 feet of 8-inch diameter sewer main in Echo Lane and 339 feet of 10-inch diameter sewer main in Craven Road.

Upon completion of the water and sewer facilities, water and sewer service will be available to the proposed 206 bed, 7 story hospital.

All engineering fees and inspection deposits have been paid prior to Board approval of the Construction Agreement. Water and wastewater capital facility fees are due and payable prior to issuance of the final building inspection and/or utility release per Resolution 1441.

The owner has submitted standard surety bonds to guarantee completion of the project. The following bond amounts have been reviewed and approved by staff:

Labor and Materials	\$153,929.00
Faithful Performance	\$153,929.00

FISCAL IMPACT:

None. Future water and sewer revenues will offset costs of service.

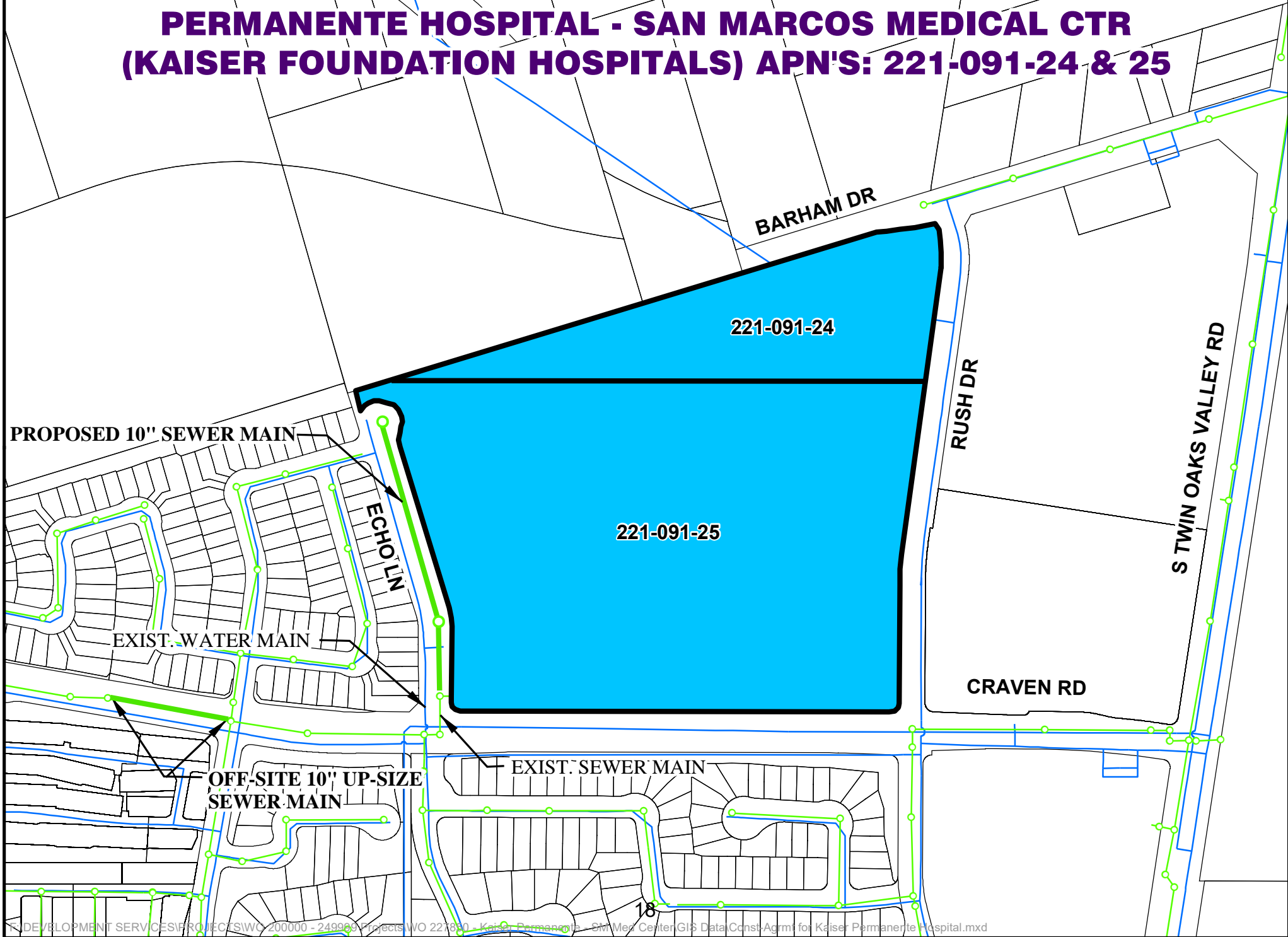
RECOMMENDATION:

Approve the construction agreement for the Kaiser Permanente Hospital improvements.

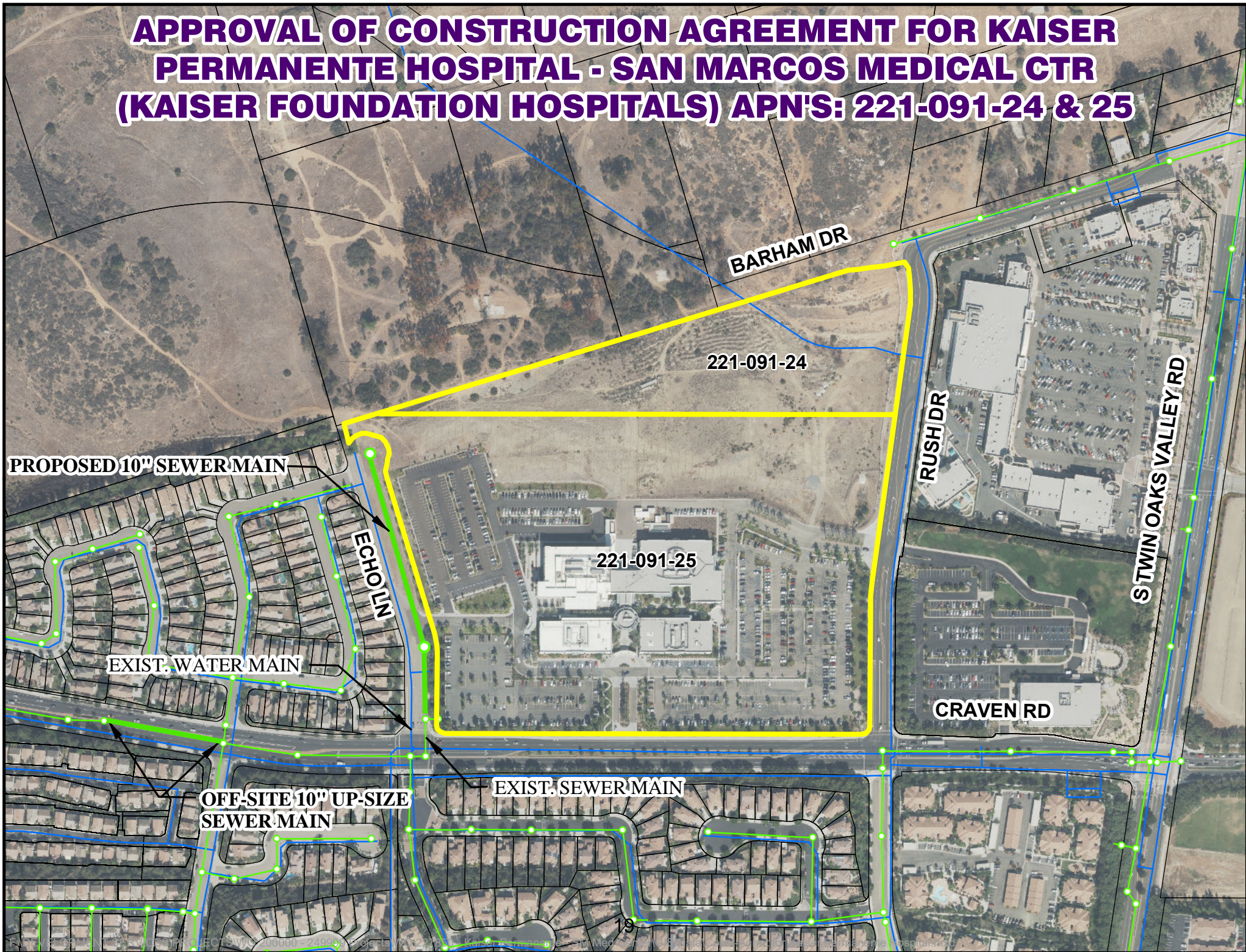
ATTACHMENTS:

2 Map Exhibits – 1 Plat Map & 1 Aerial
Construction Agreement

APPROVAL OF CONSTRUCTION AGREEMENT FOR KAISER PERMANENTE HOSPITAL - SAN MARCOS MEDICAL CTR (KAISER FOUNDATION HOSPITALS) APN'S: 221-091-24 & 25



**APPROVAL OF CONSTRUCTION AGREEMENT FOR KAISER
PERMANENTE HOSPITAL - SAN MARCOS MEDICAL CTR
(KAISER FOUNDATION HOSPITALS) APN'S: 221-091-24 & 25**



**AGREEMENT FOR CONSTRUCTION OF FACILITIES TO BE
DEDICATED TO THE VALLECITOS WATER DISTRICT**

THIS AGREEMENT is entered into by and between VALLECITOS WATER DISTRICT ("DISTRICT"), a County Water District organized and operating pursuant to the County Water District Law, California Water Code §§ 30000 et seq., and Kaiser Foundation Hospitals ("DEVELOPER"), a California Non-Profit Public Benefit Corporation.

RECITALS

1. DEVELOPER desires to improve certain real property which lies within the boundaries of the DISTRICT consisting of approximately 36 acres commonly described as Tax Assessor's Parcel Nos. 221-091-24 & 25 ("PROJECT").

2. DEVELOPER has requested that DISTRICT provide water and/or sewer service to parts of the PROJECT upon payment of applicable fees, construction and installation by DEVELOPER of the water and/or sewer facilities ("FACILITIES") necessary to serve the PROJECT and acceptance of the FACILITIES by the DISTRICT.

3. DEVELOPER is required to submit plans and specifications for construction of the FACILITIES for review and approval by DISTRICT. The plans and specifications have been prepared by Michael Baker International, Scott A. Davis P.E. and are identified as KAISER PERMANENTE STREET IMPROVEMENT PLANS VWD WO# 227850. DEVELOPER shall construct the FACILITIES pursuant to the approved plans and specifications which shall include DISTRICT's standard specifications and applicable special provisions. DEVELOPER shall comply with all terms of this Agreement. All work covered by this Agreement shall be completed on or before _____, 2022. In the event work is not completed by that date, this AGREEMENT shall terminate unless DEVELOPER obtains a written extension from DISTRICT.

COVENANTS

4. CONDITIONS PRECEDENT TO EXECUTION OF AGREEMENT. Each of the following items is an express condition precedent to the obligation of the DISTRICT to execute this Agreement:

4.1 FEES AND CHARGES. DEVELOPER shall pay all fees and charges due as established by the DISTRICT in its discretion from time to time. All Capital Facility and Connection fees are non-refundable.

4.2 ENVIRONMENTAL REVIEW. DEVELOPER shall provide the DISTRICT with all environmental documents previously utilized to obtain approvals for the PROJECT. In the event that the DISTRICT determines additional environmental review is necessary, all fees and costs to prepare this additional environmental review shall be borne solely by the DEVELOPER.

4.3 APPROVED PLANS AND SPECIFICATIONS. DEVELOPER shall prepare and submit to the DISTRICT a set of plans and specifications for the FACILITIES. The plans and specifications for the FACILITIES include DISTRICT's standard specifications and applicable special provisions and are incorporated herein by reference as if set forth in full. Approval of these plans and specifications by the DISTRICT shall be a condition precedent to the obligations of the DISTRICT to execute this Agreement. Approval of these plans and specifications by the DISTRICT shall not relieve the DEVELOPER of liability for any improper design or construction of the FACILITIES.

4.4 CHANGES TO PLANS AND SPECIFICATIONS. DISTRICT, without liability to DISTRICT, DISTRICT's engineer and their consultants, and each of their directors, officers, employees, and agents, may require such changes, alterations, or additions to the plans and specifications which do not exceed ten percent (10%) of the original DISTRICT estimated cost of the work as may be determined necessary or desirable by DISTRICT in its sole discretion, including those necessary due to errors or omissions in the approved plans or specifications. Changes, alterations, or additions without said 10% limitation may be made for unforeseen conditions such as rock excavation, unstable soil conditions, or high water tables requiring dewatering.

5. COMMERCIAL GENERAL LIABILITY AND AUTOMOBILE LIABILITY INSURANCE. Prior to construction of FACILITIES under this Agreement, the DEVELOPER shall provide and maintain the following commercial general liability and automobile liability insurance:

5.1 COVERAGE. Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

- A. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 0001);
- B. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any auto).

5.2 LIMITS. The DEVELOPER shall maintain limits no less than the following:

- A. General Liability - One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit or products-completed operations aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to DISTRICT) or the general aggregate limit and products-completed operations aggregate limit shall be twice the required occurrence limit.
- B. Automobile Liability - One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

5.3 REQUIRED PROVISIONS. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- A. DISTRICT, its directors, officers, employees, and authorized volunteers are to be given insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the DEVELOPER; products and completed operations of the DEVELOPER; premises owned, occupied or used by the DEVELOPER; and automobiles owned, leased, hired or borrowed by the DEVELOPER. The coverage shall contain no special limitations on the scope of protection afforded to DISTRICT, its directors, officers, employees, or authorized volunteers.
- B. For any claims related to this project, the DEVELOPER's insurance shall be primary insurance as respects DISTRICT, its directors, officers,

employees, or authorized volunteers. Any insurance, self-insurance, or other coverage maintained by DISTRICT, its directors, officers, employees, or authorized volunteers shall not contribute to it.

C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to DISTRICT, its directors, officers, employees, or authorized volunteers.

D. The DEVELOPER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

E. Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the DEVELOPER, except after thirty (30) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to DISTRICT.

Such liability insurance shall indemnify the DEVELOPER and his/her sub-DEVELOPER's against loss from liability imposed by law upon, or assumed under contract by, the DEVELOPER or his/her sub-DEVELOPER's for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.

The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation, and removal of lateral support. Additionally, the automobile liability policy shall cover all owned, non-owned, and hired automobiles.

All of the insurance shall be provided on policy forms and through companies satisfactory to DISTRICT.

6. DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductible or self-insured retention must be declared to and approved by DISTRICT. At the option of DISTRICT, the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

7. ACCEPTABILITY OF INSURANCE. Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by DISTRICT.

8. WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE.

The DEVELOPER and all sub-DEVELOPERs shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the construction site, in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The DEVELOPER shall provide employer's liability insurance with limits of no less than \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

9. RESPONSIBILITY FOR WORK. Until the completion and final acceptance by DISTRICT of all the work under and implied by this agreement, the work shall be under the DEVELOPER's responsible care and charge. The DEVELOPER shall rebuild, repair, restore and make good all injuries, damages, re-erections, and repairs occasioned or rendered necessary by causes of any nature whatsoever.

10. EVIDENCE OF INSURANCE. Prior to construction of FACILITIES under this Agreement, the DEVELOPER shall file with DISTRICT a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative and evidence of waiver of rights of subrogation against DISTRICT (if builder's risk insurance is applicable). Such evidence shall also include confirmation that coverage includes or has been modified to include **Required Provisions, A-E**.

The DEVELOPER shall, upon demand of DISTRICT, deliver to DISTRICT such policy or policies of insurance and the receipts for payment of premiums thereon.

11. CONTINUATION OF COVERAGE. If any of the required coverage expires during the term of this agreement, the DEVELOPER shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against DISTRICT (if builder's risk insurance is applicable) to DISTRICT at least ten (10) days prior to the expiration date.

12. SUB-DEVELOPERS. In the event that the DEVELOPER employs other DEVELOPERs (sub-DEVELOPERs) as part of the work covered by this agreement, it shall be the DEVELOPER's responsibility to require and confirm that each sub-DEVELOPER meets the minimum insurance requirements specified above.

13. SECURITY. Upon execution of this Agreement and prior to Board approval, DEVELOPER shall provide the DISTRICT with a payment bond and a performance bond, each in the amount of **\$ 153,929.00**. Each payment and performance bond shall represent 100% of

the estimated construction costs of the FACILITIES. Bonds shall be furnished by surety companies satisfactory to the DISTRICT. Surety companies, to be acceptable to the DISTRICT, must have an acceptable rating from Best's Key Rating Guide, authorized to do business and have an agent for service of process in California.

If at any time a surety on any such bond is declared as bankrupt or loses its right to do business in the state of California for any reason, DEVELOPER shall, within ten (10) days after notice from the DISTRICT, substitute acceptable bonds in such form and sum and signed by such other surety or sureties as may be satisfactory to the DISTRICT in its sole discretion. The premium on such bonds shall be paid by the DEVELOPER.

In the event the PROJECT is sold, transferred or assigned the performance and payment bonds shall remain in effect unless new bonds acceptable to the DISTRICT have been provided.

The performance and the payment bonds must remain in effect throughout the period for performance of the work until the work is accepted by formal action of the Board of Directors of the DISTRICT.

In lieu of providing these performance and payment bonds, DEVELOPER may provide the DISTRICT with a cash deposit to replace either or both of these bonds, or may provide the DISTRICT with an Instrument of Credit, or Irrevocable Letter of Credit on a form acceptable to the DISTRICT. No substitution or modification of the DISTRICT's standard Instrument of Credit or Irrevocable Letter of Credit shall be accepted without approval of the DISTRICT.

14. DEVELOPER'S FAILURE TO PROVIDE INSURANCE OR BONDS. In the event any insurance or security provided to the DISTRICT in accordance with this Agreement is terminated or canceled for any reason, or is limited in the scope of coverage required by this Agreement, DEVELOPER shall have thirty (30) consecutive days from written notice from DISTRICT to procure the required insurance or security. The failure of DEVELOPER to present alternative insurance or security acceptable to DISTRICT within this thirty- (30-) day period shall constitute a material breach of this Agreement entitling the DISTRICT to unilaterally terminate this Agreement or sue DEVELOPER for damages at the election of the DISTRICT.

15. EASEMENTS. Prior to execution of this Agreement, DEVELOPER shall provide DISTRICT with a current preliminary title report issued within the last 90 days covering all properties in which easements are to be granted to the DISTRICT. The cost of the preliminary title report shall be borne solely by DEVELOPER. DEVELOPER shall provide the DISTRICT with such easements as the DISTRICT may require, as determined by the DISTRICT in its sole

discretion. All easements to be conveyed to the DISTRICT shall be prepared on the DISTRICT's standard form easements. All easements shall: (1) be of a width satisfactory to DISTRICT, in no case less than twenty (20) feet without specified approval of the Board of Directors; (2) be free and clear of all liens and/or encumbrances which could affect title to the easement; and (3) have recorded subordination agreements for all trust deeds or other liens to insure that the DISTRICT has prior rights in any easements being conveyed to the DISTRICT. DEVELOPER shall procure a policy of title insurance in favor of the DISTRICT covering easements to be granted in amounts determined by the DISTRICT subject only to those conditions of record acceptable to the DISTRICT. All fees and costs to procure easements required by the DISTRICT shall be borne solely by DEVELOPER. Nothing in this Agreement shall obligate the DISTRICT to exercise its condemnation authorities to acquire any easement determined necessary by the DISTRICT. All easements being conveyed to the DISTRICT must be in a recordable form acceptable to the DISTRICT prior to approval of plans and specifications by the DISTRICT.

16. QUALIFIED SERVICE COMMITMENT. Nothing in this Agreement is intended to limit the power of the DISTRICT to restrict the use of water as provided by California Water Code §§ 350 et seq., and §§ 31026 et seq. DEVELOPER is advised and understands that the ability of the DISTRICT to provide water service to the PROJECT is dependent upon the continuing availability of water imported to the DISTRICT from other agencies. In the event of a water shortage, threatened water shortage, or an emergency, water service to DEVELOPER's project may not be available or may be curtailed or restricted. Consequently, the DISTRICT cannot guarantee that water will be available at the time service is requested. The declaration of a water shortage, threatened water shortage or emergency shall be exercised in the sole discretion of the DISTRICT. DEVELOPER agrees that the DISTRICT shall not be liable for any damages, costs, fees, or expenses of any kind, caused by any curtailment, restriction, or termination of potable water service determined necessary by the DISTRICT.

17. CONSTRUCTION OF FACILITIES. DEVELOPER shall not commence construction of any FACILITIES required by this Agreement until DEVELOPER has received written authorization from the DISTRICT to proceed. All work performed on the FACILITIES shall be done in strict compliance with the approved plans and specifications and in a good and workmanlike manner as determined by the DISTRICT in its sole discretion. All work performed on the FACILITIES by DEVELOPER shall be subject to inspection by the DISTRICT's designated representatives and DEVELOPER shall comply with all instructions given by the

DISTRICT's representative during construction of the work. All fees and costs to construct the FACILITIES shall be borne by DEVELOPER.

18. COMPLIANCE WITH APPLICABLE LAW. DEVELOPER shall insure that all work performed on the project is performed in a manner which complies with all applicable federal and state laws and all county and local government rules and regulations, including all rules and regulations of DISTRICT, as these rules and regulations may be modified or changed from time to time. DEVELOPER shall be solely responsible for obtaining and paying for all permits, licenses and approvals necessary to construct the FACILITIES. DEVELOPER shall provide verification that permits, licenses and approvals have been obtained promptly upon demand from DISTRICT.

19. PREVAILING WAGES. DEVELOPER is aware of the provisions of California Labor Code §§ 1770 et seq., which requires the payment of prevailing wage rates and the performance of other requirements if it is determined that DEVELOPER's contract with its contractor to construct the FACILITIES is a public works contract. DEVELOPER agrees to hold the DISTRICT and its officers, employees and agents harmless from any claim of liability, including costs of defense and attorney's fees, arising from any alleged failure to comply with these provisions of the Labor Code.

DEVELOPER, and not the DISTRICT, shall be liable for insuring that prevailing wages, as set by the Director of the Department of Industrial Relations, have been paid for all work performed in accordance with this contract. In the event of any claim, DEVELOPER shall provide the DISTRICT with all information in DEVELOPER's possession concerning the claim within ten (10) consecutive days following written demand from the DISTRICT.

20. UTILIZATION OF A PORTION OF WORK. DISTRICT shall have the right upon written notification to the DEVELOPER to utilize such portions of the work DISTRICT deems sufficiently complete to be utilized or placed into service.

21. ACCEPTANCE OF WORK. Upon completion of the FACILITIES required by this Agreement to the satisfaction of the DISTRICT, the FACILITIES which have been constructed shall be presented to the Board of Directors of the DISTRICT for dedication and the filing of a Notice of Completion. The DISTRICT shall have no obligation to accept the FACILITIES or file a Notice of Completion if the design and/or construction of the work is not satisfactory to the DISTRICT in its sole discretion. Upon recordation of a Notice of Completion, all right, title, ownership and interest in the FACILITIES shall be deemed to have been transferred to the DISTRICT. DEVELOPER shall not allow any part of PROJECT to be occupied prior to acceptance of FACILITIES by DISTRICT.

22. WATER SERVICE MAINTENANCE AFTER ACCEPTANCE OF WORK. Due to the uncertainty of prompt sale/construction/occupancy of the project's lots and based on the need to provide adequate flow to residences, DEVELOPER shall be responsible for periodic flushing of the services within the subdivision until such time as the subdivision is sold. The DISTRICT and DEVELOPER will cooperate to provide manpower and schedule work.

23. LIABILITY FOR WORK PRIOR TO FORMAL ACCEPTANCE. Until the Board of Directors of the DISTRICT has formally accepted all work performed in accordance with this Agreement, DEVELOPER shall be solely responsible for all damage to the work regardless of cause and for all damages or injuries to any person or property from any cause excepting injury or damage caused by the sole or active negligence of DISTRICT, its agents, servants or employees.

24. LIABILITY AFTER ACCEPTANCE OF WORK. After the Board of Directors of the DISTRICT has accepted the FACILITIES by formal action of the Board, DEVELOPER and DEVELOPER's successors in interest shall remain liable for all injuries or damage to persons or property including damage to the work itself, arising from or related to design or construction of the FACILITIES.

25. RELEASE OF SECURITY. Forty (40) days after the Notice of Completion has been filed by the DISTRICT, the DISTRICT shall release any security previously provided by DEVELOPER, as long as no claims have been filed. The security shall not be released until the DISTRICT has received a warranty bond or alternative security acceptable to the DISTRICT covering 25% of the original performance bond or alternative security amount. DISTRICT must have warranty bond prior to Board acceptance of the project. This new security shall remain in effect until the warranty period has expired One (1) year from final Board Acceptance and DEVELOPER has corrected all defects noted by the DISTRICT during the warranty period.

26. WARRANTY. DEVELOPER shall and hereby does guarantee all work and materials for the FACILITIES to be free from all defects due to faulty materials or workmanship for a period of one (1) year after the date of acceptance of the work by the DISTRICT. The DEVELOPER shall repair or remove and replace any and all such work, together with any other work which may be displaced in so doing, that is found to be defective in workmanship and/or materials within said one-year period without expense whatsoever to the DISTRICT, ordinary wear and tear and unusual abuse or neglect excepted. In the event DEVELOPER fails to comply with the above-mentioned conditions within one (1) week after being notified in writing, the DISTRICT is authorized to proceed to have the defects remedied and made good at the expense of DEVELOPER who agrees to pay the cost and charges therefore immediately upon

demand. Such action by the DISTRICT will not relieve the DEVELOPER of the guarantee required by this section. This section does not in any way limit liability of the DEVELOPER for any design defects or defects in the work subsequently discovered by the DISTRICT.

27. INDEMNITY. DEVELOPER shall be solely responsible and liable for design defects or defects in work performed to construct the FACILITIES required by this Agreement. This shall include liability and responsibility for injury or damage to the work itself. DEVELOPER hereby agrees to hold harmless, indemnify and defend the DISTRICT, the DISTRICT's representatives and each of the DISTRICT's officers, employees and agents from any and all claims, suits or action of every name, kind and description brought for or on account of injuries to or death of any person or damage to any property resulting from design or construction of the FACILITIES except where the injury or damage has been caused by the sole and active negligence of the DISTRICT, its agents, servants or employees. In the event that any suit is instituted naming the DISTRICT as a party, the DISTRICT shall be entitled to appoint its own independent counsel to represent the DISTRICT; and DEVELOPER agrees to pay all attorney's fees and litigation costs associated with this defense. This indemnity shall extend to any claims arising because DEVELOPER has failed to properly secure any necessary easement, land right, contract or approval

28. AS-BUILT DRAWINGS. Prior to acceptance of the work by the Board of Directors of the DISTRICT, DEVELOPER shall provide the DISTRICT with two (2) blueprint copies of "as-built" drawings. Upon approval of the blueprint copies the DISTRICT will require a bonded mylar or original drawing, disk and certification by a licensed engineer in the state of California as to the accuracy and completeness of the "as-built" drawings.

29. CASH DEPOSITS. DEVELOPER shall provide the DISTRICT with an initial cash deposit in the amount of \$ 29,448.00 to cover all DISTRICT fees and costs associated with the FACILITIES. When this deposit has been drawn down to \$ 2,500.00 DEVELOPER agrees to deposit such additional sums as the DISTRICT may determine from time to time to cover all fees and costs of the DISTRICT. Prior to final acceptance of the project, a final accounting will be forwarded to the developer for payment. Additional deposits for additional inspections after acceptance of the project may be requested.

30. MISCELLANEOUS PROVISIONS.

30.1 VENUE. In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that

venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.

- 30.2 MODIFICATION.** This Agreement may not be altered in whole or in part except by a modification, in writing, executed by all the parties to this Agreement.
- 30.3 ATTORNEY'S FEES.** In the event of any legal or equitable proceeding to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to all reasonable attorney's fees and costs in addition to any other relief granted by law. This provision shall apply to the entire Agreement.
- 30.4 ENTIRE AGREEMENT.** This Agreement, together with all the exhibits attached to this Agreement, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda or agreements are in conflict with this Agreement are intended to be replaced in total by this Agreement and its exhibits.
- 30.5 ASSIGNMENTS.** DEVELOPER shall not be entitled to assign all or any portion of its rights or obligations contained in this Agreement without obtaining the prior consent of the DISTRICT, which consent shall not be unreasonably withheld. Any purported assignment without the DISTRICT's prior written consent shall be void.
- 30.6 BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the parties and their respective purchasers, successors, heirs and assigns.
- 30.7 UNENFORCEABLE PROVISIONS.** The terms, conditions and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.
- 30.8 REPRESENTATION OF CAPACITY TO CONTRACT.** Each of the parties to this Agreement represents and warrants that he has the authority to execute this Agreement on behalf of the entity represented by that individual.

30.9 OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT COUNSEL.

DEVELOPER warrants and represents that DEVELOPER has been advised to consult independent legal counsel of its own choosing and has had a reasonable opportunity to do so prior to executing this Agreement.

30.10 NO WAIVER. The failure of either party to enforce any term, covenant or condition of this Agreement on the date it is to be performed shall not be construed as a waiver of that party's right to enforce this, or any other, term, covenant or condition of this Agreement at any later date or as a waiver of any term, covenant or condition of this Agreement.

30.11 NOTICES. All letters, statements or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served or when sent certified mail, return receipt requested to the following addresses:

30.12 EFFECTIVE DATE. The effective date of this Agreement, executed in counterparts in the North County Judicial District, County of San Diego, State of California, is _____.

"DISTRICT"
VALLECITOS WATER DISTRICT

By: _____
Glenn Pruum, Secretary
Board of Directors
Vallecitos Water District

Dated: _____

"DEVELOPER"

Name: Terry J. Wood

Title: Vice President, Real Estate for National Facilities Services (NFS)

Terry J Wood
*Vice President, Real Estate Acquisition
National Facilities Services*

Company: Kaiser Foundation Hospitals, California Non-Profit Public Benefit Corporation

Address: 393 E. Walnut Street, 4th Floor, Pasadena, CA 91188

**SEE ATTACHED
FOR NOTARY CERTIFICATE**

Signature*:  _____

Dated: 10/24/2020

*Acknowledgment of the signature(s) of authorized representative(s) of DEVELOPER executing this Construction Agreement, by a Notary Public, is required. Attach acknowledgment to this page.

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Alameda

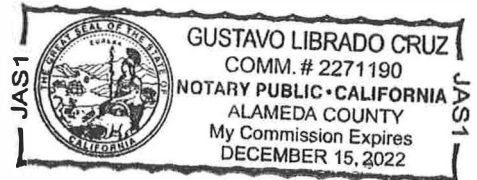
On 10/24/20 before me, Gustavo Librado Cruz , Notary Public
(insert name and title of the officer)

personally appeared TERRY J WOOD
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Gustavo Librado Cruz* (Seal)



**SUBDIVISION IMPROVEMENTS
PERFORMANCE BOND**

BOND NO. 01822808

KNOW ALL MEN BY THESE PRESENTS:

That we, DPR Construction, A General Partnership, as Principal and Liberty Mutual Insurance Company, a corporation organized and doing business under and by virtue of the laws of the State of Massachusetts and duly licensed to conduct a general surety business in the State of California as Surety, are held and firmly bound unto VALLECITOS WATER DISTRICT, as Obligee, hereinafter called Obligee, in the penal sum of One Hundred Fifty Three Thousand Nine Hundred Twenty Nine and 00/100 Dollars (\$153,929.00), for which payment, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

Whereas, the Obligee and Principal has entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which agreement, identified as Kaiser Permanente – San Marcos Medical Center – VWD Project # 2020100815, WO # 227850 is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, the condition of this obligation is such that is the above bounden principal, his or its heirs, executors, administrators, successor or assigns, shall in all things stand to and abide by, well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless obligee, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the penal sum specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgement rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on November 13, 2020

PRINCIPAL:
DPR Construction, A General Partnership


(Signature)

(Printed name and title)

Michele Leiva, CFO

SURETY:
Liberty Mutual Insurance Company


(Signature)

(Printed name) Attorney-in-Fact

Donna M. Planeta



NOTARY ACKNOWLEDGMENT OF SURETY:

State of Connecticut

County of Hartford ss.

● On this the 13th day of November, 20 20, before me, Brendan Fletcher, the undersigned officer, personally appeared Donna M. Planeta, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for Liberty Mutual Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



Signature of Notary Public
Date Commission Expires: February 28, 2025
Brendan Fletcher
Printed Name of Notary

BRENDAN FLETCHER
NOTARY PUBLIC - CT 180835
My Commission Expires Feb. 28, 2025

**SUBDIVISION IMPROVEMENTS
LABOR AND MATERIAL BOND**

BOND NO. 01822808

KNOW ALL MEN BY THESE PRESENTS:

That we, DPR Construction, A General Partnership, as Principal and Liberty Mutual Insurance Company a corporation organized and doing business under and by virtue of the laws of the State of Massachusetts and duly licensed to conduct a general surety business in the State of California as Surety, are held and firmly bound unto VALLECITOS WATER DISTRICT, as Obligee, hereinafter called Obligee, in the penal sum of One Hundred Fifty Three Thousand Nine Hundred Twenty Nine and 00/100 Dollars (\$ 153,929.00), for which payment, well and truly to be made, we bind ourselves, our heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

Whereas, the above-named Principal has entered into an agreement which is made a part of this bond, with the VALLECITOS WATER DISTRICT, State of California, as Obligee, for the designated public improvements in the subdivision identified as Kaiser Permanente – San Marcos Medical Center – VWD Project # 2020100815, WO # 227850, as required by the Government Code of California.

Whereas, under the terms of said agreement, principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the VALLECITOS WATER DISTRICT to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

Now, therefore, said principal and the undersigned, as surety, are held firmly bound unto the VALLECITOS WATER DISTRICT and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure for material furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the penal sum hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the penal sum thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by VALLECITOS WATER DISTRICT in successfully enforcing such obligation, to be awarded and fixed by the court and to be taxed as costs and to be included in the judgement therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civic Code, so as to give right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, this this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration or addition.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on November 13, 2020

PRINCIPAL:
DPR Construction, A General Partnership


(Signature)
(Printed name and title)

Michele Leiva, CFO

SURETY:
Liberty Mutual Insurance Company


(Signature)
(Printed name) Attorney-in-Fact
Donna M. Planeta



NOTARY ACKNOWLEDGMENT OF SURETY:

State of Connecticut

County of Hartford ss.

On this the 13th day of November, 20 20, before me, Brendan Fletcher, the undersigned officer, personally appeared Donna M. Planeta, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for Liberty Mutual Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



Signature of Notary Public

Date Commission Expires: February 28, 2025

Brendan Fletcher

Printed Name of Notary

BRENDAN FLETCHER
NOTARY PUBLIC - CT 180835
My Commission Expires Feb. 28, 2025



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8202409-985949

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, A i z a Anderson, Samuel E. Begun, Bryan M. Cancschi, Saykham Chanthasone, Lorina Monique Garcia, Danielle D. Johnson, Michelle Ann McMahon, Tanya Nguyen, Aimee R. Perondinc, Mercedes Phothisrath, Jenny Rose Belen Phothisrath, Noah William Pierce, Kristopher Pisano, Donna M. Planca, Joshua Sanford, Bethany Stevenson, Rebecca M. Stevenson, Eric Strba, Jynell Marie Whitehead all of the city of Hartford state of Connecticut each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 23rd day of October, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: [Signature]

David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 23rd day of October, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: [Signature]
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.
Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.
Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 13th day of November, 2020.



By: [Signature]

Renee C. Llewellyn, Assistant Secretary

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

Date: 11/06/2020
Vendor: 10023650 Vallecitos Water District

DPR CONSTRUCTION INC.
1450 VETERANS BLVD.

Check # 481087

No.	Invoice	Inv Date	Description	Invoice Amount	Deduction	Pay
1	110520	11/05/2020	Offsite Public Improvement Plans -	39,948.00	0.00	39,948.00
TOTALS :				39,948.00	0.00	39,948.00

▼ REMOVE DOCUMENT ALONG THIS PERFORATION ▼



DPR CONSTRUCTION INC.
1450 VETERANS BLVD.
REDWOOD CITY, CA 94063

HARRIS N.A
Chicago, Illinois

70-1558
719

481087

DATE
11/06/2020

CHECK NO
481087

\$

AMOUNT
*****39,948.00

PAY THIRTY-NINE THOUSAND NINE HUNDRED FORTY-EIGHT DOLLARS AND 00 CENTS

*VOID AFTER 90 DAYS

TO Vallecitos Water District
THE 201 Vallecitos De Oro
ORDER San Marcos, CA 92069
OF: US

DOCUMENT CONTAINS A COLORED PANTOGRAPH & MICROPRINTING. BACK HAS THERMOCHROMIC INK & A WATERMARK. HOLD AT AN ANGLE TO VIEW. VOID IF NOT PRESENT.

⑈0481087⑈ ⑆071915580⑆ 04 239 614 1⑈



1450 VETERANS BLVD.
REDWOOD CITY, CA 94063

Vallecitos Water District
201 Vallecitos De Oro
San Marcos, CA 92069
US

SEE OTHER SIDE FOR
OPENING INSTRUCTIONS

SEE OTHER SIDE FOR
OPENING INSTRUCTIONS

Patent Number US 7,975,904 B2

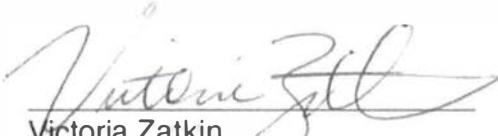
CERTIFICATE OF CORPORATE AUTHORITY

**KAISER FOUNDATION HEALTH PLAN, INC.
KAISER FOUNDATION HOSPITALS
KAISER FOUNDATION HEALTH PLAN OF COLORADO
KAISER FOUNDATION HEALTH PLAN OF GEORGIA, INC.
KAISER FOUNDATION HEALTH PLAN OF THE MID-ATLANTIC STATES, INC.
KAISER FOUNDATION HEALTH PLAN OF THE NORTHWEST**

I, Victoria Zatkan, do hereby certify that I am the duly elected, acting and qualified Assistant Secretary of Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals, California nonprofit public benefit corporations; Kaiser Foundation Health Plan of Colorado, a Colorado nonprofit corporation; Kaiser Foundation Health Plan of Georgia, Inc., a Georgia nonprofit (non-stock) corporation; Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc., a Maryland nonprofit (non-stock) corporation; and Kaiser Foundation Health Plan of the Northwest, an Oregon nonprofit corporation; (collectively the "Corporations") and that as Assistant Secretary of the Corporations I am familiar with their Articles of Incorporation and Bylaws and with the authority of officers and officials holding certain titles described in such corporate documents.

I further certify that Terry J. Wood holds the title of Vice President, Real Estate for National Facilities Services ("NFS"), for the Corporations, and that, pursuant to the Bylaws of the Corporations, he has authority to sign contracts and other documents, such as contracts or agreements relating to real estate transactions, on behalf of the Corporations, including the Hawaii Region of Kaiser Foundation Health Plan, Inc., and that when executed, such documents represent the act and deed of, and in all respects are binding upon the respective corporation.

IN WITNESS WHEREOF, the undersigned has hereunto signed her name this 4th day of September 2015.


Victoria Zatkan
Assistant Secretary

DATE: DECEMBER 2, 2020
TO: BOARD OF DIRECTORS
SUBJECT: AWARD OF CONSTRUCTION CONTRACT FOR THE MEADOWLARK RECLAMATION FACILITY UNINTERRUPTIBLE POWER SUPPLY INSTALLATION PROJECT

BACKGROUND:

This project is for the installation of an Uninterruptible Power Supply (UPS) to feed backup power to electrical Panel 'B' which feeds power to the Meadowlark Reclamation Facility (MRF) lab area and equipment. During monthly generator exercises and unplanned power outages, lab instruments and equipment with sensitive electronic components can be affected by power surges. In addition, two receptacle circuits feeding power to the Supervisory Control And Data Acquisition (SCADA) computers in the MRF Control room will be re-fed from Panel 'A' to Panel 'B' to be protected on the UPS.

DISCUSSION:

District staff requested bids from three local electrical contractors for the installation of the UPS system at MRF. Only one of the contractors submitted a bid. The bid results are as follows:

MRF UPS Installation Project

Bidder

Southern Contracting Company	\$59,500
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Staff completed the evaluation of qualifications and determined that Southern Contracting Company was a qualified bidder for the installation of the UPS system at MRF. The bid was within our engineering and budget estimates for this project. Construction management will be performed by District staff.

FISCAL IMPACT:

Funds were included in the 2020/21 Capital Budget for this project. The estimated cost summary is as follows:

Budget	\$70,000
Staff & Overhead	\$ 8,127
<u>Southern Contracting Company</u>	<u>\$59,500</u>
Total	\$67,627
Budget Surplus	\$ 2,373

RECOMMENDATION:

Award the contract to Southern Contracting Company for a total of \$59,500, subject to provisions of the contracts.

Meadowlark Reclamation Facility UPS Installation
 7941 Corintia St.
 Carlsbad, CA 92009

This is a Prevailing Wage Project

SCOPE OF WORK

Bid Item No.	Item Description	Total Price (\$)
1	Furnish and install an Eaton uninterruptible power supply, (UPS), to backup existing Panel B. MRF address is: 7941 Corintia St. Carlsbad, CA 92009.	\$ 3,800.00
2	Provide an Eaton 9355 UPS rated at 30kVA/27kW, 208/208 Input/Output voltage with an internal maintenance bypass switch. A Power Xpert Gateway series PXGX UPS card shall be included to allow for Ethernet network connection.	\$ 38,400.00
3	Provide and install all associated conduit and wire, (rigid conduit in maintenance shop, EMT/MC in control room). Conductor and conduit size, and associated electric work performed shall meet current NEC codes.	\$ 12,300.00
4	Re-feed circuits #1, #3, #5 & #21 currently fed from Panel A to Panel B which will be fed by the new UPS. Panel A and Panel B are 120/208V, 3 phase, 4W.	\$ 2,500.00
5	Provide a one-day startup from an Eaton representative. Provide a one-year service contract from Eaton Services.	\$ 2,500.00

Subtotal \$ 59,500.00

TOTAL BID PRICE

Fifty-Nine Thousand, Five Hundred Dollars	\$ 59,500.00
(Amount written in words)	(Amount in figures)

Contractor Name: Southern Contracting Company

DIR # 1000002172

CSLB # 222252

Amounts shall be shown in both words and figures, where indicated. In case of discrepancy, the amount shown in words will govern.

The above prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, and incidentals required to complete the work.

Note: By submission of this Bid, the Contractor acknowledges the one-year warranty inspection as outlined in Section 5-14, as referred to in Section 6 of the General Conditions of the Contract and has included said expenses as a part of this Bid.

AGREEMENT & GENERAL CONDITIONS
(Small Contracts)

This Agreement is entered into by and between the Vallecitos Water District (hereinafter “District”), a County Water District organized and operating pursuant to California Water Code section 30000 et seq., and Southern Contracting Company, (hereinafter “Contractor”).

R-E-C-I-T-A-L-S

1. The District is a public agency organized and operating pursuant to Water Code section 30000 et seq., which provides water and sewer services to the residents of North San Diego County, California.

2. The District desires to enter into an agreement with Contractor to perform certain contracting services in accordance with the terms of this Agreement for the Meadowlark Reclamation Facility UPS Installation Project (Project).

C-O-V-E-N-A-N-T-S

1. Services to be Performed. Contractor agrees to furnish all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately perform all work in accordance with the Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference (“the Work”).

2. Payment of Compensation.

2.1 For Contractor’s complete and satisfactory performance of the Work, Contractor shall be paid the firm fixed fee of fifty-nine thousand five hundred Dollars and zero Cents (\$59,500.00).

2.2 Contractor shall submit a payment application for the total work completed once each month and upon completion of the Project and satisfaction of all conditions of the Contract Documents. The District shall make payment within thirty (30) days of receipt of application, less five percent retention. The District shall release the retained funds after sixty (60) days pursuant to California Public Contract Code Section 7107.

2.3 Pursuant to Public Contract Code Section 22300, for monies earned by the Contractor and withheld by the District to ensure the performance of the Contract, the Contractor may, at its option, choose to substitute securities meeting the requirements of Public Contract Code Section 22300.

3. Time of Completion.

3.1 The time limits and standards established in the Contractor's Schedule, set forth in Exhibit "A" and any updates thereto as approved by District, shall be adhered to by the parties in the performance of this Agreement.

3.2 Time is of the essence of this Contract.

3.3 If Contractor fails to complete the Project within the Contract Time, the District will sustain damage. It is and will be impracticable to determine the actual damage which the District will sustain in the event of and by reason of such delay, therefore Contractor will pay to the District \$1,000.00 for each and every calendar day beyond the time prescribed to complete the Work; Contractor agrees to pay such liquidated damages as herein provided, and in case the same are not paid, agrees that the District may deduct the amount thereof from any monies due or that may become due the Contractor under the Contract.

4. Permits. District will obtain the required encroachment/excavation permits from the City of San Marcos on behalf of the Contractor. Contractor shall be responsible for complying with all provisions of the applicable permit including submittal of traffic control plans. Contractor shall be responsible for providing traffic control plans and obtaining all other permits required to accomplish the work. Permits required by other applicable jurisdictional agencies are the sole responsibility of the Contractor.

5. Pavement Costs. Contractor shall be responsible for all costs associated with pavement removal, temporary pavement, disposal of all excavated materials, and import of all bedding and backfill material in accordance with the City of San Marcos or other applicable jurisdictional agency excavation permit and the standards of the Vallecitos Water District.

6. District Specifications and General Conditions. All construction work shall be in accordance with the District's Standard Specifications and General Conditions, which are incorporated herein by reference. District Standard Specifications and General Conditions can be reviewed from the District website: <http://www.vwd.org/departments/engineering/document-library>. A hard copy of the District's Standard Specifications and General Conditions shall be furnished to the Contractor upon written request.

7. Insurance.

7.1 **Minimum Scope and Limits of Insurance:** Contractor shall procure and maintain for the duration of the contract, *and for 5 years thereafter*, insurance against claims for injuries or death to persons or damages to property which may arise from or in connection with the

performance of the work hereunder by the Contractor, its agents, representatives, employees, or subcontractors.

7.2 Coverage - Coverage shall be at least as broad as the following:

7.2.1 General Liability - Commercial General Liability (CGL) - Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with limit of at least five million dollars (\$5,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as the ISO CG 25 03, or ISO CG 25 04 endorsement provided to the District) or the general aggregate limit shall be twice the required occurrence limit.

7.2.2 Automobile Liability - Insurance Services Office (ISO) Business Auto Coverage (Form CA 00 01), covering Symbol 1 (any auto) with limit of one million dollars (\$1,000,000) for bodily injury and property damage each accident.

7.2.3 Workers' Compensation Insurance -. The Contractor shall provide workers' compensation coverage as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. **Waiver of Subrogation** (also known as Transfer of Rights of Recovery Against Others to Us): The Contractor hereby agrees to waive rights of subrogation to obtain endorsement necessary to affect this waiver of subrogation in favor of the District, its directors, officers, employees, and authorized volunteers, for losses paid under the terms of this coverage which arise from work performed by the Named Insured for the District; this provision applies regardless of whether or not the District has received a waiver of subrogation from the insurer.

7.2.4 Builder's Risk – (Course of Construction) if necessary- insurance utilizing an “All Risk” (Special Perils) coverage form with limits equal to the completed value of the project and no coinsurance penalty provision. See **Responsibility of Work**.

7.2.5 If the Contractor maintains broader coverage and or/higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum of insurance and coverage shall be available to the District).

7.3 Other Required Provisions – The Commercial General Liability policy and Contractors Pollution (if necessary) are to contain, or be endorsed to contain, the following provisions:

7.3.1 **Additional Insured Status:** District, its directors, officers, employees, and authorized volunteers are to be given insured status (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10 10 01 and CG 20 37 10 01, with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance.

7.3.2 **Primary Coverage:** For any claims related to this project, the Contractor's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to the District, its directors, officers, employees, and authorized volunteers. Any insurance or self-insurance maintained by the District, its directors, officers, employees, and authorized volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

7.4 **Notice of Cancellation:** Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the District.

7.5 **Acceptability of Insurers -** Insurance is to be placed with insurers having a current A.M. Best rating of no less than A: VII or equivalent or as otherwise approved by District.

7.6 The Contractor agrees and it will comply with such provisions before commencing work. All of the insurance shall be provided on policy forms and through companies satisfactory to District. The District reserves the right to obtain complete, certified copies of all required insurance policies, including the policy declarations page with endorsement number. Failure to continually satisfy the Insurance requirements is a material breach of contract.

7.7 The Contractor shall provide and maintain **builder's risk** (course of construction) or an installation floater (for materials and equipment) covering all risks of direct physical loss, damage or destruction to the work in the amount specified in the General Conditions, to insure against such losses until final acceptance of the work by District. Such insurance shall insure at least against the perils of fire and extended coverage, theft, vandalism and malicious mischief, and collapse. The Policy shall be endorsed with District, its directors, officers, employees, and authorized volunteers named as loss payee, as their interest may appear. The making of progress payments to the Contractor shall not be construed as creating an insurable interest by or for District or be construed as relieving the Contractor or its subcontractors of responsibility for loss from any direct physical loss, damage or destruction occurring prior to final acceptance of the work by District.

7.8 **Deductibles and Self-Insured Retentions -** Insurance deductibles or self-insured retentions must be declared by the Contractor and approved by the District. At the election of

District the Contractor shall either cause the insurer to reduce or eliminate such self-insured retentions as respects the District, its directors, officers, employees, and authorized volunteers or the Contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration, and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the District.

7.9 Verification of Coverage - Evidences of Insurance Contractor shall furnish the District with copies of certificates and amendatory endorsements effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the District before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The District reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration pages and Endorsement pages, required by these specifications, at any time. Failure to continually satisfy the Insurance requirements is a material breach of contract.

7.10 Continuation of Coverage - The Contractor shall, upon demand of District deliver evidence of coverage showing continuation of coverage for at least (5) years after completion of the project. Contractor further waives all rights of subrogation under this agreement When any of the required coverages expire during the term of this agreement, the Contractor shall deliver the renewal certificate(s) including the general liability additional insured endorsement and evidence of waiver of rights of subrogation against District (if builder's risk insurance is applicable) to District at least ten (10) days prior to the expiration date.

7.11 Subcontractors - In the event that the Contractor employs other Contractors (subcontractors) as part of the work covered by this agreement, it shall be the Contractor's responsibility to require and confirm that each subcontractor meets the minimum insurance requirements specified above (via as broad as ISO CG 20 38 04 13). The Contractor shall, upon demand of District, deliver to District copies such policy or policies of insurance and the receipts for payment of premiums thereon.

8. **Bonds.** If required, within ten (10) days after being notified of the award of the contract, and before the District will execute the agreement, the Contractor shall furnish and file with the District Performance and Payment Surety bonds, in a sum no less than one hundred percent (100%) of the Contract Price, on the forms provided by the District. The bonds shall be duly executed by a responsible corporate surety listed in the United States Department of the Treasury circular entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," authorized to do business in the State of California and acceptable to the District.

9. Prevailing Wages.

9.1 The Contract is subject to California Labor Code Sections 1720 and following, and Contractor and any subcontractor shall pay not less than the specified prevailing rates of wage to all workers employed in performance of the Work. Pursuant to the provisions of Section 1770 of the California Labor Code, the District has obtained the general prevailing rate of wages and employer payments for health and welfare, vacation, pension and similar purposes in the District, as determined by the Director of the Department of Industrial Relations, a copy of which is on file in the office of the District, and shall be made available for viewing to any interested party upon request. The Contractor and each subcontractor shall forfeit as a penalty to the District not more than Two Hundred Dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rate in violation of the Labor Code. In addition, the difference between the prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

9.2 Contractor's attention is directed to the provisions in Section 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under the Contractor. It shall be the responsibility of the Contractor to effectuate compliance on the part of itself and any subcontractors with the requirements for employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

9.3 Pursuant to Labor Code Section 1776, the Contractor and each subcontractor shall maintain weekly certified payroll records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the work. Contractor shall certify under penalty of perjury that records maintained and submitted by Contractor are true and accurate. Contractor shall also require subcontractor(s) to certify weekly payroll records under penalty of perjury. In the event of noncompliance with the requirements of this Section, the Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying any item or actions necessary to achieve compliance with this section. If Contractor or subcontractor does not comply after such ten (10)-day period, the Contractor shall, as a penalty to the District, forfeit One Hundred Dollars (\$100) for each day, or portion thereof, for each worker until strict compliance is effectuated.

9.4 In accordance with Labor Code section 1771.4, the Contractor and each subcontractor shall furnish the certified payroll records directly to the Department of Industrial Relations ("DIR") on a weekly basis and in the format prescribed by the DIR, which may include

electronic submission. Contractor shall comply with all requirements and regulations from the DIR relating to labor compliance monitoring and enforcement.

9.5 In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Labor Code Sections 1777.1 or 1777.7. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the Contractor for the Project shall be returned to the District. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project.

9.6 Contractor shall post, at appropriate conspicuous points on the Project site, a schedule showing all determined general prevailing wage rates and all authorized deductions, if any, from unpaid wages actually earned.

9.7 Pursuant to the requirements of Division 4 of the Labor Code, the Contractor will be required to secure the payment of worker's compensation to its employees in accordance with the provisions of Section 3700 of the Labor Code. By its signature below, Contractor certifies as follows:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions before commencing the performance of the work of this contract.

10. Warranty. Contractor shall guarantee all work and materials to be free from all defects due to faulty materials or workmanship for a period of one (1) year after the date of acceptance of the Work by the District. Contractor shall repair or remove and replace any and all such work, together with any other work which may be displaced in so doing, that is found to be defective in workmanship and/or materials within said one-year period without expense whatsoever to the District, ordinary wear and tear and unusual abuse or neglect excepted. Nothing herein shall be construed to limit the District's rights under this Contract or with respect to latent defects, gross mistakes, or fraud. The District specifically reserves all rights related to defective work, including but not limited to defect claims pursuant to California Code of Civil Procedure Section 337.15.

11. Subcontracting. Contractor represents and warrants that Contractor alone is responsible for performance all of the Work as described in Exhibit "A", attached hereto, with Contractor's own forces, except for those portions of the work which Contractor has specifically identified on the Designation of Subcontractors Form attached as Exhibit "B." In accordance with Public

Contract Code 4104, Contractor shall not subcontract any portion of the Work to any other subcontractor or entity which is not listed on Exhibit "B", without the written authorization of the District. Contractor shall be responsible for ensuring that any subcontractor performing the Work shall be in full compliance with prevailing wage laws and requirements, as set forth herein.

12. Inspection and Protection of Work

12.1 Responsibility for, and security of, all work and materials is the responsibility of the Contractor until final acceptance of the Project by the District.

12.2 Contractor shall make the work accessible at all reasonable times for inspection by the District. Contractor shall, at the first opportunity, inspect all material and equipment delivered to the jobsite by others to be used or incorporated in the Contractor's work and give prompt notice of any defect therein. Contractor assumes full responsibility to protect the work done hereunder until final acceptance by the District.

12.3 When the Work is completed, Contractor shall request, in writing, a final inspection. Within ten (10) days of the receipt of such request, the District shall make a final inspection. The Contractor or its representatives may be present at the final inspection. The purpose of such final inspection shall be to determine whether the Work has been completed in accordance with the Contract Documents, including all change orders and all interpretations and instructions previously issued.

13. Changes In Work.

13.1 The Contractor shall not be entitled to any increase in the Contract price due to any change in the Work unless the Contractor submits a written request within ten (10) calendar days from the date of the event which causes the Contractor to request a change in the price.

13.2 Changes in, additions to, or deductions from the Work, including increases or decreases in the quantity of any item or portion of the Work, shall be set forth in a written Change Order executed by the District and by the Contractor, or a Disputed Work Order signed by the District, which shall specify:

13.2.1 The changes, additions, and deductions to be made.

13.2.2 The increase or decrease in compensation due the Contractor, if any.

13.2.3 Adjustment in the time for completion of the Work, if any.

13.3 Adjustment in the compensation due the Contractor shall be determined by one or more of the following methods in the order of precedence listed below:

13.3.1 Unit price contained in the contract.

13.3.2 Mutually agreeable lump sum or unit prices. If requested by the District, the Contractor shall furnish an itemized breakdown of the quantities and prices used in computing proposed lump sum and unit prices.

13.3.3 Force account whereby the Contractor is compensated for furnishing labor, materials, tools, and equipment as follows:

(a) Cost of labor plus fifteen percent (15%) for workers directly engaged in the performance of the work. Cost of labor shall include actual wages paid including employer payments to or on behalf of the workers for health and welfare, pension, vacation, and similar purposes plus payments imposed on payroll amounts by state and federal laws plus subsistence and travel allowance payments to workers.

(b) Cost of material plus fifteen percent (15%). Cost of material shall include sales tax, freight, and delivery charges. The District reserves the right to furnish such materials as he deems advisable and the Contractor shall not be paid the fifteen percent (15%) markup on such materials.

(c) For tools and equipment actually engaged in the performance of the work, rental rates plus fifteen percent (15%). The rental rates shall be those prevailing in the area where the work is performed. No rental charge shall be made for the use of tools or equipment having a replacement value of Five Hundred Dollars (\$500) or less.

(d) Subcontractor invoices to the Contractor plus five percent (5%). Subcontractor invoices shall be based on the above-described cost of labor plus fifteen percent (15%), cost of material plus fifteen percent (15%), and tool and equipment rental rates plus fifteen percent (15%).

(e) No payment shall be made for any item not set forth above, including without limitation, Contractor's overhead, general administrative expense, supervision, or damages claimed for delay in prosecuting the remainder of the work.

(f) For force account Work, the Contractor shall submit to the District for its verification, daily work sheets showing an itemized breakdown of labor, materials, tools, and equipment used in performing the work. No payment will be made for Work not verified by the District.

14. Claims and Disputes

14.1 If any dispute shall arise between District and Contractor regarding performance of the work, or any alleged change in the work, Contractor shall timely perform the disputed work and shall give written notice of a claim for additional compensation for the work to District within three (3) days after commencement of the disputed work. Contractor's failure to give written notice within the three (3)-day period constitutes an agreement by Contractor that it will receive no extra compensation for the disputed work.

14.2 All public works claims between the Contractor and the District shall be resolved pursuant to the procedures set forth in Public Contract Code Section 9204. The District will provide a written response to the Contractor identifying what portion of the claim is disputed and what portion is undisputed within forty-five (45) days of receipt of the claim, unless the parties mutually agree to extend the time for response. If the District does not respond within the 45-day time period, or as extended by mutual agreement, the claim shall be deemed rejected in its entirety.

14.3 If the Contractor disputes the District's response, or if the District fails to respond within the statutory time period(s), the Contractor may so notify the District within fifteen (15) days of the receipt of the response or the failure to respond and demand an informal conference to meet and confer for settlement. Upon such demand, the District shall schedule a meet and confer conference within thirty (30) days.

14.4 Within ten (10) business days following the conclusion of the meet and confer conference, if the claim or any portion thereof remains in dispute, the District shall provide the Contractor with a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any portion of the claim that remains in dispute shall be submitted to nonbinding mediation. The selection of the mediator shall be in accordance with Public Contract Code section 9204 and the District and the Contractor shall equally share the associated mediator fees. Each party will be responsible for its own attorney's fees and other costs.

14.5 Submission of a claim, properly certified, with all required supporting documentation and written rejection or denial of all or part of the claim by the District is a condition precedent to any action, proceeding, litigation, suit, or demand for arbitration by Contractor.

14.6 Notwithstanding any other provision herein, claims of \$375,000 or less shall be resolved in accordance with the procedures set forth in Section 20104 et seq. of the Public Contract Code.

14.7 In addition to any and all requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, construction claims and/or changed conditions, the Contractor must comply with the claim procedures set forth in Government Code

section 900 et seq. prior to filing any lawsuit against the District. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, construction claims, and/or changed conditions have been followed by Contractor. If no such Government Code claim is submitted, or if the prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the District.

14.8 Pursuant to Public Contract Code Section 9201, the District shall provide Contractor with timely notification of the receipt of any third-party claim relating to the Contract.

15. Indemnification. To the fullest extent allowed by law, Contractor shall defend (with counsel of the District's choosing), indemnify and hold the District, its officials, officers, directors, agents, employees, and representatives free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or equity, regardless of whether the allegations are false, fraudulent, or groundless, to property or persons, including wrongful death, arising out of or in connection with the performance of the Work or this Contract, including claims made by subcontractors for nonpayment, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses. To the fullest extent permitted by law, Contractor shall defend, at Contractor's own cost, expense and risk, with the District's choosing, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the District, its officials, officers, directors, agents, employees and representatives. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against the District, its officials, officers, employees, directors, agents, employees and representatives, in any such suit, action or other legal proceeding. Contractor shall reimburse the District, its officials, officers, directors, agents, employees and representatives for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. The only limitations on this provision shall be those imposed by Civil Code Section 2782.

16. Termination.

16.1 Should Contractor fail within seven (7) calendar days from receipt of the District's written notice to correct any default, including but not limited to failure perform the Work in accordance with the Contract Documents, failure to comply with the directions of the District, or failure pay its creditors, the District may terminate this Contract. Following a termination for default, the District shall have the right to take whatever steps it deems necessary to correct Contractor's deficiencies and charge the cost thereof to Contractor, who shall be liable for the full cost of the District's corrective action, including reasonable overhead, profit and attorneys' fees.

16.2 The District may at any time terminate the Contract at the District's convenience upon five (5) days written notice to Contractor; in the event of termination for convenience, Contractor shall recover only the actual cost of work completed to the date of termination, which costs are documented to the District's satisfaction, plus a reasonable amount not to exceed fifteen percent (15%) of the actual cost of the Work performed for overhead and profit. Contractor shall not be entitled to any claim or lien against the District for any additional compensation or damages in the event of such termination.

16.3 If the District terminates Contractor for cause, and if it is later determined that the termination was wrongful, such default termination shall automatically be converted to and treated as a termination for convenience. In such event, Contractor shall be entitled to receive only the amounts payable under this section, and Contractor specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits.

17. Miscellaneous Provisions.

17.1 Governing Law; Venue. This Contract shall be governed by and construed in accordance with the laws of the State of California. In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that venue shall lie only in the federal or state courts in or nearest to the North County Judicial District, County of San Diego, State of California.

17.2 Modification. This Agreement may not be altered in whole or in part except by a modification, in writing, executed by all the parties to this Agreement.

17.3 Entire Agreement. This Agreement, together with all the exhibits attached to this Agreement, contains all representations and the entire understanding between the parties with respect to the subject matter of this Agreement. Any prior correspondence, memoranda or agreements are in conflict with this Agreement are intended to be replaced in total by this Agreement and its exhibits.

17.4 Clayton Act and Cartwright Act. Section 7103.5 of the Public Contract Code specifies that in entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the contractor or subcontractor offers and agrees to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Sec. 16700) of Part 2 of Division 7 of the Business Profession Code, arising from purchase of goods, services or materials pursuant to the contract or subcontract. Pursuant to Public Contract Code Section 7103.5 the Contractor and all of its subcontractors hereby offer and

agree to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 commencing with Sec. 16700) of Part 2 of Division 7 of the Business Profession Code, arising from purchase of goods, services or materials pursuant to this Contract. This assignment shall become effective when the District tender's final payment to the Contractor without further acknowledgement by the parties.

17.5 State License Board Notice. Contractors are required by law to be licensed and regulated by the contractors' state license board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

17.6 Right to Audit. Pursuant to California Government Code Section 8546.7, the parties to this Contract shall be subject to the examination and audit of representative of the Auditor General of the State of California for a period of three (3) years after final payment under the contract. The examination and audit shall be confined to those matters connected with the performance of this contract including, but not limited to, the cost of administering the contract.

17.7 No Assignment. Contractor may not assign performance of the Contract may not be assigned except upon written consent of the District.

17.8 Compliance With All Laws. Contractor shall at all times observe and comply with, and shall cause all of its agents and employees to observe and comply with all such existing and future Federal, State and local laws, ordinances, regulations, orders, and decrees of bodies or tribunals having any jurisdiction or authority over the Project; and shall protect and indemnify the District, and all officers and employees thereof connected with the Project, against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the District's representative or their employees. If any discrepancy or inconsistency is discovered in the plans, drawings, specifications, or contract for the work in relation to any such law, ordinance, regulation, order or decree, Contractor shall promptly report the same to the District in writing.

17.9 Effective Date. The effective date of this Agreement executed in counterparts in the North County Judicial District, County of San Diego, State of California, is October 7, 2020.

VALLECITOS WATER DISTRICT

Dated: _____, 20__ By: _____
Glenn Pruim, General Manager

Southern Contracting Company

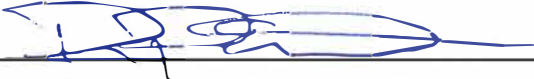
Dated: October 7, 2020
By: 
Name: Philip E. Waterman, President
License Classification and No. 222252
Public Works Contractor Registration No. 1000002172

EXHIBIT 'A'
SCOPE AND SCHEDULE OF WORK

Meadowlark Reclamation Facility UPS Installation
 7941 Corintia St.
 Carlsbad, CA 92009

This is a Prevailing Wage Project

SCOPE OF WORK

Bid Item No.	Item Description	Total Price (\$)
1	Furnish and install an Eaton uninterruptible power supply, (UPS), to backup existing Panel B. MRF address is: 7941 Corintia St. Carlsbad, CA 92009.	\$ 3,800.00
2	Provide an Eaton 9355 UPS rated at 30kVA/27kW, 208/208 Input/Output voltage with an internal maintenance bypass switch. A Power Xpert Gateway series PXGX UPS card shall be included to allow for Ethernet network connection.	\$ 38,400.00
3	Provide and install all associated conduit and wire, (rigid conduit in maintenance shop, EMT/MC in control room). Conductor and conduit size, and associated electric work performed shall meet current NEC codes.	\$ 12,300.00
4	Re-feed circuits #1, #3, #5 & #21 currently fed from Panel A to Panel B which will be fed by the new UPS. Panel A and Panel B are 120/208V, 3 phase, 4W.	\$ 2,500.00
5	Provide a one-day startup from an Eaton representative. Provide a one-year service contract from Eaton Services.	\$ 2,500.00

Subtotal \$ 59,500.00

TOTAL BID PRICE

Fifty-Nine Thousand, Five Hundred Dollars (Amount written in words) \$ 59,500.00 (Amount in figures)

Contractor Name: Southern Contracting Company

DIR # 1000002172

CSLB # 222252

Amounts shall be shown in both words and figures, where indicated. In case of discrepancy, the amount shown in words will govern.

The above prices shall include all labor, materials, bailing, shoring, removal, overhead, profit, insurance, and incidentals required to complete the work.

Note: By submission of this Bid, the Contractor acknowledges the one-year warranty inspection as outlined in Section 5-14, as referred to in Section 6 of the General Conditions of the Contract and has included said expenses as a part of this Bid.

EXHIBIT 'B'
DESIGNATION OF SUBCONTRACTORS FORM

In compliance with the Subletting and Subcontracting Fair Practices Act Chapter 4 (commencing at Section 4100), Part 1, Division 2 of the Public Contract Code of the State of California and any amendments thereof, Contractor shall set forth below: (a) the name and the location of the place of business, (b) the California contractor license number, (c) the DIR public works contractor registration number, and (d) the portion of the work which will be done by each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement to be performed under this Contract in an amount in excess of one-half of one percent (0.5%) of the total contract price. Notwithstanding the foregoing, if the work involves the construction of streets and highways, then the Contractor shall list each subcontractor who will perform work or labor or render service to the Contractor in or about the work in an amount in excess of one-half of one percent (0.5%) of the total contract price or \$10,000, whichever is greater.

If the Contractor fails to specify a subcontractor or if a contractor specifies more than one subcontractor for the same portion of work, then the Contractor shall be deemed to have agreed that it is fully qualified to perform that portion of work and that it shall perform that portion itself.

Name of Subcontractor	Work to be performed	Location of Business	CSLB License No.	DIR Registration Number
None				

Name of Contractor: Southern Contracting Company

Signature: 
Philip E. Waterman, President

Dated: October 7, 2020

DATE: DECEMBER 2, 2020
TO: BOARD OF DIRECTORS
SUBJECT: CALIFORNIA PUBLIC UTILITIES COMMISSION'S (CPUC) SELF-GENERATION INCENTIVE PROGRAM

BACKGROUND:

The District is always looking for ways to increase reliability while fiscally managing the energy consumption of our facilities on behalf of our customers. This includes preparing for the possibility of San Diego Gas & Electric (SDG&E) Public Safety Power Shutoff (PSPS) events. PSPS events can occur when severe weather such as high temperatures, low humidity, and/or strong winds threaten the electrical grid, requiring SDG&E to turn off electricity to prevent their equipment from causing a wildfire. SDG&E has recommended planning for multiple-day electric outages.

Currently the District uses a combination of onsite and portable generators as emergency backup power for both our water and wastewater facilities. This helps ensure our customers are provided uninterrupted water service and the environment is protected from potential wastewater spills that can occur during a PSPS. Battery energy storage systems provide resiliency to facilities by providing them with a power source during an electrical disruption. In the case of a PSPS or other outage event, backup power is essential for critical District services to continue to be provided to customers. Battery energy storage systems can also provide significant electricity bill savings by storing low-cost energy and using it during peak use periods when electricity rates are high. Peak demand charges can account for up to 50 percent of the total energy bill.

Self-Generation Incentive Program

The California Public Utilities Commission's (CPUC) Self-Generation Incentive Program (SGIP) promotes the use of energy storage through incentives to install battery storage systems to a customer's utility. In preparation for the next wildfire season, CPUC is funding more than \$1 billion in SGIP that prioritizes communities living in high fire-threat areas and low-income and disadvantaged communities.

Within the SGIP there are two higher rebate categories for non-residential customers, the Equity Incentive Program, and the Equity Resiliency Incentive Program. The District would qualify for the Equity Resiliency Program which covers 100% of the cost, including operations and maintenance costs. The sites must meet the following criteria set for by the CPUC to be selected for this program:

- Must be in a High Fire Threat District (HFTD), and
- Must be a "Critical Facility" which includes water, wastewater, or flood control facilities, and
- Provides critical services or infrastructure to one or more communities in a HFTD, AND at least one of those communities is a disadvantaged community or low-income census tract.

This funding is distributed on a first-come, first-served basis through an application

process. This application process is available to any battery energy storage project, regardless if the applicant is a private or public entity. Applications are prioritized by the date they come in, with no preference given to local governments or special districts. If funding is exhausted before the State approves Tesla's applications for these projects, the agreements will be nullified.

Site Selection

In the summer of 2020, staff started working with Tesla Energy about the SGIP and Tesla's battery energy storage installations. Engineering staff reviewed Tesla's experience with customers like the District, as well as the technical expertise with the SGIP application, and design, engineering, and ability to directly manufacturer and install the battery storage system. Working with Tesla staff, two sites were initially determined to qualify for the program:

- 201 Vallecitos de Oro (Administrative, Operations and Maintenance Facility)
- 1697 San Elijo Road (San Elijo Hills Pump Station)

Collectively, these sites provide services to the cities of Escondido, Carlsbad, San Marcos, Vista, the community of Lake San Marcos and other unincorporated areas. There are several additional District sites under review, including:

- 1530 Pump Station - 1451 Misty Sea Way P, San Marcos, Ca 92078
- Meadowlark Reclamation Facility - 7941 Corintia St, Carlsbad, Ca 92009
- Coggan Pump Station - 3694 N Twin Oaks Valley Rd, San Marcos, Ca 92069
- Palos Vista Pump Station - 1517 Woodland Ht Gln, Escondido, Ca 92026
- Twin Oaks Reservoir site - 3896 El Paso Alto, San Marcos, Ca 92069
- N Twin Oaks Pump Station - 3694 N Tn Oks Vly Rd B, San Marcos, Ca 92069

These additional sites will be brought to the Board as an update if they are recommended for this program.

The projects before the Board today will provide average site power of backup power in the event of a PSPS as well as the flexibility to use battery power during peak energy rate times. Further, Tesla's battery energy storage systems communicate with the National Weather Service to know when severe weather or PSPS events are likely to occur. This triggers a notification to the District that the batteries are charging in preparation for the weather or PSPS event. This mode pushes the limits and charges the system to maximize capacity so the system can provide backup power.

FINANCIAL CONSIDERATIONS

There is no cost associated with executing the agreements. Through the Equity Resiliency State SGIP, all engineering, design, installation, and operations and maintenance costs are covered for the duration of the ten-year contract.

The District will fully own the system after installation but maintenance of the system will

be performed by Tesla for the first 10 years. The District will continue to realize the electricity savings and resiliency benefits from the systems until the end of the systems' useful life after twenty years. After the contract expires, the District will be responsible for the operations and maintenance of the systems. Once the system contract has expired the District can:

- 1) Recycle the battery system with Tesla. Tesla charges \$0 to recycle Tesla battery systems with Tesla.
- 2) Sell the batteries to a third-party. The materials in Tesla battery systems intrinsically hold value.
- 3) Contract Tesla for an extended maintenance agreement.
- 4) Assume maintenance responsibilities or contract a third-party for maintenance on an as-needed basis.

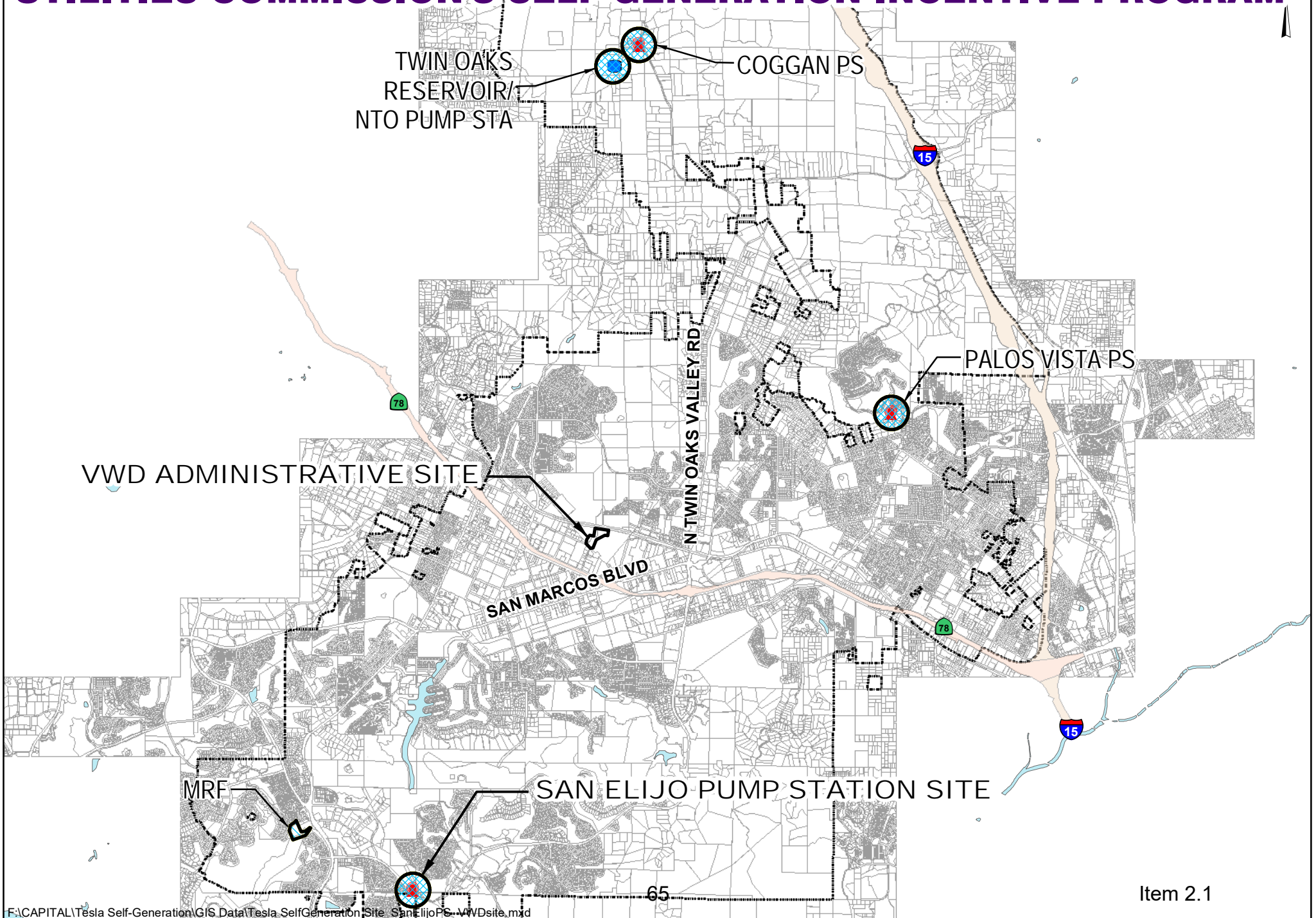
RECOMMENDATION

Staff recommends the Vallecitos Board of Directors:

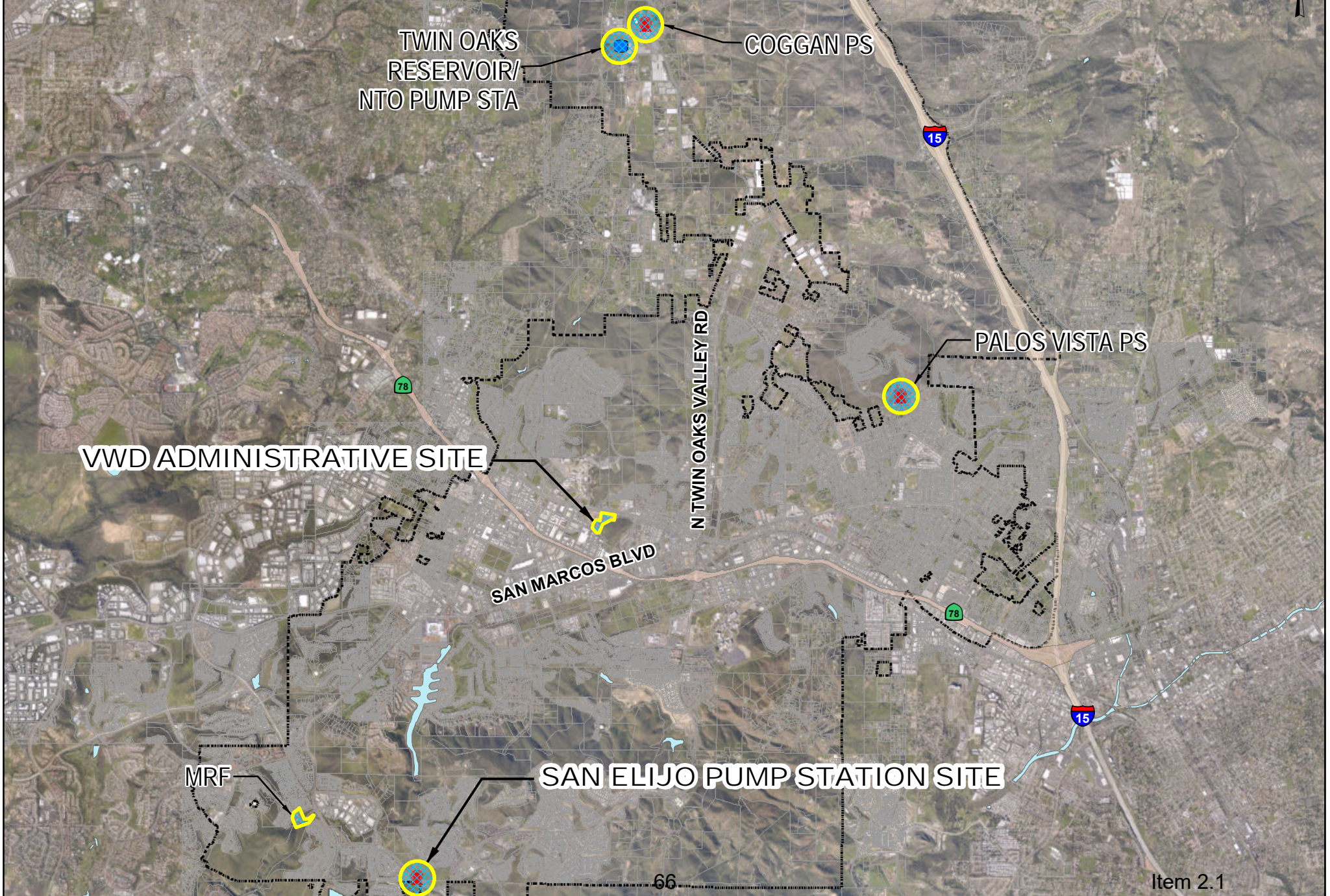
- Approve two (2) no-cost agreements (attached) for battery storage Power Pack Systems with Tesla, Inc. for the following two site locations in the District: 201 Vallecitos de Oro and 1697 San Elijo Road; and
- Find that the project is exempt from Section 21000 et seq. of the California Public Resources Code (CEQA); and
- Authorize the General Manager to:

Approve additional sites and changes, insertions and omissions to the contract as he reasonably deems necessary, and thereafter to execute the contract, so long as those changes, insertions or omissions do not materially change the intent of the agreement. This will include any agreements with San Diego Gas & Electric, which are required to use the battery systems.

VALLECITOS WATER DISTRICT SITES FOR CALIFORNIA PUBLIC UTILITIES COMMISSION'S SELF-GENERATION INCENTIVE PROGRAM



VALLECITOS WATER DISTRICT SITES FOR CALIFORNIA PUBLIC UTILITIES COMMISSION'S SELF-GENERATION INCENTIVE PROGRAM



TESLA COMMERCIAL ENERGY

We take a long-term approach to ensure your energy storage system provides maximum performance, simplified integration and all-weather capabilities. You have peace of mind knowing that Tesla has successfully deployed 2.5 million kilowatts of solar and 2 million kilowatt hours of energy storage around the world.



Vallecitos Water District HQ
201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US

ENERGY STORAGE SYSTEM RATINGS



Battery Output Rating	280 kW
Battery Size (6 Packs)	1,392 kWh
Battery Value	\$866,796
Total Project Cost	\$0
Fully Charged Duration	22 hours



EMERGENCY BACKUP

Powers a facility when the grid goes down



PEAK SHAVING

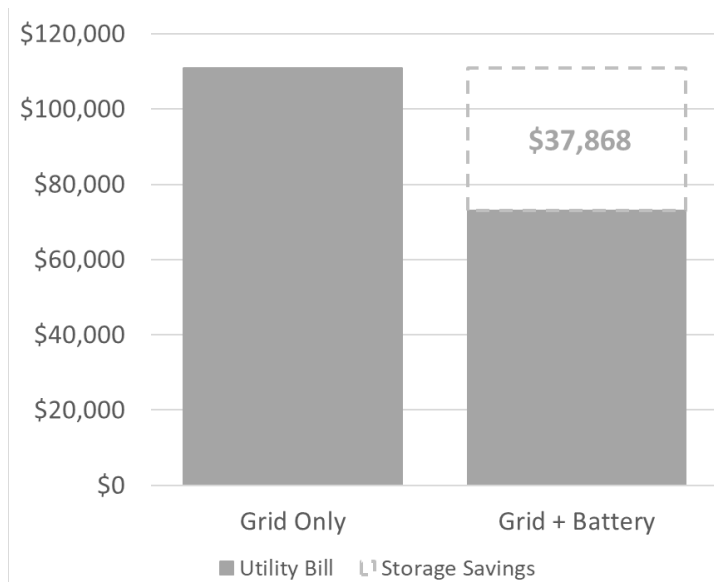
Discharge at times of peak demand to reduce expensive demand charges

PROPOSED SAVINGS PROJECTIONS

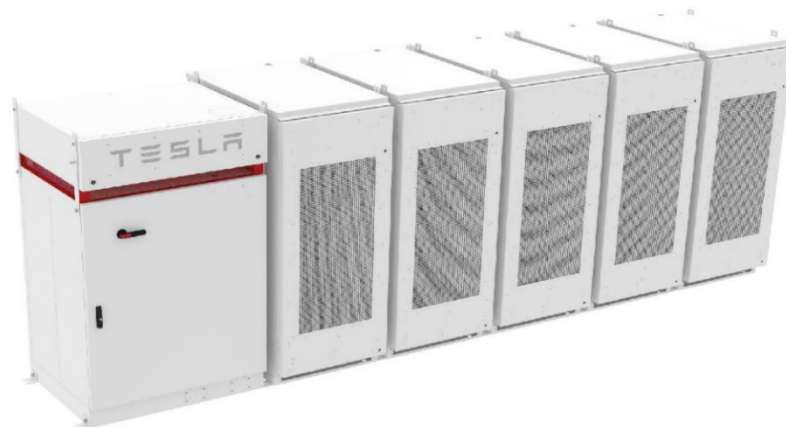
Battery Energy Storage System Savings

Estimated Annual Electricity Savings

Estimated Long Term Electricity Savings



10 Year Value	\$405,106
20 Year Value	\$874,785



Additional Information

- Site/project specifics will need to be confirmed as part of the Site Survey & Permitting Process
- We recommend that you change to SDG&E tariff DG-R to increase your savings with storage
- We intend to locate the equipment in close proximity to the MSB (Main Switchboard). The existing solar PV system is on the line side of the meter, therefore it will not be connected to the Powerpack system during an outage.

POTENTIAL POWERPACK LOCATIONS





**Tesla Energy Products Purchase Agreement
California Self-Generation Incentive Program (SGIP)**

This "Agreement" is between Tesla, Inc. ("Tesla"), and the entity represented by you, as the signatory to this Agreement ("Buyer"). The Agreement consists of (1) the below Price Sheet and (2) the attached terms & conditions, and is effective on the date that you agree to this Agreement (by electronic acceptance, signature or e-mail).

As described in Section 2 below, as a condition of the pricing in this Agreement, Buyer must also sign a ten (10) year "Services Agreement," contemporaneously with this Agreement.

Price Sheet

Buyer information

Buyer Name: VALLECITOS WATER DISTRICT
 Street Address: 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US
 Signatory Name:
 Signatory Phone Number:

Tesla entity

Tesla, Inc. of 3500 Deer Creek Road, Palo Alto, CA, 94304
 888-765-2489
 CA CSLB 949283

Energy Products and Contract Price

Energy Storage System	280 kW /	1392 kWh Powerpack System	
Product Value:			\$866,796
SGIP Eligible Costs			\$1,261,812
SGIP Incentive			\$1,256,000
Contract Price (after SGIP Incentive and discounts):			\$0
Job No.:			JB-92021263-00
Installation Location:		201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US	


Approximate Completion Date

60-180 days from the date of this Agreement

Signed by

Buyer:
 Your signature:

 Title:
 Date:

Tesla, Inc.:
 By: 

 Title: Sr. Director, Commercial
 Energy Sales North America
 Date:
 November 18, 2020



Energy Products Purchase Agreement Terms & Conditions

1. **Authorization; Representations.** By your acceptance of this Agreement (by electronic acceptance or signature), you represent and agree that you are an authorized representative of Buyer, permitted to bind Buyer in this Agreement. If applicable, you and Buyer further represent and warrant to Tesla that all financial information that you or Buyer has provided (or will provide) to Tesla is true and accurate and fairly represents Buyer's financial position as at the date it was provided. Tesla may terminate this Agreement if any of the representations in this Section 1 are incorrect.

2. **Purchase; SGIP Program.**

(a) Buyer agrees to purchase the "Products" indicated in the Price Sheet. Tesla agrees to sell Buyer the Products and install them at the address you provided in the Price Sheet (the "Site"). Notwithstanding the above, prior to installing the Products, Tesla may review Buyer's credit, and Tesla shall have the right to terminate this Agreement in its sole discretion based upon the outcome of such credit review.

(b) The Products will be financed by the California Self-Generation Incentive Program ("**SGIP**"), which provides an incentive payment to be paid over five (5) years, subject to certain conditions (the "**SGIP Incentive**"). The SGIP Incentive when assigned to Tesla as the SGIP payee permits Tesla to offer the Products at a reduced cost, or no cost to Buyer. Buyer hereby assigns the SGIP Incentive to Tesla, and releases any claim to the SGIP Incentive. Buyer agrees to cooperate with Tesla's efforts to obtain the SGIP Incentive, including signing necessary documents.

(c) As a condition of receiving pricing based upon the SGIP Incentive, Buyer agrees to notify Tesla and the SGIP program administrator, not less than ninety (90) days in advance, if Buyer intends to sell or relocate the Products within ten (10) years after the date they are installed. This obligation will survive the termination or expiration of this Agreement. Contact information for the SGIP program administrator can be found at <https://www.selfgenca.com/home/contact/>. Notification to Tesla should be directed to CommercialAccounts@Tesla.com.

(d) In order to enable the SGIP Incentive, Buyer is required to sign the "**Services Agreement**" contemporaneously with this Agreement. As more fully detailed therein, the Services Agreement provides for Tesla to maintain the Products for ten (10) years, and also provides that Tesla will remotely operate the Products in a manner necessary to obtain the SGIP Incentive.

3. **Contract Price.** The Price Sheet shows the price of the Products and their installation after the SGIP Incentive ("Contract Price"), and the value of the Products ("Product Value"). The Contract Price is charged in accordance with the Schedule of Payments on the Price Sheet, and payment is due thirty (30) days after the date of each invoice. Subject to Section 4, the Contract Price is inclusive of all taxes and permitting fees. The Contract Price does not include, and Tesla is not obligated to provide, any ongoing services in connection with the Products (including maintenance services), except as required in connection with Tesla's limited warranties in Section 12, and as separately agreed under the Services Agreement.

4. **Changes to Price Sheet.**

(a) Tesla's obligation to install the Products is conditioned on such work falling within Tesla's "Standard Scope", which assumes standard wage rates, no unforeseen site conditions, no significant upgrades to existing electrical works, interconnection fees not to exceed \$1,000, and customary government costs, taxes and fees. Further information about what constitutes Tesla's Standard Scope is available upon request.

(b) Tesla has the right to update the Price Sheet if, upon further diligence regarding the Site, Tesla determines that there are conditions outside of the Standard Scope. If Buyer does not reject the updated Price Sheet within thirty (30) days and cancel this Agreement, the changes will be deemed accepted.

(c) In addition, Tesla may in its sole discretion determine that because of issues beyond the Standard Scope, or because of the unavailability of the SGIP Incentive, Tesla will not install the Products. In such case, Tesla may terminate this Agreement by notice to Buyer, and if applicable shall refund the Order Payment.

5. **Installation; Service.** Tesla will contact Buyer to perform an energy efficiency audit of the Site as required by the SGIP program, and subsequently, to schedule installation of the Products. Installation will be performed by Tesla or an affiliate or subcontractor, at Tesla's election. Tesla will commission the System in accordance with its standard practices. Buyer authorizes Tesla, or its affiliate or subcontractor, to submit on Buyer's behalf any permit or interconnection application



that is required in connection with the Products. Buyer also agrees to give Tesla, or its affiliate or subcontractor, access to the Site as scheduled so Tesla can install and service the Products. Buyer is responsible for all existing property conditions at the Site, whether known or unknown.

6. **Payment.** By entering into this Agreement, Buyer agrees to pay the Contract Price as described in the Price Sheet. Tesla may provide combined or separate invoices for each of the Products. Risk of loss shall transfer with respect to each component of the Products, upon its delivery to the Site. Title to the Products will transfer to Buyer after Tesla (i) completes installation and (ii) receives payment in full of the Contract Price (if any).

7. **Order Payment.** The Order Payment (if any) that Buyer previously paid for the Products is now non-refundable, except in the circumstances described in Section 4(c). When this Agreement becomes effective, Tesla incurs significant costs preparing to install the Products. The Order Payment is a reasonable estimate of the damages Tesla would incur if Buyer cancels its order before the Products are installed.

8. **Privacy.** The [Tesla Customer Privacy Policy](#) is part of this Agreement. You, as the authorized representative of Buyer, agree to be contacted at the phone number listed in the Price Sheet with more information or offers about Tesla products. You understand these calls or texts may use automated dialing or pre-recorded messages. This consent is not a condition of purchase. You may opt out of this consent at any time by contacting Tesla at 1-888-765-2489.

9. **Intellectual Property.** Tesla owns all intellectual property rights associated with the Products. Tesla grants Buyer a non-exclusive license to use any software embedded into the Products, only in connection with the operation of the Products.

10. **Remote Monitoring and Firmware Upgrades.**

(a) Buyer agrees that Tesla may access the Products remotely to monitor performance, perform diagnostics and upgrade firmware. This monitoring requires a high speed internet line, which Buyer must provide at Buyer’s cost. If Buyer does not maintain this internet connection, Tesla cannot monitor the Products. Tesla is not responsible for any issues arising from Buyer’s failure to provide an internet connection, or a failure of monitoring arising from the same.

(b) “Buyer Data” consists of the data related to the Products which Tesla makes available to Buyer via the Tesla app or any other performance monitoring provided by Tesla. Buyer Data shall be owned by Buyer. Tesla may use Buyer Data (i) to perform its obligations under this Agreement including any warranties, (ii) to improve Tesla’s products and services generally (including by performing analyses on such information), and (iii) to aggregate with other data. Public disclosure of such information by Tesla is permitted if neither Buyer nor the owner or long-term occupant of the site where the Products are located (the “Site Host”) could reasonably be identified from the publicly disclosed information.

(c) Any information obtained by Tesla through remote monitoring of the Products that is not Buyer Data shall be owned by Tesla (“Tesla Data”), shall be confidential information of Tesla, and shall not be required to be made available by Tesla to any person.

(d) Notwithstanding anything herein to the contrary, Tesla may disclose either Buyer Data or Tesla Data as requested or required by an applicable administrator of the SGIP program (“SGIP Administrator”), and Tesla shall not be responsible for the SGIP Administrator’s use or disclosure of such data.

11. **Maintenance & Operation.** Tesla will provide Buyer with an initial copy of an applicable storage system operation and maintenance guide (as updated by Tesla from time to time, the “Manuals”). The Manuals provide Buyer with operation and maintenance instructions, answers to frequently asked questions, and service information. Buyer must cause the Products to be maintained in accordance with the Manuals (including by contracting with Tesla for maintenance services). In addition, Buyer must comply with the Manuals, to the extent the Manuals apply to Buyer’s activities at the Site.

12. **Limited Warranties.** The Products and installation work are covered by the following limited warranties. **THESE ARE THE ONLY EXPRESS WARRANTIES MADE IN CONNECTION WITH THE PRODUCTS AND INSTALLATION WORK. Any other warranties, remedies and conditions, whether oral, written, statutory, express or implied (including any warranties of merchantability and fitness for purpose, and any warranties against latent or hidden defects) are expressly disclaimed. If such warranties cannot be disclaimed, Tesla limits the duration of and remedies for such warranties to the durations and remedies described below.**

Storage System	The Storage System is covered by the Tesla Limited Warranty applicable to the product and model purchased. By approving this Agreement, Buyer accepts the terms of the Tesla Limited Warranty for the applicable product, which can be obtained on our website or will be provided upon request.
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	In order to maintain the Tesla Limited Warranty, maintenance on the Storage System must be performed by Tesla, a Tesla affiliate or subcontractor, or a Tesla-certified maintenance provider.
Workmanship	Tesla warrants that (a) Tesla's installation workmanship will be free from defects for 10 years from the date the Products are installed (or, in the case of main panel or structural upgrades, 1 year from the date those upgrades were performed); (b) Tesla's installation workmanship will not invalidate the applicable Tesla Limited Warranty; and (c) Tesla will not damage the Site during our installation of the Products. If Tesla breaches this workmanship warranty, Tesla will repair the defective work or damage at Tesla's cost. If Tesla cannot do this itself, Tesla will pay for someone else to do it. Such repair work shall not extend the original warranty period, but the remainder of the original warranty period shall apply to the repair work.

13. **Warranty Exclusions.** The "Workmanship" warranty above does not cover any defect caused by (1) events beyond Tesla's reasonable control, including but not limited to lightning, flood, earthquake, fire, excessive wind and other extreme weather events, accidents, abuse, misuse or negligence; (2) Buyer's failure to operate or maintain the Products in accordance with the applicable owner's manual(s); (3) strikes by balls or other objects, dirt, dust, bird excrement, animals, insects, foliage or algae growth; (4) water entering around a fitting, accessory or other material not installed by Tesla; (5) any material or equipment connected to the Products that was not installed by Tesla; or (6) someone other than Tesla installing, altering, removing, re-installing or repairing any part of the Products unless that person does so in compliance with the applicable owner's manual(s). The "Workmanship" warranty also does not cover (i) any defects in the equipment or components incorporated into Tesla's work (such as breakers, electrical panels, soft-start devices for HVAC equipment, etc.); (ii) pre-existing conditions at the Site, including but not limited to unpermitted conditions, improper electrical wiring, cracked or crumbling masonry; (iii) normal wear and tear or deterioration, or superficial defects, dents or marks that do not impact the performance or functionality/integrity of the Products; or (iv) theft or vandalism. The warranty for the "Storage System" above is not subject to the above exclusions, but is subject to other exclusions which are described in the warranty document.

14. **IP Indemnity.**

(a) As used in this Section 14, "Representatives" means Buyer and Buyer's affiliates, and their respective directors, officers, partners, members, shareholders, agents, employees, subcontractors, successors and assigns; "Losses" means damages and liabilities, including reasonable attorneys' fees; and "Claim" means a claim, action, suit, proceedings, demand, investigation or assessment made or brought by any third party.

(b) Tesla shall indemnify, defend and hold harmless Buyer and its Representatives from any Losses arising out of any Claim alleging that the Products infringe the intellectual property rights of a third party. However, Tesla shall have no obligation to indemnify Buyer or any of its Representatives to the extent the Claim arises out of: (a) use of the Products in combination with any other products, materials or equipment not expressly authorized by Tesla; or (b) any modifications or changes made to the Products other than by Tesla. If a Claim for infringement or alleged infringement of any intellectual property rights is made, Tesla may, at its own expense, (i) modify any or all of the intellectual property rights so as to avoid the infringement or the alleged infringement; or (ii) take such other action as Tesla deems reasonable to avoid or settle such Claim.

15. **Limitation of Liability.** Tesla and Buyer shall not be liable to one another for any indirect, special or consequential damages arising out of this Agreement. To the fullest extent permitted by law, Tesla and Buyer's aggregate liability to one another under this Agreement is limited to the Product Value. This Section 15 applies, without limitation, to any liability arising out of any Site survey performed by Tesla or its affiliate or subcontractor in connection with this Agreement. This Section 15 does not apply to Buyer or Tesla's obligation to indemnify the other for third-party claims, as required under Section 14 or otherwise under applicable law.

16. **Term; Breach; Remedies.**

(a) This Agreement will continue in effect until Tesla has completed installation of the Products and received payment in full of the Contract Price, unless earlier terminated as permitted in Section 4 or this Section 16.

(b) If Tesla or Buyer is in breach of this Agreement, upon thirty (30) days prior written notice and opportunity to cure, the non-defaulting party may terminate this Agreement; and with or without terminating this Agreement, may pursue



any remedy it has under this Agreement or at law, including in Tesla's case, repossession of the Products (if title has not yet transferred) and collection of all amounts due (including those past due, which will be charged 2% interest per annum).

(c) Provisions of this Agreement which by their nature contemplate or govern performance or observance subsequent to the termination or expiration of this Agreement shall survive such termination or expiration until fully performed.

17. **Governing Law; Integration.** This Agreement is governed by the laws of the State of California. The information at the links described above is part of this Agreement. Any other terms relating to the Products that are not contained or referred to in this Agreement are not binding on Tesla or Buyer.

18. **Assignment.** Tesla may, without need for Buyer's consent, assign, mortgage, pledge or otherwise directly or indirectly assign this Agreement and/or its interests in this Agreement (a) as collateral in connection with its financing activities; and (B) to any third party (including any affiliate of Tesla) or any person succeeding to all or substantially all of the assets of Tesla; provided, that, in the case of assignments to a third party under clause (b), Tesla is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Tesla's obligations hereunder by binding written instrument. .

19. **Insurance.** Tesla shall maintain, at its sole cost and expense, the following insurance coverage and shall, within a reasonable time of Buyer's request, furnish to Buyer a certificate evidencing such coverage:

(a) **Commercial General Liability Insurance (CGL).** Tesla carries commercial general liability insurance with coverage amounts that meet or exceed those required by law.

(b) **Workers' Compensation Insurance.** Tesla carries workers' compensation insurance for all employees in compliance with law.

20. **Further Assurances.** Tesla and Buyer shall each at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

21. **Arbitration.** Any dispute arising from or relating to this Agreement shall first be promptly referred to the senior level management of the Parties for resolution. If Tesla and Buyer are unable to resolve any such dispute within 20 days after referral, then Tesla or Buyer may take such dispute to binding arbitration in accordance with the then-current Streamlined Arbitration Rules of the Judicial Arbitration and Mediation Services ("**JAMS**"). The existence, content and result of the arbitration shall be confidential and conducted by a single arbitrator in English and in Santa Clara, California, unless otherwise agreed by the Parties. Buyer and Tesla will each bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator may, in its discretion, award reasonable costs and fees to the prevailing party. Judgment upon the award rendered in the arbitration may be entered in any court of competent jurisdiction.



**Energy Products Operation and Maintenance Agreement
California Self-Generation Incentive Program (SGIP)**

This "Agreement" is between Tesla, Inc. ("Tesla"), and the entity represented by you, as the signatory to this Agreement ("Buyer"). The Agreement consists of (1) the below Price Sheet and (2) the attached terms & conditions, and is effective on the date that you agree to this Agreement (by electronic acceptance, signature or e-mail) (the "Effective Date").

This Agreement accompanies a Tesla Energy Products Purchase Agreement ("Purchase Agreement"), which includes a reduced price as a result of Tesla obtaining the SGIP incentive with respect to the Products (as indicated in the Price Sheet, the "SGIP Incentive").

Price Sheet

Buyer information

Buyer Name: VALLECITOS WATER DISTRICT

Street Address: 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US

Signatory Name:

Signatory Phone Number:

Tesla entity

Tesla, Inc. of 3500 Deer Creek Road, Palo Alto, CA, 94304
888-765-2489
CA CSLB 949283

Products

Products installed under Energy Products Purchase Agreement **Powerpack: 280kW/1392kWh**

Agreement dated: 11/18/2020

Products Value: \$866,796

SGIP Eligible Costs: \$1,261,812

SGIP Incentive: \$1,256,000

Job No.: JB-92021263-00

Installation Location: 201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US

Services Price

Annual price for Services: \$0
Extra Services **Time-and-Materials Rate to be agreed by Buyer**

Payment Terms

Deadline for Payments: 30 days after date of invoice



Signed by

Buyer:

Tesla, Inc.:

Your signature:

By:

Title:

Title: Sr. Director, Commercial
Energy Sales North America

Date:

Date:

November 18, 2020



Operation and Maintenance Agreement Terms & Conditions

1. **Authorization; Representations.** By your acceptance of this Agreement (by electronic acceptance, signature, or email), you represent and agree that you are an authorized representative of Buyer, permitted to bind Buyer in this Agreement. If applicable, you and Buyer further represent and warrant to Tesla that all financial information that you or Buyer has provided (or will provide) to Tesla is true and accurate and fairly represents Buyer's financial position as at the date it was provided. You also represent and agree that the Buyer owns or has sufficient rights to the Products in the Price Sheet, to contract for the Services. Tesla may terminate this Agreement upon notice to Buyer if any of the representations in this Section 1 are incorrect.

2. **Term; SGIP Operation and Grid Services.**

(a) This Agreement will continue in effect for ten (10) years from the date that the Products are fully installed, unless earlier terminated under Section 11 (the "Term"). The Parties agree that as of the Effective Date, the Products are intended to remain owned by Buyer and installed at the Site (as defined in Section 3) throughout the Term.

(b) During the Term, Tesla may monitor and operate (including charging and discharging) the Products, in order to comply with requirements of the SGIP Program, and to generate savings by shifting Buyer's grid electricity consumption from higher-priced times to lower-priced times, in Tesla's reasonable discretion. Buyer acknowledges that Tesla's cycling of the Products will consume some portion of the warranted throughput of the Products; and will use electricity stored in the Products (together, "Cycling Costs"). Tesla expects that Tesla's activities described above will save significantly more than the Cycling Costs, but Tesla makes no guarantee of such savings. Buyer agrees that the provision of the Services herein are in full consideration of the Cycling Costs, and releases Tesla from any claim to recover any Cycling Costs.

(c) Buyer agrees to notify Tesla of any utility tariff changes with respect to the Site, during the Term.

(d) As a condition of receiving pricing based upon the SGIP Incentive, Buyer agrees to notify Tesla and the SGIP program administrator, not less than ninety (90) days in advance, if Buyer intends to sell or relocate the Products within ten (10) years after the date they are installed. This obligation will survive the termination or expiration of this Agreement. Contact information for the SGIP program administrator can be found at <https://www.selfgenca.com/home/contact/>. Notification to Tesla should be directed to CommercialAccounts@Tesla.com.

(e) If Buyer intends to vacate or sell the Site during the Term, Buyer shall ensure that that the buyer of the Site accept assignment of this Agreement, or an agreement substantially similar and reasonably acceptable to Tesla, in order to ensure continued compliance with the SGIP Program.

(f) From time to time, Tesla may identify demand response or similar grid services programs, whereby the Products can help meet demands of the electrical grid, or improve its reliability, by charging or discharging the Products (or agreeing to make the Products available for charging or discharging) (each, a "Grid Services Program"). Tesla will notify Buyer of any proposed Grid Services Program and identify: (i) the anticipated economic benefit for Buyer; (ii) the anticipated impact on the availability of the Products; and (iii) the anticipated Cycling Costs. Buyer may elect to participate or not participate in a Grid Services Program, provided that if Buyer does not provide Tesla with notice of its election within thirty (30) days after Tesla's notice of the Grid Services Program, Tesla may treat the same as an election to participate.

3. **Tesla to Provide Services.** For the Products indicated in the Price Sheet, Buyer agrees to purchase the "Services" in accordance with Appendix 1 (the "Scope of Services") during the Term, to be performed at the site where Tesla installed the Products (the "Site").

4. **Scope of Services.**

(a) Tesla's Scope of Services assumes standard wage rates, no constraints to Tesla's access to the Site, and no unforeseen site conditions. If Tesla encounters challenges accessing the Site, or unforeseen site conditions not caused by Tesla, Tesla may treat the costs it incurs as Extra Services as set forth in Section 4(b).

(b) Any service not included in the Scope of Services shall be an "Extra Service." Extra Services will include, for example repairs arising from abuse by Buyer. Upon request, Tesla may provide Buyer a time-and-materials rate proposal for Extra Services, and upon agreement of Buyer in writing, Tesla may agree to perform the Extra Services. When used in this Agreement, "Services" shall include "Extra Services," when context requires. If Buyer pays a fee to Tesla for Extra Services in connection with an issue that is subsequently determined to be covered by a Tesla Manufacturer's Limited Warranty or other warranty provided by Tesla for the Products, Tesla shall provide a refund to Buyer.



(c) Title and risk of loss to all parts, materials or equipment installed by Tesla during the performance of the Services shall transfer to Buyer when such parts, materials or equipment have been installed and the Products (or the affected part of the Products) have been commissioned or re-commissioned.

5. **Site Access.** Tesla will contact Buyer to schedule the Services. Services will be performed by Tesla or an affiliate or subcontractor, at Tesla's election. Buyer also agrees to give Tesla, or its affiliate or subcontractor access to the Site as scheduled so Tesla can provide the Services.

6. **Extra Services.** Tesla may bill for Extra Services upon their completion. By entering into this Agreement, Buyer agrees to pay any agreed-upon fee for Extra Services, in accordance with the Payment Terms in the Price Sheet.

7. **Privacy.** The [Tesla Customer Privacy Policy](#) is part of this Agreement. You, as the authorized representative of Buyer, agree to be contacted at the phone number listed in the Price Sheet with more information or offers about Tesla products. You understand these calls or texts may use automated dialing or pre-recorded messages. This consent is not a condition of purchase. You may opt out of this consent at any time by contacting Tesla at 888-765-2489.

8. **Remote Monitoring and Firmware Upgrades.**

(a) Tesla's SGIP-related monitoring and cycling described in Section 2 requires a continuous high-speed internet connection, which Buyer agrees to provide at Buyer's cost. Buyer agrees that Tesla may access the Products remotely to monitor performance, perform diagnostics and upgrade firmware. If Buyer does not maintain this continuous internet connection the monitoring will not function. Tesla shall not be responsible for any issues arising from Buyer's failure to provide an internet connection, or a failure of monitoring arising from the same.

(b) "Buyer Data" consists of the data related to the Products which Tesla makes available to Buyer via the Tesla app or any other performance monitoring provided by Tesla. Buyer Data shall be owned by Buyer. Tesla may use Buyer Data (i) to perform its obligations under this Agreement including any warranties, (ii) to improve Tesla's products and services generally (including by performing analyses on such information), and (iii) to aggregate with other data. Public disclosure of such information by Tesla is permitted if Buyer could not reasonably be identified from the publicly disclosed information.

(c) Any information obtained by Tesla through remote monitoring of the Products that is not Buyer Data shall be owned by Tesla ("Tesla Data"), shall be confidential information of Tesla, and shall not be required to be made available by Tesla to any person.

9. **Services Warranty.**

(a) Tesla warrants that (i) it shall perform all Services in accordance with Prudent Industry Practices, any applicable Tesla operation and maintenance manuals, and this Agreement, and (ii) any labor performed, and any materials installed, in the performance of the Services shall be free from defects in design and workmanship for 12 months after such labor was performed or such materials were installed (collectively, the "Services Warranty"). "Prudent Industry Practices" means the methods approved by a significant portion of the electrical services industry operating in the state in which the Products are installed that, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable law, reliability, safety, environmental protection, economy and expedition.

(b) Tesla shall remedy any defect or otherwise cure a breach of the Services Warranty, at its own cost and expense, as promptly as reasonably practicable after Buyer notifies Tesla in writing of such breach, in a manner and at such times that reasonably minimizes interruption of the operation of the Products and revenue loss to Buyer. This shall be Tesla's sole and exclusive liability, and Buyer's sole and exclusive remedy, in connection with a breach of the Services Warranty.

(c) EXCEPT AS REQUIRED BY LAW, OR AS PROVIDED FOR IN THIS AGREEMENT, TESLA MAKES NO WARRANTIES OR GUARANTEES WITH RESPECT TO THE SERVICES AND DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY APPLICABLE LAWS, INCLUDING IMPLIED WARRANTIES OF PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

10. **Limitation of Liability.** Tesla and Buyer shall not be liable to one another for any indirect, special or consequential damages arising out of this Agreement, except to the extent provided in Section 11(b). To the fullest extent permitted by law, Tesla and Buyer's aggregate liability to one another under this Agreement is limited to the Products Value. This Section 10 applies, without limitation, to any liability arising out of any Site survey performed by Tesla or its affiliate or



subcontractor in connection with this Agreement. This Section 10 does not apply to Buyer or Tesla's obligation to indemnify the other party, as may be required under applicable law.

11. Breach; Remedies.

(a) If Tesla or Buyer is in breach of this Agreement, upon thirty (30) days prior written notice and opportunity to cure, the non-defaulting party may terminate this Agreement; and with or without terminating this Agreement, may pursue any remedy it has under this Agreement or at law. Tesla may also terminate this Agreement if the Products are substantially destroyed other than due to Tesla's fault.

(b) Buyer shall be responsible for, and Tesla shall be entitled to invoice for, any loss of part or all of the SGIP Incentive due to damage to the System caused by Buyer, or Buyer's breach of this Agreement. Breaches that may result in the loss of part or all of the SGIP Incentive may include, without limitation, removing or selling the Products without notifying the SGIP Administrator as required in Section 2(e), not providing Tesla with access to the Products in order to perform maintenance as required in Section 4; or continued failures to provide internet connectivity as required in Section 8.

(c) If this Agreement is terminated by Tesla during the first five (5) years of the Term, then Buyer shall owe Tesla the following amount, as reasonably calculated by Tesla: For each year or portion thereof remaining in the first five (5) years of the Term, Buyer shall pay ten percent (10%) of the SGIP Incentive (the "Termination Payment") (Thus, if the Agreement is terminated for Buyer default three (3) years from the date that the Products are fully installed, Buyer shall owe 20% of the SGIP Incentive). Buyer agrees that the damages in this Section 11 are a reasonable preestimate of Tesla's damage as a result of the early termination of this Agreement. The Termination Payment shall be due and payable thirty (30) days after Tesla's issuance of an invoice therefor.

(d) Provisions of this Agreement which by their nature contemplate or govern performance or observance subsequent to the termination or expiration of this Agreement shall survive such termination or expiration.

12. Governing Law; Integration. This Agreement is governed by the laws of the State of California. The information at the links described above is part of this Agreement. Any other terms relating to the Products that are not contained or referred to in this Agreement are not binding on Tesla or Buyer.

13. Assignment. Tesla may, without need for Buyer's consent, assign, mortgage, pledge or otherwise directly or indirectly assign this Agreement and/or its interests in this Agreement (a) as collateral in connection with its financing activities; and (B) to any third party (including any affiliate of Tesla) or any person succeeding to all or substantially all of the assets of Tesla; provided, that, in the case of assignments to a third party under clause (b), Tesla is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Tesla's obligations hereunder by binding written instrument.

14. Insurance. Tesla shall maintain, at its sole cost and expense, the following insurance coverage and shall, within a reasonable time of Buyer's request, furnish to Buyer a certificate evidencing such coverage:

(a) **Commercial General Liability Insurance (CGL).** Tesla carries commercial general liability insurance with coverage amounts that meet or exceed those required by law.

(b) **Workers' Compensation Insurance.** Tesla carries workers' compensation insurance for all employees in compliance with law.

15. Further Assurances. Tesla and Buyer shall each at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

16. Arbitration. Any dispute arising from or relating to this Agreement shall first be promptly referred to the senior level management of the Parties for resolution. If Tesla and Buyer are unable to resolve any such dispute within 20 days after referral, then Tesla or Buyer may take such dispute to binding arbitration in accordance with the then-current Streamlined Arbitration Rules of the Judicial Arbitration and Mediation Services ("JAMS"). The existence, content and result of the arbitration shall be confidential and conducted by a single arbitrator in English and in Santa Clara, California, unless otherwise agreed by the Parties. Buyer and Tesla will each bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator may, in its discretion, award reasonable costs and fees to the prevailing party. Judgment upon the award rendered in the arbitration may be entered in any court of competent jurisdiction.



Appendix 1

Scope of Services

Tesla will (i) proactively monitor the Products as set forth below, and (ii) respond to inquiries by phone, web and/or email. Tesla may respond, remotely or on-site as deemed necessary by Tesla, to telemetry signals and/or Buyer inquiries. The Services that Tesla will provide are limited to the following:

- Perform preventative maintenance, as Tesla deems consistent with Prudent Industry Practices
- Alert the customer of Product performance and failure issues
- Provide visibility of Product performance through Tesla's Powerhub user interface
- Alert the customer if the Product is not communicating with the internet
- Remove, return, replace and/or fix parts covered by valid manufacturer warranty
- Investigate and replace defective balance of system hardware and/or defective wiring for the duration of the Workmanship Warranty. (After the Workmanship Warranty, the Parties may agree for Tesla to perform this service as Extra Work.)
- Remotely update products software and firmware to improve performance

Excluded services and repairs listed below may be performed as an Extra Service, as set forth in Section 3(b):

- Moving debris from the equipment, or the area around the equipment
- Maintenance of the area around the Products, including vegetation management
- Maintenance to the degree necessitated by vandalism, negligence or misconduct of Buyer or another party not under Tesla's control
- Removal and reinstallation of equipment for reasons not related to warranty failures

SELF-GENERATION INCENTIVE PROGRAM

Proposed System Information Attestation

The following information (Responses to Questions 1 – 5) is required by the Developer of the storage system applying for SGIP’s Equity Resiliency Budget or Non-Equity Resiliency Budget with a discharge duration greater than two hours.

- 1) Provide an estimate of how long the project’s fully charged battery will provide electricity for the relevant facility average load during an outage.

The useful capacity of the project’s battery is 1392 kWh, while the average site load is 62 kW. The project’s fully charged battery will provide electricity to the average site load for 22 hours

- 2) Indicate whether the project’s critical loads can and will be isolated.

Critical loads will be covered as part of the systems full facility backup, and all loads will be isolated from the grid during an outage. Loads that are deemed non critical can be turned off to extend back up duration.

- 3) Provide an estimate of how long the project’s fully charged battery will provide electricity to critical uses during an outage.

The system is designed assuming all site loads are “critical”, the project’s fully-charged battery will provide electricity to the site for 22 hours

- 4) Provide an estimate of how long the project can operate in less-than favorable circumstances, such as if an outage occurs when the battery has been discharged or during the winter (if paired with solar).

In less-than favorable circumstances, the useful capacity of the project’s battery is 696 kWh. It will provide electricity to the average site load for 11 hours.


- 5) Summarize information given to the customer about how the customer may best prepare the storage system to provide backup power, in the case of a Public Safety Power Shutoff (PSPS) event announced in advance (provide an attachment with more information if necessary).

No action is required from the customer to prepare the system as Tesla plans to extend “Storm Watch” to commercial customers to help them better manage battery charging for PSPS events. Storm Watch communicates with the National Weather Service to know when severe weather or PSPS events are likely to occur and automatically triggers Storm Watch mode. Customer will receive notification once battery starts charging in preparation for PSPS. This mode pushes the limits and charges the system to maximum capacity so it can provide backup power. If desired, they can also reach out to Tesla at powerpacksupport@tesla.com to request pre-emptive charging of their energy storage system.

ATTESTATION

[DEVELOPER SECTION]

I, Tesla, Inc. (print name of Developer), hereby attest that each of the statements provided in this document are true and correct.

Signature: 

Name Printed: RJ Johnson

Title: Sr. Director, Commercial Energy Sales

Date: November 18, 2020

[CUSTOMER SECTION]

I, VALLECITOS WATER DISTRICT (print name of Customer), hereby attest I have received the information provided in this document prior to signing a contract with the developer.

Signature: _____

Name Printed: _____

Date: _____

AUTHORIZATION TO: RECEIVE CUSTOMER INFORMATION OR ACT ON A CUSTOMER'S BEHALF



THIS IS A LEGALLY BINDING CONTRACT—READ IT CAREFULLY
(Please Print or Type)

I, _____ NAME TITLE (IF APPLICABLE)

of VALLECITOS WTR DIST (Customer) have the following mailing address
NAME OF CUSTOMER OF RECORD

201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US, and do hereby appoint
MAILING ADDRESS CITY STATE ZIP

Tesla, Inc. of 3500 Deer Creek Rd
NAME OF THIRD PARTY MAILING ADDRESS

Palo Alto CA 94304
CITY STATE ZIP

to act as my agent and consultant (Agent) for the listed account(s) and in the categories indicated below:

ACCOUNTS INCLUDED IN THIS AUTHORIZATION:

- | | | |
|----|--|------------------------|
| 1. | <u>201 VALLECITOS DE ORO, SAN MARCOS, CA 92069, US</u> | <u>7724 640 123 0</u> |
| | SERVICE ADDRESS CITY | SERVICE ACCOUNT NUMBER |
| 2. | _____ | _____ |
| | SERVICE ADDRESS CITY | SERVICE ACCOUNT NUMBER |

(For more than two accounts, please list additional accounts on a separate sheet and attach it to this form)

INFORMATION, ACTS AND FUNCTIONS AUTHORIZED – This authorization provides authority to the Agent. The Agent must thereafter provide specific written instructions/requests (e-mail is acceptable) about the particular account(s) before any information is released or action is taken. In certain instances, the requested act or function may result in cost to you, the customer. Requests for information may be limited to the most recent 12 month period.

I (Customer) authorize my Agent to act on my behalf to perform the following specific acts and functions (initial all applicable boxes):

- 1. Request and receive billing records, billing history and all meter usage data used for bill calculation for all of my account(s), as specified herein, regarding utility services furnished by the Utility¹.
- 2. EPA Benchmarking (authorizes usage information to be uploaded to the EPA's ENERGY STAR **Portfolio Manager**®).
- 3. Request and receive copies of correspondence in connection with my account(s) concerning (initial all that apply):
 - a. Verification of rate, date of rate change, and related information;
 - b. Contracts and Service Agreements;
 - c. Previous or proposed issuance of adjustments/credits; or
 - d. Other previously issued or unresolved/disputed billing adjustments.
- 4. Request investigation of my utility bill(s).
- 5. Request special metering, and the right to access interval usage and other metering data on my account(s).
- 6. Request rate analysis.
- 7. Request rate changes.
- 8. Request and receive verification of balances on my account(s) and discontinuance notices.
- 9. Other acts and functions (please specify) _____

¹ The Utility will provide standard customer information without charge up to two times in a 12 month period per service account. After two requests in a year, I understand I may be responsible for charges that may be incurred to process this request.

Standard Non-Disclosure Agreement

Effective Date: November 18, 2020

Tesla Contact: Ryan Glanville

This Standard Non-Disclosure Agreement (“NDA”) is entered as of the Effective Date between the Tesla entity (“Tesla”) and the company or individual (“Company”) identified below. Tesla and each Company agree as follows:

1. Purpose. Tesla may disclose Confidential Information to Company in order to consider a potential business relationship with each other or fulfill the objectives of such relationship (“Purpose”). “Confidential Information” means information disclosed by Tesla or its Affiliate to Company or its Affiliate that is marked as confidential or proprietary, identified as confidential or proprietary (e.g. if disclosed orally or visually), or disclosed under circumstances by which Company should reasonably understand that such information is deemed by Tesla to be confidential or proprietary. All Confidential Information and derivations thereof remain Tesla’s sole property, and no license or other right to Confidential Information or any intellectual property is granted or implied by this NDA or any disclosure. Tesla is not required to disclose any information hereunder. All Confidential Information is provided on an “AS IS” basis. Tesla disclaims any and all representations, warranties, or assurances concerning the Confidential Information, including as to accuracy, performance, completeness, suitability, or third-party rights.
2. Confidentiality. Subject to Section 3, Company and its Affiliates may not: (a) use Confidential Information for any reason except the Purpose; or (b) disclose Confidential Information to any individual or third party except to its personnel, directors, consultants, professional advisors, and Affiliates, or (to the extent expressly approved in writing by Tesla) other unaffiliated third parties, in each case that (i) have a “need to know” such Confidential Information for the Purpose and (ii) are bound to confidentiality obligations that protect Confidential Information to at least the same extent as the terms of this NDA (collectively, “Authorized Recipients”); or (c) make any public disclosures relating to the existence of this NDA or the Purpose without Tesla’s prior written consent; or (d) identify, or attempt to identify, any data subject (e.g. one or more individuals, vehicles, products, or entities) through any de-identified or anonymous data disclosed by Tesla. Company shall implement and maintain appropriate organizational, technical, and administrative security measures, exercising the same degree of care to protect Confidential Information that it uses for its own confidential information of a similar nature, but in no event less than reasonable care. Promptly after learning of any unauthorized use or disclosure of, and/or unauthorized attempts to access or modify, any Confidential Information in Company’s (or its Authorized Recipients’) custody or control, Company shall notify Tesla in writing and cooperate with Tesla to investigate and mitigate any adverse effects. Company shall be responsible for any unauthorized use or disclosure of Confidential Information by any of its Authorized Recipients.
3. Exceptions. The obligations of Section 2 will not apply to information that: (a) is already known to Company at the time of disclosure without obligation of confidentiality, (b) is or becomes publicly known through no wrongful act or omission of Company, (c) is rightfully received by Company from a third party without obligation of confidentiality, (d) is approved for release by Tesla’s written authorization, (e) was developed by Company independently and without the use or benefit of any Confidential Information. A disclosure that Company is required to make pursuant to any order or requirement of a court, administrative agency, other governmental agency, or stock exchange or (f) is a “public record”, as that term is defined by California Government Code section 6252, that is required to be disclosed pursuant to the California Public Records Act will not be deemed a breach of Section 2 of this NDA, provided that Company has to the extent permitted by law: (x) promptly notified Tesla in writing of such order or requirement, (y) given Tesla an opportunity to challenge or limit the disclosure requirement or seek an appropriate protective order, and (z) cooperated with Tesla to narrow the scope of such disclosure to only that portion of the Confidential Information that is necessary to fulfill the order or requirement. A disclosure which complies with a U.S. Federal Acquisition Regulation permitting disclosures to the government concerning government contracts will not be deemed a breach of this NDA. Each party is hereby given notice of the immunity set forth in 18 USC § 1833(b).
4. Affiliate. “Affiliate” means an entity which either controls or is controlled by a party or is under common control with a party, where “control” means the power to direct or cause the direction of an entity’s management and policies through ownership or control of at least 50% of its voting securities or ownership interest.
5. Termination. This NDA is effective as of the Effective Date and will expire 3 years thereafter. Either party may terminate this NDA for any or no reason by giving 60 days’ prior written notice to the other party. Expiration or termination shall not affect a party’s rights or obligations with respect to Confidential Information disclosed before such expiration or termination, and such rights or obligations will continue as long as Company or its Affiliate has custody of or control over Confidential Information. Upon expiration or termination of this NDA or Tesla’s written request, Company shall promptly return to Tesla all Confidential Information or certify in writing that all Confidential Information has been destroyed. Sections 2, 3, and 5–7 will survive for 5 years after the expiration or termination of this NDA.
6. Disputes; Venue. This NDA is governed by the laws of the county, state, and country specified below Tesla’s signature, in each case without regard to conflict of laws principles. Company will be jointly and severally responsible for the acts and omissions of its Affiliates and each Authorized Recipient. The rights of and damages incurred by a Tesla Affiliate will be deemed to be rights of and damages incurred by Tesla. The Parties shall discuss in good faith a resolution to any conflict or

Standard Non-Disclosure Agreement

dispute under this NDA. The exclusive venue for any judicial action arising out of or relating to this NDA will be the state, federal, or regional courts for the location specified below Tesla’s signature. The parties, for themselves and their respective Affiliates and Authorized Recipients, hereby waive any challenge to venue and jurisdiction in such courts. If Tesla substantially prevails in any action to enforce this NDA, it will be entitled to recover its costs of enforcement from Company and its Affiliates, including reasonable attorneys’ fees. Company acknowledges that breach of this NDA would cause Tesla irreparable harm for which monetary damages would not provide an adequate remedy and Tesla will, in addition to any other available remedies, be entitled to temporary and permanent injunctive relief with respect to such breach without proof of actual damages or the posting of bond or other security.

7. **Miscellaneous.** This NDA constitutes the entire agreement between the parties regarding its subject matter and supersedes all prior agreements, representations, and understandings, between the parties regarding its subject matter. If any provision hereof is held by a court of competent jurisdiction to be illegal or unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this NDA shall remain in full force and effect. This NDA is written in the English language, and the English version shall prevail over any translation thereof. A waiver of any right hereunder does not imply waiver of any other rights. No waiver, alteration, modification, or amendment of this NDA shall be effective unless in writing and signed by both parties. This NDA may be signed in duplicate originals or in separate counterparts, each of which is effective as if the parties signed a single original, and a facsimile of an original signature or electronically signed version transmitted to the other party is effective as if the original was sent to the other party. Any notice required or permitted by this NDA shall be made in writing and be deemed delivered upon verification of delivery to the other party. Company may not assign, transfer, or otherwise convey or delegate any of its rights or duties under this NDA (except to the successor in a merger, acquisition, or corporate reorganization of Company) without Tesla’s prior written consent, and any attempt to do so shall be void.

Tesla and each Company execute this Standard Non-Disclosure Agreement through their duly authorized representatives.

Tesla: Tesla, Inc.
Signed: _____
Printed: _____
Title: _____
Date: _____
Contact Information:
Legal Department
PO Box 15430, Fremont CA 94539, USA
Phone : +1-650-681-5000
Governing Law: <u>California</u>
Venue: <u>Santa Clara County, California</u>

Company: _____
Signed: _____
Printed: _____
Title: _____
Date: _____
Contact Information:
Name/Dept.: _____
Address: _____
Phone: _____

TESLA COMMERCIAL ENERGY

We take a long-term approach to ensure your energy storage system provides maximum performance, simplified integration and all-weather capabilities. You have peace of mind knowing that Tesla has successfully deployed 2.5 million kilowatts of solar and 2 million kilowatt hours of energy storage around the world.



Vallecitos Water District - San Elijo Hills Pump Station
1697 SAN ELIJO RD, SAN MARCOS, CA 92078, US

ENERGY STORAGE SYSTEM RATINGS



Battery Output Rating	280 kW
Battery Size (6 Packs)	1,392 kWh
Battery Value	\$866,796
Total Project Cost	\$0
Fully Charged Duration	27 hours



EMERGENCY BACKUP

Powers a facility when the grid goes down



PEAK SHAVING

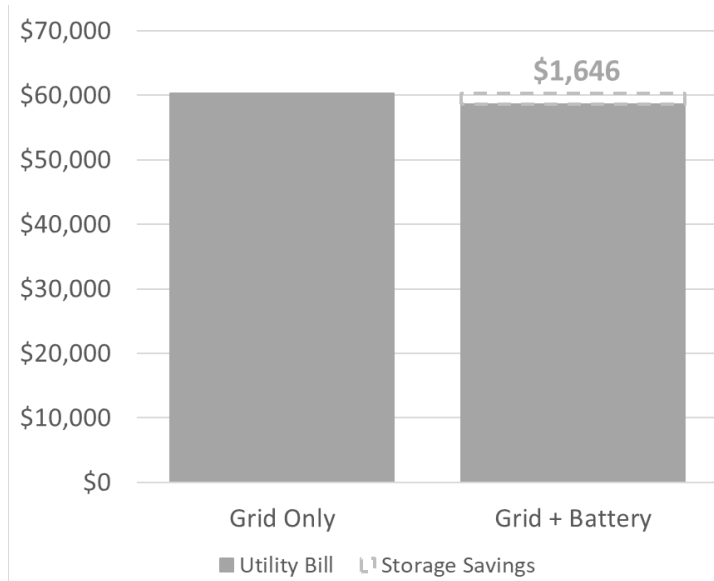
Discharge at times of peak demand to reduce expensive demand charges

PROPOSED SAVINGS PROJECTIONS

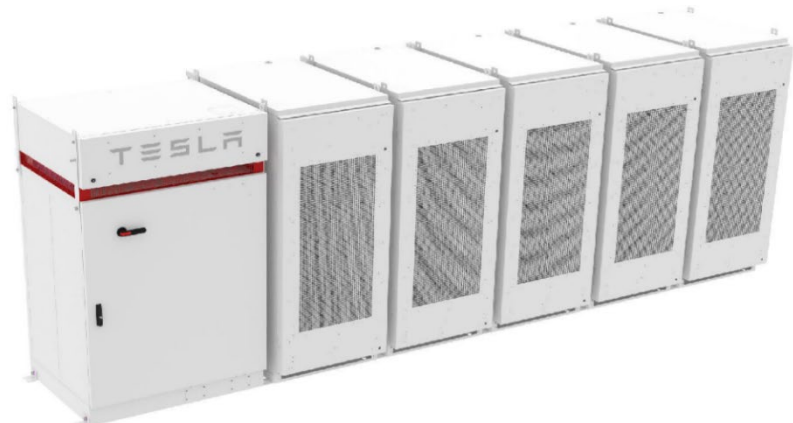
Battery Energy Storage System Savings

Estimated Annual Electricity Savings

Estimated Long Term Electricity Savings



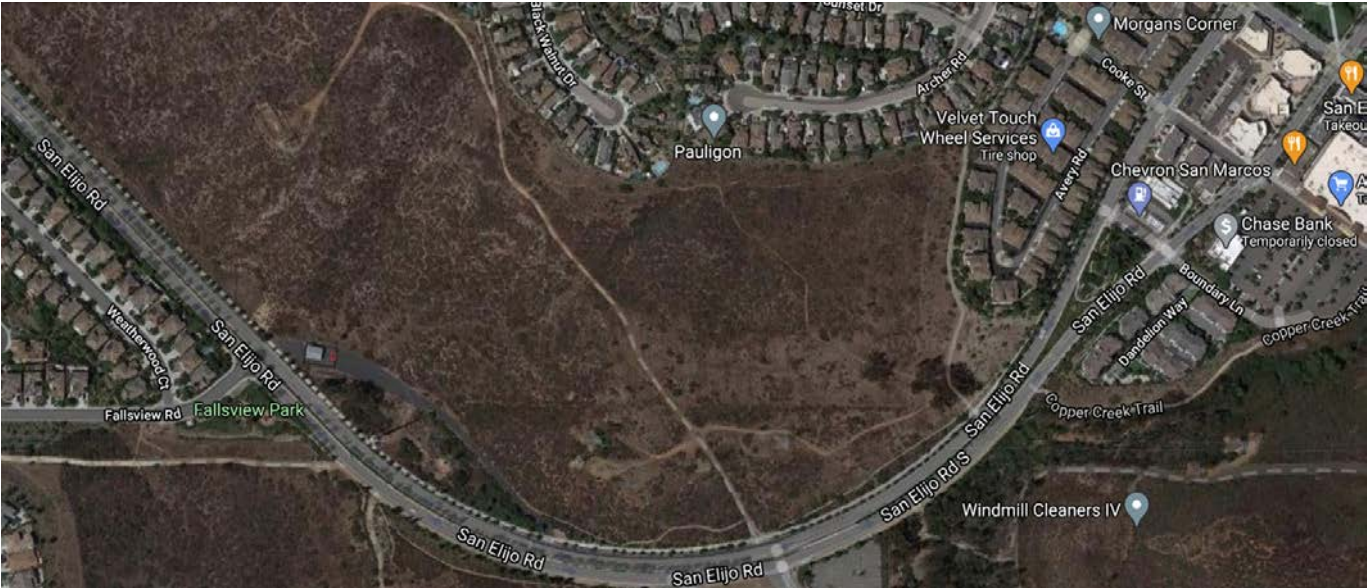
10 Year Value	\$17,609
20 Year Value	\$38,024



Additional Information

- Site/project specifics will need to be confirmed as part of the Site Survey & Permitting Process
- We recommend that you change to SDG&E tariff TOU-PA-2 to increase your savings with storage

POTENTIAL POWERPACK LOCATION





**Tesla Energy Products Purchase Agreement
California Self-Generation Incentive Program (SGIP)**

This "Agreement" is between Tesla, Inc. ("Tesla"), and the entity represented by you, as the signatory to this Agreement ("Buyer"). The Agreement consists of (1) the below Price Sheet and (2) the attached terms & conditions, and is effective on the date that you agree to this Agreement (by electronic acceptance, signature or e-mail).

As described in Section 2 below, as a condition of the pricing in this Agreement, Buyer must also sign a ten (10) year "Services Agreement," contemporaneously with this Agreement.

Price Sheet

Buyer information

Buyer Name: VALLECITOS WATER DISTRICT
 Street Address: 1697 SAN ELIJO RD, SAN MARCOS, CA 92078, US
 Signatory Name:
 Signatory Phone Number:

Tesla entity

Tesla, Inc. of 3500 Deer Creek Road, Palo Alto, CA, 94304
 888-765-2489
 CA CSLB 949283

Energy Products and Contract Price

Energy Storage System	280 kW /	1392 kWh Powerpack System	
Product Value:			\$866,796
SGIP Eligible Costs			\$1,261,812
SGIP Incentive			\$1,256,000
Contract Price (after SGIP Incentive and discounts):			\$0
Job No.:			JB-92021264-00
Installation Location:			1697 SAN ELIJO RD, SAN MARCOS, CA 92078, US


Approximate Completion Date

60-180 days from the date of this Agreement

Signed by

Buyer:
 Your signature:

 Title:
 Date:

Tesla, Inc.:
 By: 

 Title: Sr. Director, Commercial
 Energy Sales North America
 Date:
 November 18, 2020



Energy Products Purchase Agreement Terms & Conditions

1. **Authorization; Representations.** By your acceptance of this Agreement (by electronic acceptance or signature), you represent and agree that you are an authorized representative of Buyer, permitted to bind Buyer in this Agreement. If applicable, you and Buyer further represent and warrant to Tesla that all financial information that you or Buyer has provided (or will provide) to Tesla is true and accurate and fairly represents Buyer's financial position as at the date it was provided. Tesla may terminate this Agreement if any of the representations in this Section 1 are incorrect.

2. **Purchase; SGIP Program.**

(a) Buyer agrees to purchase the "Products" indicated in the Price Sheet. Tesla agrees to sell Buyer the Products and install them at the address you provided in the Price Sheet (the "Site"). Notwithstanding the above, prior to installing the Products, Tesla may review Buyer's credit, and Tesla shall have the right to terminate this Agreement in its sole discretion based upon the outcome of such credit review.

(b) The Products will be financed by the California Self-Generation Incentive Program ("**SGIP**"), which provides an incentive payment to be paid over five (5) years, subject to certain conditions (the "**SGIP Incentive**"). The SGIP Incentive when assigned to Tesla as the SGIP payee permits Tesla to offer the Products at a reduced cost, or no cost to Buyer. Buyer hereby assigns the SGIP Incentive to Tesla, and releases any claim to the SGIP Incentive. Buyer agrees to cooperate with Tesla's efforts to obtain the SGIP Incentive, including signing necessary documents.

(c) As a condition of receiving pricing based upon the SGIP Incentive, Buyer agrees to notify Tesla and the SGIP program administrator, not less than ninety (90) days in advance, if Buyer intends to sell or relocate the Products within ten (10) years after the date they are installed. This obligation will survive the termination or expiration of this Agreement. Contact information for the SGIP program administrator can be found at <https://www.selfgenca.com/home/contact/>. Notification to Tesla should be directed to CommercialAccounts@Tesla.com.

(d) In order to enable the SGIP Incentive, Buyer is required to sign the "**Services Agreement**" contemporaneously with this Agreement. As more fully detailed therein, the Services Agreement provides for Tesla to maintain the Products for ten (10) years, and also provides that Tesla will remotely operate the Products in a manner necessary to obtain the SGIP Incentive.

3. **Contract Price.** The Price Sheet shows the price of the Products and their installation after the SGIP Incentive ("Contract Price"), and the value of the Products ("Product Value"). The Contract Price is charged in accordance with the Schedule of Payments on the Price Sheet, and payment is due thirty (30) days after the date of each invoice. Subject to Section 4, the Contract Price is inclusive of all taxes and permitting fees. The Contract Price does not include, and Tesla is not obligated to provide, any ongoing services in connection with the Products (including maintenance services), except as required in connection with Tesla's limited warranties in Section 12, and as separately agreed under the Services Agreement.

4. **Changes to Price Sheet.**

(a) Tesla's obligation to install the Products is conditioned on such work falling within Tesla's "Standard Scope", which assumes standard wage rates, no unforeseen site conditions, no significant upgrades to existing electrical works, interconnection fees not to exceed \$1,000, and customary government costs, taxes and fees. Further information about what constitutes Tesla's Standard Scope is available upon request.

(b) Tesla has the right to update the Price Sheet if, upon further diligence regarding the Site, Tesla determines that there are conditions outside of the Standard Scope. If Buyer does not reject the updated Price Sheet within thirty (30) days and cancel this Agreement, the changes will be deemed accepted.

(c) In addition, Tesla may in its sole discretion determine that because of issues beyond the Standard Scope, or because of the unavailability of the SGIP Incentive, Tesla will not install the Products. In such case, Tesla may terminate this Agreement by notice to Buyer, and if applicable shall refund the Order Payment.

5. **Installation; Service.** Tesla will contact Buyer to perform an energy efficiency audit of the Site as required by the SGIP program, and subsequently, to schedule installation of the Products. Installation will be performed by Tesla or an affiliate or subcontractor, at Tesla's election. Tesla will commission the System in accordance with its standard practices. Buyer authorizes Tesla, or its affiliate or subcontractor, to submit on Buyer's behalf any permit or interconnection application



that is required in connection with the Products. Buyer also agrees to give Tesla, or its affiliate or subcontractor, access to the Site as scheduled so Tesla can install and service the Products. Buyer is responsible for all existing property conditions at the Site, whether known or unknown.

6. **Payment.** By entering into this Agreement, Buyer agrees to pay the Contract Price as described in the Price Sheet. Tesla may provide combined or separate invoices for each of the Products. Risk of loss shall transfer with respect to each component of the Products, upon its delivery to the Site. Title to the Products will transfer to Buyer after Tesla (i) completes installation and (ii) receives payment in full of the Contract Price (if any).

7. **Order Payment.** The Order Payment (if any) that Buyer previously paid for the Products is now non-refundable, except in the circumstances described in Section 4(c). When this Agreement becomes effective, Tesla incurs significant costs preparing to install the Products. The Order Payment is a reasonable estimate of the damages Tesla would incur if Buyer cancels its order before the Products are installed.

8. **Privacy.** The [Tesla Customer Privacy Policy](#) is part of this Agreement. You, as the authorized representative of Buyer, agree to be contacted at the phone number listed in the Price Sheet with more information or offers about Tesla products. You understand these calls or texts may use automated dialing or pre-recorded messages. This consent is not a condition of purchase. You may opt out of this consent at any time by contacting Tesla at 1-888-765-2489.

9. **Intellectual Property.** Tesla owns all intellectual property rights associated with the Products. Tesla grants Buyer a non-exclusive license to use any software embedded into the Products, only in connection with the operation of the Products.

10. **Remote Monitoring and Firmware Upgrades.**

(a) Buyer agrees that Tesla may access the Products remotely to monitor performance, perform diagnostics and upgrade firmware. This monitoring requires a high speed internet line, which Buyer must provide at Buyer’s cost. If Buyer does not maintain this internet connection, Tesla cannot monitor the Products. Tesla is not responsible for any issues arising from Buyer’s failure to provide an internet connection, or a failure of monitoring arising from the same.

(b) “Buyer Data” consists of the data related to the Products which Tesla makes available to Buyer via the Tesla app or any other performance monitoring provided by Tesla. Buyer Data shall be owned by Buyer. Tesla may use Buyer Data (i) to perform its obligations under this Agreement including any warranties, (ii) to improve Tesla’s products and services generally (including by performing analyses on such information), and (iii) to aggregate with other data. Public disclosure of such information by Tesla is permitted if neither Buyer nor the owner or long-term occupant of the site where the Products are located (the “Site Host”) could reasonably be identified from the publicly disclosed information.

(c) Any information obtained by Tesla through remote monitoring of the Products that is not Buyer Data shall be owned by Tesla (“Tesla Data”), shall be confidential information of Tesla, and shall not be required to be made available by Tesla to any person.

(d) Notwithstanding anything herein to the contrary, Tesla may disclose either Buyer Data or Tesla Data as requested or required by an applicable administrator of the SGIP program (“SGIP Administrator”), and Tesla shall not be responsible for the SGIP Administrator’s use or disclosure of such data.

11. **Maintenance & Operation.** Tesla will provide Buyer with an initial copy of an applicable storage system operation and maintenance guide (as updated by Tesla from time to time, the “Manuals”). The Manuals provide Buyer with operation and maintenance instructions, answers to frequently asked questions, and service information. Buyer must cause the Products to be maintained in accordance with the Manuals (including by contracting with Tesla for maintenance services). In addition, Buyer must comply with the Manuals, to the extent the Manuals apply to Buyer’s activities at the Site.

12. **Limited Warranties.** The Products and installation work are covered by the following limited warranties. **THESE ARE THE ONLY EXPRESS WARRANTIES MADE IN CONNECTION WITH THE PRODUCTS AND INSTALLATION WORK. Any other warranties, remedies and conditions, whether oral, written, statutory, express or implied (including any warranties of merchantability and fitness for purpose, and any warranties against latent or hidden defects) are expressly disclaimed. If such warranties cannot be disclaimed, Tesla limits the duration of and remedies for such warranties to the durations and remedies described below.**

Storage System	The Storage System is covered by the Tesla Limited Warranty applicable to the product and model purchased. By approving this Agreement, Buyer accepts the terms of the Tesla Limited Warranty for the applicable product, which can be obtained on our website or will be provided upon request.
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	In order to maintain the Tesla Limited Warranty, maintenance on the Storage System must be performed by Tesla, a Tesla affiliate or subcontractor, or a Tesla-certified maintenance provider.
Workmanship	Tesla warrants that (a) Tesla’s installation workmanship will be free from defects for 10 years from the date the Products are installed (or, in the case of main panel or structural upgrades, 1 year from the date those upgrades were performed); (b) Tesla’s installation workmanship will not invalidate the applicable Tesla Limited Warranty; and (c) Tesla will not damage the Site during our installation of the Products. If Tesla breaches this workmanship warranty, Tesla will repair the defective work or damage at Tesla’s cost. If Tesla cannot do this itself, Tesla will pay for someone else to do it. Such repair work shall not extend the original warranty period, but the remainder of the original warranty period shall apply to the repair work.

13. **Warranty Exclusions.** The “Workmanship” warranty above does not cover any defect caused by (1) events beyond Tesla’s reasonable control, including but not limited to lightning, flood, earthquake, fire, excessive wind and other extreme weather events, accidents, abuse, misuse or negligence; (2) Buyer’s failure to operate or maintain the Products in accordance with the applicable owner’s manual(s); (3) strikes by balls or other objects, dirt, dust, bird excrement, animals, insects, foliage or algae growth; (4) water entering around a fitting, accessory or other material not installed by Tesla; (5) any material or equipment connected to the Products that was not installed by Tesla; or (6) someone other than Tesla installing, altering, removing, re-installing or repairing any part of the Products unless that person does so in compliance with the applicable owner’s manual(s). The “Workmanship” warranty also does not cover (i) any defects in the equipment or components incorporated into Tesla’s work (such as breakers, electrical panels, soft-start devices for HVAC equipment, etc.); (ii) pre-existing conditions at the Site, including but not limited to unpermitted conditions, improper electrical wiring, cracked or crumbling masonry; (iii) normal wear and tear or deterioration, or superficial defects, dents or marks that do not impact the performance or functionality/integrity of the Products; or (iv) theft or vandalism. The warranty for the “Storage System” above is not subject to the above exclusions, but is subject to other exclusions which are described in the warranty document.

14. **IP Indemnity.**

(a) As used in this Section 14, “Representatives” means Buyer and Buyer’s affiliates, and their respective directors, officers, partners, members, shareholders, agents, employees, subcontractors, successors and assigns; “Losses” means damages and liabilities, including reasonable attorneys’ fees; and “Claim” means a claim, action, suit, proceedings, demand, investigation or assessment made or brought by any third party.

(b) Tesla shall indemnify, defend and hold harmless Buyer and its Representatives from any Losses arising out of any Claim alleging that the Products infringe the intellectual property rights of a third party. However, Tesla shall have no obligation to indemnify Buyer or any of its Representatives to the extent the Claim arises out of: (a) use of the Products in combination with any other products, materials or equipment not expressly authorized by Tesla; or (b) any modifications or changes made to the Products other than by Tesla. If a Claim for infringement or alleged infringement of any intellectual property rights is made, Tesla may, at its own expense, (i) modify any or all of the intellectual property rights so as to avoid the infringement or the alleged infringement; or (ii) take such other action as Tesla deems reasonable to avoid or settle such Claim.

15. **Limitation of Liability.** Tesla and Buyer shall not be liable to one another for any indirect, special or consequential damages arising out of this Agreement. To the fullest extent permitted by law, Tesla and Buyer’s aggregate liability to one another under this Agreement is limited to the Product Value. This Section 15 applies, without limitation, to any liability arising out of any Site survey performed by Tesla or its affiliate or subcontractor in connection with this Agreement. This Section 15 does not apply to Buyer or Tesla’s obligation to indemnify the other for third-party claims, as required under Section 14 or otherwise under applicable law.

16. **Term; Breach; Remedies.**

(a) This Agreement will continue in effect until Tesla has completed installation of the Products and received payment in full of the Contract Price, unless earlier terminated as permitted in Section 4 or this Section 16.

(b) If Tesla or Buyer is in breach of this Agreement, upon thirty (30) days prior written notice and opportunity to cure, the non-defaulting party may terminate this Agreement; and with or without terminating this Agreement, may pursue



any remedy it has under this Agreement or at law, including in Tesla's case, repossession of the Products (if title has not yet transferred) and collection of all amounts due (including those past due, which will be charged 2% interest per annum).

(c) Provisions of this Agreement which by their nature contemplate or govern performance or observance subsequent to the termination or expiration of this Agreement shall survive such termination or expiration until fully performed.

17. **Governing Law; Integration.** This Agreement is governed by the laws of the State of California. The information at the links described above is part of this Agreement. Any other terms relating to the Products that are not contained or referred to in this Agreement are not binding on Tesla or Buyer.

18. **Assignment.** Tesla may, without need for Buyer's consent, assign, mortgage, pledge or otherwise directly or indirectly assign this Agreement and/or its interests in this Agreement (a) as collateral in connection with its financing activities; and (B) to any third party (including any affiliate of Tesla) or any person succeeding to all or substantially all of the assets of Tesla; provided, that, in the case of assignments to a third party under clause (b), Tesla is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Tesla's obligations hereunder by binding written instrument. .

19. **Insurance.** Tesla shall maintain, at its sole cost and expense, the following insurance coverage and shall, within a reasonable time of Buyer's request, furnish to Buyer a certificate evidencing such coverage:

(a) **Commercial General Liability Insurance (CGL).** Tesla carries commercial general liability insurance with coverage amounts that meet or exceed those required by law.

(b) **Workers' Compensation Insurance.** Tesla carries workers' compensation insurance for all employees in compliance with law.

20. **Further Assurances.** Tesla and Buyer shall each at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

21. **Arbitration.** Any dispute arising from or relating to this Agreement shall first be promptly referred to the senior level management of the Parties for resolution. If Tesla and Buyer are unable to resolve any such dispute within 20 days after referral, then Tesla or Buyer may take such dispute to binding arbitration in accordance with the then-current Streamlined Arbitration Rules of the Judicial Arbitration and Mediation Services ("JAMS"). The existence, content and result of the arbitration shall be confidential and conducted by a single arbitrator in English and in Santa Clara, California, unless otherwise agreed by the Parties. Buyer and Tesla will each bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator may, in its discretion, award reasonable costs and fees to the prevailing party. Judgment upon the award rendered in the arbitration may be entered in any court of competent jurisdiction.



**Energy Products Operation and Maintenance Agreement
California Self-Generation Incentive Program (SGIP)**

This "Agreement" is between Tesla, Inc. ("Tesla"), and the entity represented by you, as the signatory to this Agreement ("Buyer"). The Agreement consists of (1) the below Price Sheet and (2) the attached terms & conditions, and is effective on the date that you agree to this Agreement (by electronic acceptance, signature or e-mail) (the "Effective Date").

This Agreement accompanies a Tesla Energy Products Purchase Agreement ("Purchase Agreement"), which includes a reduced price as a result of Tesla obtaining the SGIP incentive with respect to the Products (as indicated in the Price Sheet, the "SGIP Incentive").

Price Sheet

Buyer information

Buyer Name: VALLECITOS WATER DISTRICT

Street Address: 1697 SAN ELIJO RD, SAN MARCOS, CA 92078, US

Signatory Name:

Signatory Phone Number:

Tesla entity

Tesla, Inc. of 3500 Deer Creek Road, Palo Alto, CA, 94304
888-765-2489
CA CSLB 949283

Products

Products installed under Energy Products Purchase Agreement dated: 11/18/2020 **Powerpack:** 280kW/1392kWh

Products Value: \$866,796

SGIP Eligible Costs: \$1,261,812

SGIP Incentive: \$1,256,000

Job No.: JB-92021264-00

Installation Location: 1697 SAN ELIJO RD, SAN MARCOS, CA 92078, US

Services Price

Annual price for Services: \$0
Extra Services **Time-and-Materials Rate to be agreed by Buyer**

Payment Terms

Deadline for Payments: 30 days after date of invoice



Signed by

Buyer:

Tesla, Inc.:

Your signature:

By:

Title:

Title: Sr. Director, Commercial
Energy Sales North America

Date:

Date:

November 18, 2020



Operation and Maintenance Agreement Terms & Conditions

1. **Authorization; Representations.** By your acceptance of this Agreement (by electronic acceptance, signature, or email), you represent and agree that you are an authorized representative of Buyer, permitted to bind Buyer in this Agreement. If applicable, you and Buyer further represent and warrant to Tesla that all financial information that you or Buyer has provided (or will provide) to Tesla is true and accurate and fairly represents Buyer's financial position as at the date it was provided. You also represent and agree that the Buyer owns or has sufficient rights to the Products in the Price Sheet, to contract for the Services. Tesla may terminate this Agreement upon notice to Buyer if any of the representations in this Section 1 are incorrect.

2. **Term; SGIP Operation and Grid Services.**

(a) This Agreement will continue in effect for ten (10) years from the date that the Products are fully installed, unless earlier terminated under Section 11 (the "Term"). The Parties agree that as of the Effective Date, the Products are intended to remain owned by Buyer and installed at the Site (as defined in Section 3) throughout the Term.

(b) During the Term, Tesla may monitor and operate (including charging and discharging) the Products, in order to comply with requirements of the SGIP Program, and to generate savings by shifting Buyer's grid electricity consumption from higher-priced times to lower-priced times, in Tesla's reasonable discretion. Buyer acknowledges that Tesla's cycling of the Products will consume some portion of the warranted throughput of the Products; and will use electricity stored in the Products (together, "Cycling Costs"). Tesla expects that Tesla's activities described above will save significantly more than the Cycling Costs, but Tesla makes no guarantee of such savings. Buyer agrees that the provision of the Services herein are in full consideration of the Cycling Costs, and releases Tesla from any claim to recover any Cycling Costs.

(c) Buyer agrees to notify Tesla of any utility tariff changes with respect to the Site, during the Term.

(d) As a condition of receiving pricing based upon the SGIP Incentive, Buyer agrees to notify Tesla and the SGIP program administrator, not less than ninety (90) days in advance, if Buyer intends to sell or relocate the Products within ten (10) years after the date they are installed. This obligation will survive the termination or expiration of this Agreement. Contact information for the SGIP program administrator can be found at <https://www.selfgenca.com/home/contact/>. Notification to Tesla should be directed to CommercialAccounts@Tesla.com.

(e) If Buyer intends to vacate or sell the Site during the Term, Buyer shall ensure that that the buyer of the Site accept assignment of this Agreement, or an agreement substantially similar and reasonably acceptable to Tesla, in order to ensure continued compliance with the SGIP Program.

(f) From time to time, Tesla may identify demand response or similar grid services programs, whereby the Products can help meet demands of the electrical grid, or improve its reliability, by charging or discharging the Products (or agreeing to make the Products available for charging or discharging) (each, a "Grid Services Program"). Tesla will notify Buyer of any proposed Grid Services Program and identify: (i) the anticipated economic benefit for Buyer; (ii) the anticipated impact on the availability of the Products; and (iii) the anticipated Cycling Costs. Buyer may elect to participate or not participate in a Grid Services Program, provided that if Buyer does not provide Tesla with notice of its election within thirty (30) days after Tesla's notice of the Grid Services Program, Tesla may treat the same as an election to participate.

3. **Tesla to Provide Services.** For the Products indicated in the Price Sheet, Buyer agrees to purchase the "Services" in accordance with Appendix 1 (the "Scope of Services") during the Term, to be performed at the site where Tesla installed the Products (the "Site").

4. **Scope of Services.**

(a) Tesla's Scope of Services assumes standard wage rates, no constraints to Tesla's access to the Site, and no unforeseen site conditions. If Tesla encounters challenges accessing the Site, or unforeseen site conditions not caused by Tesla, Tesla may treat the costs it incurs as Extra Services as set forth in Section 4(b).

(b) Any service not included in the Scope of Services shall be an "Extra Service." Extra Services will include, for example repairs arising from abuse by Buyer. Upon request, Tesla may provide Buyer a time-and-materials rate proposal for Extra Services, and upon agreement of Buyer in writing, Tesla may agree to perform the Extra Services. When used in this Agreement, "Services" shall include "Extra Services," when context requires. If Buyer pays a fee to Tesla for Extra Services in connection with an issue that is subsequently determined to be covered by a Tesla Manufacturer's Limited Warranty or other warranty provided by Tesla for the Products, Tesla shall provide a refund to Buyer.



(c) Title and risk of loss to all parts, materials or equipment installed by Tesla during the performance of the Services shall transfer to Buyer when such parts, materials or equipment have been installed and the Products (or the affected part of the Products) have been commissioned or re-commissioned.

5. **Site Access.** Tesla will contact Buyer to schedule the Services. Services will be performed by Tesla or an affiliate or subcontractor, at Tesla's election. Buyer also agrees to give Tesla, or its affiliate or subcontractor access to the Site as scheduled so Tesla can provide the Services.

6. **Extra Services.** Tesla may bill for Extra Services upon their completion. By entering into this Agreement, Buyer agrees to pay any agreed-upon fee for Extra Services, in accordance with the Payment Terms in the Price Sheet.

7. **Privacy.** The [Tesla Customer Privacy Policy](#) is part of this Agreement. You, as the authorized representative of Buyer, agree to be contacted at the phone number listed in the Price Sheet with more information or offers about Tesla products. You understand these calls or texts may use automated dialing or pre-recorded messages. This consent is not a condition of purchase. You may opt out of this consent at any time by contacting Tesla at 888-765-2489.

8. **Remote Monitoring and Firmware Upgrades.**

(a) Tesla's SGIP-related monitoring and cycling described in Section 2 requires a continuous high-speed internet connection, which Buyer agrees to provide at Buyer's cost. Buyer agrees that Tesla may access the Products remotely to monitor performance, perform diagnostics and upgrade firmware. If Buyer does not maintain this continuous internet connection the monitoring will not function. Tesla shall not be responsible for any issues arising from Buyer's failure to provide an internet connection, or a failure of monitoring arising from the same.

(b) "Buyer Data" consists of the data related to the Products which Tesla makes available to Buyer via the Tesla app or any other performance monitoring provided by Tesla. Buyer Data shall be owned by Buyer. Tesla may use Buyer Data (i) to perform its obligations under this Agreement including any warranties, (ii) to improve Tesla's products and services generally (including by performing analyses on such information), and (iii) to aggregate with other data. Public disclosure of such information by Tesla is permitted if Buyer could not reasonably be identified from the publicly disclosed information.

(c) Any information obtained by Tesla through remote monitoring of the Products that is not Buyer Data shall be owned by Tesla ("Tesla Data"), shall be confidential information of Tesla, and shall not be required to be made available by Tesla to any person.

9. **Services Warranty.**

(a) Tesla warrants that (i) it shall perform all Services in accordance with Prudent Industry Practices, any applicable Tesla operation and maintenance manuals, and this Agreement, and (ii) any labor performed, and any materials installed, in the performance of the Services shall be free from defects in design and workmanship for 12 months after such labor was performed or such materials were installed (collectively, the "Services Warranty"). "Prudent Industry Practices" means the methods approved by a significant portion of the electrical services industry operating in the state in which the Products are installed that, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with applicable law, reliability, safety, environmental protection, economy and expedition.

(b) Tesla shall remedy any defect or otherwise cure a breach of the Services Warranty, at its own cost and expense, as promptly as reasonably practicable after Buyer notifies Tesla in writing of such breach, in a manner and at such times that reasonably minimizes interruption of the operation of the Products and revenue loss to Buyer. This shall be Tesla's sole and exclusive liability, and Buyer's sole and exclusive remedy, in connection with a breach of the Services Warranty.

(c) EXCEPT AS REQUIRED BY LAW, OR AS PROVIDED FOR IN THIS AGREEMENT, TESLA MAKES NO WARRANTIES OR GUARANTEES WITH RESPECT TO THE SERVICES AND DISCLAIMS ANY WARRANTY OR GUARANTEE IMPLIED BY APPLICABLE LAWS, INCLUDING IMPLIED WARRANTIES OF PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES OF CUSTOM OR USAGE.

10. **Limitation of Liability.** Tesla and Buyer shall not be liable to one another for any indirect, special or consequential damages arising out of this Agreement, except to the extent provided in Section 11(b). To the fullest extent permitted by law, Tesla and Buyer's aggregate liability to one another under this Agreement is limited to the Products Value. This Section 10 applies, without limitation, to any liability arising out of any Site survey performed by Tesla or its affiliate or



subcontractor in connection with this Agreement. This Section 10 does not apply to Buyer or Tesla's obligation to indemnify the other party, as may be required under applicable law.

11. Breach; Remedies.

(a) If Tesla or Buyer is in breach of this Agreement, upon thirty (30) days prior written notice and opportunity to cure, the non-defaulting party may terminate this Agreement; and with or without terminating this Agreement, may pursue any remedy it has under this Agreement or at law. Tesla may also terminate this Agreement if the Products are substantially destroyed other than due to Tesla's fault.

(b) Buyer shall be responsible for, and Tesla shall be entitled to invoice for, any loss of part or all of the SGIP Incentive due to damage to the System caused by Buyer, or Buyer's breach of this Agreement. Breaches that may result in the loss of part or all of the SGIP Incentive may include, without limitation, removing or selling the Products without notifying the SGIP Administrator as required in Section 2(e), not providing Tesla with access to the Products in order to perform maintenance as required in Section 4; or continued failures to provide internet connectivity as required in Section 8.

(c) If this Agreement is terminated by Tesla during the first five (5) years of the Term, then Buyer shall owe Tesla the following amount, as reasonably calculated by Tesla: For each year or portion thereof remaining in the first five (5) years of the Term, Buyer shall pay ten percent (10%) of the SGIP Incentive (the "Termination Payment") (Thus, if the Agreement is terminated for Buyer default three (3) years from the date that the Products are fully installed, Buyer shall owe 20% of the SGIP Incentive). Buyer agrees that the damages in this Section 11 are a reasonable preestimate of Tesla's damage as a result of the early termination of this Agreement. The Termination Payment shall be due and payable thirty (30) days after Tesla's issuance of an invoice therefor.

(d) Provisions of this Agreement which by their nature contemplate or govern performance or observance subsequent to the termination or expiration of this Agreement shall survive such termination or expiration.

12. Governing Law; Integration. This Agreement is governed by the laws of the State of California. The information at the links described above is part of this Agreement. Any other terms relating to the Products that are not contained or referred to in this Agreement are not binding on Tesla or Buyer.

13. Assignment. Tesla may, without need for Buyer's consent, assign, mortgage, pledge or otherwise directly or indirectly assign this Agreement and/or its interests in this Agreement (a) as collateral in connection with its financing activities; and (B) to any third party (including any affiliate of Tesla) or any person succeeding to all or substantially all of the assets of Tesla; provided, that, in the case of assignments to a third party under clause (b), Tesla is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Tesla's obligations hereunder by binding written instrument.

14. Insurance. Tesla shall maintain, at its sole cost and expense, the following insurance coverage and shall, within a reasonable time of Buyer's request, furnish to Buyer a certificate evidencing such coverage:

(a) **Commercial General Liability Insurance (CGL).** Tesla carries commercial general liability insurance with coverage amounts that meet or exceed those required by law.

(b) **Workers' Compensation Insurance.** Tesla carries workers' compensation insurance for all employees in compliance with law.

15. Further Assurances. Tesla and Buyer shall each at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

16. Arbitration. Any dispute arising from or relating to this Agreement shall first be promptly referred to the senior level management of the Parties for resolution. If Tesla and Buyer are unable to resolve any such dispute within 20 days after referral, then Tesla or Buyer may take such dispute to binding arbitration in accordance with the then-current Streamlined Arbitration Rules of the Judicial Arbitration and Mediation Services ("JAMS"). The existence, content and result of the arbitration shall be confidential and conducted by a single arbitrator in English and in Santa Clara, California, unless otherwise agreed by the Parties. Buyer and Tesla will each bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator may, in its discretion, award reasonable costs and fees to the prevailing party. Judgment upon the award rendered in the arbitration may be entered in any court of competent jurisdiction.



Appendix 1

Scope of Services

Tesla will (i) proactively monitor the Products as set forth below, and (ii) respond to inquiries by phone, web and/or email. Tesla may respond, remotely or on-site as deemed necessary by Tesla, to telemetry signals and/or Buyer inquiries. The Services that Tesla will provide are limited to the following:

- Perform preventative maintenance, as Tesla deems consistent with Prudent Industry Practices
- Alert the customer of Product performance and failure issues
- Provide visibility of Product performance through Tesla's Powerhub user interface
- Alert the customer if the Product is not communicating with the internet
- Remove, return, replace and/or fix parts covered by valid manufacturer warranty
- Investigate and replace defective balance of system hardware and/or defective wiring for the duration of the Workmanship Warranty. (After the Workmanship Warranty, the Parties may agree for Tesla to perform this service as Extra Work.)
- Remotely update products software and firmware to improve performance

Excluded services and repairs listed below may be performed as an Extra Service, as set forth in Section 3(b):

- Moving debris from the equipment, or the area around the equipment
- Maintenance of the area around the Products, including vegetation management
- Maintenance to the degree necessitated by vandalism, negligence or misconduct of Buyer or another party not under Tesla's control
- Removal and reinstallation of equipment for reasons not related to warranty failures

SELF-GENERATION INCENTIVE PROGRAM

Proposed System Information Attestation

The following information (Responses to Questions 1 – 5) is required by the Developer of the storage system applying for SGIP’s Equity Resiliency Budget or Non-Equity Resiliency Budget with a discharge duration greater than two hours.

- 1) Provide an estimate of how long the project’s fully charged battery will provide electricity for the relevant facility average load during an outage.

The useful capacity of the project's battery is 1392 kWh, while the average site load is 52 kW. The project's fully charged battery will provide electricity to the average site load for 27 hours

- 2) Indicate whether the project’s critical loads can and will be isolated.

Critical loads will be covered as part of the systems full facility backup, and all loads will be isolated from the grid during an outage. Loads that are deemed non critical can be turned off to extend back up duration.

- 3) Provide an estimate of how long the project’s fully charged battery will provide electricity to critical uses during an outage.

The system is designed assuming all site loads are "critical", the project's fully-charged battery will provide electricity to the site for 27 hours

- 4) Provide an estimate of how long the project can operate in less-than favorable circumstances, such as if an outage occurs when the battery has been discharged or during the winter (if paired with solar).

In less-than favorable circumstances, the useful capacity of the project's battery is 696 kWh. It will provide electricity to the average site load for 13.5 hours.


- 5) Summarize information given to the customer about how the customer may best prepare the storage system to provide backup power, in the case of a Public Safety Power Shutoff (PSPS) event announced in advance (provide an attachment with more information if necessary).

No action is required from the customer to prepare the system as Tesla plans to extend "Storm Watch" to commercial customers to help them better manage battery charging for PSPS events. Storm Watch communicates with the National Weather Service to know when severe weather or PSPS events are likely to occur and automatically triggers Storm Watch mode. Customer will receive notification once battery starts charging in preparation for PSPS. This mode pushes the limits and charges the system to maximum capacity so it can provide backup power. If desired, they can also reach out to Tesla at powerpacksupport@tesla.com to request pre-emptive charging of their energy storage system.

ATTESTATION

[DEVELOPER SECTION]

I, Tesla, Inc. (print name of Developer), hereby attest that each of the statements provided in this document are true and correct.

Signature: 

Name Printed: RJ Johnson

Title: Sr. Director, Commercial Energy Sales

Date: November 18, 2020

[CUSTOMER SECTION]

I, VALLECITOS WATER DISTRICT (print name of Customer), hereby attest I have received the information provided in this document prior to signing a contract with the developer.

Signature: _____

Name Printed: _____

Date: _____



Self Generation Incentive Program
Reservation Request Form

Center for Sustainable Energy

sgip@energycenter.org

Application ID:

Date Printed: 11/19/2020

Program Year: 2020

Instructions: This Self-Generation Incentive Program (SGIP) Reservation Request Form is reflective of the information entered in the online form process. Please review thoroughly for accuracy of information before signing. Once the form has been signed by all parties, scan and upload this document under the Reservation Request header in the Documents section of the online application. Incomplete applications will result in a suspended application. Upon successful submission of all reservation request information and documents, the Applicant will receive notice from the SGIP Program Administrator that their rebate request has been received.

NOTE: Your application is not submitted until you upload this form and all other required documentation and click on "Submit" via the online system.

Application Type

Application Type: Energy Storage

Budget Category: Equity Resiliency

Incentive Step: 5

Incentive Rate: \$1

Host Customer

Contact Name: _____ **Mailing Address:** 201 Vallecitos De Oro

Company Name: VALLECITOS WTR DIST **City, State, Zip:** San Marcos , CA, 92069

Parent Company Name: **Phone:** 1234567891

NAICS: 221310 **Email:** jgumpel@vwd.org

Is this a public institution? N/A

Sector: State or Local Government

Sector definition: Agreed

Is Household Low-Income Status?

Is the Host Customer enrolled for the medical baseline program?

Has the Host Customer notified their utility of serious illness or condition that could become life-threatening of electricity is disconnected?

Has the Host Customer received an incentive reservation letter from either the MASH, SASH, DAC-SASH, or SOMAH programs?

Has applicant coordinated with their local governments and the California Office of Emergency Services? No

Does the host customer provide critical services or infrastructure during a PSPS event to a community that is at least partially located in a Tier 2 or Tier 3 HFTD and eligible for the equity budget? Yes

1. 911 call center/Public Safety Answering Point N/A

2. Cooling center designated by state, local, or tribal government N/A

- 3. Emergency operations center N/A
- 4. Emergency response provider with the addition of tribal government providers N/A
- 5. Fire station N/A
- 6. Food bank N/A
- 7. Independent living center N/A
- 8. Jail or prison N/A
- 9. Homeless shelters supported by federal, state, local, or tribal governments N/A
- 10. Medical facility (hospital, skilled nursing facility, nursing home, blood bank, health care facility, dialysis center, or hospice facility) N/A
- 11. Police station N/A
- 12. Public and private gas, electric, water, wastewater or flood control facility Yes
- 13. Location designated by an IOUs to provide assistance during PSPS events N/A
- 14. Grocery store, corner store, market or supermarket with average annual gross receipts of \$15 million or less over the last three tax years as calculated at a single location Yes

Is this public or tribal government agency serving 50% of a low-income or disadvantaged community census tract?

Opts into resiliency adder? No

System Owner

Contact Name:	_____	Mailing Address:	201 Vallecitos De Oro
Company Name:	VALLECITOS WTR DIST	City, State, Zip:	San Marcos, CA, 92069
Parent Company Name:		Phone:	1234567891
		Email:	jgumpel@vwd.org

Developer

Contact Name:	Jonathan Gubler	Mailing Address:	3055 Clearview Way
Company Name:	Tesla Inc.	City, State, Zip:	San Mateo, CA, 94402
		Phone:	6509635100
		Email:	commercial.incentives@tesla.c

- 1. Approaching or communicating with the host customer about the project and learning about its needs and energy profile 1. Yes
- 2. Developing the specifications for a system based on the customer's needs and interests 2. Yes
- 3. Soliciting bids from multiple manufacturers for the specified system 3. Yes
- 4. Gaining the customer's commitment to purchase or lease the specified system, usually but not necessarily by signing a purchase order with a customer or other form of agreement 4. Yes
- 5. Purchasing the specified system from the manufacturer to fulfill the obligation to provide a system to the customer 5. Yes
- 6. Securing permits for the system on behalf of the customer 6. Yes
- 7. Securing interconnection permission for the system on behalf of the customer 7. Yes

- | | |
|---|---------|
| 8. Submitting SGIP applications on behalf of the customer | 8. Yes |
| 9. Liaising with the SGIP administrators on incentive reservations | 9. Yes |
| 10. Liaising with the SGIP administrators on data reporting requirements | 10. Yes |
| 11. Supplying project data to SGIP evaluators | 11. Yes |
| 12. Physically constructing the system at the customer's premises | 12. Yes |
| 13. Installing the system at the customer's premises | 13. Yes |

Who is performing the other activities?

Applicant

Contact Name:	Mike Snyder	Mailing Address:	6611 S Las Vegas Blvd Suite 200
Company Name:	Tesla Inc.	City, State, Zip:	Las Vegas, NV, 89119
Parent Company Name:		Phone:	7026806763
		Email:	commercial.incentives@tesla.c

Contractor/Installer Contact

Contact Name:	Mike Snyder	Mailing Address:	6611 S.Las Vegas Blvd Suite 200
Company Name:	Tesla,Inc	City, State, Zip:	Las Vegas , NV, 89119
Contractor License Number (CSLB):	888104	Email:	commercial.incentives@tesla.c
Contractor License Type:		Phone:	7026806763

Payee Contact

Contact Name:		Mailing Address:	
Company Name:		City, State, Zip:	, ,
Payee Tax Status:		Email:	
Payee Tax ID:		Phone:	

Project Site Information

Site Address:	1697 SAN ELIJO RD	
City, State, Zip:	San Marcos, CA, 92078	
Project site within the SCE-defined local reliability area?		N/A
Disadvantaged Community or Low-Income Community according to the CalEnviroScreen?		Low-Income Community
Is the site located in a high fire threat district (HFTD)?		Tier 2
Has experienced at least two discrete PSPS events?		Yes
Household relies on electric pump wells for their water supplies?		Not Applicable
Participating San Joaquin Valley Pilot area?		
Agrees to location Eligibility:		Yes

Utility Information

Electric Utility:	San Diego Gas and Electric	Peak Annual Demand (kW):	212
Is the Host on an SGIP-Approved Rate?	Other SGIP-Approved Rate	Other Rate:	non residential
Electric Utility is Municipal?	N/A	Demand Response Participant?	N/A

Account Name: VALLECITOS WTR DIST
Is Existing Service? Yes
Utility Account ID: 15810208698
Utility Meter ID: 06700801
Gas Utility:
Gas Utility is Municipal? N/A
Account Name:
Is Existing Service? N/A
Utility Account ID:
Utility Meter ID:

Demand Response Program Name:
Demand Response Obligation (kW):
System Size Based on Load Growth? No
Estimated Future Additional Demand (kW):

Proposed System Information

Equipment Technology: Electrochemical Storage
System Manufacturer: Tesla, Inc
System Model: Powerpack 1490025-XX-Y
Other self-generation or storage equipment onsite?
Charged at least 75% from renewables? No

Total Rated Capacity (kW): 280
Total Energy Storage Capacity (kWh): 1392
Discharge Hours Duration: 4.97142857143
Opts-out of Resiliency Requirements: No

Other Onsite System Information

SGIP Incentivized System(s) Onsite:

Technology	Make/Model	Project Code	Installed	Energy Storage Capacity (kWh)	Total Rated Capacity (kW)
------------	------------	--------------	-----------	-------------------------------	---------------------------

Non-Incentivized System(s) Onsite:

Technology	Make/Model	Year Installed	Energy Storage Capacity (kWh)	Total Rated Capacity (kW)
------------	------------	----------------	-------------------------------	---------------------------

Previous SGIP Generator Capacity (kW): 0

Previous SGIP Storage Capacity (kWh): 0

Project Finance

Total Eligible Project Cost (TEPC): \$1,261,812.00
Ineligible Project Cost:

Taking Federal Investment Tax Credits (ITC): No
ITC as a % of TEPC: %
Approved California Manufacturer Equipment: No

Other Incentives Received	Incentive Type	Incentive Amount	Description
---------------------------	----------------	------------------	-------------

Incentive Results

Incentive Calculation Equity Reference Table	Current Step 5			Incentive Rate: \$1.00	
	0-2 MWH	>2-4 MWH	>4-6 MWH		
0-2 HOURS	100%	50%	25%		
2-4 HOURS	100%	50%	25%		
4-6 HOURS	50%	25%	12.50%		
<hr/>					
	0-2 MWH	>2-4 MWH	>4-6 MWH		
Existing Onsite Equipment Offset	-	-	-		
0-2 HOURS	560,000	-	-		
2-4 HOURS	560,000	-	-		
4-6 HOURS	272,000	-	-		
Base Equipment Incentive					\$1,256,000.00
CA Manufacturer Adder					
Max Equipment Incentive					a) \$1,256,000.00
Other Incentives	Total Dollars				Impact on SGIP Incentive
Other IOU Incentive	0			b)	\$0.00
Other Non-IOU Incentive	0			c)	\$0.00
Non-Ratepayer Incentive	0				
Investment Tax Credit (0%)	0				
Adjusted Equipment Incentive					a+b+c = d) \$1,256,000.00
Total Other Incentives	e) 0				
SGIP Incentive Adjustments	Equipment Incentive +	Total Other Incentives	Incentive Cap(s)		Incentive Adjustment
Project Incentive Cap (Equipment)	f) \$1,256,000.00	<=	\$5,000,000.00	*g)	0
Eligible Cost Cap (All Incentives)	f+g=h) \$1,256,000.00		0	**i)	0
Equipment Incentive				***j)	\$1,256,000.00
Calculated SGIP Incentive					\$1,256,000.00

* g = 0 if f <= \$5M, otherwise g = \$5M - f

** i = 0 if h + e <= Total Eligible Cost, otherwise i = Total Eligible cost - (h + e)

*** j = h + i

The incentive adjustments shown above are based on the Total Eligible Project Cost, the Maximum Incentive Cap, and the Minimum Customer Investment. See the SGIP Handbook for more information on incentive limitations.

Calculated Incentive: \$1,256,000.00

If changes have been made to your project since it was originally submitted, the calculated incentive amount above may differ from the requested incentive amount. The final incentive amount is subject to Program Administrator approval.

Projected PBI Calculation

Expected Total	144,768 kWh
Production:	
Total Incentive:	\$1,256,000.00
Initial Payment:	\$628,000.00
Performance Based Incentive:	\$628,000.00
PBI Rate (\$/kWh):	\$0.8675950

Residential Energy Storage Eligibility Affidavit

Requirements of Host Customers and System Owners

- o The energy storage system owner and/or Host Customer have the tools to control the usage of the energy storage system when operating in parallel with the grid.
- o Provide performance data to the Program upon request (emailed, zipped file of 15 minute interval data) for a period of five (5) years.
- o Pass the energy storage Field Verification Inspection.
- o Host Customer and/or System Owner are required to discharge the energy storage system a minimum of 52 full discharges per year. A "full discharge" is the equivalent of discharging the SGIP-incentivized energy capacity, whether it is during a single or multiple discharges.
- o Fulfill either of the two following conditions:
 - o Option A: the Host Customer is on a TOU tariff, dynamic tariff (e.g. PG&E's SmartRate or SDG&E's Reduce Your Use), or agrees to integrate load through the California Independent System Operator's Proxy Demand Response, or equivalent tariff, prior to receiving the SGIP incentive and for five (5) years thereafter. Note that in the event that the Host Customer changes to a non-TOU tariff or is no longer enrolled in a demand reduction program, the energy storage System Owner is required to notify the Program Administrator within 30 days of change, and will be subject to Option B for the required five year period.
 - o Option B: the Host Customer and/or System Owner agrees, for a minimum period of five (5) years, to discharge the energy storage system in an amount equivalent to 52 complete cycles per year of the incentivized energy capacity, which is defined as two hours of discharge at the SGIP incentivized power capacity rating, with discharges occurring during peak hours or peak day events (such as those called by PG&E's SmartRate program or SDG&E's Reduce Your Use), of the applicable IOU service territory.

Declarations by Host Customer and System Owner
 By Execution of this document, System Owner and Host Customer each certify that the Project meets all program eligibility requirements and that the System Owner and Host Customer agree to abide by the rules and requirements set forth in the SGIP Handbook and SGIP Contract. The undersigned declare under penalty of perjury under the laws of the State of California that 1) The information provided is true and correct, and 2) the above-described generating system is new and intended to offset part or all of the Host Customer's electrical requirements at the site of installation. For residential energy storage projects, the Host Customer and System Owner certify that they have read and agreed to the terms of the Residential Energy Storage Eligibility Affidavit.

The Host Customer and System Owner are committed to completing this project, and by signing below, are starting their intent to contract with individual(s) necessary for completion of the project. The Host Customer is the reservation holder and

Host Customer Signature

Print Name:

Signature:

Title:

Date:

System Owner (if not Host Customer)

Print Name:


Signature:

Title:

Date:

Applicant (if not Host Customer)

Print Name: Mike Snyder

Signature: 

reserves the right to submit new project specifications, including a new application with alternative System Owner and/or Applicant designations, upon withdrawal from the project and cancellation of this Agreement.

Title: Director of Engineering, Energy Projects Date: 11/19/2020

Developer
Print Name: Jonathan Goble

Signature: 

Title: Supervisor, Commercial Interconnection and Incentives Date: 11/19/2020

AUTHORIZATION TO: RECEIVE CUSTOMER INFORMATION OR ACT ON A CUSTOMER'S BEHALF

SUBMITTED TO THE FOLLOWING.

Please check all that apply:

- PG&E SoCalGas
 SCE SDG&E

THIS IS A LEGALLY BINDING CONTRACT—READ IT CAREFULLY
(Please Print or Type)

I, _____ NAME TITLE (IF APPLICABLE)

of Vallecitos WTR DIST (Customer) have the following mailing address
NAME OF CUSTOMER OF RECORD

201 Vallecitos De Oro San Marcos CA 92069 , and do hereby appoint
MAILING ADDRESS CITY STATE ZIP

Center for Sustainable Energy of 9325 Sky Park Court, Suite 100
NAME OF THIRD PARTY MAILING ADDRESS

San Diego CA 92123
CITY STATE ZIP

to act as my agent and consultant (Agent) for the listed account(s) and in the categories indicated below:

ACCOUNTS INCLUDED IN THIS AUTHORIZATION:

- | | | | |
|----|--------------------------|-------------------|------------------------|
| 1. | <u>1697 San Elijo Rd</u> | <u>San Marcos</u> | <u>15810208698</u> |
| | SERVICE ADDRESS | CITY | SERVICE ACCOUNT NUMBER |
| 2. | _____ | _____ | _____ |
| | SERVICE ADDRESS | CITY | SERVICE ACCOUNT NUMBER |
| 3. | _____ | _____ | _____ |
| | SERVICE ADDRESS | CITY | SERVICE ACCOUNT NUMBER |

(For more than three accounts, please list additional accounts on a separate sheet and attach it to this form)

INFORMATION, ACTS AND FUNCTIONS AUTHORIZED – This authorization provides authority to the Agent. The Agent must thereafter provide specific written instructions/requests (e-mail is acceptable) about the particular account(s) before any information is released or action is taken. In certain instances, the requested act or function may result in cost to you, the customer. Requests for information may be limited to the most recent 12-month period.

I (Customer) authorize my Agent to act on my behalf to perform the following specific acts and functions (initial all applicable boxes):

1. Request and receive billing records, billing history and all meter usage data used for bill calculation for all of my account(s), as specified herein, regarding utility services furnished by the Utility¹.
2. Request and receive copies of correspondence in connection with my account(s) concerning (initial all that apply):
- a. Verification of rate, date of rate change, and related information;
 - b. Contracts and Service Agreements;
 - c. Previous or proposed issuance of adjustments/credits; or
 - d. Other previously issued or unresolved/disputed billing adjustments.
3. Request investigation of my utility bill(s).
4. Request special metering, and the right to access interval usage and other metering data on my account(s).
5. Request rate analysis.
6. Request rate changes.
7. Request and receive verification of balances on my account(s) and discontinuance notices.

¹ The Utility will provide standard customer information without charge up to two times in a 12-month period per service account. After two requests in a year, I understand I may be responsible for charges that may be incurred to process this request.

AUTHORIZATION TO: RECEIVE CUSTOMER INFORMATION OR ACT ON A CUSTOMER'S BEHALF

I (CUSTOMER) AUTHORIZE THE RELEASE OF MY ACCOUNT INFORMATION AND AUTHORIZE MY AGENT TO ACT ON MY BEHALF ON THE FOLLOWING BASIS² (initial one box only):

²If no time period is specified, authorization will be limited to a one-time authorization

- One-time authorization only (limited to a one-time request for information and/or the acts and functions specified above at the time of receipt of this Authorization).
- One-year authorization - Requests for information and/or for the acts and functions specified above will be accepted and processed each time requested within the twelve-month period from the date of execution of this Authorization.
- Authorization is given for the period commencing with the date of execution until 10/24/2022 (Limited in duration to three years from the date of execution.) Requests for information and/or for the acts and functions specified above will be accepted and processed each time requested within the authorization period specified herein.

RELEASE OF ACCOUNT INFORMATION:

The Utility will provide the information requested above, to the extent available, via any one of the following. My (Agent) preferred format is (check all that apply):

- Hard copy via US Mail (if applicable).
- Facsimile at this telephone number: 858-244-1178
- Electronic format via electronic mail (if applicable) to this e-mail address: sgjp@energycenter.org

I (Customer), _____ (print name of authorized signatory), declare under penalty of perjury under the laws of the State of California that I am authorized to execute this document on behalf of the Customer of Record listed at the top of this form and that I have authority to financially bind the Customer of Record. I further certify that my Agent has authority to act on my behalf and request the release of information for the accounts listed on this form and perform the specific acts and functions listed above. I understand the Utility reserves the right to verify any authorization request submitted before releasing information or taking any action on my behalf. I authorize the Utility to release the requested information on my account or facilities to the above Agent who is acting on my behalf regarding the matters listed above. I hereby release, hold harmless, and indemnify the Utility from any liability, claims, demands, causes of action, damages, or expenses resulting from: 1) any release of information to my Agent pursuant to this Authorization; 2) the unauthorized use of this information by my Agent; and 3) from any actions taken by my Agent pursuant to this Authorization, including rate changes. I understand that I may cancel this authorization at any time by submitting a written request. **[This form must be signed by someone who has authority to financially bind the customer (for example, CFO of a company or City Manager of a municipality).]**

AUTHORIZED CUSTOMER SIGNATURE

TELEPHONE NUMBER

Executed this _____ day of _____
MONTH YEAR

at _____
CITY AND STATE WHERE EXECUTED

I (Agent), hereby release, hold harmless, and indemnify the Utility from any liability, claims, demand, causes of action, damages, or expenses resulting from the release of customer information obtained pursuant to this authorization and from the taking of any action pursuant to this authorization, including rate changes.

AGENT SIGNATURE

858-244-1177

TELEPHONE NUMBER

Center for Sustainable Energy
COMPANY

Executed this _____ day of _____
MONTH YEAR

AUTHORIZATION TO: RECEIVE CUSTOMER INFORMATION OR ACT ON A CUSTOMER'S BEHALF



THIS IS A LEGALLY BINDING CONTRACT—READ IT CAREFULLY
(Please Print or Type)

I, _____ NAME TITLE (IF APPLICABLE)

of VALLECITOS WTR DIST (Customer) have the following mailing address
NAME OF CUSTOMER OF RECORD

201 VALLECITO DE ORO, SAN MARCOS CA 92069, and do hereby appoint
MAILING ADDRESS CITY STATE ZIP

Tesla, Inc. of 3500 Deer Creek Rd
NAME OF THIRD PARTY MAILING ADDRESS

Palo Alto CA 94304
CITY STATE ZIP

to act as my agent and consultant (Agent) for the listed account(s) and in the categories indicated below:

ACCOUNTS INCLUDED IN THIS AUTHORIZATION:

- | | | |
|----|--|------------------------|
| 1. | <u>1697 SAN ELIJO RD, SAN MARCOS, CA 92078, US</u> | <u>1581 020 869</u> |
| | SERVICE ADDRESS CITY | SERVICE ACCOUNT NUMBER |
| 2. | _____ | _____ |
| | SERVICE ADDRESS CITY | SERVICE ACCOUNT NUMBER |

(For more than two accounts, please list additional accounts on a separate sheet and attach it to this form)

INFORMATION, ACTS AND FUNCTIONS AUTHORIZED – This authorization provides authority to the Agent. The Agent must thereafter provide specific written instructions/requests (e-mail is acceptable) about the particular account(s) before any information is released or action is taken. In certain instances, the requested act or function may result in cost to you, the customer. Requests for information may be limited to the most recent 12 month period.

I (Customer) authorize my Agent to act on my behalf to perform the following specific acts and functions (initial all applicable boxes):

- 1. Request and receive billing records, billing history and all meter usage data used for bill calculation for all of my account(s), as specified herein, regarding utility services furnished by the Utility¹.
- 2. EPA Benchmarking (authorizes usage information to be uploaded to the EPA's ENERGY STAR **Portfolio Manager**®).
- 3. Request and receive copies of correspondence in connection with my account(s) concerning (initial all that apply):
 - a. Verification of rate, date of rate change, and related information;
 - b. Contracts and Service Agreements;
 - c. Previous or proposed issuance of adjustments/credits; or
 - d. Other previously issued or unresolved/disputed billing adjustments.
- 4. Request investigation of my utility bill(s).
- 5. Request special metering, and the right to access interval usage and other metering data on my account(s).
- 6. Request rate analysis.
- 7. Request rate changes.
- 8. Request and receive verification of balances on my account(s) and discontinuance notices.
- 9. Other acts and functions (please specify) _____

¹ The Utility will provide standard customer information without charge up to two times in a 12 month period per service account. After two requests in a year, I understand I may be responsible for charges that may be incurred to process this request.

DATE: DECEMBER 2, 2020
TO: BOARD OF DIRECTORS
SUBJECT: PROJECT ACCEPTANCE OF NORTH TWIN OAKS TANK NO.1 REFURBISHMENT

BACKGROUND:

North Twin Oaks Tank No.1 was built in 1961 on El Paso Alto, West of Twin Oaks Valley Road and was last inspected in 2015. The existing interior lining and exterior coating of this 0.6 million-gallon tank has deteriorated and required full refurbishment. This project removed and replaced the existing lining and coating. Due to the age of the tank and level of deterioration, replacement of the ceiling rafters was required. Equipment was also upgraded to meet current American Water Works Association (AWWA) and Division of Occupational Safety and Health (Cal/OSHA) standards.

The Board awarded Harper & Associates Engineering a purchase order for the design and inspection of the tank for a fee of \$54,415 on December 5, 2018.

DISCUSSION:

District staff received and opened bids from 3 contractors. Capital Industrial Coatings LLC was the lowest apparent responsive bidder. The Board awarded the contract to Capital Industrial Coatings LLC for \$446,425 at the March 18, 2020 Board meeting.

Construction began May 28, 2020 and was completed October 22, 2020. There was a total of 2 change orders for the removal of a tar enamel floor and bid item deletions at the end of the job. The change orders resulted in a credit to the District for (\$38,950) or - 8.7% of the original contract.

Due to an extended construction schedule for unforeseen conditions, Harper & Associates Engineering needed to amend their contract \$6,263 for additional specialty inspection services. Staff self-performed construction management and inspection services in construction.

FISCAL IMPACT:

The total estimated cost and budget summary are as follows:

Budget	\$627,000
Construction	\$446,425
Change Orders 2	(\$ 38,950)
Design/Inspection Consultant	\$ 54,415
Design/Inspection Amendment	\$ 6,263
Staff (Design & Construction)	\$ 47,000
<u>Staff Overhead (Design & Estimated Construction)</u>	<u>\$ 97,000</u>
Total	\$612,153
Projected Budget surplus	\$ 14,847

RECOMMENDATION:

Staff recommends project acceptance and authorizing the General Manager to file Notice of Completion (NOC) and release of retention funds to the contractor following the 60-day notice period, provided no claims are filed, in conformance with the contract documents.

ATTACHMENTS:

Plat and Aerial Exhibit

PROJECT ACCEPTANCE OF NORTH TWIN OAKS TANK NO. 1 REFURBISHMENT

**TWIN OAKS RESERVOIR NO. 1
(33 MILLION GALLONS)**

**TWIN OAKS RESERVOIR NO. 2
(40 MILLION GALLONS)**

EL PASO ALTO

TWIN OAKS VALLEY RD

VALLE PASO

BRIDLE CREEK RD

EL PASO ALTO

**NORTH TWIN OAKS NO. 1
(0.6 MILLION GALLONS)**

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PROJECT ACCEPTANCE OF NORTH TWIN OAKS TANK NO. 1 REFURBISHMENT



DATE: DECEMBER 2, 2020
TO: BOARD OF DIRECTORS
SUBJECT: ADJUSTMENT TO GENERAL MANAGER'S COMPENSATION

BACKGROUND:

In 2018 the Vallecitos Water District and General Manager Prui (Employee) entered into the First Amended Employment Agreement (Agreement), which extended the term of General Manager Prui's employment by four years effective December 5, 2018. Section 3, Annual Salary, of the Agreement states the following: "Employee shall receive the same cost-of-living adjustments as other full-time District management employees. In addition, the Board of Director's shall conduct an annual performance evaluation of Employee to consider Employee's performance and compensation. At that time, the Board of Director's will consider merit increases of up to three percent (3%) in salary, as may be determined by the Board of Directors in its sole discretion."

DISCUSSION:

The Board recently conducted an annual performance evaluation for General Manager Prui. Based upon their review, the Board proposed, in lieu of a discretionary merit increase of up to three percent (3%) in salary provided by the Agreement, to consider paying General Manager Prui a one-time performance-based lump sum bonus. The bonus is a one-time payment, does not set a precedent and will not be included in the calculation of his CalPERS retirement benefit. The bonus may be in the form of a one-time lump sum bonus payment or a one-time lump sum contribution to a retirement medical reimbursement account, at the discretion of the General Manager. The details of the retirement medical reimbursement account are still being investigated and were not known at the time of the preparation of this report. In either case, the District's financial obligation is limited to the amount of the one-time lump sum payment.

FISCAL IMPACT:

The one-time lump sum bonus is in the amount of \$12,000. There are adequate funds in the operating budget for this amount.

RECOMMENDATION:

Approve the one-time lump sum bonus for General Manager Prui.