

AB 1234 Ethics Proof of Participation Certificate

Participant Name: _____

Course Date: February 16, 2021

Location: Bear Valley Water District, 441 Creekside Drive, Bear Valley, California

Eligible Credit: 2 Hours (Requires Attendance for Entire Session)

This course is an overview course on all public service ethics issues necessary to satisfy the requirements of Article 2.4 of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, including the following:

- Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict-of-interest laws.
- Laws relating to claiming perquisites ("perks") of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or political purposes, prohibitions against gift of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies.
- Government transparency laws, including, but not limited to, financial interest disclosure requirements and open government laws.
- Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification from participating in decisions affecting family members; and
- General ethical principles relating to public service.

Neumiller & Beardslee affirms that this course satisfies the guidelines issued by the Fair Political Practices Commission and Attorney General for course sufficiency and accuracy.

To be completed by participant:

By signing below, I certify that I signed in at this session, participated in the activity described above and am entitled to claim 2 ethics education credit hours.

Participant Signature

Participant Name

NOTE TO PARTICIPANT: Please provide a copy of this proof of participation to the custodian for such records at your agency. In addition, we recommend you make a copy of this proof of participation for your own records to retain for at least five years.

AB 1234 Ethics Training

A Presentation By
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Neumiller & Beardslee
2021

•1

AB 1234

2005 Legislature adopted AB 1234 requiring at least 2 hours of ethics training every 2 years in the following areas:

- Government Transparency laws- The Brown Act;
- Financial conflict of interests;
- Gifts (including Agency Raffles, Gift Exchanges, Honoraria) and use of public funds for personal or political use;
- Bias/fairness;

•2

The Ralph M. Brown Act Government Code Section 54950 – 54963

- The Ralph M. Brown Act is California's open meetings law. It grants the public the right to attend and observe the process of government and establishes procedures that local government agencies must follow.

•3

Public Policy

➤ Government Code section 54950. Declaration of Public Policy

In enacting this chapter, the Legislature finds and declares that the public commissions, boards and councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly.

The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

•4

Analysis

Analysis of the Brown Act is Done by Asking 5 Basic Questions

- 1) To whom does the Act apply?
- 2) When does the Act Apply?
- 3) What is the procedure for holding a meeting?
- 4) What are the rights of the public?
- 5) What are the penalties for violating the Act?

•5

1. To Whom Does the Brown Act Apply?

➤ The Act applies to "legislative bodies" of "local agencies."

- The definition of legislative bodies means the governing body of a local agency.
- The definition of a local agency includes a county, city, special districts, municipal corporations, and political subdivisions of the state.

•6

**1. To Whom Does the Brown Act Apply?
(con't)**

➤ The definition of "legislative bodies," however, is very broad. The Act applies to all of the following:

- The County Board of Supervisors, City Councils, and Board of Directors ("Elected Officials");
- Committees containing a quorum of the members of the Elected Officials;

•7

**1. To Whom Does the Brown Act Apply?
(con't)**

- Standing committees and commissions with ongoing jurisdiction created by the Elected Officials;
- Ad hoc committees created by Elected Officials containing non-Elected Officials;
- Newly elected members of the legislative body prior to assuming office.

•8

**1. To Whom Does the Brown Act Apply?
(con't)**

- It does NOT apply to:
 - 1) Advisory groups not created by the legislative body.
 - 2) Staff committees.
 - 3) Political committees.

•9

2. When Does the Brown Act Apply?

- The Brown Act applies to "meetings of any legislative body." What is a "*meeting*" under the Act?
 - Any gathering, whether formal or informal, of a *quorum* of the members of a legislative body to
 - transact,
 - hear,
 - deliberate, or
 - discuss ANY District business.
 - Looking for conduct designed to obtain a collective concurrence on an issue.

•10

2. When Does the Brown Act Apply? (con't)

- Examples of "formal" meetings:
 - Regular meetings
 - Special meetings
 - Adjourned meetings
 - Committee meetings
- Examples of "informal" meetings:
 - Telephone discussions
 - E-mails, including cc and bcc's.
 - Discussions after a board/council/committee meetings.

•11

2. When Does the Brown Act Apply? (con't)

- Informal Meetings – Informal meetings are a violation of the Brown Act. All "meetings" MUST be formal.
- Unofficial Meetings - Unofficial meetings are a violation of the Brown Act. All "meetings" MUST be official.

•12

2. When Does the Brown Act Apply? (con't)

- What gatherings of a majority of the legislative body are exempt from the definition of a "meeting"?
- **Individual contacts** with constituents and third parties, as long as there is no discussion of the positions of other Elected Officials;
- **Community Meetings** that are open and publicized meeting organized by an individual or nonpublic organization;
- **Conferences/Seminars** provided that the legislative body's business is not discussed, among a majority of the members of the "legislative body," other than as part of the scheduled program;

•13

2. When Does the Brown Act Apply? (con't)

- **Public Meetings of other Agencies** of another body of the local agency, e.g. City or County, provided the legislative body's business is not discussed, except as part of the scheduled meeting;
- **Committee/Commission Meetings** when you're not a member, provided they attend only as observers;
- **Social/Ceremonial Gatherings**, provided that the legislative body's business is not discussed among a majority of the members of the "legislative body."

•14

2. When Does the Brown Act Apply? (con't)

Unofficial" Meetings

WARNING! The definition of a meeting is construed broadly to things you might not think are meetings.

- Mining for information, e.g. asking staff what other Elected Officials are saying.
- Serial meetings, e.g. a phone tree;
- Hub meetings, e.g. "I'll check with everyone; and
- E-mails,
- Internet Discussion Forums/Chat Rooms

•15

2. When Does the Brown Act Apply?

(con't)

Unofficial" Meetings

- Social Media Rule – Open and accessible, free of charge to the public.

You may:

- 1) Answer questions from the public
- 2) Provide information to the public
- 3) Solicit Information from the public

You may NOT:

- 4) Communicate with any members of your legislative body, even with emojis

•16

2. When Does the Brown Act Apply?

(con't)

Types of Formal Meetings

➤ Every "meeting" of a legislative body must fall into one of the following categories to comply with the Brown Act:

- Regular Meetings which are held at a preset time and place;
- Special Meetings which are held for a specific purpose;

•17

2. When Does the Brown Act Apply?

(con't)

Types of Formal Meetings (cont.)

- Emergency Meetings which are only held when something 1) severely impairs public health and safety, or 2) a crippling disaster impairs the public health and/or safety;
- Adjourned/Continued Meetings.
- Workshops and Retreats.
- Standing Committee Meetings.

•18

3. What is the Procedure for Holding a Public Meeting?

➤ Proper meeting notice **MUST** be timely posted prior to any meeting to alert the public to the meeting

- Regular meeting notice requirements
 - 72 hour notice by posting/mail/website
 - Time/Date/Location
 - List of items to be discussed that an average person could understand.

•19

3. What is the Procedure for Holding a Public Meeting? (con't)

- Special meeting notice requirements
 - 24 hour notice by posting/mail/website
 - Time/Date/Location
 - List of items to be discussed that an average person could understand
 - Prohibited topic at a Special meeting – salary, salary schedules, or benefits of an agency executive.

•20

3. What is the Procedure for Holding a Public Meeting? (con't)

- Adjourned/Continued meeting notice requirements
 - Post Notice w/in 24 hours with new date/time/location
- Emergency meeting notice requirements
 - Notice (no agenda)
 - Contact local press via telephone at least 1 hour before meeting if possible.
 - Post unique minutes for 10 days
- Increasing Taxes and Assessments Requirements.

•21

3. What is the Procedure for Holding a Public Meeting? (con't)

- No action or discussion may be taken on any item not on the agenda, except that
 - Responding briefly to general public comments or ask questions for clarification
 - Making a brief announcement or report on your own activities.

•22

3. What is the Procedure for Holding a Public Meeting? (con't)

- Providing a reference to staff, request staff to report back on a matter at a subsequent meeting or take actions to direct staff to place a matter on a future agenda.
- WARNING! These exceptions are not a license for the legislative body to *discuss* or *take action* the item.

•23

3. What is the Procedure for Holding a Public Meeting? (con't)

- Late Agenda Items
 - Issue discovered after agenda posted
 - Immediate action needed
 - 2/3rds of the legislative body or unanimous vote if not all members present

Once added as a late agenda item, it is treated as any other agenda item

Warning –this is not a simple solution to correct mistakes in not placing things on the agenda.

•24

3. What is the Procedure for Holding a Public Meeting? (con't)

- All meetings must be held in the jurisdictional boundaries of the legislative body or at its principal office.
- All matters must be discussed in open session unless the law specifically allows the matter to be discussed in "closed session."
- All action taken and the vote or abstention of each member shall be publicly reported.

•25

3. What is the Procedure for Holding a Public Meeting? (con't)

- Limited Ability to Appear via Teleconference.
 - Agenda Identifies ALL teleconference locations where members will participate,
 - Agenda **MUST** be timely posted at each teleconference location,
 - Each teleconference location **MUST** be accessible to ALL members of the public, including ability of public to comment (technology)
 - A quorum **MUST** be located within the jurisdictional boundaries of the agency,
 - All voting shall be by roll call.

•26

3. What is the Procedure for Holding a Public Meeting? (con't)

- Special Covid-19 Temporary Order
 - Agenda Identifies ALL teleconference locations where members will participate - *SUSPENDED*
 - Agenda **MUST** be timely posted at each teleconference location - *SUSPENDED*
 - Each teleconference location **MUST** be accessible to ALL members of the public, including ability of public to comment (technology) - *SUSPENDED*
 - A quorum **MUST** be located within the jurisdictional boundaries of the agency, *SUSPENDED*
 - A physical meeting location must be made available to the public to attend meetings -- *SUSPENDED* if public can access meetings electronically.

•27

3. What is the Procedure for Holding a Public Meeting? (con't)
Closed Session Items

- Even if the Brown Act allows an item to be addressed in closed session, the legislative body is not required to hold a closed session.
- What matters may be addressed in closed session:
 - Conference with real property negotiators
 - Conference with legal counsel regarding threatened/existing litigation and liability claims.
 - Threat to public service or facilities

•28

3. What is the Procedure for Holding a Public Meeting? (con't)
Closed Session Items

- Public employee appointment, performance evaluation, and discipline/dismissal/release
- Conference with Labor Negotiators -- Price/payment terms ONLY,
- Litigation
- Report involving a trade secret.
- Certain Hearings
- Meeting with the Governor.
- Others by specific statute (e.g. student expulsion hearings, hospital error reports).

•29

3. What is the Procedure for Holding a Public Meeting? (con't)
Closed Session Items (cont. . .)

- Closed session procedure:
 - Closed session items MUST be properly identified on the agenda.
 - Wording is provided in Government Code Section 54954.5
 - Open meeting disclosure requirements can simply reference the item number in the agenda.
 - There may be specific information required depending on the item. (e.g. anticipated litigation)
 - Public right to comment before adjourning into closed session.
 - Who may attend closed sessions?
 - Elected officials and ONLY necessary staff/counsel/agents.
 - No "observers" or guests.

•30

3. What is the Procedure for Holding a Public Meeting? (con't)
Closed Session Items (cont. . .)

- Public report of action taken in closed session.
 - Immediately upon returning to open session.
 - Only disclosable actions must be announced in open session right after adjourning closed session.
 - What action must be disclosed – Government Code Section 54957.1
 - Examples
- Confidentiality of closed session.
 - Violations include:
 - Injunction
 - Referral to the grand jury
 - Censure

•31

3. What is the Procedure for Holding a Public Meeting? (con't)
Closed Session Items (cont. . .)

- What can you tell people who ask what Closed Session was about?

•32

4. What are the Rights of the Public under the Brown Act?

- The public has the right to attend all meetings of a legislative body of a local agency, except closed sessions;
- All open meeting locations shall meet the protections and prohibitions of the Americans with Disabilities Act;
- No one can be required to sign an attendance list or register in order to attend or speak at an open meeting; nor does an attendee need to identify himself or herself in any way;

•33

4. What are the Rights of the Public under the Brown Act? (con't)

- The public has the right to make public comments at some point in the meeting to address the legislative body on any subject over which the local agency has jurisdiction that is *not* on the agenda at regular meetings;
 - No right to general public comment at special meetings.
 - Can be anywhere on the agenda.
- The public has the right to comment on any specific agenda item under consideration prior to or during the consideration of that item;
- The public has a right to review and obtain a copy of all documents distributed to the members of a legislative body for use at a public meeting;

•34

4. What are the Rights of the Public under the Brown Act? (con't)

- The public has the right to record a meeting using an electronic device (e.g. cell phone);
- The public has the express right to criticize the policies, procedures, programs, or services of the legislative body, or the acts or omissions of its elected officials;

•35

5. What are the Penalties for Violating the Brown Act?

- Invalidation of action
- Injunction to prevent future violations.
- If you are a public official, you need to take the Brown Act seriously. There are both criminal and civil penalties for violating the Brown Act.
 - ANY intentional violation of the Brown Act is a criminal act;
 - An action for an injunction or declaratory relief for violations of the Brown Act may be brought by any interested person or by the District Attorney. The court may order the action taken by the legislative body null and void or order an elected official and staff not to violate the Brown Act again or be held in contempt of court;
 - Public/Grand Jury Scorn

•36

Conflicts of Interest

There are a number of conflict of interest laws which apply to you.

- Transportation Passes
- Gifts (including Agency Raffles, Gift Exchanges, Honoraria)
- Doctrine of Incompatible Offices
- Incompatible Activities
- Bias
- Political Reform Act
- Government Code Section 1090 and Financial Interests

•37

Transportation Passes

- The California Constitution provides, in Article 12, section 7, that:
"A transportation company may not grant free passes or discounts to anyone holding an office in this state; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office." (emphasis added)
- Exception: If free pass or discount is because of membership in some other category or group, such as a frequent flyer miles or employment of a particular company, rather than because of public officer status

•38

Gifts

- No elected officer of a local government agency, including members of the District and other public officials who manage public investments as specified in Section 87200, shall accept gifts from any single source in any calendar year with a total cumulative value of more than five hundred twenty dollars (\$520).
- Gifts include anything that confers a personal benefit on the recipient.

•39

Gifts Cont. . .

➤ Gift disclosure requirements:

- Individual gifts received valued at more than \$50 received within a 12 month period
- Gifts total received from a single source with a value of more than five hundred twenty dollars (\$520).

•40

Exempt Gifts

- (1) Informational material such as books, reports, pamphlets, calendars, or periodicals.
- (2) Gifts which are not used and which, within 30 days after receipt, are either returned to the donor or delivered to a nonprofit entity exempt from taxation.
- (3) Gifts from an individual's family; spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of any such person; provided that a gift from any such person shall be considered a gift if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
- (4) Campaign contributions.

•41

Exempt Gifts

- (5) Any devise or inheritance.
- (6) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).
- (7) Hospitality such as neighborly acts and in home hospitality.
- (8) Social Relationship such as gifts between friends.
- (9) Bereavement offerings.
- (10) Typical Dating Exchanges e.g. Flowers, dinner, tickets.

•42

Gifts to an Official's Family or Family Member

- Gifts to an official's family or family member can constitute a gift to a public official if the official will receive a financial benefit from the gift, uses the gift, or controls the gift, and cannot show that the donor has an established working, social, or similar relationship with the official's family member independent of the donor's relationship with the official.
 - "Official's family" or "family member" includes any of the following individuals:
 - (A) An official's spouse;
 - (B) A "dependent child" of the official;
 - (C) An official's child (including an adoptive child or stepchild) who meets all of the following criteria:
 - (i) Is at least 18 but no more than 23 years old and is a full-time or part-time student;
 - (ii) Has the same principal place of residence as the official. For purposes of this provision, a place located away from the official's residence, at which the child resides for the purpose of attending school is not the child's "principal place of residence"; and
 - (iii) Does not provide over one-half of his or her own support.
- A single gift given to both an official and one or more members of the official's family is considered a gift to the official for the full value of the gift.

•43

Gifts Checklist

- Step by step gift analysis:
 - Step 1: Is a gift involved?
 - Step 2: Is the recipient an "official" of the City or his/her family?
 - Step 3: Who received the gift?
 - Step 4: When was the gift received?
 - Step 5: What is the value of the gift?
 - Step 6: Who is the source of the gift?

•44

Example - Gift to Spouse is a Reportable Gift to Official

- In January a vendor that provides goods to the city had its contract renewed by the city. The vendor offered entertainment tickets to the spouse of one of the council members. Does the council member have to report the offer and disqualify himself/herself from participating on the contract award?
 - Apply the test.

•45

Agency Raffles and Gift Exchanges

- If a local agency awards an item to an agency employee in a raffle and the agency received the item from a third party, the item is considered a gift to the employee through the intermediary agency and may need to be reported on a statement of economic interests, if valued over \$50.
 - However, if the item is received by the agency from another agency employee who is not acting as an intermediary for another donor, the item will not be considered a gift.
- When an employee of an agency participates in an employee gift exchange, any item received by the employee is not a gift so long as the item received is provided by another employee of the agency and the gifts are not substantially disproportionate in value.

•46

Honoraria

- Definition: An honorarium is a payment received for making a speech, publishing an article, or attending any public or private conference, convention, meeting, social event, meal, or similar gathering.
- Prohibitions: Local elected officers and candidates for those offices and all officials holding positions listed in Government Code section 87200 are prohibited from receiving honoraria payments.
 - Applies to an employee designated under a local government agency's conflict of interest code.
- Some limited exceptions apply: valid business, public entity or charity receives the compensation..

•47

Doctrine of Incompatible Offices

- Public Official cannot hold incompatible offices
- Only the potential of conflict between duties of offices is needed
- Does not apply to employees
- First office is automatically vacated!

3

•48

Doctrine of Incompatible Offices

- Example: A Council Member gets appointed to fill a vacancy on the local school district board of trustees. Are the two offices incompatible?

3

•49

Incompatible Activities

- Government Code section 1126(a):
A local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved.
- Not self-executing

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•50

Bias

- Common law conflicts of interest
 - To very large extent, doctrine has been superseded by the Political Reform Act
 - Created by a 1928 case.
 - "Public officer impliedly bound to exercise powers conferred on him with disinterested skill, zeal, and diligence, and primarily for the benefit of the public."
 - City of Bell Case resurrects common law.
 - Tricky application problems: separation of powers

•51

Bias (cont.)

➤ Due Process Rights

- In an adjudicatory hearing, not a legislative matter, members of the legislative body are acting in a quasi-judicial manner.
- Due process requires a judge to be fair, impartial, and disinterested.
- A member must step down if bias is shown.
- Avoid Ex Parte Communications

•52

Political Reform Act

➤ Basic concept

"Public officials, whether elected or appointed, should perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them..." (Government Code section 81001(b).)

- ### ➤ Implemented by regulations in California Code of Regulations (CCR), written by the Fair Political Practice Commission.

•53

Political Reform Act

➤ Basic Prohibition

Public officials are prohibited from making, participating in, or in any way attempting to use their official position to influence a governmental decision in which they know or have reason to know they have a *financial* interest.

- ### ➤ Note emphasis on "financial."

•54

Political Reform Act

When does a financial interest create a conflict of interest?

"An official has a conflicting financial interest "if it is **reasonably foreseeable** that the decision will have a **material financial effect**, distinguishable for its effect on the public generally, on the official or the official's:

1. Immediate family,
2. Interest in a business entity,
3. Interest in real property,
4. Income,
5. Source of a gift received.

•55

Political Reform Act

➤ How do you find a conflict of interest under the Political Reform Act:

•"Follow the money"

•56

Types of Financial Interests?

- **Business Investment.** You have an economic interest in a business entity in which you, your spouse, your dependent children or anyone acting on your behalf has invested \$2,000 or more.
- **Business Employment or Management.** You have an economic interest in a business entity for which you are a director, officer, partner, trustee, employee, or hold any position of management.
- **Real Property.** You have an economic interest in real property in which you, your spouse, your dependent children or anyone acting on your behalf has invested \$2,000 or more, and also in certain leasehold interests.

•57

Types of Financial Interests? (cont.)

- **Sources of Income.** You have an economic interest in anyone, whether an individual or an organization, from whom you have received (or from whom you have been promised) \$500 or more in income within 12 months prior to the decision about which you are concerned.
 - When thinking about sources of income, keep in mind that you have a community property interest in your spouse's income – a person from whom your spouse receives income may also be a source of a conflict of interest to you.
 - Also keep in mind that if you, your spouse, or your dependent children own 10 percent or more of a business, you are considered to be receiving "pass-through" income from the business's clients. In other words, the business's clients may be considered sources of income to you.
- **NOTE:** There are certain exceptions to the definition of income: The two most important are that campaign contributions and salary/expenses from a governmental entity are not income.

•58

Types of Financial Interests? (cont.)

- **Sources of Gifts.** You have received from a single source at least \$500 during the 12-month period before the action/decision is made

•59

Who does the Act apply to?

Public Officials.

- Publicly Elected Officials
- Members of Committees and Commission with decision making authority.

•60

The 4 Step Process

- > **Step One:** Is it reasonably foreseeable that the governmental decision will have a *financial effect* on any of the Public Official's financial interest?
- > **Step Two:** Will the reasonable foreseeable financial effect be *material*?
- > **Step Three:** Will the material financial effect on the Public Official's financial interest be distinguishable from the effects on the *public generally*?
- > **Step Four:** Is the Public Official making, participating in making, or in any way attempting to use his or her official position to *influence* the Governmental decision?

•61

Step One

Is it reasonably foreseeable that the governmental decision will have a financial effect on any of the Public Official's financial interest?

Factors to consider:

- Is the effect contingent or related to a governmental decision?
- Whether the effect is a realistic possibility?
- Would the interest typically be affected by the decision?
- Would a reasonable person infer that the effect would compromise the official's duty to act in the best interests of the public? (the "Smell Test")

•62

Step Two

Will the reasonable foreseeable financial effect be material?

- Business entities, sources of income, or sources of gifts.
 - Material if any of them has initiated the governmental proceeding by filing a claim, application, appeal, etc., or is a named party in, or is the subject of, a proceeding (i.e., renewal of a license or permit, contract, etc.).
 - Otherwise apply prudent person standard.
 - Travel Payment Limited Exception.
- Source of Gifts.
 - Material if there will be an effect on the source of the gift.

•63

Step Two (cont....)

➤ Real Property

- Material if any of several complex tests are met. 3 Basically they are:
 - The *NEW* 500 foot rule
 - Within 500 feet – Always unless FPPC Letter Opinion
 - Farther than 500 feet – reasonable person standard.
 - Direct affect on property
 - Direct affect on use of property
 - Fees or taxes on property
 - Construction of public improvements benefitting property
 - Leasehold interests rule.

•64

Step Two (cont.)

➤ Personal Financial Interest

- Material if any effect.
- Exceptions:
 - Public employment compensation.
 - Reimbursement for fulfilling elected duties.
 - Stipends

➤ Sources of Income.

- Material if there is any effect.

•65

Step Two (cont....)

- **Special Rule.** Nexus. Any reasonably foreseeable financial effect on a person who is a source of income to a public official is deemed material if the public official receives or is promised the income to achieve a goal or purposes which would be achieved, defeated, aided, or hindered by the decision.
 - [I think the District Attorney would also call this bribery.]

•66

Step Three

Will the material financial effect on the Public Official's financial interest be distinguishable from the effects on the public generally?

- Four part test: •
 - 1: Identify financial interest affected,
 - 2: Is it part of a significant segment of other economic interests? (Individual/real property – 10%/5000 of population, business – 25%/2000)
 - 3: Will the significant segment also be affected by the governmental decision?
 - 4: Will your economic interest be affected in substantially the same manner as the other economic interests?

•67

Step Four

Is the Public Official making, participating in making, or in any way attempting to use his or her official position to influence the Governmental decision?

- Are you making a governmental decision?
 - Voting, giving direction, deciding to or not do something, including not taking action.
 - "Governmental decision" does not include purely secretarial, manual, or clerical duties, appearances before the any public agency as a member of the public representing yourself, or taking actions on terms and conditions of your own employment or conduct.

•68

Step Four (cont.)

- Are you participating in making a governmental decision?
 - Negotiating (without significant substantive review) with a governmental entity or person regarding a governmental decision, advising or making recommendations to the person who is making the decision.
- Are you influencing a governmental decision?
 - Contacting, appearing before, or otherwise attempting to influence any member, officer, employee or consultant of the person's agency with respect to a governmental decision before that agency, or, if it is another agency, attempting to influence that other agency by representing or purporting to represent the official's agency (as by use of official stationery).

•69

Step Four (cont.)

- Exceptions:
 - Ministerial decisions;
 - Appearances as a member of the public;
 - Decisions involving officials own terms of employment;
 - Public speaking;

•70

Even if you have a disqualifying conflict of interest, is your participation legally required?

- There exists no alternative source of decision
- Cannot be used to break ties
- Only smallest number of disqualified individuals may participate; i.e., only to get a quorum
- Specific procedural rules apply

•71

What do you do if you do have a Conflict and are Disqualified?

- Following announcement of agenda item, but before discussion or vote
 - Publicly identify each type of economic interest affected, and give the following details:
 - If an investment, the name of the business entity in which the investment is made
 - If a business position, the name of the business, and a general description of the business activity

•72

What do you do if you do have a Conflict and are Disqualified (cont.)

- If real property other than the official's own home, the address or other indication of the property.
- If the official's own home, state "It is my home."
- If a source of income or gifts, identify the source.
- If a personal financial effect, identify the expense, liability, asset, or income that is affected.

•73

What do you do if you do have a Conflict and are Disqualified (cont.)

- Special rule for closed sessions: Must orally, before the closed sessions, announce only that official has a conflict prohibited by Government Code section 87100.
- All the announcements must be made orally, and are part of the official record.

•74

What do you do if you do have a Conflict and are Disqualified (cont.)

- After making the announcement, you must leave the room, unless
 - Matter is on the consent calendar and not pulled
 - If the matter involves a "personal interest", which includes real property, a business wholly-owned by the official or members of his immediate family, or a business over which the official alone, or with his or her spouse, exercises sole direction and control, then, while the official still may not vote, he or she may leave the dais, and go join the audience, and speak as a member of the public.

•75

FPPC Involvement

- You may obtain informal, telephonic advice from the FPPC, but you cannot rely on it as a legal defense.
- You may obtain formal, written advice from the FPPC, and you may rely on it as a legal defense.

•76

Government Code Section 1090

- Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

•77

Government Code Section 1090 (cont.)

- There is NO definition in the chapter of "Financial interest."
- Except as noted below, cannot avoid penalties by abstaining, disqualifying one's self, or even being absent.
- This Act is very strictly enforced against public officials by the courts.

•78

Government Code Section 1090 (cont.)

Financial interest

- As noted, no definition is given. Definitions came from court cases and attorney general opinions. (I'll provide examples ☺)
- Both cases and opinions consistently refer to "any financial interest, direct or indirect, no matter how remote." Can you trace a path to the money?
- Making a contract includes planning, discussion, compromises, negotiation, research, etc., leading to the contract. Stay out of it completely from the start or you'll poison the well completely!

•79

Government Code Section 1090 (cont.)

Financial interest con. . .

- One way of determining whether a financial interest exists is to look at the exceptions contained in the chapter. For example, if there is an exception for making a contract with a corporation in which a board member owns less than a specified percentage of shares, then it implies that a contract with a corporation in which the council member owns more than that percentage is, generally, a financial interest. Otherwise, there would be no need to pass an exception.
- Financial interest includes gain or loss.

•80

Government Code Section 1090 (cont.)

Exceptions cont. . .

- Remote interest. (Applies only to officers)
 - There are listed 15 interests which are deemed remote. I will read some of them orally.
 - If there is an available exception under the "remote interest" definition, you may not use it unless:
 - You disclose the conflict,
 - You do not vote on the matter, and
 - You do not influence or attempt to influence another member of the council or commission covering the contract. (Leave the room)

•81

Government Code Section 1090 (cont.)

Exceptions cont. . .

➤ Non-Interest (applies to officers and employees)

- There are 13 interests which are deemed not to be financial interests at all. They are very technical. .

•82

Government Code Section 1090 (cont.)

Exceptions cont. . .

➤ Subdivision of land

- Notwithstanding 1090, you may subdivide lands owned by you, or in which you have an interest, provided"
 - You first disclose the interest, and
 - You do not vote on the matter.

•83

Penalties for Violating Government Code Section 1090

- The contract is null and void.
- Exception - Certain third party good faith real property interests.
- Willful violation means purposeful and with knowledge.
- Penalties:
- Fine of up to \$1,000, or
 - Imprisonment in state prison (a felony), and
 - Forever disqualified from holding public office in California, and
 - Loss of whatever you gained from the contract.
- "If you can't do the time, don't do the crime."*

•84

Special Notes

- Spousal income
- Temporality issues
- A person who makes a willful and knowing disclosure of confidential information (or information from a closed session) for pecuniary gain is guilty of a misdemeanor [relates to real property interests.]

•85

Form 700 Disclosure

- What is it? – A form that all public "officials" are required to fill out that identify their economic interests.
- When must the for be filled out?
 - Within 30 days of entering office.
 - Within 30 days of leaving office.
 - Annually while a public official.
- The Form is a public record

•86

Form 700 Disclosure (cont.)

- What must be disclosed:
 - Sources of income
 - Interests in real property
 - Investments
 - Business positions
 - Gifts.

•87

Other Ethics Issues

- Gift of Public Funds is prohibited by the California Constitution.
- Private/political use public funds or resources is unlawful.
- Mass Mailing Restrictions using public funds:
 - Anything tangible delivered by any means to anyone;
 - Featuring or referencing a elected official;
 - Costing more than \$50.00;
 - To more than 200 recipients in a one month period.

•88

The Public Records Act

- Purpose: Transparency
- Who can request records: Anyone.
- How is a Request Made: Written or orally
- Time to Response:
 - Within 10 days of receipt of the request.
 - Respond in writing.
 - Identify applicable exemptions
 - Identify when Records will be available.
 - Inspection and copying costs.

•89

The Public Records Act (cont....)

- Records Subject to the Act:
 - All Records in Custody and Control of Agency
 - Paper and electronic records
 - All devices, including Agency issued computers, tablets, and cell phones.
 - Private devices in some limited instances.
- Exemption examples:
 - Inspection and copying costs.

•90

The Public Records Act (cont....)

- Custody and Control vs. Access
 - Consultants
 - Records Retention Policies and destruction of records
- How records are made available
 - Photo copies
 - Electronic Copies
 - Website

•91

Questions?

•92

AGENDA ITEM

DATE: JULY 27, 2020

TO: BVWD BOARD OF DIRECTORS

FROM: JEFF GOUVEIA, DISTRICT GENERAL MANAGER

RE: PGE-SGIP-2020-3656 – ELECTROCHEMICAL STORAGE CONDITIONAL APPROVAL

BACKGROUND & DISCUSSION:

Staff first informed the Board that it had entered into an agreement with Tesla, Inc. to take advantage of energy resiliency funds available through California's Self Generation Incentive Program (SGIP) administered by Pacific Gas and Electric (PGE) for critical infrastructure agencies which had been subject to two or more PSPS events. The terms of the agreement, subject to approval from the SGIP program and full review by Tesla, Inc., would provide commercial battery power packs to energize the District's treatment plant (the only qualifying facility) during power outages wholly underwritten by the rate-payer funded program.

Over the course of the last year, the District worked closely with Tesla, Inc. to provide quantitative and qualitative data pursuant to several additional requests from the SGIP program administrator. At every juncture Tesla indicated to the District that the process was moving along in due course and we were on track for an installation in the summer of 2021.

However, on January 8, Staff received a phone call from Tesla indicating that the unique site challenges presented by this specific project were too adverse and on January 15, 2021 the District received a formal cancellation letter from Tesla. Staff made several attempts to negotiate with Tesla regarding their concerns over the structural requirements surrounding snow loading and "deflagration" issues related to mitigating combustion concerns citing potential site and installation alternatives but Tesla was not prepared to move forward.

Staff immediately contacted Mark Tholke, Founder and Managing Principal of Golden State Renewable Energy, Inc. (GSR) (also a Bear Valley homeowner) who had contacted the District not long after the District had entered into its original agreement with Tesla, Inc. Mark, who is also working with the Bear Valley Adventure Company and the Lake Alpine Water Company on smaller backup energy projects, was very attentive to the urgency of the situation and provided several immediate action items for Staff to take to seek to ensure the District did not lose this funding opportunity. These actions included contacting SGIP Administration to notify them of the situation and the District's intent to maintain its application with the Program and to work closely with Tesla as they seek return of their deposit to ensure they did not cancel the District's SGIP application on our behalf.

Meanwhile, on January 27, 2021, the District received a Conditional Reservation Letter (CRL) from the SGIP Program with a **reserved incentive amount of \$628,000**. This Conditional Reservation is valid until the Proof of Project Milestone (PPM) due date of April 27, 2021, giving the District 90 days to provide proof of project to the SGIP Administrator. Further, the CRL indicates that the project has a reservation expiration date (project completion date) of July 27, 2022.

GSR Energy, Inc. has performed over 100 battery installations in variety of public and private sector applications including the water and wastewater sector and has a close working relationship with Tesla, Inc. Mark believes GSR Energy can see this project through to completion but does anticipate some of the same concerns raised by Tesla surrounding our unique site challenges. Seeking a reasonable rate of return on this project, Mark has proposed the following points of consideration in the attached draft MOU:

- 1) Client and GSR Energy shall each be responsible for and submit half (50%) of a Refundable Deposit with the SGIP rebate application for this project or \$15,700 each. (Note: These funds shall be reimbursed in full to each party when the project goes online).
- 2) GSR Energy agrees to secure financing to pay for the capital expense of the battery energy storage system (BESS), at no cost to Client, it being understood that Client will be responsible for capital expenses associated with building structures that protect the BESS from snow intrusion while maintaining clearances required by Tesla for the Powerpack 2.5 unit.

RECOMMENDATION

The recent 8 day power outage was a clear reminder of the necessity of a reliable backup energy source at the treatment plant. The District has not had sufficient reliable back up power at the treatment plant since inception and Staff have been exploring propane fueled solutions for many years. The most recent (2018) propane fired 130kW generator proposal capable of energizing the entire plant was estimated at a cost of approximately \$68,000 but also requires a new structure to house the unit at a cost yet to be determined.

More recently, Staff have applied for grants and other resiliency funding moving affirmatively toward a commitment to reducing greenhouse gas emissions with a preference to install or replace carbon-based units with low or no emission alternatives. In addition to no emissions, current battery technology also provides for other benefits such as “peak shaving,” a software solution which discharges energy from the battery instead of the utility during expensive periods of peak demand charges. The savings for the District’s proposed 696 kW Tesla system has been estimated by Tesla to be nearly \$8000 per year. GSR intends to provide its own savings estimate.

Staff have solicited and received two high level proposals to complete the structural components necessary to protect the BESS from snow intrusion and to provide sufficient clearances as provided by Tesla, Inc. When considering the potential aggregate fiscal as well as environmental cost of a carbon-based solution that may well exceed \$100,000 in capital investment, the \$628,000 in conditionally reserved rate-payer funds earmarked specifically for BVWD if underwritten by the District at an estimated \$ 50,000 – 75,000 seems to suggest the latter may be the approach the Board should seriously consider.

Therefore, it is recommended that the Board listen to Mark Tholke’s presentation and consider authorizing Staff to execute the GSR Energy MOU as presented or amended to permit Staff to initiate cooperation with GSR to complete the Proof of Project on or before April 27, 2021. Additionally, in light of the April 27 Proof of Project Milestone (PPM), it may be prudent for the Board to create an ad hoc committee with the authority to authorize the Energy Services Agreement with GSR Energy if the full Board may not meet before this deadline.

ACTION:

1. Motion to Accept the GSR Energy MOU as presented or amended
2. Motion to create an Ad Hoc Committee Authorized to Execute the Energy Services Agreement

Attachments:

- PGE - SGIP Conditional Reservation Letter
- Tesla, Inc. Agreement Termination Letter
- GSR Energy, Company Overview Feb 2021
- GSR Energy Proposed Design
- GSR Energy MOU
- GSR Energy, Energy Services Agreement (ESA) - Draft

Jeff Gouveia

From: Self Generation Program <Selfgen@pge.com>
Sent: Wednesday, January 27, 2021 6:17 PM
To: Jeff Gouveia
Cc: SGIP Database; commercial.incentives@tesla.com
Subject: SGIP Conditional Reservation Letter, Bear Valley Water District [PGE-SGIP-2020-3656]



01/27/21

Dear Jeff Gouveia,

Great news! A **Conditional Reservation** has been approved for your SGIP project PGE-SGIP-2020-3656. See below for the Conditional Reservation details.

Project ID: PGE-SGIP-2020-3656

Host Customer: Bear Valley Water District

Equipment HSE, HWY 4

Site Address: Bear Valley, CA 95223

Equipment Type: Electrochemical Storage

Storage Capacity: 696 kWh

Rated Capacity : 174.000 kW

Requested Incentive Amount: \$696,000.00

Application Fee Paid: \$0.00*

Proof of Project Milestone Date: 04/27/21

Reservation Expiration Date: 07/27/22

Important: This Conditional Reservation is only valid until the Proof of Project Milestone (PPM) due date: 04/27/21. **Please submit all required PPM documents by 04/27/21.**

Submit all PPM documents via the SGIP Online Application Portal:

- Log into your account at www.selfgenca.com and select the project from the Dashboard
- Upload the PPM documents on the Documents page
- Once you have uploaded all of the requested documents, click the "Submit" button on the Submit page to transmit the materials to Pacific Gas and Electric.

Please note: The reserved incentive amount of **\$628,000.48** *may change based*

upon any of the following situations:

- Changes to the total eligible project costs or the equipment.
- Gas generation projects comply with the renewable fuel blending requirement for the year in which they applied.
- Energy storage systems paired with a renewable generator comply with the Investment Tax Credit requirements or charge the system at least 75% from the renewable generator.
- If the CA manufacturer bonus was granted for the project, the reserved incentive amount is contingent upon submission and approval of the "Request for California Manufacturer Status" document for the manufacturer listed on the RRF.

The reserved incentive amount is specific to the proposed project information listed on the RRF. Changes to the proposed project must be approved by PG&E beforehand. The final incentive amount will be established at the Incentive Claim stage after review of the final project cost breakdown and affidavit, and final system approval after inspection.

**Due to SIP, we are not able to verify the application fee. Once we are back in the office we will verify application fees and process accordingly.*

Questions?

Please feel free to contact us at selfgen@pge.com should you have any questions. We appreciate the opportunity to serve you!

Thank you,

Anthony Farmer, Senior Processor

Self-Generation Incentive Program (SGIP)

Phone: 415-973-6436 or email selfgen@pge.com

For SGIP Program information, Handbook and Forms, please visit:

[PG&E SGIP Program](#)

[Self- Generation Incentive Program](#)

[PSPS Address Lookup Tool for Equity Resiliency Eligibility](#)

[CPUC](#)

[pge.com](#) : [privacy](#)

NOTE: You are receiving this email because we received an inquiry from you about your incentive request. Pacific Gas and Electric Company, 77 Beale St., San Francisco, CA 94105.



3500 Deer Creek Road, Palo Alto CA 94304
P 650 681 5100 F 650 681 5101

PROPRIETARY & CONFIDENTIAL INFORMATION

January 11, 2021

Bear Valley Water District ("Company")
441 Creekside Dr
Bear Valley, CA 95223

Re: Termination of Tesla Energy Products Purchase Agreement ("Purchase Agreement") and Tesla Energy Products Operation and Maintenance Agreement ("O&M Agreement") between Tesla, Inc. ("Tesla") and Company, related to the California Self-Generation Incentive Program ("SGIP"), each dated May 11, 2020 (collectively, the "Agreements").


Dear Jeff Gouveia:

We refer to the Agreements. Capitalized terms used in this notice have the meaning given to them in the Agreements. Pursuant to Section 4(c) of the Purchase Agreement and 2(a) of the O&M Agreement, Tesla hereby notifies Company that we are terminating the Agreements without liability to either Party due to issues falling beyond the Standard Scope preventing the Installation of Products. The termination is effective 30 days from the date of this notice (the "Termination Date").

If you made an initial order deposit, it will be refunded within 7 days. Please do not hesitate to contact us if you have any questions.

Yours sincerely,

TESLA, INC.

By:  _____

Name: RJ Johnson

Title: Sr. Director, Energy Operations

GSR Energy Overview

February 2021



GSR Energy

- Specialized battery storage and solar PV development company with focus on Behind-the-meter (BTM) commercial & industrial (C&I) energy storage and distributed Front-of-meter (FOM) projects interconnected at 12 kV
- Independent development shop with demonstrated track record in California

MARK THOLKE, MANAGING PRINCIPAL
Chief Development Officer, Advanced Microgrid Solutions;
Vice President, EDF Renewable Energy, West Region

DEVELOPMENT TEAM (ex-AMS)
Josh Fyfe, VP Field Applications Engineering
Phillip Suna, Development Operations Manager



GSR Energy Experience

- Completed 98 BTM energy storage projects totaling 80 MW and 370 MWh of installed capacity (design, engineer, procure, construct, interconnect, commission)
- Deployed more Tesla batteries to C&I market in 2016-2019 than any other company (including Tesla)
- Accomplishments (underscore opportunities for risk mitigation)
 1. Established precedent for the entire CA storage industry for BTM battery interconnection, including defining interconnection processes for energy storage retrofitted to NEM solar sites
 2. Innovated Totalized Metering protocol for multi-meter sites for energy storage sites, a CPUC policy adopted by the entire industry
 3. Risk reduction via integration best practices, identifying scope gaps, and formalized feedback mechanisms for schedules and budgets
 4. Heavy experience defining and managing scope of work for EPC vendors and orchestrating battery commissioning and pre-parallel inspections with transmission operators



GSR Energy – example projects

Project Site Host Customer	Project Site Name	Power Rating (kW)	Energy Capacity (kWh)	Peak Duration (hrs)	Site PTO Date	City, State
Inland Empire Utilities Agency	RP4	1,500	3,132	2.1	5/18/18	Rancho Cucamonga, CA
Inland Empire Utilities Agency	RP1	1,300	2,610	2.0	6/28/18	Ontario, CA
Inland Empire Utilities Agency	CCWRF	780	1,566	2.0	6/27/18	Chino, CA
Irvine Ranch Water District	Tustin Well	260	1,260	4.9	12/21/18	Tustin, CA
Irvine Ranch Water District	Baker Water Treatment Plant	1,225	6,300	5.1	12/21/18	Lake Forest, CA
Irvine Ranch Water District	LAWRP	1,040	5,040	4.9	12/14/18	Lake Forest, CA
Irvine Ranch Water District	Principle Treatment Plant (PTP)	520	2,100	4.0	12/18/18	Irvine, CA
Irvine Ranch Water District	DATS	1,000	6,000	6.0	6/7/17	Santa Ana, CA
Silicon Valley Clean Water	SVCW WWTP	1,040	2,088	2.0	4/1/20	Redwood City, CA
Orange County Sanitation District	Plant 1 - 10844 Ellis Ave -05	4,940	32,560	6.6	8/20/19	Fountain Valley, CA
Inland Empire Utilities Agency	RP5	500	1,000	2.0	6/1/16	Inland Empire, CA
Irvine Ranch Water District	MWRD	2,500	15,000	6.0	3/1/18	Irvine, CA



Behind-the-Meter C&I Energy Storage

- Turnkey Development Services
 - Pre-sales engineering support (engineering feasibility, ROM cost estimate)
 - Oversight for design & engineering
 - Self Generation Incentive Program (SGIP) - preparation and submittal of SGIP application, ongoing liaison with SGIP administrators, preparation and submittal of incentive claim form
 - Interconnection - securing all approvals from interconnection authorities, including preparation and submittal of initial interconnection application materials, monitoring progress throughout process, consummating signed interconnection agreement
 - Permitting - responsibility for securing all approvals from regulatory and Authorities Having Jurisdiction and interconnection approvals
 - Oversight of EPC Subcontractor activities related to construction and installation, underlying contracts to bankability standards



Self-Generation Incentive Program (SGIP)

- One of the longest-running & most successful distributed generation incentive programs in the USA
- Established 2001 during CA energy crisis (AB970)
- Directs ratepayer funded financial incentives to install new technologies behind the meter (BTM) to:
 - reduce electric demand
 - support distributed energy resources (DERs)
 - reduce GHG emissions (added 2009, SB412)
- Track record
 - 2200 projects w/ ~450 MW capacity completed,
 - 300+ projects in process w/ ~200 MW



Self-Generation Incentive Program (SGIP)

- 2018-2019: Major shift in SGIP due to CA wildfires, budget shifted from BTM generation to BTM energy storage
- Over \$1B committed to SGIP budget thru 2024
 - 88% committed to energy storage
 - Majority of budget (\$612M thru 2024) committed to 'Equity Resiliency' budget
 - Covers full cost of most energy storage systems (\$1/watt-hr),
- Entire budget through 2024 will likely be fully reserved in 4- 8 weeks, funding unlikely to be replenished given expected state budget deficits



SGIP 'Equity Resiliency' Host Customer Criteria

Equity Resiliency budget supports resiliency for critical services, provide power during PSPS, wildfire outages, & weather related emergencies

Must meet 3 Key Criteria:

1. **Fire Threat** - facility located in a Tier 2 or Tier 3 High Fire Threat District or that has experienced 2+ Public Safety Power Shut-offs
2. **Critical Facilities** – 14 types of facilities, including “facility provides critical services, definition includes public and private water, wastewater, and flood control facilities”, and
3. **Eligible Community** - facility located in (or serves) disadvantaged community (DAC) or low-income area



SGIP Incentive Structure

- SGIP Incentives are paid out as reimbursements
- First 50% of the incentive amount is paid at system commissioning (approx 2-3 months after PTO)
- Remaining Performance-based Incentives paid out 10% / year for the 1st 5 years of system operations
- Owner of system must contract with vendor to report on battery system performance & confirm system reduces greenhouse gas emissions by 5% a year
- GSR Energy will administer all aspects of SGIP program
 - GSR Energy incentives aligned with BVWD since GSR Energy remuneration via SGIP incentive depends on battery system performance over time.





BEAR VALLEY WATER DISTRICT MAIN BATTERY ENERGY STORAGE SYSTEM

GSR Energy Installation Presentation

BVWD1001 * Alpine State Highway, Bear Valley, CA

February 2021



PROPOSAL

The installation of the Tesla Powerpack energy storage system behind the meters at Bear Valley Water District to provide backup support.

Annual Peak Load Demand: 131.84kW
Average Daily Energy Consumption: 427.35kWh

SITE PLAN

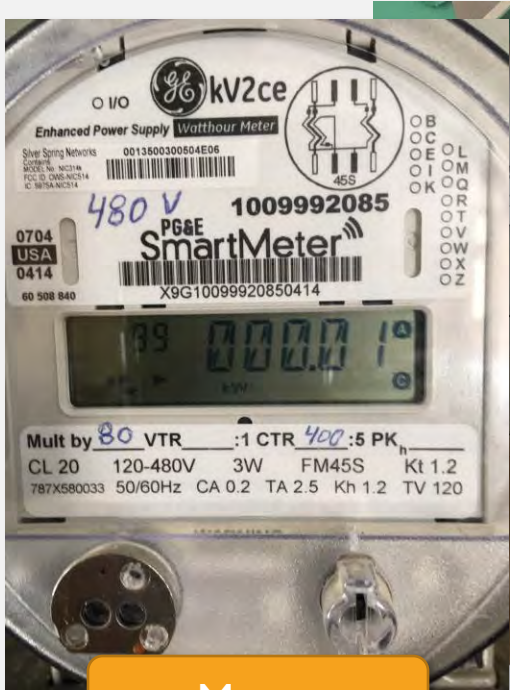
Site Name	Pump House
Address	Alpine Highway Bear Valley, CA
Peak Annual Demand (kW)	131.84 kW
Service Account ID	
Meter ID	1009992085
Critical Loads	Pumps (2-100hp, 2-40hp)
Existing Generator	None
Total Project Size	
AC Power (kW)	174 kW
AC Capacity (kWh)	696 kWh
Inverter	
Manufacturer	Tesla
Model	Powerstage 70kVA
Power Stage Rating	70 kVA
Quantity Powerstages	3
Quantity Inverters	1
Battery	
Manufacturer	Tesla
Model	Powerpack 2, 4-hr
AC Capacity	232 kWh (4-hr)
Quantity Power Packs	3
Utility Lockable Disconnect	
Boltswitch	T365WOL
Rating (A)	400 A
Fuse (A)	400 A



SITE PHOTOS



Soft Starter



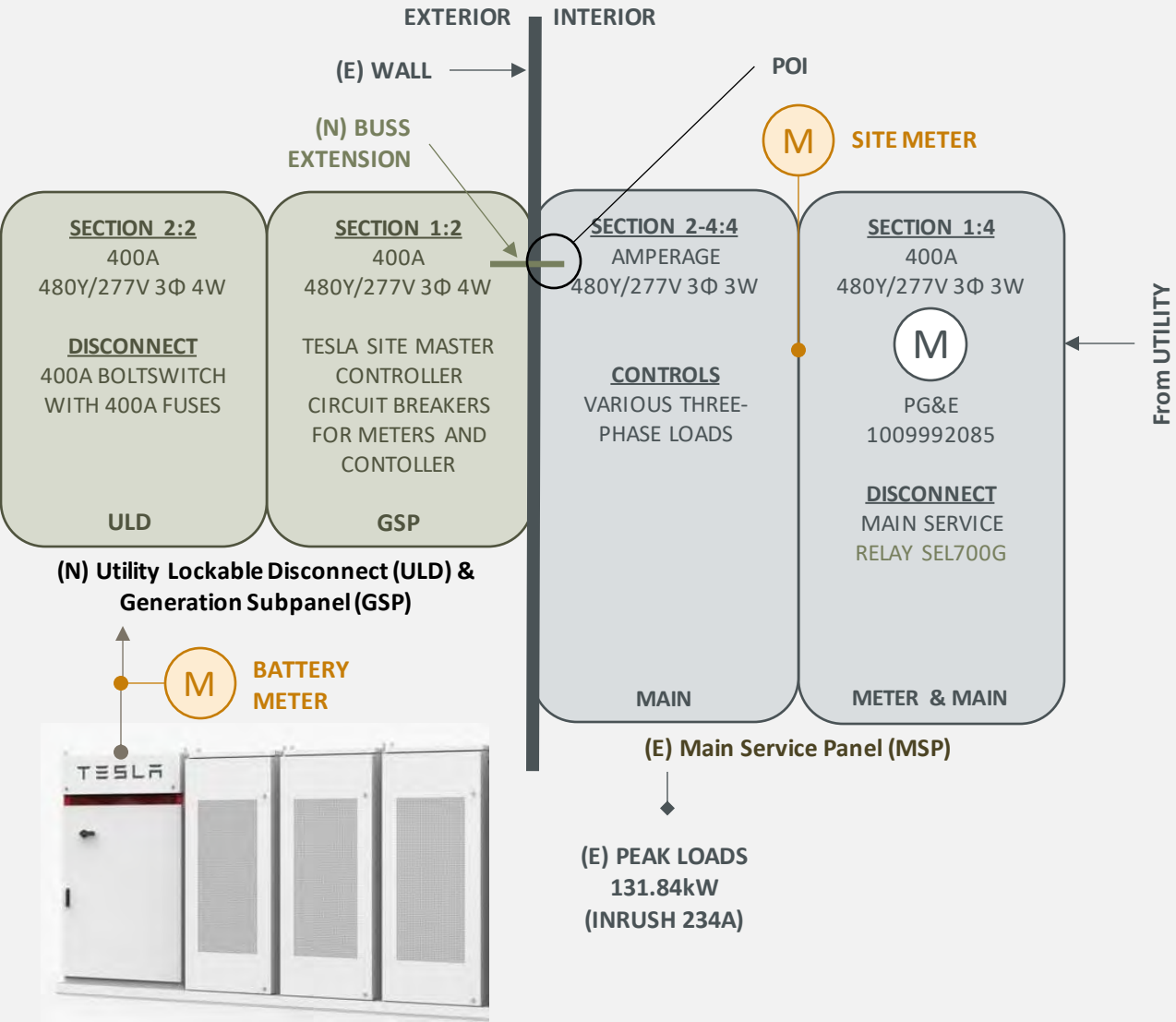
Meter



Main

BLOCK DIAGRAM

Site Name	Pump House
Address	Alpine Highway Bear Valley, CA
Peak Annual Demand (kW)	131.84 kW
Service Account ID	
Meter ID	1009992085
Critical Loads	Pumps
Existing Generator	None
Total Project Size	
AC Power (kW)	174 kW
AC Capacity (kWh)	696 kWh
Inverter	
Manufacturer	Tesla
Model	Powerstage 70kVA
Power Stage Rating	70 kVA
Quantity Powerstages	3
Quantity Inverters	1
Battery	
Manufacturer	Tesla
Model	Powerpack 2.5 4-hr
AC Capacity	232 kWh (4-hr)
Quantity Power Packs	3
Utility Lockable Disconnect	
Boltswitch	T365WOL
Rating (A)	400 A
Fuse (A)	400 A



GENERAL NOTES


1. INSTALLATION SHALL BE IN ACCORDANCE WITH LATEST ADOPTED CALIFORNIA ELECTRICAL CODE AND BUILDING CODE, CHAPTER 15. THE AHJ HAS FINAL JURISDICTIONAL AUTHORITY ON CODE APPLICATION AND COMPLIANCE.
2. ALL EQUIPMENT SHALL BE INSTALLED BY CONTRACTOR UNLESS OTHERWISE NOTED. ALL MATERIAL SHALL BE IN NEW CONDITION AND APPROVED BY THE ENGINEER.
3. ALL EQUIPMENT SHALL BE UL LISTED.
4. ALL TESLA SYSTEM WIRING AND GROUNDING METHODS SHALL CONFORM TO THE MANUFACTURER'S RECOMMENDED PRACTICES.
5. ALL SWITCHBOARDS AND PANELBOARDS SHALL HAVE ARC FLASH WARNING LABELS WITH APPLICABLE INCIDENT ENERGY LEVELS, WORKING DISTANCES, AND REQUIRED PPE IN ACCORDANCE WITH NFPA 70E.
6. EXPOSED NON-CURRENT CARRYING METAL PARTS OF EQUIPMENT AND ENCLOSURES SHALL BE GROUNDED IN ACCORDANCE WITH NEC 250.134 AND 250.136(A).
7. COORDINATE DATE, TIME, AND LENGTH OF ANY REQUIRED FACILITY SHUTDOWNS WITH OWNER PRIOR TO CONSTRUCTION.
8. ALL CONDUIT FURNISHED AND INSTALLED BY CONTRACTOR. ALL WIRING FURNISHED BY TESLA AND INSTALLED BY CONTRACTOR.
9. ALL BUSHINGS AND WIRING INTERNAL OF PROPOSED SERVICE EQUIPMENT PROVIDED BY MANUFACTURER. ANY MODIFICATIONS SHALL REQUIRE ENGINEERING APPROVAL PRIOR TO ANY CHANGES BEING MADE.
10. ALL CONDUITS ACCESSIBLE TO THE GENERAL PUBLIC OR WHICH CONDUITS CAN BE DAMAGED SHALL BE RIGID GALVANIZED STEEL.
11. ALL EQUIPMENT SHALL BE FURNISHED WITH TERMINALS RATED FOR 75' OR GREATER.
12. NO INSTALLATION OF ANY EQUIPMENT WILL BE INSIDE THE UTILITY'S EQUIPMENT CABINETS OR PULL SECTIONS
13. CONTROLLER, TESLA SITE CONTROLLER (TSC) IS THE ONLY DEVICE THAT CONTROLS THE CHARGE AND DISCHARGE OF THE BATTERY SYSTEM.
14. UTILITY WILL HAVE 24/7 ACCESS TO ULD

PROPOSED EQUIPMENT

Tesla Powerpack and Tesla Site Master Controller

SPECIFICATION

Tesla Powerpack 2.5

<div>POWERPACK SPECIFICATIONS</div> <div>4 hr System</div> <div><ul style="list-style-type: none">• One Powerpack includes 16 battery Pods• Each Pod has an isolated DC/DC inverter and thermal control system• Sensors to monitor cell level performance in real time• Standard configuration: 4-hour discharge duration</div> <div></div>													
<div>ELECTRICAL</div> <table><tr><td>AC Voltage</td><td>380–480 VAC 3-phase</td></tr><tr><td>Nominal Frequency</td><td>50 or 60 Hz</td></tr><tr><td>Continuous Discharge Duration</td><td>4 hours</td></tr><tr><td>AC Energy Available per Powerpack</td><td>210 kWh</td></tr><tr><td>Inverter Sizes (at 480 V)</td><td>Scalable from 50 kVA – 700 kVA</td></tr><tr><td>Roundtrip System Efficiency</td><td>89.5%</td></tr></table> <div><small>Note: All ratings provided in AC and factor in all parasitic loads. *Net energy delivered at 25°C (77°F) including thermal control.</small></div>		AC Voltage	380–480 VAC 3-phase	Nominal Frequency	50 or 60 Hz	Continuous Discharge Duration	4 hours	AC Energy Available per Powerpack	210 kWh	Inverter Sizes (at 480 V)	Scalable from 50 kVA – 700 kVA	Roundtrip System Efficiency	89.5%
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Roundtrip System Efficiency	89.5%												
<div>MECHANICAL AND MOUNTING</div> <table><tr><td>Enclosure</td><td>IP67 (Pod) NEMA 3R / IP35 (Powerpack) NEMA 4 / IP66 (inverter)</td></tr><tr><td>Powerpack Unit Dimensions</td><td>L: 1308 mm (51.5 in) W: 822 mm (32.4 in) H: 2235 mm (88 in)</td></tr><tr><td>Powerpack Unit Max Shipped Weight</td><td>2175 kg (4795 lbs)</td></tr><tr><td>Inverter Dimensions</td><td>L: 1014 mm (39.9 in) W: 1254 mm (49.4 in) H: 2242 mm (88.3 in)</td></tr><tr><td>Inverter Max Shipped Weight</td><td>1120 kg (2470 lbs)</td></tr><tr><td>Operating Ambient Temperature</td><td>–30°C to 50°C (–22°F to 122°F)</td></tr></table>		Enclosure	IP67 (Pod) NEMA 3R / IP35 (Powerpack) NEMA 4 / IP66 (inverter)	Powerpack Unit Dimensions	L: 1308 mm (51.5 in) W: 822 mm (32.4 in) H: 2235 mm (88 in)	Powerpack Unit Max Shipped Weight	2175 kg (4795 lbs)	Inverter Dimensions	L: 1014 mm (39.9 in) W: 1254 mm (49.4 in) H: 2242 mm (88.3 in)	Inverter Max Shipped Weight	1120 kg (2470 lbs)	Operating Ambient Temperature	–30°C to 50°C (–22°F to 122°F)
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Configuration:	1 Powerpack, 1 Inverter												
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Protocol	Modbus TCP DNP3 Rest API												
<div>TESLA</div> <div>TESLA.COM/ENERGY</div>													

SPECIFICATION

Tesla Site Controller

TESLA SITE CONTROLLER

The Tesla Site Controller is a site-level interface that controls Tesla Battery Energy Storage Systems and commercial solar projects. The Tesla Site Controller interacts with each inverter block in a site, collects feedback data and runs algorithms to optimize system operations.

The Tesla Site Controller:

- Communicates with overall systems through each inverter or other access point to control the entire energy site
- Hosts the control algorithm that dictates advanced charge and discharge functions
- Is the single point of interaction with external parties
- Supports a number of site configurations, including grid-tied and microgrid

Tesla offers a 10-year warranty at no additional cost. Extensions are also available under certain conditions.



Fully-loaded Tesla Site Controller

ELECTRICAL

Nominal Input Voltage Range	120-480 VAC
Nominal Frequency	50 or 60 Hz
Operating Power Consumption	100 W maximum
Overvoltage Protection	Category III

REGULATORY

Certifications	UL 61010-1 CSA-22.2 IEC-61010-1
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MECHANICAL AND MOUNTING

Ingress Rating	IP67/ NEMA 4
Dimensions	L: 255 mm (10 in) W: 530 mm (20.9 in) H: 730 mm (28.7 in)
Weight	21.4 kg (47.2 lbs)
Operating Ambient Temperature	-30°C to 60°C (-22°F to 122°F)
Maximum Altitude	3000 m
Relative Humidity	100% condensing, wet location rated

COMMUNICATIONS

Protocol	Modbus TCP DNP3 Rest API
Communications	Ethernet Cellular

TESLA

REV. 1.3.0
TESLA.COM/ENERGY

Get In Touch.



One Clipper Cove
San Francisco, California 94130



GSR-ENERGY.COM



INFO@GSR-ENERGY.COM

Energy Project Developer



COMMERCIAL BATTERY ENERGY STORAGE SYSTEM (BESS) INSTALLATION Memorandum of Understanding at SGIP Application

GSR Energy	CLIENT
1 Clipper Cove San Francisco, CA 94130 Phone: 925.548.8826	Bear Valley Water District Equipment HSE, Hwy 4, Bear Valley, CA 95223 Attention: Jeff Gouveia

INSTALLATION ADDRESS (the “Premises”)
Facility Location TO BE COMPLETED Account number: Meter number:

This agreement (the “**MOU**”) is entered into by and between Bear Valley Water District (“**Client**”) and GSR Energy Services, Inc. (“**GSR Energy**”) to memorialize the initial steps toward the installation of a battery energy storage system (“**BESS**”) to be installed by GSR Energy. GSR Energy is licensed in California (License No. 1021183) and any subcontractors that perform work of a material nature will also be licensed in California. This MOU provides an overview of our agreement and will be followed up with a detailed Contract that describes all commercial and technical aspects of the BESS (the “**Contract**”), that shall be signed by Client and GSR Energy within 90 days of the date of this MOU.

MOU TERMS

1.1 Contract Price and Rebate Amount

The total price for GSR Energy to complete the Project shall be \$628,000 and the calculated California Self Generation Incentive Program (SGIP) rebate is \$628,000. This price is intended to cover all project costs including materials and labor for installation of the battery energy storage system, including system sizing based on Client provided information, managing all aspects of the Self Generation Incentive Program (SGIP) incentive mechanism, design and engineering, interconnection, sales tax, shipping and handling of all equipment and materials, site preparation, construction, and clean up. The total price and SGIP rebate amount may change upon further site investigation. If the price and/or the SGIP rebate amount change and the SGIP rebate does not cover 100% of the price, this MOU shall be voidable by either Client or GSR Energy.

1.2 Description of BESS Installation Project

The Project shall be completed in accordance with the following Project description:

Project Size: 140 kW / 696 kWh battery storage

Technology: Three Tesla Powerpack 2 units, each 58 kW Real Power/ 232 kWh Usable Energy

Expected Energy Savings:

- **Year 1-15:** [to be provided – result from Energy Toolbase analysis]

Operations and Warranty: Operated and Warranted by GSR Energy for 15 years

Project Location, Account(s), and Meter(s): [to be provided]XX

Description of back-up capabilities:

GSR Energy will design and install a state-of-the-art BESS to provide back-up power capabilities upon loss of normal power from Client's utility provider during weather events, planned Public Safety Power Shutoffs and other grid reliability issues.

The duration (i.e., number of hours) of back-up power will depend on final system design, average load and daily energy consumption. As part of the project design, GSR Energy will ensure that the facility's circuits that are backed up during an outage are isolated from the grid through the use of an Automatic Transfer Switch. This is to ensure that during an outage, your facility's system will still operate and power the circuits/appliances being backed up while not posing a safety risk to the utility. The duration of power during the power outage will vary depending on consumption and GSR Energy recommends energy conservation during outage events

1.3 Additional Terms

Client authorizes GSR Energy to act as its Incentive Provider to facilitate qualifying the BESS for the Self Generation Incentive Program ("SGIP") rebate provided by California. Client and GSR Energy shall each be responsible for and submit half (50%) of a Refundable Deposit with the SGIP rebate application for this project or \$15,700 each. This Refundable Deposit will be refunded back to Client and GSR Energy upon Permission to Operate for the project – or, if the project is canceled prior to submittal of the Proof of Project Milestone (which requires a signed Energy Services Agreement), the Refundable Deposit will be refunded back to Client and GSR Energy upon cancellation of the project. Client shall work in good faith to permit GSR Energy to prepare and submit required rebate forms, execute the contract, and complete the Project by required SGIP rebate deadlines. GSR Energy shall immediately begin work to prepare and submit an Interconnection Application to PG&E by February 7, 2021 at its sole expense. GSR Energy agrees to secure financing to pay for the capital expense of the BESS, at no cost to Client, it being understood that Client will be responsible for capital expense associated with building structures that protect the BESS from snow intrusion while maintaining clearances required by Tesla for the Powerpack 2.5 unit as detailed in Exhibit A. Client shall complete and submit all forms required to assign the SGIP rebate to GSR Energy.

Client or GSR Energy may cancel this MOU at any time within 90 days.

IN WITNESS WHEREOF, the parties have executed this Contract as of the Effective Date.

CLIENT:

GSR ENERGY:

Signature

Signature

Print Name

Print Name

Title

Title

Date

Date

Exhibit A

Tesla Powerpack 2.5 Requirements

6.3 Clearances

Ensure that all enclosures are installed according to the clearance requirements defined in Table 3.

Table 3: Equipment Clearances

Equipment	Front ³	Sides	Back	Top
Powerpack Unit	1830 mm (72")	105 mm (4.1")	30 mm (1.25") ²	1524 mm (60") for combustible materials, 915 mm (36") for service clearance
Tesla Inverter	1830 mm (72") ¹	105 mm" (4.1")	100 mm (4")	915 mm (36")

¹The clearance stated above is a minimum and should be increased to meet all applicable local standards and codes as necessary.

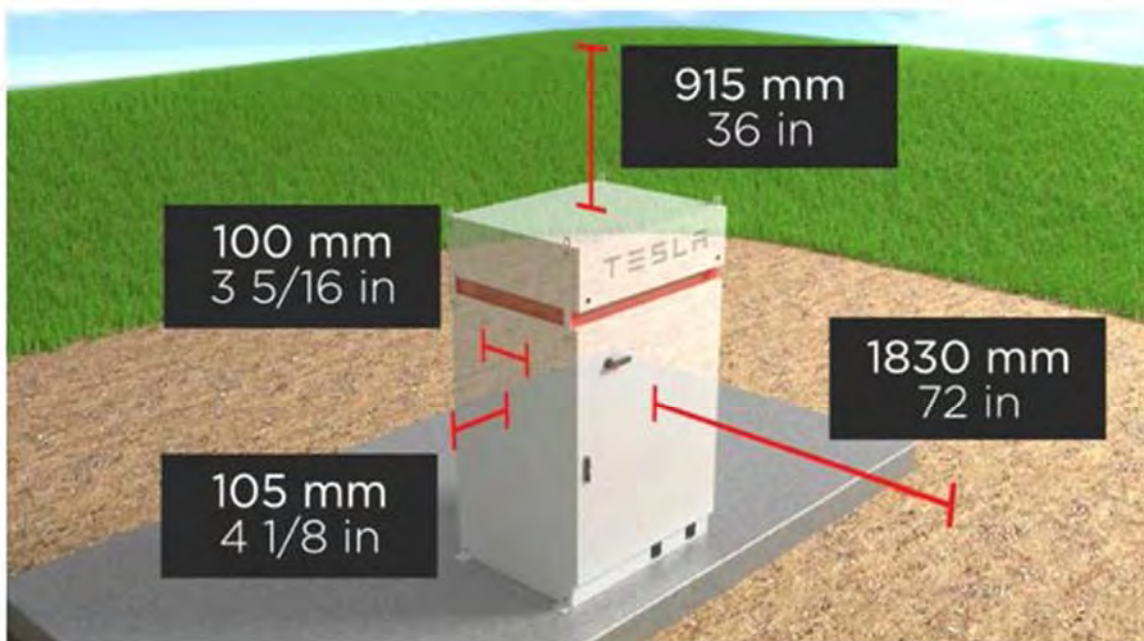


Figure 17: Tesla Inverter Clearance Requirements

Energy Services Agreement

This Energy Services Agreement (this “**Agreement**”) is entered into by the parties listed below (each a “**Party**” and collectively the “**Parties**”) as of the date signed by Seller below (the “**Effective Date**”).

Host Customer:		Seller:	
Name and Address	Bear Valley Water District Equipment HSE, Hwy 4, Bear Valley, CA 95223 Attention: Jeff Gouveia	Name and Address	GSR-BTM LLC 1 Clipper Cove San Francisco, CA 94130 Attention: Mark Tholke
Phone	209.753.2112	Phone	(925) 338-3815 office (925) 548-8826 mobile
Fax	None	Fax	None
E-mail	jeff.gouveia@bvwd.ca.gov	E-mail	mark@gsr-energy.com
Premises Ownership	Host Customer X owns <input type="checkbox"/> leases the Premises. List Premises Owner, if different from: Host Customer: N/A _____	Additional Seller Information	
Tax Status	Public agency – non profit		
Project Name	BVWD energy resiliency		

This Agreement sets forth the terms and conditions of the purchase and sale of the services provided from the battery energy storage system described in **Exhibit 2** (the “**System**”) and installed on the real property comprising Host Customer’s premises described or depicted in Schedule A to **Exhibit 2** (the “**Premises**”), including any buildings and other improvements on the Premises other than the System (the “**mprovements**”).

The exhibits listed below are incorporated by reference and made part of this Agreement.

<u>Exhibit 1</u>	Pricing
<u>Exhibit 2</u>	System Description, Delivery Point, and Premises
<u>Exhibit 3</u>	Host Customer Information
<u>Exhibit 4</u>	General Terms and Conditions
<u>Exhibit 5</u>	Definition of Services

Host Customer:

**Seller: GSR-BTM
LLC**

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT 1

Pricing

1. **Initial Operating Term:** Ten (10) years, beginning on the Commercial Operation Date (the “**Initial Operating Term**”).
2. **Additional Operating Term:** Up to one (1) additional term of five (5) years at the same Contract Price as the Initial Operating Term beginning on the expiration of the Initial Operating Term (the “**Additional Operating Term**”).
3. **Contract Price:** Self Generation Incentive Program (“SGIP”) Payments are assigned by Host Customer to Seller and paid by SGIP Program Administrator directly to Seller in accordance with Sections 4 and 11. The table below delineates SGIP Payments paid directly to Seller by SGIP Program Administrator and payments paid by Host Customer to Seller.

Operating Term Contract Year	\$/year (from SGIP Program Administrator to Seller)	\$/year (from Host Customer)
1	\$314,000.00	\$0
2	\$62,800.00	\$0
3	\$62,800.00	\$0
4	\$62,800.00	\$0
5	\$62,800.00	\$0
6	\$62,800.00	\$0
7	\$0	\$0
8	\$0	\$0
9	\$0	\$0
10	\$0	\$0
11	\$0	\$0
12	\$0	\$0
13	\$0	\$0
14	\$0	\$0
15	\$0	\$0
Total	\$628,000.00	\$0

The first year of the Initial Operating Term shall commence on the Commercial Operation Date, and each subsequent Operating Term Contract Year shall commence on the anniversary of the Commercial Operation Date.

4. **Contract Price Assumptions.** The Contract Price is based on the following assumptions:
 - a. Interconnection costs for the System will not exceed \$10,000 in the aggregate.
 - b. All prices in this Agreement are calculated based on an Upfront Payment of \$314,000.00 and a maximum Performance Based Payment of \$62,800.00 paid at the end of each of the first five years of System operations. The Host Customer posted the SGIP 5% Deposit for this System in the amount of \$31,400. The SGIP Program Administrator will refund this deposit directly to Seller shortly after the Commercial Operation Date.
 - c. The System is sized and configured as defined by **Exhibit 2**.

- 5. Contract Price Exclusions.** Unless Seller and Host Customer have agreed otherwise in writing, and except as otherwise provided in Section 2(i) of **Exhibit 2**, Seller is not responsible for unexpected and atypical expenses unforeseen as of the Effective Date. Examples of such expenses may include, but are not limited to, unforeseen groundwork (including excavation and circumvention of underground obstacles), upgrades or repair to customer or utility electrical infrastructure (including client or utility service, transformers, substations, poles, breakers, reclosers, and disconnects) and changes in System design which materially impact installation costs and that are caused by any inaccuracy or ambiguity in information provided by Host Customer including information related to building plans and specifications.
- 6. Termination Payment Schedule.** In the event of early Termination of the Agreement by Host Customer for reasons other than a Seller Event of Default or for delay as stated in Section 2(d) of **Exhibit 4**:
- if on or after the Effective Date through SGIP Program Administrator issuance of the final Incentive Claim Form (ICF) approval letter¹, Host Customer must repay Seller the SGIP 5% Deposit indicated in Section 4(b) and reasonable and documented out-of-pocket and direct overhead costs incurred by Seller to advance development of the System.
 - if after SGIP Program Administrator issuance of the final Incentive Claim Form (ICF) approval letter and prior to end of the Contract Term, the Host Customer shall pay Termination Payment that is equal to those amounts in the corresponding Operating Term Contract Year listed in the Termination Payment Schedule below plus Seller's actual reasonable cost incurred to remove the System from the Premises. Regarding System removal upon early Termination, Seller will provide open book accounting of any third-party costs incurred and shall not apply any margin or markup to such third-party costs.

Operating Term Contract Year	Termination Payment (\$)
1	\$314,000.00
2	\$251,200.00
3	\$188,400.00
4	\$125,600.00
5	\$62,800.00
6	\$0
7	\$0
8	\$0
9	\$0
10	\$0
11	\$0
12	\$0
13	\$0
14	\$0
15	\$0

¹ Per the SGIP Handbook, Seller will submit the final Incentive Claim Form to SGIP Program Administrator after the Project is installed, interconnected and operational. SGIP Administrator may schedule and conduct a site visit before issuing the final ICF approval letter which begins the incentive payment process.

EXHIBIT 2

System Description, Delivery Point, and Premises

- a. **System Location:** Equipment HSE Hwy 4, Bear Valley, CA 95223
- b. **System Size (AC kW):** 174.0
- c. **Expected First Year Energy Capacity (kWh):** 696.0
- d. **Expected Installation:** **Indoor** ☐ **Outdoor** ☐
Location _____
- e. **Expected Battery Energy Storage System**

Manufacturer/Model

Quantity

Tesla Powerpack 1490025-00-A 4-hour

3

- f. **Facility and System Description:** See **Exhibit 2, Attachment A**
- g. **Description of Delivery Point:** Facility meter, located inside of premises
- h. **Description of back-up power capabilities in the event of loss of grid power including any circuit relocations identified as necessary:** As described in Exhibit 5
- i. **Description of cost items not included in Contract Price, if any:** None

EXHIBIT 3

Host Customer Information

Within 10 days following the execution of this Agreement, Host Customer will supply Seller with the following information:

Host Customer Information							
Name: Bear Valley Water District					Tax ID: (if applicable) – needs updating		
Previous & Other Names (if applicable):				Website: https://www.bvwd.ca.gov/			
Address: Equipment HSE Highway 4							
City, State, Zip Bear Valley, CA 95223							
Phone Number: 209.753.2112				Fax Number: () -			
Entity Type	S-Corp	C-Corp	Partnership	Sole Prop	LLC	LLP	Other
Check One:		X					
Property Address for Battery Installation: See above			State:		Zip Code:	Property Owned by Applicant X YES o NO	
Property Type Water Treatment Facility		If Not Applicant, Name of Property Owner, address, phone number and email.					
Information Requested: Please submit the information required below via electronic format to @.							
<u>Corporate Records / Formation Documentation</u>							
<input type="checkbox"/> Copy of Articles of Incorporation, Partnership Agreement, Fictitious Name Statement or Organizational formation documents (If applicable).							
<u>Financial Statements</u>							
<input type="checkbox"/> If readily available, last two (2) years of CPA audited, reviewed, compiled statements (Balance Sheet, Income Statement, Cash Flow).							
<u>Real Estate Documents</u>							
<input type="checkbox"/> Demonstration of Ownership of Premises or Lease with Premises Fee Owner							
<input type="checkbox"/> Copies of Liens or Third-Party Security Interests in the Premises							
If Host Customer is not Property Owner, Seller may request Host Customer to provide additional documentation to complete the evaluation process. Seller will notify Host Customer if additional information is required.							

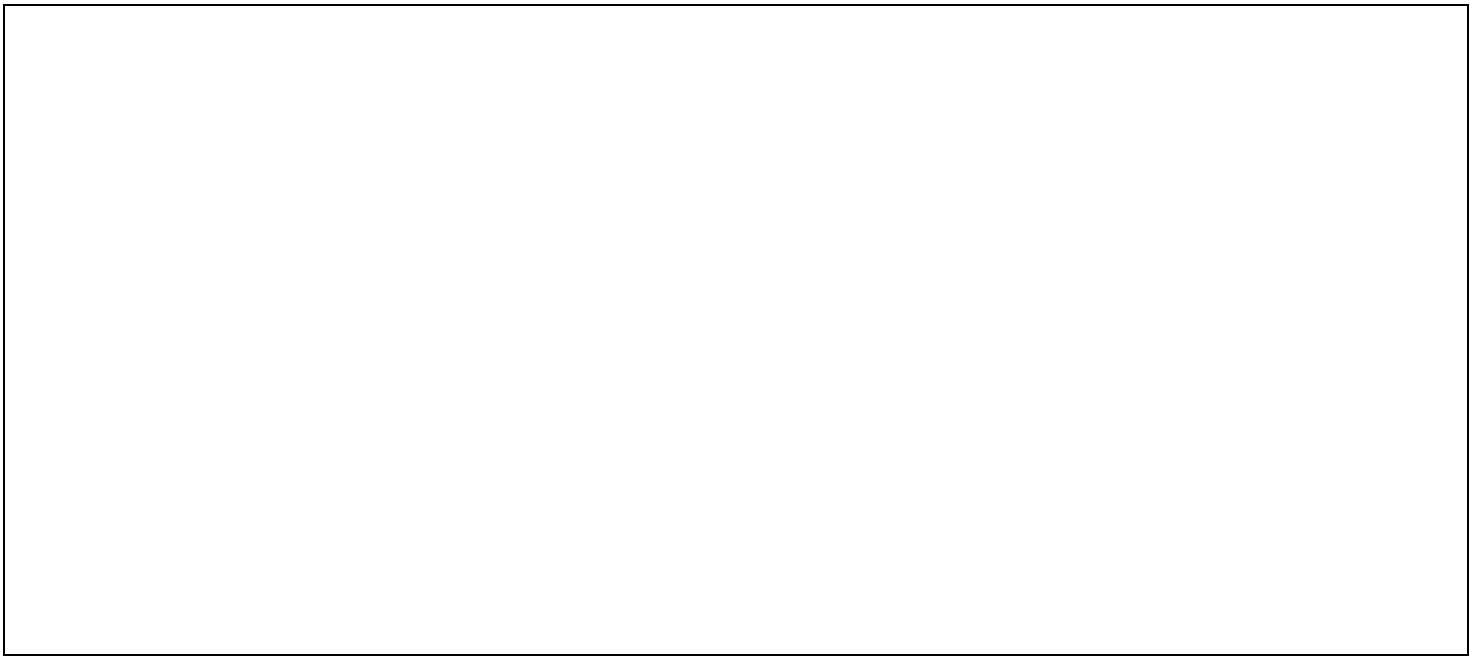


EXHIBIT 4

General Terms and Conditions

1. **Purchase and Sale of Services.** Host Customer shall purchase from Seller, and Seller shall sell to Host Customer, the System Services (as defined in this **Exhibit 5**) commencing on Commercial Operation Date and through the Contract Term (as defined in Section 2(a)). Electricity stored by the System shall be delivered to Host Customer at the Delivery Point.
2. **Term and Termination.**
 - a. **Effective Date; Contract Term.** This Agreement is effective as of the Effective Date and the Contract Term consists of two periods, a **Development Term** that starts on the Effective Date and runs up until the Commercial Operation Date and then an **Initial Operating Term** that starts on the Commercial Operation Date and runs for a period of 10 years, unless earlier terminated as provided for in this Agreement or extended for an Additional Operating Term (collectively, the “Term”).
 - b. **Additional Operating Term.** The Parties may agree in writing to extend this Agreement for one (1) additional five-year Operating Term at the same Contract Pricing as the Initial Operating Term.
 - c. **Termination Due to Contract Price Adjustments or Lack of Project Viability.** If, at any time during the Development Term (i) significant additional and unanticipated costs are identified which have not previously been identified pursuant to Section 5 of **Exhibit 1** or which exceed the Contract Price assumptions pursuant to Section 4 of **Exhibit 1**, or Seller determines that the installation of the System will not be technically or economically viable for any other reason, and (ii) the Parties have failed to reach agreement after negotiating a Contract Price adjustment for sixty (60) days following written notice from Seller to Host Customer, either Party may terminate this Agreement by providing ten (10) days’ prior written notice to the other Party. Neither Party shall be liable for any damages in connection with such termination. After Commencement of Installation, the Contract Price shall not be subject to further adjustment pursuant to Section 5 of **Exhibit 1** or otherwise.
 - d. **Termination by Host Customer for Delay.** Seller will use commercially reasonable efforts to achieve Commencement of Installation at least sixty (60) days prior to the expiration of the SGIP reservation as indicated in the Conditional Reservation Letter for the System, as may be extended by the SGIP Program Administrator. If Seller fails to meet this deadline, Host Customer may terminate this Agreement by providing thirty (30) days’ prior written notice to Seller; provided that this Agreement will not terminate pursuant to this Section 2(d) if Seller achieves Commencement of Installation on or before the end of such thirty (30) day notice period. In addition, Host Customer shall not be liable for any damages in connection with such termination.

- e. **Termination for Failure of SGIP.** The state rebate and incentive calculations Seller has provided to Host Customer are estimates. These estimates are based on certain assumptions that may not be applicable based on the circumstances specific to the System. However, actual rebates and incentives may vary based on changes in eligibility requirements, funding availability, and funding rates. No substantial commencement of on-site work shall begin until Seller has received confirmation of a successful SGIP reservation in an amount that preserves the financial viability of this Agreement under the terms provided herein. When Seller has received this reservation confirmation, Seller will then request an Incentive Claim Form to be signed by Host Customer. Once the Conditional Reservation Letter is obtained, listing Seller or a financing party determined by Seller as the payee, and the necessary financing is in place to fund the System, Seller will commence work assuming equipment availability. Host Customer shall complete and return any rebate or associated utility program participation paperwork requested by Seller within seven (7) days of receipt. Each Party has the right to terminate this Agreement, without penalty or fee, if Seller determines after the engineering site audit of the Premises that Seller has misestimated the System's total cost or the estimated rebate is confirmed at a lower amount than proposed. Such termination right will expire at the earlier of (i) one (1) week before the scheduled System installation date and (ii) one (1) month after Seller informs Host Customer in writing of the revised cost. Any changes to the System will be documented in a written amendment to this Agreement signed by both Host Customer and Seller. Host Customer authorizes Seller to make corrections to the utility and incentive paperwork to conform to this Agreement or any amendments to this Agreement that are signed by both Parties.

3. **Billing and Payment; Taxes.**

- a. **Charges.** In accordance with Section 11.a, Host Customer and Seller agree that SGIP Program shall pay Seller as set forth in Section 3 of **Exhibit 1** (the "Contract Price").
- b. **Invoices.** Seller shall invoice Host Customer annually, unless no payment is due under the terms of this Agreement. Such annual invoices shall state the rates applicable to, and charges incurred by, Host Customer under this Agreement.
- c. **Payment Terms.** All amounts due under this Agreement are due and payable net thirty (30) days following receipt of invoice. Any undisputed portion of the invoice amount not paid within such thirty (30) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) above the Prime Rate (but not to exceed the maximum rate permitted by law). All payments shall be made in U.S. dollars.
- d. **Taxes.** Seller is responsible for any incremental personal property taxes imposed on the Host due to installation of the System ("**Seller's Taxes**"). Seller shall not be responsible for taxes, if any, assessed on the sale, delivery or consumption of electricity stored by the System.

4. **Incentives and Environmental Attributes.** As the owner of the System, Seller is entitled to the benefit of, and will retain all ownership interests in the Incentives and Environmental Attributes applicable to the System. Host Customer shall cooperate with Seller in obtaining, securing and transferring all Incentives, if any. Host Customer is not obligated to incur any out-of-pocket costs or expenses in connection with such actions unless reimbursed by Seller. Host Customer shall not make any filing or statements inconsistent with Seller's ownership interests in the Incentives and Environmental Attributes. If any Incentives are paid or delivered directly to Host Customer, Host Customer shall immediately pay or deliver such items or amounts to Seller. For sake of clarity, Seller will be responsible for payment of any deposit required to secure Incentives and if any such deposit is refunded to Host Customer rather than to Seller, Host Customer will immediately pay or deliver such refunded amounts to Seller.

"Governmental Authority" means any foreign, federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, court, tribunal, arbitrating body or other governmental authority having jurisdiction or effective control over a Party.

"Incentives" means (i) a payment paid by a utility or state or local Governmental Authority based in whole or in part on the cost or size of the System such as a rebate, (ii) a performance-based incentive paid as a stream of periodic payments by a utility, state or Governmental Authority based on the production of the System, (iii) investment tax credits, production tax credits, and similar tax credits, grants or other tax benefits (including depreciation deductions) under federal, state or local law, and (iv) any other attributes, commodity, Payments stream or payment in connection with the System (such as ancillary or capacity Payments), in each case of (i) through (iv) relating to the construction, ownership, use or production of energy from the System, provided that Incentives shall not include Environmental Attributes.

"Environmental Attributes" means, with respect to the System, any and all presently existing or created in the future credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the operation of the System and its displacement of conventional energy generation.

5. **Project Completion.**

- a. **Project Development.** Seller shall diligently pursue the development and installation of the System, subject to Section 2(c) above and the remaining provisions of this Section 5 and Section 6.
- b. **Permits and Approvals.** Seller shall use commercially reasonable efforts to obtain the following at its sole cost and expense (each an **"Approval"**):
- i. any agreements and approvals from the utility necessary in order to interconnect the System to the utility's electric distribution system.
 - ii. any zoning, land use and building permits required for Seller to construct, install and operate the System; and

Host Customer shall cooperate with Seller's reasonable requests to assist Seller in obtaining such Approvals, including, without limitation the execution of documents required to be provided by Host Customer to the local utility.

- c. **System Design Approval.** Seller shall provide Host Customer with a copy of the System design for approval before Commencement of Installation. Host Customer shall have ten (10) days after receipt to approve or disapprove the design. Failure by Host Customer to respond within such ten (10) day period shall be deemed approval of the design. To disapprove the design, the Host Customer must provide commercially reasonable explanation for such disapproval and clear feedback on requested changes. Seller shall make commercially reasonable efforts to modify the design and resubmit it for Host Customer's approval. If the Host Customer and Seller cannot reasonably agree on an economically viable System design modification, Seller may terminate this Agreement under Section 2(c) above.
- d. **Commencement of Installation.** Seller shall exercise commercially reasonable efforts to achieve Commencement of Installation, consistent with provisions in **Exhibit 4**, Section 2(a). "**Commencement of Installation**" means the date that Seller or its installation contractor has begun physical installation of the System on the Premises.
- e. **Force Majeure.**
 - i. **Force Majeure Event.** If either Party is unable to timely perform any of its obligations (other than payment obligations) under this Agreement in whole or in part due to a Force Majeure Event, that Party will be excused from performing such obligations for the duration of the time that such Party remains affected by the Force Majeure Event; provided, that such Party uses commercially reasonable efforts to mitigate the impact of the Force Majeure Event and resumes performance of its affected obligations as soon as reasonably practical. The Party affected by the Force Majeure Event shall notify the other Party as soon as reasonably practical after the affected Party becomes aware that it is or will be affected by a Force Majeure Event. If the Force Majeure Event occurs during the Initial or Additional Operating Term and impacts the ability of the System to deliver electricity to the Delivery Point, the Initial or Additional Operating Term will be extended day for day for each day delivery is suspended due to the Force Majeure Event.
 - ii. **Extended Force Majeure.** If a Force Majeure Event for which one Party has notified the other Party under paragraph (i) above either: (x) continues for a consecutive period of one hundred eighty (180) days or more within a twelve (12) month period; or (y) is deemed by mutual agreement of the Parties to have rendered repairs to the System impractical; then either Party may terminate this Agreement without either Party having further liability under this Agreement except: (a) liabilities accrued before termination including Seller's responsibility to remove the System as required under Section 9 (but Host Customer shall reimburse Seller for Seller's removal costs if the Force Majeure

Event affects Host Customer and Host Customer elects to terminate the Agreement). Notwithstanding the foregoing, if the Force Majeure Event can be corrected through repair or restoration of the System or other actions by Seller and, before expiration of the initial one hundred eighty (180) day period, Seller provides written evidence to Host Customer that it is diligently pursuing such actions, then Host Customer shall not have the right to terminate this Agreement so long as Seller continues to diligently pursue such actions.

iii. **“Force Majeure Event”** means any event or circumstance beyond the reasonable control of and without the fault or negligence of Seller, including, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; piracy; riot; insurrection; civil unrest or disturbance; pandemic including COVID-19, but only to the extent of direct impacts of COVID-19 (including travel restrictions, quarantine restrictions, supply chain disruptions, and labor force disruptions) of which such Party was not aware, and should not reasonably have been aware, as of the Effective Date; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out, including those related to disease or pandemic; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; animals; the binding order of any Governmental Authority; the failure to act on the part of any Governmental Authority (including, without limitation delays in permitting not caused by actions or omissions of the Party seeking such permit); unavailability of electricity from the utility grid; and failure or unavailability of equipment, supplies or products outside of Seller’s control or due to a Force Majeure Event.

iv. **Extension of Time.** If Seller is delayed in achieving Commencement of Installation due to a Force Majeure Event, the requirement of achievement of Commencement of Installation will be automatically extended day for day to account for the impact of the delay.

f. **Commercial Operation.** Seller shall notify Host Customer in writing when it has achieved Commercial Operation (the date of such notice, the **“Commercial Operation Date”**). **“Commercial Operation”** means that the System is mechanically complete, capable of providing electricity to the Delivery Point at the nameplate capacity specified in **Exhibit 2** and has permission to operate from the relevant Governmental Authority. Seller shall provide Host Customer with documentation to evidence that the System is ready to begin Commercial Operation upon Host Customer’s reasonable request.

6. **Installation, Operation and Maintenance.**

a. **Seller’s General Obligations Regarding the System.** Subject to the terms and conditions of this Agreement, Seller shall design, engineer, install, commission, monitor, operate and maintain the System, in each case in a good and workmanlike

manner and in accordance with applicable law and prudent industry practices in the state of California. The System shall comply with all applicable rules, regulation, and local building codes.

- b. **System Repair and Maintenance.** Seller may suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System; provided that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Host Customer. Scheduled and unscheduled maintenance and repairs shall be undertaken at Seller's sole cost and expense, except that Host Customer shall reimburse Seller for the reasonable cost of any repairs or maintenance resulting from damage caused by Host Customer, its agents, employees or contractors.
- c. **Maintenance of Premises.** Host Customer shall, at its sole cost and expense, maintain the Premises and Improvements in good condition and repair. Host Customer, to the extent within its reasonable control, (i) shall ensure that the Premises always remains interconnected to the local utility grid; and (ii) shall not permit cessation of electric service to the Premises from the local utility. Host Customer is fully responsible for, and shall properly maintain in full working order and good repair, the electrical infrastructure on the Host Customer's side of the Delivery Point, including all of Host Customer's equipment that utilizes the System's outputs. Host Customer shall use commercially reasonable efforts to cooperate with Seller to comply with any technical standard of the utility providing electrical power to the Host Customer, and does not need to receive permission to operate from the utility.
- d. **Alteration of Premises.** Not less than thirty (30) days before making any alterations or repairs to the Premises (except for emergency repairs) or any Improvement which may adversely affect the operation and maintenance of the System, Host Customer shall inform Seller in writing and, thereafter, shall use commercially reasonable efforts to conduct such repairs, alterations or Improvements in compliance with any reasonable request made by Seller within ten (10) days after having received such written request to mitigate any adverse effect. If any repair, alteration, or Improvement result in a permanent and material adverse economic impact on the System, Host Customer may request relocation of the System under Section 8 hereof. If a temporary disconnection or removal of the System is necessary to perform such alterations or repairs, Seller shall perform such work, and any re-connection or re-installation of the System, at Host Customer's cost, subject to Sections 6(b) and 6(c). Seller shall make any alterations and repairs in a good and workmanlike manner, in compliance with all applicable laws, codes and permits.
- e. **Malfunctions and Emergencies:** Each Party shall notify the other Party within twenty-four (24) hours following the discovery of any emergency condition affecting, material malfunction in, or damage to, the System or its operation. In the event of any System emergency condition, or any damage or loss of the use of the Premises or the System, or event or condition that could reasonably be expected to

result in physical damages to the Premises, Seller, or if necessary, Host Customer, shall undertake appropriate and necessary repairs or corrective action in an expeditious and safe manner.

- f. **Disconnection.** Host Customer shall not cause or allow a disconnection of the System from its utility's electrical facilities, including as a result of non-payment of bills from its utility unless directed to do so by Seller or in response to an emergency situation per Section 6(d).

7. **Miscellaneous Rights and Obligations of the Parties.**

- a. **Access Rights.** Host Customer hereby grants to Seller and to Seller's agents, employees, contractors and the utility (i) a non-exclusive license running with the Premises (the "**Non-Exclusive License**") for access to, on, over, under and across the Premises from the Effective Date until the date that is ninety (90) days following the date of expiration or earlier termination of this Agreement (the "**License Term**"), for the purposes of performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement and otherwise as required by Seller to perform this Agreement. During the Contract Term, Host Customer shall provide Seller, its employees, contractors and subcontractors with reasonable access to the Premises at mutually agreed upon times to allow Seller to perform (i) the installation work, (ii) System operations and maintenance and (iii) System removal, including ingress and egress rights to the Premises and access to electrical panels and conduits to interconnect or disconnect the System with the Premises electrical wiring. Host Customer shall provide reasonably sufficient space for the temporary storage and staging of tools, materials and equipment during the installation and/or removal of the System. During the License Term, Host Customer shall preserve and protect Seller's rights under the Licenses and Seller's access to the Premises and shall not interfere, or permit any third parties under Host Customer's control to interfere with such rights or access. Seller may record a customary memorandum of license in the land records respecting the Licenses.
- b. **OSHA Compliance.** Each Party shall comply with all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws and codes with respect to such Party's performance under this Agreement.
- c. **Safeguarding the Premises.** Host Customer shall maintain the physical security of the Premises and Improvements in a manner to be expected of a reasonable and prudent owner or lessee of premises and improvements similar to the Premises and Improvements in nature and location. Host Customer shall not conduct or permit activities on, in or about the Premises or the Improvements that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. Host Customer shall indemnify Seller for any loss or damage to the System to the extent caused by or arising out of (i) Host Customer's breach of its obligations under this Section or (ii) the acts or omissions of Host Customer or its employees, agents, invitees or separate contractors.
- d. **Use and Payment of Contractors and Subcontractors.** Seller shall use suitably qualified, experienced, and licensed contractors and subcontractors to perform its

obligations under this Agreement. However, Seller shall be responsible for the quality of the work performed by its contractors and subcontractors. Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement.

e. **Liens.**

- i. **Lien Obligations.** Host Customer shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature, except such encumbrances as may be required to allow Seller access to the Premises, (each a “**Lien**”) on or with respect to the System. Seller shall not directly or indirectly cause, create, incur, assume, or allow to exist any Lien on or with respect to the Premises or the Improvements, other than those Liens which Seller is permitted by law to place on the Premises due to non-payment by Host Customer of amounts due under this Agreement. Each Party shall immediately notify the other Party in writing of the existence of any such Lien following discovery of same, and shall promptly (and in all events within thirty (30) days) cause the same to be discharged and released of record without cost to the other Party; provided, however, that each indemnifying Party has the right to contest any such Lien, so long as it provides a statutory bond or other reasonable assurances of payment that either removes such Lien from title to the affected property, or that assures that any adverse judgment with respect to such Lien shall be paid without affecting title to such property.
- ii. **Lien Indemnity.** Each Party shall indemnify the other Party from and against all claims, losses, damages, liabilities, and expenses resulting from any Liens filed against such other Party’s property as a result of the indemnifying Party’s breach of its obligations under Section 7(e)(i).

8. **Relocation of System.**

If, during the Contract Term, Host Customer ceases to conduct business operations at the Premises or vacates the Premises; the Premises have been destroyed; or the Host Customer is otherwise unable to continue to host the System or accept the electricity delivered by the System for any other reason (other than a Default Event by Seller), Host Customer may propose in writing the relocation of the System, at Host Customer’s cost, in lieu of termination of the Agreement by Seller for a Default Event by Host Customer. If such proposal is practically feasible and preserves the economic value of the agreement for Seller, the Parties shall seek to negotiate in good faith an agreement for the relocation of the System. If the Parties are unable to reach agreement on relocation of the System within sixty (60) days after the date of receipt of Host Customer’s proposal, Seller may terminate this Agreement pursuant to Section 14(b)(ii).

9. **Removal of System upon Termination or Expiration.**

Upon the expiration or earlier termination of this Agreement (provided Host Customer does not exercise its purchase option under Section 17(b)), Seller shall, at its expense (unless expressly provided otherwise in this Agreement), remove all of the tangible property comprising the System from the Premises with a targeted completion date that is no later than ninety (90) days after the expiration or early termination of the Contract Term. The portion of the Premises where the System is located shall be returned to substantially its original condition (excluding ordinary wear and tear), including the removal of System mounting pads or other support structures. Host Customer must provide sufficient access, space and cooperation as reasonably necessary to facilitate System removal. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Host Customer may, at its option, remove the System to a rented warehouse with Seller paying reasonable rent charges and restore the Premises to its original condition (other than ordinary wear and tear) at Seller's cost.

10. **System Data.**

- a. **Ownership Rights.** Host Customer acknowledges that the System collects, produces, and delivers to Seller certain data, information, and content (collectively "Equipment Data") through the operation of the System. Seller shall always retain right, title and interest in all Equipment Data associated with, or resulting from, the installation and operation of the System. Seller may use the Equipment Data in any way it elects provided that any such use of the Equipment Data disclosed to any person other than Host Customer or an agent or affiliate of Host Customer shall be anonymized in a manner such that it is not possible to link that data to Host Customer. Seller acknowledges that the System will provide Host Customer with certain operational and performance data, in accordance with System Services as described in **Exhibit 5** attached hereto. Host Customer may use Equipment Data in any way it elects provided that any such use of the Equipment Data disclosed to any person other than Seller or an agent or affiliate of Seller shall not disclose any knowledge, data or information related to the System and/or Seller's use and ownership of the System.
- b. **Access to Data and Systems.** To facilitate its participation in SGIP and Grid Programs (as defined in Section 11 and Section 12 of this Agreement), Seller may access and use Host Customer's data, including utility account information, usage history, and meter data. Host Customer agrees to provide Seller with available electrical design information about the System, its Premises, and other electrical hardware attached to its Premises, including single-line diagrams and permits. Host Customer agrees to allow Seller and Seller affiliates, its utility, the California Integrated System Operator (CAISO), governmental bodies, and their affiliates (collectively, "Grid Service Entities") to come to its Premises at agreed-upon times to inspect and modify the System, including, as agreed-to by Host Customer, installing additional hardware on or around the System as required to comply with SGIP or Grid Program requirements. Host Customer agrees to participate in and complete all surveys received from Seller and its Grid Service Entities.

11. **SGIP Requirements.**

- a. **Purpose.** The System is participating in California's Self Generation Incentive Program ("**SGIP**"), and Host Customer authorizes Seller to act as Host Customer's SGIP Services Provider to facilitate Host Customer's participation in SGIP. The State may charge Host Customer an application fee ("**Application Fee**") for participating in the SGIP financial incentive programs. Costs associated with this Application Fee will be paid by Seller. The financial incentives issued by Host Customer's SGIP Program Administrator after the System achieves permission to operate from the Utility is called "**SGIP Payments**". Host Customer assigns all title and interest in SGIP Payments to Seller, identifying Seller as Payee to the SGIP Program Administrator, and releases any claim to the SGIP Payments.
- b. **SGIP Payments.** SGIP Payments have two separate components. The first component is a one-time payment totaling 50% of the total SGIP Payments as reflected in **Exhibit 2** ("**Upfront Payment**"). The second component is the Performance Based Payment, the balance of the SGIP Payments paid out at a maximum of 10% per year over five years based on annual kilowatt-hours discharged and complying with all greenhouse gas (GHG) emission reduction, cycling and other system and operational requirements adopted by the California Public Utility Commission. Seller will monitor and manage the capabilities of the System to: a) allow the System to provide back-up power during periods of loss of grid power, and b) comply with cycling requirements for the Performance Based Payment Term, and c) reduce Host Customer electric bills by discharging energy to reduce site peak demand and/or by discharging energy during high priced time-of-use periods, and d) permit participation in Grid Services as described in Section 20. The System must discharge an average of 104 Full Cycles per year for the first five years of operation to qualify for the maximum available SGIP Payments. A "**Full Cycle**" is discharging the full energy capacity of the System, whether during a single full discharge or over multiple partial discharges. Seller will work with Host Customer to ensure that the System functions to meet this SGIP requirement.
- c. **Administration.** Seller will be responsible for administering SGIP matters, including preparing and submitting the SGIP application, liaising with SGIP administrators, preparing and submitting the incentive claim form (including documentation demonstrating utility Permission to Operate, final building inspection, final monitoring schematic/as-built, project cost affidavit and breakdown worksheet, one week dataset and 2 hour test dataset, scheduling of physical inspection) and receiving SGIP funds into a Seller designated account. Host Customer hereby authorizes Seller, as its Incentive Provider, to act on its behalf and to enroll, register, or otherwise include the System in all eligible financial incentives, including SGIP.
- d. **Further Assurances.** Seller shall execute such documents relating to such incentives as Seller has reviewed and determined reasonable, in its sole discretion, and will work collaboratively with Host Customer to process agreed upon rebate and incentive paperwork. Host Customer agrees to fully and promptly cooperate with Seller in its efforts secure SGIP Payments, including promptly taking any actions and providing all necessary documentation, data, access, authorizations, and any other information required by such incentive programs or by Seller.
- e. **Appointment as SGIP Services Provider.** Host Customer hereby appoints Seller, or another party designated by Seller, to act on its behalf as its sole and exclusive agent and provider for SGIP ("**SGIP Services Provider**"). Host Customer hereby authorizes the SGIP Services Provider to act on its behalf and to enroll, register, or otherwise cause the participation of the System in SGIP, including: (i) receiving notices from its utility and any other third parties regarding SGIP, and (ii) payments to and from its utility and any other third parties regarding SGIP. Host Customer grants to Seller all rights to use the System to provide SGIP Services and to otherwise participate in SGIP. Host Customer understands that such use of the System by Seller (or Seller's affiliates) may override other System operating modes while preserving key capabilities to provide back-up power and cycling requirements for SGIP. Seller will make any relevant notices and documents available to Host Customer.

- f. **SGIP Default.** Host Customer will be in default under this Section 11 if Host Customer fails to perform any obligation under this Section 11. If Host Customer is in default, Seller may take any reasonable action to correct its default or to prevent Seller's loss. If Host Customer defaults under this Section 11, Host Customer will reimburse Seller for any loss of SGIP benefits Seller suffers and for any return of SGIP refunds Seller must make to program administrators.

12. **Grid Services**

- a. **Purpose.** In addition to providing the System Services listed in **Exhibit 5** and the SGIP Services described in Section 11, the System can provide certain additional services to the electric grid ("**Grid Services**", in each case provided under a "**Grid Program**"). Such Grid Services are designed to help maintain the reliability of the electrical grid, by reducing the strain placed on the electrical grid during periods of high electricity demand and/or reduce the electrical grid's contribution to GHG emissions. Host Customer authorizes Seller to enroll the System to participate in any Grid Program which may from time to time become available provided that Seller shall operate the System under any such Grid Program in a manner that does not disrupt the provision of the System Services described in **Exhibit 5**. In some cases, incentives or payments may be available for participation in a Grid Program ("**Grid Payments**"). Seller will notify Host Customer if Seller will enroll the System in any Grid Program, including what, if any, Grid Payments will be paid to Host Customer, and Host Customer will have thirty (30) days to opt the System out of participating in the Grid Program. If Host Customer does not timely opt out of participating in the Grid Program, the System will be enrolled in the Grid Program and Host Customer agrees to execute all documents necessary to have the System participate in the Grid Program.
- b. **Appointment as Grid Services Provider.** Host Customer hereby appoints Seller, or another party designated by Seller, to act on its behalf as its sole and exclusive agent and provider for participation in Grid Programs ("**Grid Services Provider**"). Host Customer hereby authorizes the Grid Services Provider to act on its behalf and to enroll, register, or otherwise cause the participation of the System in any Grid Program, subject to the terms of this section.
- c. **Further Assurances.** Seller shall execute such documents relating to enrollment and participation in Grid Programs as Seller has reviewed and determined reasonable, in its sole discretion, and will work collaboratively with Host Customer to process agreed upon Grid Program paperwork. Host Customer agrees to fully and promptly cooperate with Seller in its efforts to assist Host Customer, including promptly taking any actions and providing all necessary documentation, data, access, authorizations, and any other information required by such Grid Programs or by Seller.

13. **Reserved**

14. **Default, Remedies and Damages.**

- a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below is deemed a "**Defaulting Party**", the other Party is the "**Non-Defaulting Party**" and each of the following is a "**Default Event**":
- i. failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the Non-Defaulting Party of such failure to pay ("**Payment Default**");
 - ii. failure of a Party to perform any material obligation under this Agreement not addressed elsewhere in this Section 14(a) within thirty (30) days following

receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that if the Default Event cannot reasonably be cured within thirty (30) days and the Defaulting Party has demonstrated before the end of that period that it is diligently pursuing such cure, the cure period will be extended for a further reasonable period of time, not to exceed ninety (90) days;

- iii. any representation or warranty given by a Party under this Agreement was incorrect in any material respect when made and is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;
- iv. a Party becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect (or, if any such actions are initiated by a third party, such action(s) is(are) not dismissed within ninety (90) days); or,
- v. in the case of Host Customer as the Defaulting Party only, Host Customer (A) loses its rights to occupy and enjoy the Premises, unless (I) the Parties agree upon a relocation under Section 8 above, or (II) Host Customer pays the Termination Payment determined under Section 6 of **Exhibit 1** within thirty (30) days after written request by Seller; or (B) prevents Seller from performing any material obligation under this Agreement unless such action by Host Customer is (I) is permitted under this Agreement, or (II) is cured within ten (10) days after written notice thereof from Seller.
- vi. in the case of Host Customer selling its Premises but not assigning this Agreement to new Host Customer that accepts this Agreement and all its obligations and maintains electrical loads on the Premises that allow the System to continue operating.

b. Remedies.

- i. **Suspension.** Upon the occurrence and during the continuation of a Default Event by Host Customer, including a Payment Default, Seller may suspend performance of its obligations under this Agreement until the earlier to occur of the date (a) that Host Customer cures the Default Event in full, or (b) of termination of this Agreement. Seller's rights under this Section 14(b)(i) are in addition to any other remedies available to it under this Agreement, at law or in equity.
- ii. **Termination.** Upon the occurrence and during the continuation of a Default Event, the Non-Defaulting Party may terminate this Agreement, by providing five (5) days prior written notice to the Defaulting Party; provided, that, in the

case of a Default Event under Section 14(a)(iv), the Non-Defaulting Party may terminate this Agreement immediately.

iii. **Damages Upon Termination by Default.** Upon a termination of this Agreement pursuant to Section 14(b)(ii), the Defaulting Party shall pay a termination payment to the Non-Defaulting Party determined as follows (the “**Termination Payment**”):

(1) **Termination by Seller.** If Seller terminates this Agreement for a Default Event by Host Customer, the Termination Payment payable to Seller shall be equal to the sum of (i) the applicable amount set forth in the Termination Payment Schedule set forth in Section 6 of **Exhibit 1**, and (ii) any other amounts previously accrued under this Agreement and then owned by Host Customer to Seller.

(2) **Termination by Host Customer.** If Seller is the Defaulting Party and Host Customer terminates this Agreement, the Termination Payment to Host Customer will be equal to the sum of (i) all direct costs reasonably incurred by Host Customer by reason of the termination; and (ii) any and all other amounts previously accrued under this Agreement and then owed by Seller to Host Customer. The Termination Payment determined under this Section 14(b)(iii)(2) cannot be less than zero.

iv. **Liquidated Damages.** The Parties agree that, if Seller terminates this Agreement before the expiration of the Contract Term pursuant to Section 14(b)(ii), actual damages would be difficult to ascertain, and the Termination Payment determined in accordance with Section 14(b)(iii)(1) is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement and is not a penalty.

c. **Obligations Following Termination.** If a Party terminates this Agreement pursuant to Section 14(b)(ii), then following such termination, Seller shall remove the equipment constituting the System in compliance with Section 9 above at the sole cost and expense of the Defaulting Party, *provided, however* that Seller shall not be required to remove the System following the occurrence of a Default Event by Host Customer pursuant to Section 14(a)(i), unless Host Customer pre-pays the cost of restoration reasonably estimated by Seller.

i. **Reservation of Rights.** Except in the case of a termination under Section 14(b)(ii) and payment of a Termination Payment, if any, determined pursuant to Section 14(b)(ii), nothing in this Section 14 limits either Party’s right to pursue any remedy under this Agreement, at law or in equity, including with respect to the pursuit of an action for damages by reason of a breach or Default Event under this Agreement.

ii. **Mitigation Obligation.** Regardless of whether this Agreement is terminated for a Default Event, the Non-Defaulting Party must make commercially

reasonable efforts to mitigate its damages as the result of such Default Event; provided that such obligation shall not reduce Host Customer's obligation to pay the full Termination Payment set forth in Section 6 of **Exhibit 1** following a Default Event by Host Customer.

- iii. **No Limitation on Payments.** Nothing in this Section 14 excuses a Party's obligation to make any payment when due under this Agreement, including with respect to payments for electricity that would have been delivered to Host Customer but for a Host Customer breach or Default Event.

15. Representations and Warranties.

- a. **General Representations and Warranties.** Each Party represents and warrants to the other the following:

- i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and will not violate any law; and this Agreement is the valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
- ii. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

- b. **Host Customer's Representations and Warranties.** Host Customer represents and warrants to Seller the following:

- i. **Licenses.** (a) Host Customer has title to or a leasehold or other valid property interest in the Premises such that Host Customer has the full right, power and authority to grant the Licenses in Section 7(a), (b) such grant of the Licenses does not violate any law, ordinance, rule or other governmental restriction applicable to Host Customer or the Premises and is not inconsistent with and will not result in a breach or default under any agreement by which Host Customer is bound or that affects the Premises, and (c) if Host Customer does not own the Premises or any Improvement on which the System is to be installed, Host Customer has obtained all required consents from the owner of the Premises and/or Improvements, as the case may be, to grant the Licenses to Seller so that Seller may perform its obligations under this Agreement.
- ii. **Other Agreements.** Neither the execution and delivery of this Agreement by Host Customer nor the performance by Host Customer of any of its obligations

under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Host Customer is a party or by which Host Customer is bound.

- iii. **Accuracy of Information.** All information provided by Host Customer to Seller, as it pertains to (a) the Premises, (b) the Improvements on which the System is to be installed, if applicable, (c) Host Customer's planned use of the Premises and any applicable Improvements, and (d) Host Customer's estimated electricity requirements, is accurate in all material respects.
- iv. **Host Customer Status.** Host Customer is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.
- v. **SGIP.** Host Customer understands and will complete all its obligations under Section 11 related to the SGIP program.

c. **Seller's Warranties.**

- i. If Seller damages any other part of the Premises or any Improvement, Seller shall repair or reimburse Host Customer for such damage, as agreed by the Parties.
- d. **NO OTHER WARRANTY.** THE WARRANTIES SET FORTH IN SECTIONS 15(a) AND 15(c) OF THIS AGREEMENT ARE HOST CUSTOMER'S SOLE AND EXCLUSIVE BASIS FOR ANY CLAIM OR LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS SECTION 15, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE. OTHER THAN AS EXPRESSLY SET FORTH IN SECTIONS 15(a) AND 15(c), NO WARRANTY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, APPLIES UNDER THIS AGREEMENT.

16. **Insurance.**

- a. **Insurance Coverage.** At all times during the Contract Term, the Parties shall maintain the following insurance, as applicable:

Seller's Insurance. As of the Effective Date, Seller shall maintain One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and/or property damage, as well as contractual liability coverage and naming Host Customer as an additional insured; (b) employer's liability insurance with minimum coverage of at least One Million Dollars (\$1,000,000); (c) automobile liability insurance on all owned, non-owned and/or hired vehicles with minimum coverage of at least One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and/or property damage,

and physical damage insurance for the actual cash value of each such vehicle. Before system equipment is delivered to Host Customer site, Seller shall maintain property insurance of the System for the replacement cost thereof.

- i. **Host Customer's Insurance.** Host Customer shall maintain commercial general liability insurance with coverage of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) annual aggregate.
- b. **Policy Provisions.** Each Party's insurance policies shall (i) contain a provision whereby the insurer agrees to give the other Party at least thirty (30) days (ten (10) days for non-payment of premiums) written notice before the insurance is cancelled, or terminated, (ii) be written on an occurrence basis, and (iii) be maintained with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other Party.
- c. **Certificates.** Upon the other Party's request, each Party shall deliver to the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.
- d. **Deductibles.** Each Party shall pay its own insurance deductibles, except in the case of claims (i) resulting from a breach of this Agreement, in which case the breaching Party is responsible for payment of the non-breaching Party's deductible for any responding insurance, and (ii) covered by an indemnity set forth in this Agreement.

17. **Ownership; Option to Purchase.**

- a. **Ownership of System.**
 - i. **Ownership; Personal Property.** Throughout the Contract Term, Seller shall be the legal and beneficial owner of the System, all associated Incentives and Environmental Attributes. The System will remain the personal property of Seller and will not attach to or be deemed a part of, or fixture to, the Premises or any Improvement on which the System is installed. Each of the Seller and Host Customer agree that the Seller is the tax owner of the System and all tax filings and reports shall be filed in a manner consistent with this Agreement. The System will always retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code.
 - ii. **Notice to Host Customer and Lienholders.** Host Customer shall use commercially reasonable efforts to place all parties having a Lien on the Premises or any Improvement on which the System is installed on notice of the ownership of the System and the legal status or classification of the System as personal property. If any mortgage or fixture filing against the Premises could reasonably be construed as prospectively attaching to the System as a fixture

of the Premises, Host Customer shall provide a disclaimer or release from such lienholder.

- iii. **Fixture Disclaimer.** If Host Customer is the fee owner of the Premises, Host Customer consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Premises are located. If Host Customer is not the fee owner, Host Customer shall obtain such consent from such owner. For the avoidance of doubt, in either circumstance, Seller has the right to file such disclaimer.
- iv. **SNDA.** Upon request, Host Customer shall deliver to Seller a Subordination and Non-Disturbance Agreement (SNDA) in a form mutually acceptable to Seller and the provider of the subordination and non-disturbance agreement from the owner of the Premises (if the Premises are leased by Host Customer), any mortgagee with a Lien on the Premises, and other Persons holding a similar interest in the Premises.
- v. **Eviction Notice.** If Host Customer does not own the Premises or any Improvement on which the System is installed, Host Customer shall provide to Seller immediate written notice of receipt of notice of eviction from the Premises or applicable Improvement or termination of Host Customer's lease of the Premises and/or Improvement.

b. **Option to Purchase.**

- i. **Exercise of Option.** Beginning at the end of the sixth (6th) Operating Term Contract Year and at the end of any subsequent Operating Term Contract Year, so long as Host Customer is not in default under this Agreement, Host Customer may purchase the System from Seller on any such date for a purchase price equal to the greater of the Fair Market Value of the System or the Termination Payment on that date as set forth in Section 6 of **Exhibit 1**. Host Customer shall notify Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days before the end of the Contract Operating Term Contract Year of the Initial Operating Term or Additional Operating Term, as applicable, and the purchase shall be completed before the end of the Operating Term Contract Year or the Initial Operating Term or Additional Operating Term, as applicable.
- ii. **Fair Market Value.** The "**Fair Market Value**" of the System shall be determined by mutual agreement of the Parties; provided, however, if the Parties cannot agree to a Fair Market Value within thirty (30) days after Host Customer has delivered to Seller a notice of its intent to purchase the System, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the energy storage industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis

and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser will be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. If the Host Customer does not conclude the purchase, cost of the appraisal will be born solely by the Host Customer.

- iii. Title Transfer; Warranties; Manuals. Seller shall transfer good title to the System to Host Customer upon Seller's receipt of the purchase price and execution by the Parties of a written instrument or agreement to affect such transfer. The System will be sold "as is, where is, with all faults". Seller will assign to Host Customer any manufacturer's warranties that are in effect as of the date of purchase and which are then assignable pursuant to their terms, but Seller otherwise disclaims all warranties of any kind, express or implied, concerning the System (other than as to title). Seller shall also provide Host Customer all System operation and maintenance manuals and logs in Seller's possession and provide Host Customer basic training on the operation and maintenance of the System upon Host Customer's reasonable request. Upon purchase of the System, Host Customer shall assume complete responsibility for the operation and maintenance of the System and liability for the performance of (and risk of loss for) the System, and, except for any Seller obligations that survive termination under Section 11(d), Seller will have no further liabilities or obligations hereunder for the System.

18. **Indemnification and Limitations of Liability.**

- a. **General.** Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party, its affiliates and the other Party's and its affiliates' respective directors, officers, shareholders, partners, members, agents and employees (collectively, the "**Indemnified Parties**"), from and against any loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from (1) any Claim (as defined in Section 18(b) relating to the Indemnifying Party's breach of any representation or warranty set forth in Section 15 and (2) injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein will require the Indemnifying Party to indemnify the Indemnified Parties for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, an Indemnified Party. This Section 18(a) does not apply to Liabilities arising out of or relating to any form of Hazardous Substances or other environmental contamination, such matters being addressed exclusively by Section 18(c).
- b. **Notice and Participation in Third Party Claims.** The Indemnified Party shall give the Indemnifying Party written notice of any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may

assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party may settle any Claim covered by this Section 18(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party has no liability under this Section 18(b) for any Claim for which such notice is not provided if the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification.**

- i. **Seller Indemnity.** Seller shall indemnify, defend and hold harmless all of Host Customer's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 18(c)(iii)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees.
- ii. **Host Customer Indemnity.** Host Customer shall indemnify, defend and hold harmless all of Seller's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Seller or any of its contractors, agents or employees.
- iii. **Notice.** Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises generally or any deposit, spill or release of any Hazardous Substance. "**Hazardous Substance**" means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability.**

- i. No Consequential Damages. Except for indemnification of third-party claims pursuant to this Section 18, neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers will be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature (including, without limitation, lost Payments, lost profits, lost business opportunity or any business interruption) arising out of their performance or non-performance hereunder even if advised of such. Notwithstanding the previous sentence, the Termination Payment set forth in Section 6 of **Exhibit 1** shall be deemed to be direct, and not indirect or consequential damages under this Section 18(d)(i).
 - ii. Actual Damages. Except for indemnification of Claims pursuant to this Section 18, and except as otherwise limited in Section 19, Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement cannot exceed the total payments made (and, as applicable, projected to be made) by Host Customer and/or the SGIP Administrator under this Agreement. The provisions of this Section 18(d)(ii) will apply whether such liability arises in contract, tort, strict liability or otherwise.
- e. **EXCLUSIVE REMEDIES.** TO THE EXTENT THAT THIS AGREEMENT SETS FORTH SPECIFIC REMEDIES FOR ANY CLAIM OR LIABILITY, SUCH REMEDIES ARE THE AFFECTED PARTY'S SOLE AND EXCLUSIVE REMEDIES FOR SUCH CLAIM OR LIABILITY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.
- f. **Comparative Negligence.** Where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

19. **Change in Law.**

- a. **Impacts of Change in Law.** If Seller determines that a Change in Law has occurred or will occur that has or will have a material adverse effect on Seller's rights, entitlement, obligations or costs under this Agreement, then Seller may so notify the Host Customer in writing of such Change in Law. Within thirty (30) days following receipt by the Host Customer of such notice, the Parties shall meet and attempt in good faith to negotiate such amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller may terminate this Agreement and remove the System and restore the Premises in accordance with Section 9 without either Party having further liability under this Agreement except with respect to liabilities accrued before the date of termination.

- b. **Illegality or Impossibility.** If, in Seller's sole discretion, a Change in Law renders this Agreement, or Seller's performance of this Agreement, either illegal or impossible, then Seller may terminate this Agreement immediately upon notice to Host Customer without either Party having further liability under this Agreement except with respect to liabilities accrued before the date of termination.
- c. **"Change in Law"** means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation, (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority.

20. **Assignment and Financing.**

a. **Assignment.**

- i. **Restrictions on Assignment.** Subject to the remainder of this Section 20(a), this Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. Host Customer may not withhold its consent to an assignment proposed by Seller where the proposed assignee has the financial capability and experience necessary to operate and maintain energy storage systems such as the System.
- ii. **Permitted Assignments.** Notwithstanding Section 20(a)(i):
 - 1. Seller may, without the prior written consent of Host Customer, assign, mortgage, pledge or otherwise directly or indirectly assign its interests in this Agreement to (A) any Financing Party (as defined in Section 20(b)), (B) any entity through which Seller is obtaining financing from a Financing Party, or (C) any affiliate of Seller or any person succeeding to all or substantially all of the assets of Seller; provided, that, Seller is not released from liability hereunder as a result of any assignment to an affiliate unless the assignee assumes Seller's obligations hereunder by binding written instrument; and
 - 2. Host Customer may, and provide prior notice to Seller, assign this Agreement to an affiliate of Host Customer of the Premises; provided, that, Host Customer is not released from liability hereunder by reason of the assignment unless the assignee assumes Host Customer's obligations hereunder by binding written instrument on terms satisfactory to Seller, including as to the assignee's creditworthiness.

Host Customer must assign, and provide prior notice to Seller, this Agreement to an affiliate of Host Customer of the Premises. Host Customer is not released from liability hereunder by reason of the

assignment unless the assignee assumes Host Customer's obligations hereunder by binding written instrument on terms satisfactory to Seller, including as to the assignee's creditworthiness.

- iii. **Successors and Permitted Assignees.** This Agreement is binding on and inures to the benefit of successors and permitted assignees. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Seller.
- b. **Financing.** The Parties acknowledge that Seller may obtain debt or equity financing or other credit support from lenders, investors or other third parties (each a "**Financing Party**") for the installation, construction, ownership, operation, and maintenance of the System. In furtherance of Seller's financing arrangements and in addition to any other rights or entitlements of Seller under this Agreement, Host Customer shall timely execute any consents to assignment (which may include notice, cure, attornment and step-in rights) or estoppels and negotiate any amendments to this Agreement that may be reasonably requested by Seller or the Financing Parties; provided, that such estoppels, consents to assignment or amendments do not alter the fundamental economic terms of this Agreement.
- c. **Termination Requires Consent.** Seller and Host Customer agree that any right of Seller to terminate this Agreement is subject to the prior written consent of any Financing Party.

21. **Confidentiality.**

- a. **Confidential Information.** To the maximum extent permitted by applicable law, if either Party provides confidential information ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information of the other Party, the receiving or learning Party shall (i) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (ii) refrain from using such Confidential Information, except in the negotiation, performance, enforcement and, in the case of Seller, financing, of this Agreement. The terms of this Agreement (but not the fact of its execution or existence) are considered Confidential Information of each Party for purposes of this Section 18(a).
- b. **Permitted Disclosures.** Notwithstanding Section 21(a):
 - i. a Party may provide such Confidential Information to its affiliates and to its and its affiliates' respective officers, directors, members, managers, employees, agents, contractors, consultants and Financing Parties (collectively, "**Representatives**"), and potential direct or indirect assignees of this Agreement if such potential assignees are first bound by a written agreement or legal obligation restricting use and disclosure of Confidential

Information. Each Party is liable for breaches of this provision by any person to whom that Party discloses Confidential Information.

- ii. Confidential Information does not include any information that (a) becomes publicly available other than through breach of this Agreement, (b) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena, (c) is independently developed by the receiving Party, or (d) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall reasonably cooperate with the other Party's efforts to limit the disclosure to the extent permitted by applicable law.

- c. **Miscellaneous.** All Confidential Information remains the property of the disclosing Party and will be returned to the disclosing Party or destroyed (at the receiving Party's option) after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party acknowledges that the disclosing Party would be irreparably injured by a breach of this Section 21 by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, for breaches of this Section 21. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 21, but will be in addition to all other remedies available at law or in equity. The obligation of confidentiality will survive termination of this Agreement for a period of two (2) years.

- d. **Goodwill and Publicity.** Neither Party may (a) make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law), or (b) use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of the other Party. The Parties shall coordinate and cooperate with each other when making public announcements regarding this Agreement, the System and its use, and each Party may promptly review, comment upon and approve any publicity materials, press releases or other public statements before they are made. Notwithstanding the above, Seller is entitled to place signage on the Premises reflecting its association with the System.

22. **General Provisions**

- a. **Definitions and Interpretation.** Unless otherwise defined or required by the context in which any term appears: (i) the singular includes the plural and vice versa, (ii) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement, (iii)

references to any agreement, document or instrument mean such agreement, document or instrument as amended, restated, modified, supplemented or replaced from time to time, and (iv) the words “include,” “includes” and “including” mean include, includes and including “without limitation.” The captions or headings in this Agreement are strictly for convenience and will not be considered in interpreting this Agreement. As used in this Agreement, “dollar” and the “\$” sign refer to United States dollars.

- b. **Choice of Law; Dispute Resolution.** The law of the state where the System is located governs all matters arising out of this Agreement without giving effect to conflict of laws principles. Any dispute arising from or relating to this Agreement shall be settled by arbitration in San Francisco, California. The arbitration shall be administered by JAMS in accordance with its arbitration rules, and judgment on any award rendered in such arbitration may be entered in any court of competent jurisdiction. If the Parties agree in writing, a mediator may be consulted before arbitration. The prevailing Party in any dispute arising out of this Agreement is entitled to reasonable attorneys’ fees and costs.
- c. **Notices.** All notices under this Agreement shall be in writing and delivered by hand, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and will be deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices must be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either Party may specify in writing.
- d. **Survival.** Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement, including, without limitation provisions related to billing and payment and indemnification, will survive termination of this Agreement.
- e. **Further Assurances.** Each Party shall provide such information, execute and deliver any instruments and documents and to take such other actions as may be reasonably requested by the other Party to give full effect to this Agreement and to carry out the intent of this Agreement.
- f. **Waivers.** No provision or right or entitlement under this Agreement may be waived or varied except in writing signed by the Party to be bound. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver unless otherwise expressly provided.
- g. **Non-Dedication of Facilities.** Nothing in this Agreement may be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party may knowingly take any action that would subject the other Party, or other Party’s facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party may

assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this Agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use commercially reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller may terminate this Agreement without further liability under this Agreement except for liabilities accrued before the date of termination and remove the System as allowed by Section 9 of this Agreement.

- h. **Service Contract.** The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Host Customer shall not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of energy services delivered by the System.
- i. **No Partnership.** No provision of this Agreement may be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither may be considered the agent of the other.
- j. **Entire Agreement, Modification, Invalidity, Captions.** This Agreement constitutes the entire agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such provision shall not be read to render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be rectified or interpreted to best accomplish its objectives within the limits of applicable law.
- k. **Forward Contract.** The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.
- l. **No Third-Party Beneficiaries.** Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto, and the Financing Parties to the extent provided herein or in any other agreement between a Financing Party and Seller or Host Customer, and do not imply or create any rights on the part of, or obligations to, any other Person.
- m. **Counterparts.** This Agreement may be executed in any number of separate counterparts and each counterpart will be considered an original and together comprise the same Agreement.

End of **Exhibit 4**

EXHIBIT 5

SYSTEM SERVICES

Energy Services

Backup Power.

The System is designed to provide backup power if a power outage occurs during which Host Customer load cannot draw electricity from the grid. The System can only power circuits that the Host Customer has selected and that Seller has approved and connected to the System. Such eligible circuits must be 120/240V single phase and connected such that they may be powered by the battery energy storage system during an outage. The System may be unable to power the entire load at the Premises during a power outage and depending on energy consumption Host Customer may have limited energy and duration of operations for the System. When Seller causes the System to discharge, Seller shall ensure that at least 20% of the System energy capacity remains after such discharge is complete. Upon receiving advance notice of planned grid outage events, Seller will use commercially reasonable efforts to fully charge the System in advance of planned grid outage events. Seller will follow Prudent Industry Practices to ensure the System is available to provide backup power as described; provided, however, that Seller cannot guarantee the System will perform in every outage or provide backup power for an entire given outage. **In addition, if Host Customer is powering medical equipment using the System, Host Customer should also provide a secondary power source to the medical equipment and take additional measures should there be an outage and the System is not operational.**

“Prudent Industry Practices”, as applied to the System, means the practices, methods, acts, equipment, specifications and standards of safety, as the same may change from time to time, as are used or approved by a significant portion of the residential generation or storage industry that operate battery storage systems that are similar in size and type as the System as good, safe and prudent practices for such systems with commensurate standards of safety, performance, dependability and economy, as adjusted for the circumstances existing at the time any decision is made or action is taken, and following applicable laws, permits and equipment manufacturers’ recommendations. Prudent Industry Practices are not intended to be the same as optimum practices, methods or acts to the exclusion of all others, but rather to be within a spectrum of good and proper practices, methods, and acts.

Demand Charge Management

If Host Customer is on a rate schedule that features demand charges or changes to such a rate schedule, Seller will follow Prudent Industry Practices when operating the System to lower Host Customer’s monthly demand charges by discharging energy from the System during periods when the System algorithms anticipate Host Customer will be setting monthly peak demand, subject to the requirements of any utility program. Notwithstanding the foregoing, Seller does not guarantee savings on Host Customer’s utility bill or any specified level of performance from Seller’s demand charge management.

Time-Of-Use Management.

If Host Customer is on a time-of-use rate schedule or changes to such a schedule, Seller will follow Prudent Industry Practices when operating the System to lower Host Customer’s energy

charges by discharging energy from the System during peak price periods, subject to the requirements of any utility program. Notwithstanding the foregoing, Seller does not guarantee savings on Host Customer's utility bill or any specified level of performance from Seller's time-of-use management.

Solar Self-Consumption.

If the System is paired with a solar energy system, Seller will follow Prudent Industry Practices when operating the System, subject to the requirements of any utility program. Notwithstanding the foregoing, Seller does not in any way guarantee that energy generated by Host Customer's solar energy system will be available at a time later than the moment it is produced.

System Performance Monitoring.

Seller will install and maintain metering and monitoring equipment. Seller will remotely monitor, analyze, and store data about the state and performance of the System and use this data, including to: provide the System Services, support any manufacturer warranty claims, ensure and demonstrate compliance with any utility or government requirements, including but not limited to, compliance with requirements of a utility program and any applicable incentive programs, and/or determine when repair services are necessary.



**BEAR VALLEY WATER DISTRICT
BOARD MEETING**

October 19, 2020 - 9AM

Conference Room

441 Creekside Drive, Bear Valley, CA 95223

IMPORTANT NOTICE REGARDING COVID-19 AND TELECONFERENCED MEETINGS:

PURSUANT TO THE MARCH 17, 2020 EXECUTIVE ORDER NO. N-29-20 ISSUED BY THE GOVERNOR OF CALIFORNIA AUTHORIZING MEETING OF LOCAL LEGISLATIVE BODIES TO BE HELD BY TELECONFERENCE OR OTHER ELECTRONIC MEANS, TO MINIMIZE THE SPREAD OF CORONAVIRUS, BELOW ARE THE FOLLOWING CHANGES TO THE DISTRICT'S ORDINARY MEETING PROCEDURES:

- THE DISTRICT OFFICES ARE NOT OPEN TO THE PUBLIC AT THISTIME.
- BOARD MEETINGS WILL BE CONDUCTED VIA TELECONFERENCE USING ZOOM UNTIL FURTHER NOTICE
- ALL MEMBERS OF THE PUBLIC SEEKING TO OBSERVE AND/OR TO ADDRESS THE BOARD MAY PARTICIPATE IN MEETINGS TELEPHONICALLY OR OTHERWISE ELECTRONICALLY IN THE MANNER DESCRIBED BELOW.

HOW TO PARTICIPATE / OBSERVE THE MEETING:

ALL PARTICIPANTS WILL BE AUTOMATICALLY MUTED UPON ENTERING THE MEETING.

PLEASE CLICK THIS URL TO JOIN VIA ZOOM: [HTTPS://ZOOM.US/J/3712702590](https://zoom.us/j/3712702590)

TO JOIN BY PHONE: DIAL (669) 900-6833 AND ENTER THE MEETING ID# 371 270 2590 FOLLOWED BY THE POUND (#) KEY. RAISE YOUR HAND TO TALK BY PRESSING *9.

TO JOIN BY COMPUTER: WATCH A LIVE STREAM OF THIS MEETING FROM A COMPUTER BY NAVIGATING TO [HTTPS://ZOOM.US/J/3712702590?pwd=WTUzQ0YzMDJPVGHKLY91BLDUtTRvdz09](https://zoom.us/j/3712702590?pwd=WTUzQ0YzMDJPVGHKLY91BLDUtTRvdz09) USING A COMPUTER WITH INTERNET ACCESS. RAISE YOUR HAND TO TALK BY CLICKING PARTICIPANTS/RAISE HAND.

TO JOIN ON A MOBILE DEVICE: LOGIN THROUGH THE ZOOM MOBILE APP ON A SMARTPHONE OR TABLET AND ENTER MEETING ID# 371 270 2590.



BEAR VALLEY WATER DISTRICT

BOARD MEETING

October 19, 2020 - 9AM

Conference Room

441 Creekside Drive, Bear Valley, CA 95223

DECLARATION OF A QUORUM

President Bissell called the meeting to order via Zoom teleconference at 9:00 AM. Board members present also included Vice President Gunnar Thordarson, Treasurer John Boyle, and Director Diane Lundquist. Staff present were General Manager Jeff Gouveia and Office Manager, Board Secretary Judi Silber. Absent with notice was Director Ken Brown.

BOARD MEETING

Public comments on agenda items will be limited to 3 minutes or otherwise at the discretion of the Board Chair.

PUBLIC FORUM

Any member of the public may address and ask questions of the Board relating to any matter within the Board's jurisdiction provided the matter is not on the agenda or pending before the Board.

BOARD BUSINESS

1. The Board will consider adoption of the July 27, 2020 Board Meeting minutes

Motion Bissell Second Thordarson to accept the July 27, 2020 Board Meeting Minutes as presented.

Ayes: Bissell, Boyle, Lundquist, Thordarson

Noes:

Absent: Brown

Motion Carried

2. Abandonment Agreement -111 Fremont Road, Lot 16 - Discussion and Possible Action Item

Mr. Helwig paid the sewer service connection fee in December of 1998. In February of 2001, Alpine County informed the District that the building permit expired. District legal counsel Dan Schroeder's assistant reviewed the case. He advised that Ordinance 72 passed May 2015, doesn't address this issue. Monthly service fees should have been charged to the customer. Mr. Helwig would like the Board to consider allowing him to disconnect from the sewer system. General Manager Jeff Gouveia advised the Board that it will cost Mr. Helwig between \$500-\$800 to have the connection physically disconnected from the system. Staff will inspect the connection when disconnection completed. He also asks that the Board give him until July 31, 2021 to complete the disconnection.

Motion Boyle Second Lundquist to approve Mr. Brad Helwig to abandon his connection per this agreement.

Ayes: Bissell, Boyle, Lundquist, Thordarson

Noes:

Absent: Brown

Motion Carried

3. Resolution No. 499 – Alpine County Local Agency Formation Commission (LAFCO) – Discussion and Possible Action Item

Alpine County Local Agency Formation Commission (LAFCO) Commission to re-convene. Two seats are to be held by representatives of Special Districts. The President as the seat can designate a representative whom must be a board member. (LAFCO) as a commission approves the dissolution of agencies, annexation of new



BEAR VALLEY WATER DISTRICT

BOARD MEETING

October 19, 2020 - 9AM

Conference Room

441 Creekside Drive, Bear Valley, CA 95223

projects, expansions, and acts as a referee. The General Manager may be able to represent the District on behalf of the Board. If costs to remain a member increase, the District may notify LAFCO of its intent to step down. The Board gives the General Manager the latitude to negotiate on the Boards behalf.

Motion Bissell Second Thordarson to approve Resolution 499 to address joining (LAFCO).

Ayes: Bissell, Boyle, Lundquist, Thordarson

Noes:

Absent: Brown

Motion Carried

Manager's Report – General Manager

See Attachment

4. Financial Report – General Manager

4.1 P&L and Balance Sheet Reports - Discussion and Possible Action Item

P&L and Balance Sheet Report for review only.

4.2 Accounts Payable Report - Discussion and Possible Action Item

Accounts Payable Reports for review only.

4.3 A/R & Aging Reports – Discussion

A/R & Aging Reports for review only.

Office Manager Silber gave a brief explanation of the Accounts Receivables, Accounts Payables, and Payroll Liabilities and why they are much lower than last year.

5. Board Member Reports

The next board meeting was scheduled for Tuesday, February 16th, 2021.

President Bissell adjourned the meeting at 10:54 AM.

AGENDA ITEM

DATE: OCTOBER 19, 2020

TO: BVWD BOARD OF DIRECTORS

FROM: JEFF GOUVEIA, DISTRICT GENERAL MANAGER

RE: MANAGER'S REPORT

1. Water Balance - Update

a. Influent Flows & Effluent Transfers

Influent Flows for October 1 – 14, 2020 were 0.341 MG.

Transferred to PR (MG) for October 1 – 14, 2020 was 0.000 MG

b. Effluent in Storage, Current Storage Capacity & Land / Surface Disposal Update

Current Storage Volume = 7063.0 = 0.0 (MG) = 0.0% (10/14/2020)

Collection System as of 10/09/2020: Jetting = 16,049', Videoed = 10,290'

2. Permit Compliance & Monitoring & Reporting Programs (MRPs) - Update

a. WDR MRP - Land Discharge Permit – Compliance & Reporting Update

i. Reporting Status Matrix – No Certified Violations, All Reporting Submitted On-Time

August 2020 SMR /DMR Reporting submitted 09/21/2020.

ii. Groundwater Monitoring Program – All (3) Sampling Events Complete

i. 1st Sampling Event Report – Executive Summary

Groundwater quality monitoring indicates pH and total coliform exceeded water quality goals for agricultural and / or potable use during the first tri-annual monitoring event. Revised background statistics were computed and the site-specific groundwater limitations will be updated as part of the Third Tri-Annual 2020 Groundwater Monitoring Report. Manganese was present at concentrations that may be considered above water quality objectives, at statistically significant levels. Iron and manganese are present in shallow groundwater areas, including acidic soils and naturally low pH. These exceedances should not be considered as irrefutable proof that an impact due to wastewater disposal has occurred. Lack of a groundwater monitoring network that accounts for spatial variations remains the most significant monitoring deficiency at the wastewater treatment plant. Should additional information be required in spatial changes in background water chemistry, an additional background well should be installed.

b. e & Reporting Update

i. Reporting Status Matrix – No Certified Violations, All Reporting Submitted On-Time

- ii. Self-Monitoring Report Review – May 2020 – August 2020 – No Violations of WDRs or MRP

No discharge to surface water occurred during the period of May 2020 through

August 2020 monitoring periods and no violations of the WDRs or MRP were identified.

3. Other

- a. COVID-19 Sewage Surveillance Testing – Update

The District sent two samples of wastewater from to COSMOS ID, one raw untreated wastewater and one treated wastewater. The cost is \$400 per sample. Neither sample was positive. The COVID-19 subcommittee members GM Gouveia, Director Diane Lundquist and Ken Brown met once. GM reached out to the Alpine County Health Department's Public Health Officer, Richard Johnson to share findings.

- b. PGE Self Generation Incentive Program (SGIP) & Tesla Commercial Energy Storage – Update

Staff continue to work with Tesla Commercial on securing energy resiliency monies through the SGIP program. The project remains on track to break ground next summer. The backup batteries are for use when P.G. & E.'s power is out and during peak energy rate periods. Using the battery backup could potentially save the District \$8K - \$9K during peak rate periods.

- b. BVWD October 2020 Newsletter – Print (~250) and Electronic (~3040)

GM informed our constituents that we are seeking a new NPDES permit this year. The District is testing the wastewater for SARS-CoV-2. The District qualified for equity resiliency incentives to install Tesla power packs. The growing changes in California's salinity challenges, and introduced our new Director, Diane Lundquist.

- c. Storage Reservoir Drain Valve – Potential FY 21-22 CapEx Project

GM presented original construction drawings and current photos of the reservoir outlet structure. The outlet gate valve was found to not operate correctly during a routine summer DSOD inspection. Matt Ospital, Engineer from Weber Ghio is coming to inspect the storage reservoir drain valve for a potential upgrade. This may become a capital improvement project for next summer with a current estimated cost of \$15 - \$20K.

- d. TBI – Orvis Land Use Agreement – Inquiry & Meeting Regarding NPDES Permit & Discharges to Bloods Creek
GM has scheduled a meeting with Chuck Toeniskoetter and Bridgette Fraser at their request.

- e. Annual Audit Delayed – Auditor Postponed Audit due to Smoke Concerns and Workload Delays – Now Nov 5 – 6

The annual financial audit has been rescheduled to November 5th & 6th due to smoke and workload concerns.

AGENDA ITEM

DATE: FEBRUARY 16, 2021

TO: BVWD BOARD OF DIRECTORS

FROM: JEFF GOUVEIA, DISTRICT GENERAL MANAGER

RE: ELECTING & APPOINTING OFFICERS OF THE BOARD

BACKGROUND AND DISCUSSION:

District Legal Counsel advised the District's Board of Directors at its May 20, 2019 meeting that many sections of the former 2010 bylaws were unnecessarily detailed, overly complicated and potentially created exposure for its Staff as well as its Trustees based on a myriad of sections as they had been prepared in this document.

At its May 20, 2019 meeting, the Board of Directors acknowledged these deficiencies and directed Legal Counsel to prepare a draft revision of the bylaws for review by the Board.

At its July 22, 2019 meeting, the Board of Directors reviewed the amended bylaws as prepared by legal staff and ultimately approved the revised set of bylaws. Per Water Code section 35302, following the BVWD Board's approval, the revised bylaws were sent to the Alpine County Board of Director's who approved the revised bylaws by resolution at its August 6, 2019 meeting.

Pursuant to Article IV of the revised bylaws, elected officers shall be chosen by the Board from among the five (5) members of the Board and shall consist of a **President** and a **Vice-President**. Section 2 goes on to discuss the terms of elected officers adding:

- Officers shall be elected by the Board at its first meeting in a new calendar year
- Shall serve for one (1) year, said term to commence upon election
- All elected officers shall be eligible to serve successive terms.
- Officers shall continue to serve in their capacity as an officer until their successor is elected.

Article V of the by-laws further conveys that the Board may appoint such other officers as it deems necessary. Currently, in addition to the General Manager which serves as an appointed officer, Director Brown serves as the appointed Secretary and Director Boyle serves as the appointed Treasurer to the Board. The Treasurer meanwhile may be a Director of the Board and may hold this appointment until the Board either chooses a new Treasurer or chooses not to have an acting Treasurer.

RECOMMENDATION:

ACTION:

1. Board should hold a vote for President and Vice President for the term expiring at the "first meeting in a new calendar year."
2. Board should discuss and consider a Director to serve as Treasurer to the Board.

Attachments:

- BVWD Revised By-Laws as Approved July 22, 2019

RESOLUTION NO. 2019-30

**RESOLUTION OF THE BOARD OF SUPERVISORS,
COUNTY OF ALPINE, STATE OF CALIFORNIA
APPROVING THE REVISED BEAR VALLEY WATER DISTRICT BYLAWS**

WHEREAS, the Bear Valley Water District was created by Resolution No. 68-39, and

WHEREAS, on August 5, 1968, the Board of Directors of the Bear Valley Water District adopted Bylaws of the District pursuant to Section 35302 of the Water Code; and

WHEREAS, the last revision to the Bear Valley Water District Bylaws was adopted by the Board of Directors in 2010, and


WHEREAS, amendments to said Bylaws were duly and regularly passed and adopted by the Board of Directors of the Bear Valley Water District at a meeting held on the 22nd day of July, 2019, and

WHEREAS, said amended Bylaws require further amending to be consistent with the various amendments to the California Water District Law; and

WHEREAS, the Bear Valley Water District requests that the Board of Supervisors adopt the revised Bear Valley Water District Bylaws submitted as Attachment "A".

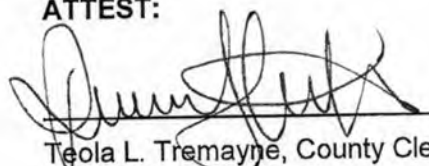
ADOPTED this 6th day of August 2019, by the following vote:

AYES: Jardine, Hames, Rakow, Woodrow, Griffith



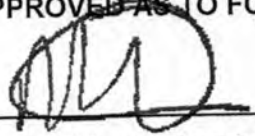
David Griffith, Chair
Board of Supervisors, County of
Alpine, State of California

ATTEST:



Teola L. Tremayne, County Clerk
& Ex Officio Clerk to the
Board of Supervisors
By: Patricia Griffin, Assistant County Clerk

APPROVED AS TO FORM:



Margaret Long, County Counsel

BYLAWS
OF THE
BEAR VALLEY WATER DISTRICT

Adopted July __, 2019

ARTICLE I GENERAL

Section 1. Name.

This water sanitary district shall be known as the BEAR VALLEY WATER DISTRICT (BVWD or District).

Section 2. District Office.

The District Office shall be established by Resolution and may be changed from time to time by Resolution.

ARTICLE II PURPOSE

The purpose of the BVWD is to provide services to the residents of Bear Valley consistent with the Division 13 of the California Water Code.

ARTICLE III BOARD OF DIRECTORS

Section 1. Number.

The governing body of BVWD shall consist of five (5) elected Directors, each of whom shall serve a term of four (4) years. Such terms of office to be established on a staggered basis. During elections every two (2) years, either two (2) or three (3) Directors are elected for the next four (4) years.

Section 2. Qualifications.

In accordance with Water Code section 34700, each Director shall be one of the following:

- (a) A holder of title to land within the BVWD.
- (b) The legal representative of a holder of title to land within BVWD in accordance with Water Code section 34030.
- (c) A representative designated by a holder of title to land within BVWD, if the holder has filed with BVWD written evidence of that designation.

Section 3. Responsibility.

The Board of Directors shall govern the BVWD and establish policies for the operation of the District. The Directors shall carry out their duties as set forth in law, these bylaws, and other policies of BVWD honestly and faithfully.

Section 4. Compensation.

Members of the Board of Directors shall receive compensation for each day's attendance at meeting of the Board or for each day's service rendered as a director by request of the Board in an amount established by resolution of the Board of Directors, but in no case may the amount exceed the amount set forth in Water Code section 34741. Nor shall the total compensation to any Director exceed the total of six days in any calendar month, together with any expenses authorized by the Board. Compensation for all other officers who are not members of the Board of Directors shall be established by the Board.

Section 5. Vacancies.

Vacancies on the Board shall be filled in accordance with Government Code Section 1780.

Section 6. Resignation.

A director may resign at any time by giving written notice to the Board, to the President, or to the Secretary of the Board. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE IV OFFICERS

Section 1. Elected Officers.

The elected officers shall be chosen by the Board from among the five (5) members of the Board and shall consist of a President and a Vice-President.

Section 2. Terms of Elected Officer.

Elected Officers of the Board shall be elected by the Board at its first meeting in a new calendar year and shall serve for one (1) year, said term to commence upon election. All elected officers shall be eligible to serve successive terms. Officers shall continue to serve in their capacity as an officer until their successor is elected.

Section 3. Duties of Elected Officers.

A. President.

1. Shall preside at all meetings of the board and such other meetings approved by the Board, and have the authority to call for short recesses during meetings unless a majority of the Directors by vote oppose a recess.
2. Shall serve as official spokesperson for the Board.
3. Shall appoint such committees and other working groups as prescribed by the Board.
4. Shall designate Directors or others to represent the Board at various meetings, hearings, and conferences.
5. Shall perform such other duties as necessary to carry out the work of the Board.
6. Shall perform such duties as prescribed by law.

B. Vice-President.

1. Shall serve in the absence of the President.

ARTICLE V APPOINTED OFFICERS

Section 1. Appointed Officers.

- A. The appointed officers of the District shall be a General Manager and a Secretary who may be the same person, but none of whom shall be a Director. The duties of the appointed officers shall be as specified in law, and as directed by the Board. The Board may also appoint a Treasurer in accordance with.
- B. Pursuant to Water Code Section 34711, the District Board of Directors may appoint a District Treasurer, who shall be responsible for the deposit and withdrawal of funds of the District.
- C. The Board may appoint such other officers as it deems necessary.

Section 2. General Manager Duties.

The General Manager is employed by the board to run the day-to-day business of the BVWD.

Duties of the General Manager (Manager) include, but are not limited to:

- A. Appraise and evaluate the effects of the Board policies and the manner of their execution, and the efficiency of BVWD personnel in terms of services rendered to the people of the District.
- B. Provide leadership to staff in identifying district needs, establishing priorities and determining the objectives, which will achieve the established goals of the District.
- C. Encourage and assist staff in the performance of their duties and encourage their professional growth.
- D. Ensure evaluation of personnel under his/her direction.
- E. Provide financial oversight of the District and Alpine County pursuant to funds on deposit at that agency.
- F. Lead the District management team in the preparation of an annual budget, control of expenditures, inventory control, program planning, changing priorities and public relations.
- G. Perform the function of the District's Public Information Officer.
- H. Dispatch the contractor hired for operations on all wastewater problems in BVWD that require fieldwork. The Manager will respond only if the situation is too complicated for the contractor hired for operations to handle.
- I. Keep the Board informed of all communications affecting the District.
- J. Establish regular office hours and ensure that there is at least one person in the office during those hours.
- K. Such other duties as may from time to time be assigned by the Board.

Section 3. Secretary Duties.

- A. The Secretary shall attend Board meetings and prepare the minutes of the Board meetings which shall record the aye and no votes taken by the members of the Board for the passage of all ordinances, resolutions, or motions.
- B. The Secretary shall prepare the agenda for the Board meetings, post agendas, public notices and proposed action documents as required by the Board and government regulations.
- C. The Secretary shall keep a record of all Board actions, including financial transactions.
- D. The Secretary is responsible for keeping the Ordinances and all changes.
- E. The Secretary shall maintain and file with the County Clerk and the Secretary of State the filings required under Government Code section 53050 for the Roster of

Public Agencies.

Section 4. Treasurer Duties.

- A. If a Treasurer is appointed by the Board of Directors, they shall serve at the pleasure of the Board and be responsible for those responsibilities set forth in Water Code section 34711 and any other as determined by the Board.

**ARTICLE VI
MEETINGS**

Section 1. Regular and Special Meetings.

- A. The Board shall hold a regular meeting on dates and times as established by the Board from time to time by resolution. All regular meeting shall be held at the District Office. Such meetings may be altered as to date, time and place, as provided for in a Resolution adopted by the Board.
- B. Special meetings may be called by the President or by a majority of Directors.
- C. All meetings shall be conducted in accordance with the Ralph M. Brown Act.
- D. All motions made at Board meetings shall require a second to the motion prior to the Directors voting.
- E. Directors may attend any regular and special meeting telephonically as provided in the Ralph M. Brown Act.

Section 2. Quorum.

The Board shall be empowered to conduct the business of the District whenever there is a quorum of Directors at a properly noticed meeting. Three Directors shall constitute a Quorum.

Section 3. Voting.

- A. The vote of a majority of the Directors present at any meeting attended by a Quorum shall be necessary to pass any motion, adopt any resolution, or make any determination.
- B. Voting shall be by voice, show of hands, or roll call vote.
- C. Should a Director vote "Abstain" on a motion, the vote shall be considered a non-vote and not counted as an affirmative or negative vote.

Section 4. Notice of Regular and Special Meetings.

- A. Notices of all regular and special meetings shall be pursuant to the Ralph M. Brown Act.
- B. Notices of regular and special meetings. In the case of special meetings, the notice, written or by telephone, shall specify the specific nature of the business to be transacted.

**ARTICLE VII
ELECTIONS**

Section 1. Procedure of Voting.

All District elections shall be conducted in accordance with the procedures set forth in Water Code Section 35100 et. seq.

Section 2. Manner of Voting.

The manner of voting in all District elections shall be as set forth in Water Code section 35003.

Section 3. Voting in Person or by Proxy.

Every eligible voter may vote either in person or proxy in accordance with Water Code sections 35004-35006.

**ARTICLE VIII
PARLIAMENTARY AUTHORITY**

Rosenberg's Rules of Order, current edition and all future editions or such other authority as may be subsequently adopted by resolution of the Board is to apply to all questions of procedure and parliamentary law not specified in these Bylaws or otherwise by law.

**ARTICLE IX
PENALTIES**

The penalty for any single violation of these bylaws shall not exceed two hundred dollars (\$200.00).

ARTICLE X AMENDMENTS

The Bylaws may be repealed or amended, or new Bylaws by either of the following methods:

- (a) By four-fifths (4/5ths) vote of the total number of Directors as set forth in Article 3 Section 1 of these bylaws and approval of the Board of Supervisors of Alpine County, or
- (b) By two-thirds (2/3rds) vote of the total vote of the District in writing or cast by ballot at a District election.

AGENDA ITEM

DATE: FEBRUARY 16, 2021

TO: BVWD BOARD OF DIRECTORS

FROM: JEFF GOUVEIA, DISTRICT GENERAL MANAGER

RE: MANAGER'S REPORT

1. Water Balance - Update
 - a. Influent Flows & Effluent Transfers to Storage
 - a. Current Storage Capacity & Land / Surface Disposal Update
2. Permit Compliance & Monitoring & Reporting Programs (MRPs) - Update
 - a. WDR MRP - Land Discharge Permit – Compliance & Reporting Update
 - i. Reporting Status Matrix – No Certified Violations, All Reporting Submitted On-Time
 - i. 2020 Annual Report – Submitted January 26, 2020
 - ii. Groundwater Monitoring Program – All (3) Sampling Events Complete
 - i. 2nd Tri-Annual Report Submitted October 19, 2020
 - ii. 3rd Tri-Annual Report Submitted December 7, 2020
 - iii. Salt Control Program – Notice to Comply – Notice of Intent – Due July 15, 2021
 - i. May Require Salinity Evaluation & Documentation to Demonstrate Ability to Comply
 - b. NPDES MRP – Surface Water Discharge Permit – Compliance & Reporting Update
 - i. Reporting Status Matrix – No Certified Violations, All Reporting Submitted On-Time
 - i. 2020 Annual Report – Submitted January 26, 2021
 - ii. Salt Control Program – Notice to Comply – Notice of Intent – Due July 15, 2021
 - iii. Permit Renewal Update – Permit Expires July 31, 2021 - Jim Marshall, NPDES Program Manager, “Shooting for Aug 2021 but might be Oct 2021 Meeting.”
3. Other
 - a. Cal Office of Emergency Services (OES) – Emergency Action Plan – Bear Valley SH 1088 Dam – EAP Review
 - i. Draft EAP Submitted Nov 23, 2020 – OES Review & Comments Received Jan 22, 2021
 - b. Cal OES Community Power Resiliency Allocation for Special Districts – \$20M State General Fund available
 - i. Grant Proposal for up to \$300,000 Submitted October 29, 2020
 - ii. 16-month Grant Sub-award performance period
 - iii. Funds may be used for the procurement of: Generators for essential facilities, with an emphasis on clean energy and green solutions, where possible, or other alternative backup sources.
 - c. Storage Reservoir Drain Valve – Update
 - d. Land Use Meeting with Leaseholder Chuck Toeniskoetter – October 30, 2020
 - e. COVID-19 Sewage Surveillance Testing – Update
 - f. Alpine County LAFCO – Update

Board Meeting 2-16-21

- Influent Flows (MG) – Total of ALL Wastewater Received / % change previous year**

<u>November 2020</u>	<u>November 2019</u>	<u>November 2018</u>
.622 / 124.6%	.499 / 107.5	.464 / 34.8%
<u>December 2020</u>	<u>December 2019</u>	<u>December 2018</u>
.823 / 82.1%	1.002 / 120.4%	.832 / 53.0%
<u>January, 2021</u>	<u>January, 2020</u>	<u>January 2019</u>
.797 / 88.9%	0.897 / 100.5%	.883 / 38.7%
<u>February 1-10, 2021</u>	<u>February 2020</u>	<u>February 2019</u>
.309	1.154 / 62.3%	1.884 / 102.6%

- Transferred to PR (MG) - Volume of Water Moved from Treatment to Storage / % change previous year**

<u>November 2020</u>	<u>November 2019</u>	<u>November 2018</u>
2.690	0.000	.063 / 2.6%
<u>December 2020</u>	<u>December 2019</u>	<u>December 2018</u>
.175	0.000	.071 / 5.6%
<u>January, 2021</u>	<u>January, 2020</u>	<u>January 2019</u>
.626 / 521.6%	0.120 / 40.3%	.298 / 9.1%
<u>February 1-10, 2021</u>	<u>February 2020</u>	<u>February 2019</u>
.247	0.330 / 9.4%	3.522 / 159.7%

NOTE: During November and December 2019 maintenance was being performed on the Treatment Pond.

- Land Application - Annual Totals – MG Applied / % change previous year**

<u>2020</u>	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>
30.639 / 158.8%	19.293 / 83.1%	23.215 / 144.6%	16.051 / 30.5%	52.572 / 215.4%

2020 Land Application Began June 2

2019 Land Application Began July 12

- Surface Discharge - Effluent Flow Discharge Totals – MG - NO EFFLUENT WAS DISCHARGED IN 2020**

<u>March 2019</u>	<u>April 2019</u>	<u>May 2019</u>	<u>June 2019</u>	<u>Total 2019 Discharge</u>
0.0	0.0	29.5	26.9	56.5
<u>March 2018</u>	<u>April 2018</u>	<u>May 2018</u>	<u>June 2018</u>	<u>Total 2018 Discharge</u>
0.0	11.9	11.7	0.0	23.6
<u>March 2017</u>	<u>April 2017</u>	<u>May 2017</u>	<u>June 2017</u>	<u>Total 2017 Discharge</u>
15.8	29.9	29.7	16.9	92.3

- Storage Reservoir Elevations and Volumes (based on 10/6/15 pressure chart):**

- Empty (minimum pool) = 7063.0' = 0 MG = 0'
- Total Depth (w/2' Freeboard) = 7086.3' = 76.45 MG = 23.3'
- Total Depth (spillway) = 7088.3' = 85.86 MG = 25.3'
- Permitted Full Reservoir (2' Freeboard) = 7086.3' = 76.45 MG = 100%
 - Highest Level 2020 – 5/28/20 = 7075.6' = 33.01 MG = 43.2%
 - Highest Level 2019 – 5/1/19 = 7079.8' = 48.68 MG = 63.7%
 - Highest Level 2018 – 4/20/18 = 7078.3' = 42.88 MG = 56.1%
 - Highest Level 2017 – 3/8/17 = 7083.9' = 65.67 MG = 85.9%
 - Highest Level 2016 – 5/26/16 = 7081.9' = 57.16 MG = 74.7%
 - **Current Storage Volume = 7067.5 = 7.96 MG = 10.4% (2/10/2021)**
 - Storage Volume 1 Year Ago = 7064.7 = 2.03 MG = 2.7% (2/9/2020)

- Collection System**

- **2020: Jet 17,194', % change previous year: 266%. Video 11,367', % change previous year: 196%**
- **2019: Jet 6,468', % change previous year: 93%. Video 5,800' % change previous year: 249%**
- **2018: Jet 6,990', % change previous year: 230%. Video 2,330', % change previous year: 173%**
- **2017 Jet 3030' Video 1350'**

Central Valley Regional Water Quality Control Board

January 5, 2021

RECEIVED JAN - 8 2021

N15 1806

Jeff Gouveia
Bear Valley Water District
PO Box 5027
Bear Valley, CA 95223

SALT CONTROL PROGRAM

NOTICE TO COMPLY

This letter contains legal requirements that must be followed. Failure to respond may result in enforcement action(s) being taken against you. Please note that you may have received a separate Notice to Comply for the new Nitrate Control Program that will also require your response.

You are receiving this Notice to Comply because you operate the following one or more facilities:

Bear Valley WWTF
441 Creekside Drive
Bear Valley, CA 95223

Facility/Place ID: 209035
Order Number: 5-01-208
CV-SALTS ID: 1801

BACKGROUND

In May 2018, the Central Valley Water Board adopted Resolution R5-2018-0034, approving new Salt and Nitrate Control Programs. The Salt Control Program was developed to address salt accumulation issues in surface water and groundwater throughout the Central Valley Region.

Under the new Salt Control Program, the Central Valley Water Board will impose new permit requirements to protect surface waters and groundwater from salts in wastewater. This Notice to Comply (NTC) requires you to choose between new salinity permitting options established under the new Salt Control Program. Regardless of which compliance option you choose, your permit requirements will change at your next permit renewal. Please note that NTCs such as this one are being issued to all permittees that discharge salt to surface water and/or groundwater in the Sacramento-San Joaquin River Basins and in the Tulare Lake Basin.

If our information is incorrect, please contact us so that we may correct our records. If you have questions or believe you should be exempt from the NTC, please contact us as soon as possible by email or telephone. Our contact information is provided at the end of the letter.

SALT CONTROL PROGRAM

The Salt Control Program covers the entire Central Valley region and is broken into three phases, each of which will last from 10-15 years. The Board is currently beginning to implement Phase I. During Phase I, all permittees whose discharges exceed certain salinity thresholds set in the Salt Control Program will be required to participate in and help fund a comprehensive study to assess salinity problems and potential salinity solutions in the valley. This study has been named the Prioritization and Optimization Study, or P&O Study.

This NTC requires that you let the Board know whether you qualify for permit coverage under the "conservative" permitting approach, which is reserved for dischargers that fall under the salinity thresholds set by the Salt Control Program, or whether you will instead need permit coverage under the "alternative" salinity permitting approach. These two permitting options are described in more detail below:

1. Conservative Salinity Permitting Approach

The Conservative Salinity Permitting Approach (Conservative Approach) utilizes the existing regulatory structure and focuses on source control, use of conservative permit limits, and limited use of assimilative capacity and/or compliance time schedules.

2. Alternative Salinity Permitting Approach

The Alternative Salinity Permitting Approach (Alternative Approach) provides a compliance option to permittees who participate in and provide a minimum level of financial support for the Prioritization and Optimization Study (P&O Study), led by the Central Valley Salinity Coalition, during Phase I of the Salt Control Program. Permittees in the Alternative Approach are not required to meet the more stringent

Salt Control Program
Notice to Comply

limitations of the Conservative Approach, however, they must continue to implement efforts to control salt discharges through salinity management practices and/or performance-based measures as determined by the Central Valley Water Board.

RESPONDING TO THIS NTC

1. Visit the website, cvsalts.info, for more information on the Salt Control Program, including:
 - Salt Control Program requirements and timelines for both permitting pathways
 - Characterizing your salinity impacts to surface and/or groundwater
 - Participation requirements and fees for the P&O Study
 - Answers to Frequently Asked Questions

The cvsalts.info website will be updated regularly, so be sure to check back frequently for the latest information. You can also check the website for upcoming webinars that will provide guidance information.

A full copy of the Salt and Nitrate Control Program Basin Plan language, can be found at:

https://www.waterboards.ca.gov/cvsalts/salt_nitrate_bpa/sncp_accepted_bp_language_official.pdf.

2. Choose between the Conservative or Alternative Approach, submit the Notice of Intent (NOI) to the Central Valley Water Board, and begin meeting program requirements. The general NOI requirements for each approach are as follows:

A. Conservative Approach

- i. Conduct a comprehensive assessment of your salinity impacts to surface and/or groundwater.
- ii. Prepare a Salinity Characterization Report that demonstrates how your discharge will comply with the Conservative Approach requirements.
- iii. Submit your Salinity Characterization Report along with your NOI indicating your choice of the Conservative Approach Pathway to the Central Valley Water Board.
- iv. Obtain Central Valley Water Board staff approval.

B. Alternative Approach

- i. Contact the lead entity of the P&O Study to determine your required level of financial support. Submit your NOI indicating your choice of the Alternative Approach Pathway to the Central Valley Water Board along with documentation from the lead entity confirming your compliance with the required level of support.
- ii. Maintain the minimum required level of participation and financial support for the P&O Study and implement salinity source control measures and

Salt Control Program
Notice to Comply

meet performance-based salinity effluent limits or targets to ensure effluent salinity levels are maintained.

An electronic fillable PDF version of the NOI is available at: https://www.waterboards.ca.gov/cvsalts/forms_temps_guide/salt_noi_form.pdf. A hardcopy can be sent to you by sending a request by email to cvsalts@waterboards.ca.gov. NOI submissions shall be sent via email to cvsalts@waterboards.ca.gov or mailed to the address below by **July 15, 2021**. Documents too large to be sent in one email may be sent in multiple emails.

Central Valley Water Board
CV-SALTS Program
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

The Central Valley Water Board recommends that the documentation be submitted in electronic format to the email or as a CD mailed to the address above. If you choose to submit documentation as a CD or hardcopy, USPS Certified Mail is the preferred mailing method to ensure receipt of delivery by the Central Valley Water Board.

ENFORCEMENT

This NTC requires your response under Water Code section 13260. If you do not respond to this request with the materials specified above by the due date, you may be subject to enforcement actions, including actions under Water Code section 13261, which authorizes the Board to impose liability of up to \$1,000 per day for failure to submit a report. Under the new regulations, the Board will regulate permittees who do not elect a pathway under the Conservative Approach. **After July 15, 2021, discharges of salts at concentrations that exceed the conservative salinity limits identified in the Conservative Approach are prohibited unless the permittee is implementing the Phase 1 requirements of the Salt Control Program through either the Conservative Approach or the Alternative Approach.** Permittees who do not respond within the time frame may still be eligible to select the Alternative Approach, however they will need to obtain approval from the lead entity conducting the P&O Study to join late and will be subject to the lead entity's requirements in addition to providing the minimum required level of financial support.

For general information about the Central Valley Water Board's Salt and Nitrate Control Program, please visit our website <https://www.waterboards.ca.gov/cvsalts>.

If you have any further questions about what is required of you, please email cvsalts@waterboards.ca.gov or call (916) 464-4675.



Patrick Pulupa
Executive Officer

Central Valley Regional Water Quality Control Board

January 5, 2021

NPDES 1806

Jeff Gouveia
Bear Valley Water District
PO Box 5027
Bear Valley, CA 95223

RECEIVED JAN -8 2021

SALT CONTROL PROGRAM

NOTICE TO COMPLY FOR NPDES PERMITTEES

This letter contains legal requirements that must be followed. Failure to respond may result in enforcement action(s) being taken against you. Please note that you may have received a separate Notice to Comply for the new Nitrate Control Program that will also require your response.

You are receiving this Notice to Comply because you operate the following one or more facilities:

Bear Valley WWTF
441 Creekside Drive
Bear Valley, CA 95223

Facility/Place ID: 209035
Order Number: R5-2016-0045-01
CV-SALTS ID: 3188

KARL E. LONGLEY SCD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

11020 Sun Center Drive #200, Rancho Cordova, CA 95670 | www.waterboards.ca.gov/centralvalley

Salt Control Program
Notice to Comply

BACKGROUND

In May 2018, the Central Valley Water Board adopted Resolution R5-2018-0034, approving new Salt and Nitrate Control Programs. The Salt Control Program was developed to address salt accumulation issues in surface water and groundwater throughout the Central Valley Region.

Under the new Salt Control Program, the Central Valley Water Board will impose new permit requirements to protect surface waters and groundwater from salts in wastewater. This Notice to Comply (NTC) requires you to choose between new salinity permitting options established under the new Salt Control Program. Regardless of which compliance option you choose, your permit requirements will change at your next permit renewal. Please note that NTCs such as this one are being issued to all permittees that discharge salt to surface water and/or groundwater in the Sacramento-San Joaquin River Basins and in the Tulare Lake Basin.

If our information is incorrect, please contact us so that we may correct our records. If you have questions or believe you should be exempt from the NTC, please contact us as soon as possible by email or telephone. Our contact information is provided at the end of the letter.

SALT CONTROL PROGRAM

The Salt Control Program covers the entire Central Valley region and is broken into three phases, each of which will last from 10-15 years. The Board is currently beginning to implement Phase I. During Phase I, all permittees whose discharges exceed certain salinity thresholds set in the Salt Control Program will be required to participate in and help fund a comprehensive study to assess salinity problems and potential salinity solutions in the valley. This study has been named the Prioritization and Optimization Study, or P&O Study.

This NTC requires that you let the Board know whether you qualify for permit coverage under the "conservative" permitting approach, which is reserved for dischargers that fall under the salinity thresholds set by the Salt Control Program, or whether you will instead need permit coverage under the "alternative" salinity permitting approach. These two permitting options are described in more detail below:

1. Conservative Salinity Permitting Approach

The Conservative Salinity Permitting Approach (Conservative Approach) utilizes the existing regulatory structure and focuses on source control, use of conservative permit limits, and limited use of assimilative capacity and/or compliance time schedules.

2. Alternative Salinity Permitting Approach

The Alternative Salinity Permitting Approach (Alternative Approach) provides a compliance option to permittees who participate in and provide a minimum level of financial support for the Prioritization and Optimization Study (P&O Study), led by the Central Valley Salinity Coalition, during Phase I of the Salt Control Program. Permittees in the Alternative Approach are not required to meet the more stringent

Salt Control Program
Notice to Comply

limitations of the Conservative Approach, however, they must continue to implement efforts to control salt discharges through salinity management practices and/or performance-based measures as determined by the Central Valley Water Board.

RESPONDING TO THIS NTC

1. Visit the website, cvsalts.info, for more information on the Salt Control Program, including:

- Salt Control Program requirements and timelines for both permitting pathways
- Characterizing your salinity impacts to surface and/or groundwater
- Participation requirements and fees for the P&O Study
- Answers to Frequently Asked Questions

The cvsalts.info website will be updated regularly, so be sure to check back frequently for the latest information. You can also check the website for upcoming webinars that will provide guidance information.

A full copy of the Salt and Nitrate Control Program Basin Plan language, can be found at:

https://www.waterboards.ca.gov/cvsalts/salt_nitrate_bpa/sncp_accepted_bp_language_official.pdf.

2. Choose between the Conservative or Alternative Approach, submit the Notice of Intent (NOI) to the Central Valley Water Board, and begin meeting program requirements. The general NOI requirements for each approach are as follows:

A. Conservative Approach

- i. Conduct a comprehensive assessment of your salinity impacts to surface and/or groundwater.
- ii. Prepare a Salinity Characterization Report that demonstrates how your discharge will comply with the Conservative Approach requirements.
- iii. Submit your Salinity Characterization Report along with your NOI indicating your choice of the Conservative Approach Pathway to the Central Valley Water Board.
- iv. Obtain Central Valley Water Board staff approval.

B. Alternative Approach

- i. Contact the lead entity of the P&O Study to determine your required level of financial support. Submit your NOI indicating your choice of the Alternative Approach Pathway to the Central Valley Water Board along with documentation from the lead entity confirming your compliance with the required level of support.
- ii. Maintain the minimum required level of participation and financial support for the P&O Study and implement salinity source control measures and

Salt Control Program
Notice to Comply

meet performance-based salinity effluent limits or targets to ensure effluent salinity levels are maintained.

An electronic fillable PDF version of the NOI is available at: https://www.waterboards.ca.gov/cvsalts/forms_temps_guide/salt_noi_form.pdf. A hardcopy can be sent to you by sending a request by email to cvsalts@waterboards.ca.gov. NOI submissions shall be sent via email to cvsalts@waterboards.ca.gov or mailed to the address below by **July 15, 2021**. Documents too large to be sent in one email may be sent in multiple emails.

Central Valley Water Board
CV-SALTS Program
11020 Sun Center Drive, Suite 200
Rancho Cordova, CA 95670

The Central Valley Water Board recommends that the documentation be submitted in electronic format to the email or as a CD mailed to the address above. If you choose to submit documentation as a CD or hardcopy, USPS Certified Mail is the preferred mailing method to ensure receipt of delivery by the Central Valley Water Board.

ENFORCEMENT

This NTC requires your response under Water Code section 13260. If you do not respond to this request with the materials specified above by the due date, you may be subject to enforcement actions, including actions under Water Code section 13261, which authorizes the Board to impose liability of up to \$1,000 per day for failure to submit a report. Under the new regulations, the Board will regulate permittees who do not elect a pathway under the Conservative Approach. **After July 15, 2021, discharges of salts at concentrations that exceed the conservative salinity limits identified in the Conservative Approach are prohibited unless the permittee is implementing the Phase 1 requirements of the Salt Control Program through either the Conservative Approach or the Alternative Approach.** Permittees who do not respond within the time frame may still be eligible to select the Alternative Approach, however they will need to obtain approval from the lead entity conducting the P&O Study to join late and will be subject to the lead entity's requirements in addition to providing the minimum required level of financial support.

For general information about the Central Valley Water Board's Salt and Nitrate Control Program, please visit our website <https://www.waterboards.ca.gov/cvsalts>.

If you have any further questions about what is required of you, please email cvsalts@waterboards.ca.gov or call (916) 464-4675.



Patrick Pulupa
Executive Officer

Central Valley Salts Policy
Summary provided by Greg Kester (CASA)
With review and input by CVRWCB, Debbie Webster (CVCWA), and Tess Dunham (KSC)
gkester@casaweb.org; 916-844-5262
April 16, 2020

The Salt and Nitrate Control Program (CV-SALTS) was approved by the State Water Resources Control Board on October 16, 2019 ([RESOLUTION NO. 2019-0057](#)) and the Office of Administrative Law (OAL) on January 15, 2020. The majority of the program became effective on January 17, 2020 after OAL's Notice of Decision was filed with the California Natural Resources Agency. The Central Valley Regional Water Quality Control Board (CVWB) intends to begin sending out Notices to Comply for the Salt and Nitrate Control Program in late May.

CV-SALTS consists of two distinct programs with which permittees must comply. The first addresses salt in both surface and groundwaters and the second addresses nitrate in groundwater. All who land apply biosolids, including compost, in the Central Valley Region need to comply with requirements of both programs. Details on each program are below.

SALTS

The Salt Control Program employs a phased approach to address salt in surface and groundwater throughout the Central Valley Region. Permittees have two options for complying with the new Salt Control Program of CV-SALTS. They must either, as an individual permittee, meet conservative electrical conductivity requirements of 700 $\mu\text{S}/\text{cm}$ (0.7 dS/m) in most cases, or they can participate with other permittees in a region-wide effort.

To take the conservative individual permitting approach, rigorous technical studies will be required, likely including a monitoring well network on land application sites which allow for analyzing the groundwater for Total Dissolved Solids (TDS) or Electrical Conductivity (EC) as a measure of salinity.

In the alternative approach, land appliers would elect to participate with others in a Prioritization and Optimization (P&O) study. This alternative region-wide effort consists of three phases, each lasting 10-15 years. Phase I consists of preparation of a comprehensive study, and development of a long-term strategy, for the management of salts throughout the Central Valley (i.e., P&O Study). The other two phases consist of the further development, funding, and implementation of the P&O study. To participate in the P&O study effort, participants would pay a fee to the Central Valley Salinity Coalition, which is the entity administering the study. Further, participants will be required to comply with existing, performance-based permit requirements. Participants would not be subject to conservative water quality based permitting requirements for salinity during Phase 1. At completion of Phase 1, recommendations regarding permitting requirements for Phase II will be considered and put forward as part of a Basin Plan Amendment package. General information is available [here](#). Fees for some entities participating in the study are available [here](#). Fees for biosolids application are still in development.

NITRATES

The Nitrate Control Program utilizes a priority approach to implementation. Under the Nitrate Control Program, the most seriously impacted groundwater basins for nitrate are addressed

first. Implementation will begin in six priority 1 sub-basins. They are the Kaweah, Chowchilla, Modesto, Turlock, Tule, and Kings sub-basins (based on DWR bulletin 118 designations). The CVWB will issue notices to comply for existing dischargers (including biosolids land appliers) in these basins in May 2020. The first priority of the Nitrate Control Program is to provide safe drinking water to those whose drinking water has been contaminated with nitrate at concentrations at or exceeding 10 mg/L Nitrate as Nitrogen.

A Notice to Comply for existing dischargers in Priority 2 groundwater basins will be issued between late 2022 and late 2024. Priority 2 basins include: Yolo, Merced, Kern County (west side south), Tulare Lake, Kern County (Peso), Delta Mendota, Eastern San Joaquin, and Madera.

Notably, new or expanding dischargers of nitrate may be subject to compliance with the Nitrate Control Program at the time of permit application and issuance.

The remaining groundwater basins in the Central Valley have not yet been prioritized.

There are two options to comply with the nitrate provisions of CV-SALTS. Pathway A, Individual Permitting, provides that a regulated discharger or groups of dischargers subject to a single WDR may opt to comply under **individual permit provisions** that:

1. Define requirements to protect shallow groundwater.
2. Include requirements based on the categorization of the discharge according to five discharge categories.
3. Establish trigger levels for additional required actions.
4. Ensure that those affected by nitrate in the discharge area have safe drinking water.

Pathway A compliance options are difficult and expensive if:

1. There are drinking water wells near your facility that are high in nitrate.
2. Your discharge is high in nitrate, and/or
3. Local shallow groundwater exceeds 75% of the nitrate drinking water standard.

If any of these conditions exist, there are a series of steps which must be undertaken.

Pathway B, the local Management Zone approach, allows permittees to work together to form a Management Zone. The Management Zone may then work collectively to receive an exception from meeting the nitrate standard for up to 35 years upon adoption of an approved Management Zone Implementation Plan. A condition of Management Zone approval includes the need to first assure safe drinking water to those that rely on groundwater and where the groundwater exceeds the nitrate drinking water standard. The Management Zone Implementation Plan must then look to reduce nitrate impacts from dischargers to water supplies. The ultimate goal is for groundwater to be restored where reasonable and feasible. Restoration of groundwater itself to meet the drinking water standard is not required to occur within the 35-year time frame. In summary, the Management Zone participants work together (along with communities, groundwater sustainability agencies and others) to comply with the Nitrate Control Plan requirements. This is similar to holistic Watershed management approaches which we have historically supported.

Much more detail and information is provided at this link: cvsalts.info

Jeff Gouveia

From: Marshall, James@Waterboards <James.Marshall@waterboards.ca.gov>
Sent: Wednesday, February 3, 2021 11:08 AM
To: Jeff Gouveia; WB-RB5S-CentralValleySacramento; McGartland, Kelly; Goode, Danielle@Waterboards; Elankovan, Saranya@Waterboards
Subject: Re: RE: BVWD ROWD - Order No. R5-2016-0045-02

Hi Jeff,

We were just discussing your permit renewal this morning. It is currently scheduled for August 2021. We are still shooting for that Board meeting, but there is a good chance it will get moved back to October. We should know in the next month or so and will be sure to let you know.

Jim

From: Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>
Sent: Wednesday, February 3, 2021 10:50 AM
To: Marshall, James@Waterboards <James.Marshall@waterboards.ca.gov>; WB-RB5S-CentralValleySacramento <CentralValleySacramento@waterboards.ca.gov>; McGartland, Kelly <Kelly.McGartland@stantec.com>; Goode, Danielle@Waterboards <Danielle.Goode@waterboards.ca.gov>; Elankovan, Saranya@Waterboards <Saranya.Elankovan@Waterboards.ca.gov>; Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>
Subject: RE: RE: BVWD ROWD - Order No. R5-2016-0045-02

EXTERNAL:

Hi Jim,

In an effort to keep my governing board and constituents informed as well as for planning purposes, can you please advise on the status of our permit renewal for this summer and if we should begin to anticipate a delay based on challenges surrounding COVID -19 and other general permit backlog challenges ?

Thanks Jim !

Jeff Gouveia | General Manager |
Bear Valley Water District
441 Creekside Drive | PO Box 5027, Bear Valley, CA 95223 |
O: 209.753.2112 | C: 209.743.0836 | F: 209.753.6267
Jeff.Gouveia@bvwd.ca.gov | www.bvwd.ca.gov |



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December 29, 2020

RECEIVED JAN - 5 2020

Mr. Jeff Gouveia, General Manager
Bear Valley Water District
Post Office Box 5027
Bear Valley, California 95223

Subject: **Notice of Receipt – Emergency Action Plan**
Bear Valley SH Dam, No. 1088.000, Alpine County

Dear Mr. Gouveia:

The California Governor's Office of Emergency Services, Dam Safety Planning Division, hereby acknowledges the receipt of your completed Emergency Action Plan Review Package on November 23, 2020, for the subject dam(s) listed above. Our records also indicate that the inundation map(s) included within your Emergency Action Plan was approved by the Department of Water Resources, Division of Safety of Dams on April 1, 2020.

Pursuant to California Water Code Section 6161, subdivision (b)(1), the Dam Safety Planning Division shall review and approve your Emergency Action Plan no later than 60 days after receipt of the completed Emergency Action Plan Review Package, as noted above. To the extent possible, the Dam Safety Planning Division will give priority to a dam with the highest hazard classification.

If you have any questions or need additional information, please contact Leonela Vallecillo-Curiel at 916-845-8193 or Leonela.Vallecillo-Curiel@caloes.ca.gov, with a copy to eap@caloes.ca.gov.

Sincerely,

Joanne Brandani
Chief, Dam Safety Planning Division

cc: Sharon Tapia, Chief, Division of Safety of Dams, Department of Water Resources



Jeff Gouveia

From: Vallecillo-Curiel, Leonela@CalOES <Leonela.Vallecillo-Curiel@CalOES.ca.gov>
Sent: Friday, January 22, 2021 4:04 PM
To: Jeff Gouveia
Subject: Bear Valley SH Dam EAP for revisions (60-day Review)
Attachments: 3 EAP Review Comments No. 01_Bear Valley SH.pdf; EAP Review Report No. 01_Bear Valley SH.pdf; EAP Review Tool No. 01_Bear Valley SH.pdf; EAP Checklist Template 12-22-20.pdf; (External) WC Blank Dam Incident Form-6-2020.pdf; (External) WC Blank Dam Incident Form.docx

Good afternoon,

Thank you for submitting the EAP for Bear Valley SH Dam. We appreciate your hard work on the EAP there are a couple of changes needed. Please contact me if you would like to discuss the comments.

This communication is advance notice that I have reviewed the Bear Valley SH Dam EAP and returned it for required revisions.

The hard-copy version of this communication was mailed to the dam owner on record:

Mr. Jeff Gouveia, General Manager
Bear Valley Water District
Post Office Box 5027
Bear Valley, California 95223

Attached you will find the EAP Review Comments letter, EAP Review tool, and the EAP Review Report. I have also included the updated form for the California State Warning Center and the EAP Checklist Template.

The revisions are based on guidance found in:

- California Senate Bill 92
 - California Government Code Section 8589.5
 - Water Code Section 6160 and 6161
- FEMA Federal Guidelines for Dam Safety: Emergency Action Planning for Dams

As you make the revisions, I recommend the resources on our website: [Caloes.ca.gov/dams](https://caloes.ca.gov/dams)

There you will find:

1. **FEMA Federal Guidelines for Dam Safety: Emergency Action Planning for Dams** – this is a link to the FEMA document. California has adopted these guidelines for dam EAPs.
2. **EAP Blank Formatting Template** – this is an MS Word file that you can use to organize your EAP and be sure not to miss any sections.

3. **CAL OES EAP Review Tool** – this review tool contains the criteria you must meet to pass review.
4. **Santa Luisa Dam EAP** – this sample EAP is provided as a best-in-class example.

Feel free to contact me with questions.

Respectfully,

Leonela Vallecillo-Curiel

Associate Governmental Program Analyst, Dam Safety Planning Division

California Governor's Office of Emergency Services

3650 Schriever Avenue

Mather, CA 95655

Desk: 916-845-8193

Email: Leonela.Vallecillo-Curiel@caloes.ca.gov



Cal OES

GOVERNOR'S OFFICE
OF EMERGENCY SERVICES



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January 22, 2021

Mr. Jeff Gouveia, General Manager
Bear Valley Water District
Post Office Box 5027
Bear Valley, California 95223

Subject: **Emergency Action Plan – Review**
Bear Valley SH Dam, No. 1088.00, Alpine County

Dear Mr. Gouveia:

The California Governor's Office of Emergency Services, Dam Safety Planning Division, acknowledges receipt of your organization's Emergency Action Plan for the subject dam(s), listed above. Pursuant to Water Code Section 6161, subdivision (b)(1), we have determined the Emergency Action Plan does not meet the requirements of Government Code Section 8589.5.

During the review of your Emergency Action Plan, we have identified items to be missing, insufficient, and/or incorrect (please refer to Required Changes table in the EAP Review Report).

Additionally, please refer to the Federal Emergency Management Agency's *Federal Guidelines for Dam Safety: Emergency Action Planning for Dams* for the required elements needed in an Emergency Action Plan. This guidance will help you create a comprehensive plan that fulfills legislative requirements and will be extremely beneficial during a dam incident.

Once corrected, please resubmit the Emergency Action Plan for approval. The Division shall review and approve the plan, should it meet the requirements of Government Code Section 8589.5.

If you have any questions or need additional information, please contact Leonela Vallecillo-Curiel at 916-845-8193 or Leonela.Vallecillo-Curiel@caloes.ca.gov, with a copy to eap@caloes.ca.gov.



Emergency Action Plan – Review

January 22, 2021

Page 2

Sincerely,



Joanne Brandani

Chief, Dam Safety Planning Division

Enclosure

cc: Sharon Tapia, Chief, Division of Safety of Dams, Department of Water Resources

REQUEST FOR PROPOSAL

The California Governor's Office of Emergency Services (Cal OES), Grants Management Section, is soliciting proposals for the following program:

COMMUNITY POWER RESILIENCY ALLOCATION TO SPECIAL DISTRICTS PROGRAM

Release Date: October 9, 2020

This Request for Proposal (RFP) provides detailed information and forms necessary to prepare a proposal for the Cal OES grant funds.

PROGRAM SYNOPSIS

Program Description

The purpose of the Community Power Resiliency Allocation to Special Districts Program is to support California special districts with additional preparedness measures in response to power outage events.

Eligibility:

California special districts that have an identified critical facility or facilities, or provide critical infrastructure, pursuant to the de-energization guidelines adopted by the California Public Utilities Commission are the only eligible Applicants.

Performance Period:

July 1, 2020 – October 31, 2021

Available Funding:

Individual Applicants may request up to \$300,000.

Submission Deadline:

Friday, October 30, 2020



3650 SCHRIEVER AVENUE, MATHER, CA 95655

PSPS@caloes.ca.gov

Jeff Gouveia

From: CalOES Public Safety Power Shutoff <PSPS@caloes.ca.gov>
Sent: Tuesday, February 9, 2021 9:33 AM
To: Jeff Gouveia; CalOES Public Safety Power Shutoff
Subject: RE: COMMUNITY POWER RESILIENCY ALLOCATION RFP

Good morning Jeff,

Thank you for your inquiry. Denial letters went out last week and award letters will be sent out after the appeal process.

Respectfully,

Cindy Logan
Governor's Office of Emergency Services
Grants Management
(916) 845-8859

From: Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>
Sent: Tuesday, February 9, 2021 9:14 AM
To: CalOES Public Safety Power Shutoff <PSPS@caloes.ca.gov>; Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>
Subject: RE: COMMUNITY POWER RESILIENCY ALLOCATION RFP

Hi Cindy,

I'm checking to see if there are any updates on the results of this grant application ?

Thanks for your help.

Jeff Gouveia | General Manager |
Bear Valley Water District
441 Creekside Drive | PO Box 5027, Bear Valley, CA 95223 |
O: 209.753.2112 | C: 209.743.0836 | F: 209.753.6267
Jeff.Gouveia@bvwd.ca.gov | www.bvwd.ca.gov |



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ü Please consider the environment before printing this email.

From: CalOES Public Safety Power Shutoff [<mailto:PSPS@caloes.ca.gov>]
Sent: Thursday, October 29, 2020 3:08 PM
To: Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>; CalOES Public Safety Power Shutoff <PSPS@caloes.ca.gov>
Subject: RE: COMMUNITY POWER RESILIENCY ALLOCATION RFP

COMMUNITY POWER RESILIENCY ALLOCATION TO SPECIAL DISTRICTS PROGRAM

PART I – OVERVIEW

- A. PUBLIC RECORDS ACT NOTICE
 - B. CONTACT INFORMATION
 - C. SUBMISSION DEADLINES AND OPTIONS
 - D. ELIGIBILITY/PREFERENCE POINTS
 - E. GRANT SUBAWARD PERFORMANCE PERIOD
 - F. FUNDS
 - G. PROGRAM INFORMATION
-

A. PUBLIC RECORDS ACT NOTICE

Grant proposals are subject to the California Public Records Act, Government Code Section 6250, *et seq.* Do not put any personally identifiable information or private information on this proposal. If you believe that any of the information you are putting on this proposal is exempt from the Public Records Act, please indicate what portions of the proposal and the basis for the exemption. Your statement that the information is not subject to the Public Records Act will not guarantee that the information will not be disclosed.

B. CONTACT INFORMATION

Questions concerning this RFP, the proposal process, or programmatic issues must be submitted in writing by email to PSPS@caloes.ca.gov.

Cal OES staff cannot assist the Applicant with the actual preparation of their proposal. Cal OES can only respond to technical questions about the RFP during the period of time between the publication date and due date.

C. SUBMISSION DEADLINE AND OPTIONS

One proposal must be emailed to PSPS@caloes.ca.gov by 5:00 PM on Friday, October 30, 2020.

D. ELIGIBILITY/PREFERENCE POINTS

To be eligible to receive funds, the entity must be a California special district that has an identified critical facility or facilities, or provides critical

infrastructure, pursuant to the de-energization guidelines adopted by the California Public Utilities Commission.

Priority funding will be given to eligible Applicants if the proposal shows either a benefit to disadvantaged communities or the use of/acquisition of low/no emissions power solutions. "Disadvantaged communities" includes, but is not limited to:

- Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.
- Areas with concentrations of people that are of low-income, high unemployment, low levels of home ownership, high rent burden, sensitive populations, or low levels of educational attainment.

Only one proposal per Applicant will be eligible to receive funding. If an Applicant submits more than one proposal, only the highest scoring proposal, meeting the criteria above, will be considered for funding.

E. GRANT SUBAWARD PERFORMANCE PERIOD

The Grant Subaward performance period is July 1, 2020 – October 31, 2021.

F. FUNDS

1. Source/Amount of Funds

There is \$20,000,000 of State General Fund available for the Program for the Grant Subaward performance period. Individual Applicants may apply for up to \$300,000 for the 16-month Grant Subaward performance period.

2. Allowable Use of Funds

Funds may be used to procure fixed, long term emergency electrical generation equipment, develop continuity plans, conduct risk assessments for critical infrastructure, create post event reports and public education materials, or purchase supplies to prepare for electric disruption.

3. Unallowable Use of Funds

Funds may not be used:

- To secure, compensate, or backfill professional services contracts, or
- For response costs associated with electric disruption events, including any staffing or new positions, Emergency Operations Center staffing, security, law or fire response, or other overtime charges.

G. PROGRAM INFORMATION

1. Program Description

The purpose of the Community Power Resiliency Allocation to Special Districts Program is to support California special districts in preparing for and responding to power outage events.

California special districts are encouraged to collaborate with their county to support critical infrastructure and resiliency with a particular focus on public safety, vulnerable communities, and individuals with access and functional needs.

2. Eligible Activities

a. Equipment

Funds may be used for the procurement of:

- Generators and generator connections for essential facilities, with an emphasis on clean energy and green solutions, where possible, or other alternative backup sources.
- Generator fuel and fuel storage.
- Redundant emergency communications (e.g., battery-powered radios).
- Portable vehicle-mounted charging stations.
- Portable battery-powered and rechargeable radio repeater and transmission equipment.

b. Plans

Funds may be used for the development/update of:

- Continuity plans.
- Contingency plans for electrical disruptions that include considerations such as protecting individuals with access and functional needs, medical baseline and socially vulnerable populations, transportation, emergency public information, and preservation of essential functions.
- Risk assessments for critical infrastructure and lifelines.
- Post-event reports that identify lessons learned and corrective actions.

c. Public Education

Funds may be used to:

- Develop public education materials.
- Purchase supplies focused on individual and family preparedness for electric disruptions.

d. One-Time Costs

Funds may be used for one-time costs associated with identifying and equipping resource centers for the public to access during electric disruptions.

3. Reporting Requirements

Progress Reports serve as a record for the implementation of the project. Statistics for Progress Reports must be collected on a quarterly basis, even when reporting occurs less frequently.

California special districts are required to report the following for each project or activity supported with grant funds:

- Description of each project or activity;
- The state or local entity that implemented the project or activity;
- Amount of state funding provided to the project or activity; and
- Specific outcomes achieved by each project or activity, including whether the project or activity was completed, and whether it was used during power outage events.

One Progress Report is due no later than November 30, 2021. A Progress Report form will be provided by Cal OES.

4. Disbursement of Funds

Requested funds, if awarded, will be advanced once all required documentation has been completed and received by Cal OES.

Jeff Gouveia

From: Mathews, Ian P <IMATHEWS@beckman.com>
Sent: Thursday, December 17, 2020 4:54 PM
To: Jeff Gouveia
Cc: Saunders, Lauren
Subject: Beckman Coulter - COVID Wastewater Update
Attachments: BV wastewater update.pdf

Jeff,

I know it has been some time, but we spent the better part of the last 3 months optimizing our filtration and concentration steps to reach an approved process.

We now have a standardized process and we are collaborating with the PALL filtration group, and our own Beckman Coulter Centrifuge team, it has been a long road.

We used this method on the samples you provided, and we did find a very small amount of COVID.

We ran two replicates, and one tested positive. This type of half on half off generally corresponds to a very very low level of COVID - near or at the limit of detection.

I have included Laurens readout for this sample set attached here. We would love to chat about this further, as things have probably changed in the time we prepared this data.

Again, thank you for the chance to work on this, and thank you for including us in your communities Water Epidemiology COVID efforts. Your material allowed us to innovate and helped us move the needle forward.



Ian Mathews | Genomics – Pacific Northwest
5350 Lakeview Parkway S Drive

m | 6504006499
e | imathews@beckman.com



**RNAadvance Viral XP:
Extraction Kit for
COVID-19 Research**

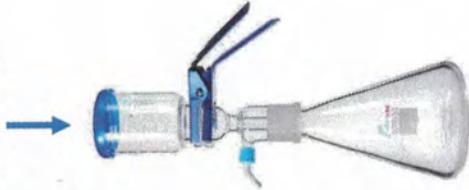
Available NOW →



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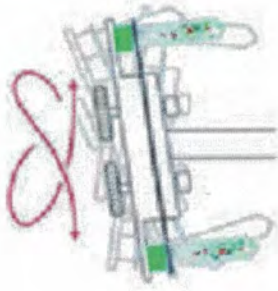
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30 mL Wastewater



PES 0.45 um
filter

Bead beat filter in 1
mL DNA/RNA Shield



Extract with modified
RNAAdvance Viral
protocol



RT-qPCR with IDT
N1 primer



Control added
directly to
DNA/RNA shield
with no
wastewater

This method detects the covid
control at 10 cps/mL, which is
probably right around the
detection limit.

Sample	Ct
BV wastewater	Undetermined
BV wastewater	37.777
Extraction control (10 cps/mL)	34.677
Extraction control (10 cps/mL)	36.000

CONFIDENTIAL: DO NOT DISTRIBUTE

- I used your 24 hr continuous samples for this analysis
- Some covid was detected in one of the two replicate samples, and appears to be present at less than 10 cps/mL wastewater (because the Ct was higher for the wastewater sample than for the 10 cps/mL control)
- The lowest amount of DNA we can detect corresponds to about a Ct of 40, and it's not unusual for samples close to that (37-39 Ct) to only amplify sometimes so I'm not surprised we'd see it in one sample and not the other
- Based on these results, I'd say very low levels of covid were present in your wastewater, though I haven't seen data about how storage would have effected the levels we see so I can't extrapolate how much might have been in the sample originally

Jeff Gouveia

From: Mathews, Ian P <IMATHEWS@beckman.com>
Sent: Monday, December 21, 2020 12:39 PM
To: Jeff Gouveia
Cc: Saunders, Lauren
Subject: RE: Beckman Coulter - COVID Wastewater Update

Jeff,

We realize the delicate situation here. But our scientist believe your reporting was correct, statistically. A test at and under the limit of detection is comparable to a needle still on the zero peg. We are working with a customer in

The formal process, perfected, was done in duplicates. But we had a good deal of informal development tests, all negative (not reportable). We likely performed more replicates, both formal and informal, than the pay per sample services.

We are happy to accept some new samples. COVID is on the rise and the holidays have people traveling within the state a good amount.

Another test would give you some visibility to an increase or decrease in your area, and we would be happy to help.

Ian Mathews
Beckman Coulter Genomics Pacific Northwest
+1-650-400-6499

From: Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>
Sent: Monday, December 21, 2020 11:03 AM
To: Mathews, Ian P <IMATHEWS@beckman.com>; Jeff Gouveia <Jeff.Gouveia@bvwd.ca.gov>
Cc: Saunders, Lauren <LSAUNDERS@beckman.com>
Subject: RE: Beckman Coulter - COVID Wastewater Update

Thanks Ian ! Congratulations on perfecting the process.

As this result is interesting, it puts me in a bit of a quandary as I publicly notified our local stakeholders as well as County public health that we had no virus detected based on the results from COSMOS-ID.

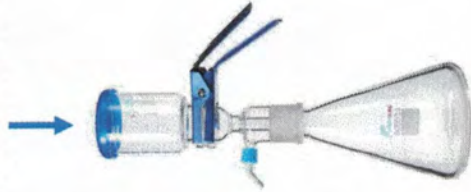
Since it's been nearly 6 months, would you be open to analyzing fresh samples from the Bear Valley Water District to determine if the virus may now be present in our waste stream ?3

Thanks !

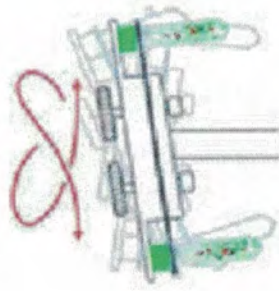
Jeff Gouveia | General Manager |
Bear Valley Water District
441 Creekside Drive | PO Box 5027, Bear Valley, CA 95223 |
O: 209.753.2112 | C: 209.743.0836 | F: 209.753.6267
Jeff.Gouveia@bvwd.ca.gov | www.bvwd.ca.gov |

CONFIDENTIAL: DO NOT DISTRIBUTE

30 mL Wastewater or blank



Bead beat filter in 1
mL DNA/RNA Shield



Extract with modified
RNAAdvance Viral
protocol



RT-qPCR with IDT
N1 primer



Control added
directly to
DNA/RNA shield
with no
wastewater

Results

- Since samples were filtered using the same glass filtering device, blanks were run before each sample to make sure the device was clean (blanks # 1 and 2)
- Tank effluent was run before Influent so that samples got progressively dirtier

Sample	CT
blank #1	Undetermined
blank #1	Undetermined
Tank effluent	Undetermined
Tank effluent	Undetermined
blank #2	Undetermined
blank #2	Undetermined
Influent	35.704
Influent	35.986
Pos control	36.155
Pos control	36.384
Neg control	Undetermined

- If no virus was detected, the PCR results were Undetermined
- The positive control correlates to a wastewater concentration of 10 cps/mL wastewater, and a lower Ct corresponds to more viral RNA, with 1 Ct difference = 2 x viral RNA difference, so your sample appears to have 10 – 20 cps/mL wastewater
- For comparison, testing wastewater effluent from a hospital in Virginia this July/August had Ct values in the 30 – 40 range, depending on the sample and the day, but I don't know a good way to translate this into number of people sick

January 19, 2021

Alpine County Local Agency Formation Commission
c/o Teola Tremayne, Executive Officer
Administrative Office Building
99 Water Street
Markleeville, CA 96120

RE: Special District Representation on the Local Agency Formation Commission

Dear Commissioners and Staff:

Pursuant to California Government Code Section 56332.5 (a) (1), this correspondence serves as a formal request to the Commission to initiate proceedings for representation of independent special districts as members of the Alpine County Local Agency Formation Commission (LAFCo). Attached for your consideration are three (3) resolutions of support for inclusion of special districts on LAFCo from local special districts representing over ten-percent (10%) of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll. The special districts initiating this request are as follows:

- Kirkwood Meadows Public Utility District
- Bear Valley Water District
- Markleeville Public Utility District

As required under Government Code section 56332.5 (b), I am requesting that the Commission, at its next regular meeting, adopt a resolution of intention stating that the proceeding has been initiated by the independent special districts as set forth above and that the Commission direct the Executive Officer to call and give notice of a meeting of the independent special district selection committee to be held within 15 days after adoption of the resolution. The purpose of this meeting would be to determine whether independent special districts shall accept representation on the commission and appoint independent special district representation pursuant to Government Code section 56332. Alternatively, a mail ballot process as outlined in Government Code Section 56332 (f) et. Seq would be acceptable to make the process more efficient.

The special districts request that the special district cost share arrangement for the LAFCo annual budget be established at fifty percent (50%) of the net actual costs. This arrangement recognizes that the County and the districts are the only two types of local governments in Alpine County.

Thank you for your consideration of this request. If you need any additional information or clarification, please feel free to contact me.

Sincerely,

Erik Christeson
General Manager
Kirkwood Meadows Public Utility District

Jeff Gouveia
General Manager
Bear Valley Water District

Dave Harden
Project Manager
Markleeville Public Utility District

cc: Alpine County Board of Supervisors
Nichole Williamson, Alpine County CAO/Director of Health and Human Services

MARKLEEVILLE PUBLIC UTILITY DISTRICT (MPUD)

RESOLUTION 2020-01

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE MARKLEEVILLE PUBLIC UTILITY DISTRICT
CALLING FOR MARKLEEVILLE PUBLIC UTILITY DISTRICT TO JOIN LOCAL AGENCY FORMATION
COMMISSION (LAFCO)**

WHEREAS, the Markleeville Public Utility District is a utility district duly formed under California Government Code Section 61000 et seq. to provide wastewater utility services within the District's service area.

WHEREAS, on December 10th, 2020 the Board of Directors of the Markleeville Public Utility District, Alpine County, California at its regularly scheduled public meeting approved MPUD to join LAFCO.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF MARKLEEVILLE PUBLIC UTILITY DISTRICT, MPUD shall join Local Agency Formation Commission.

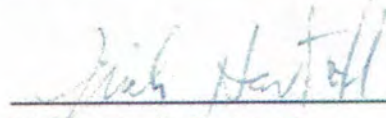
AYES: (4) John Super, Robert Twiss, Nick Hartzell, Wanda Coyan

NAYS: (0)


ABSENT: (1) Marsha Bennett

ABSTAIN: (0)

The foregoing Resolution is hereby adopted this 10th day of December, 2020



Nick Hartzell, Chairman
Board of Director



Joanne Oehlerking,
Secretary

RESOLUTION NO. 20-04

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE KIRKWOOD MEADOWS PUBLIC UTILITY DISTRICT
SUPPORTING SPECIAL DISTRICT REPRESENTATION ON THE ALPINE COUNTY
LOCAL AGENCY FORMATION COMMISSION (LAFCO)**

WHEREAS, Local Agency Formation Commissions (LAFCO) were established by state legislature in 1963 as regulatory agencies in each California county to ensure the orderly formation and development of local agencies, which is now provided for in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CA Government Code §56000 et seq.); and

WHEREAS, among other regulatory powers, LAFCOs are responsible for approving, establishing, expanding, reorganizing and, in limited circumstances, dissolving cities and special districts within their respective counties; and

WHEREAS, LAFCOs are required to be made of two county representatives, two city representatives and one public member; and

WHEREAS, in 1972, state law made it possible for LAFCOs to expand their membership by adding two independent special district representatives, which can be achieved through a process set forth in CA Government Code §56332; and

WHEREAS, Alpine County LAFCO currently does not have independent special district representation; and

WHEREAS, since Alpine County LAFCO directly impacts operations, existence and growth of independent special districts within the County, including Kirkwood Meadows Public Utility District (District), it is important for the District and other districts, that special districts gain representation on the Alpine County LAFCO; and

WHEREAS, special districts in Alpine County held a conference call on July 16, 2019, to begin discussions regarding interest in gaining special district representation on Alpine County LAFCO and negotiation of potential costs; and

WHEREAS, it is in the best interest of the District to support special district representation on Alpine County LAFCO, to collaborate with other independent special districts to complete the process of gaining special district representation, and to negotiate cost share with the County and other special districts; and

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF DIRECTORS OF THE KIRKWOOD MEADOWS PUBLIC UTILITY DISTRICT THAT:

1. The District formally supports independent special districts gaining representation on the Alpine County LAFCO; and

2. The General Manager is authorized to represent the District by continuing discussions with other special districts and the County needed to gain special district representation on Alpine County LAFCO; and
3. The General Manager is authorized to negotiate on behalf of the District to determine special districts' share of LAFCO costs; and
4. The Board President is authorized to vote on behalf of the District in favor of gaining special district representation on Alpine County LAFCO, should it be determined that the vote may occur by mail-in ballot or in person instead of by formal resolution.

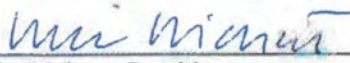
PASSED AND ADOPTED by the Board of Directors of the Kirkwood Meadows Public Utility District on the 12th day of September, 2020.

AYES: President Richert, Directors Epstein, O'Grady, Dornbrook, and Perrault


NOES: None

ABSTAIN: None

ABSENT: None

By: 
Eric Richert, President

Attest:


Peter Dornbrook, Secretary

**ALPINE COUNTY DISTRICT (KIRKWOOD, BEAR VALLEY, MARKLEEVILLE)
DISTRICT
RESOLUTION NO. 499**

**SUPPORTING SPECIAL DISTRICT REPRESENTATION ON THE ALPINE COUNTY
LOCAL AGENCY FORMATION COMMISSION (LAFCO)**

WHEREAS, Local Agency Formation Commissions (LAFCO) were established by the state legislature in 1963 as regulatory agencies in each California county to ensure the orderly formation and development of local agencies, which is now provided for in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CA Government Code Section 56000 et seq.); and

WHEREAS, in 1972, state law made it possible for LAFCOs to expand their membership by adding two independent special district representatives; and

WHEREAS, California statute has established a procedure whereby special districts in a county can request that the LAFCO establish two special districts on the LAFCO Commission; and

WHEREAS, a local LAFCO is charged to conduct municipal service reviews (MSR) and to make sphere of influence decisions relative to special districts; and

WHEREAS, a local LAFCO is charged with making determinations relative to the latent powers of special districts; and

WHEREAS, a local LAFCO may make determinations regarding consolidation and reorganization of special districts from time to time; and

WHEREAS, LAFCO is the only venue where special districts are a fully participating and equal partner with counties; and

WHEREAS, all special districts gain stature when seated on LAFCO; and

WHEREAS, service by special districts on LAFCO provides the opportunity to build relationships with county supervisors; and

WHEREAS, special districts bring a perspective to LAFCO that is distinct from general government entities; and

WHEREAS, special districts are service focused and bring knowledge of infrastructure to the local LAFCO; and

WHEREAS, Alpine County LAFCO currently does not have independent special district representation; and

WHEREAS, since Alpine County LAFCO directly impacts operations, existence and growth of independent special districts within the County, including Bear Valley Water District (District), it is important for the District and other districts, that special districts gain representation on the Alpine County LAFCO; and

WHEREAS, if special districts gain representation on the Alpine County LAFCO, they will be required to share a negotiated portion (up to one-half) of the total Alpine County LAFCO costs; and

WHEREAS, the independent special districts in Alpine County held an initial conference call on July 16, 2019, to begin discussions regarding interest in gaining special district representation on Alpine County LAFCO and negotiation of potential costs. Further discussions have been held since that time; and

WHEREAS, it is in the best interest of the Bear Valley Water District to support special district representation on Alpine County LAFCO, to collaborate with other independent special districts to complete the process of gaining special district representation, and to negotiate cost share with the County and other special districts; and

NOW, THEREFORE, BE IT RESOLVED, by the Bear Valley Water District Board of Directors that:

1. The Bear Valley Water District formally supports independent special districts gaining representation on the Alpine County LAFCO; and
2. The General Manager is authorized to represent the District by continuing discussions with other special districts and the County needed to gain special district representation on Alpine County LAFCO; and
3. The General Manager is authorized to negotiate on behalf of the District to determine special districts' share of LAFCO costs and the District's share of LAFCO costs; and
4. The Board President is authorized to vote on behalf of the District in favor of gaining special district representation on Alpine County LAFCO, should it be determined that the vote may occur by mail-in ballot or in person instead of by formal resolution.

PASSED AND ADOPTED, by the Board of Directors of Bear Valley Water District on October 19, 2020 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:


James Bissell, Board President

ATTEST:


Judi Silber, Board Secretary

Bear Valley Water District
Performance vs. Budget
December 2019 vs. December 2020

	Prior Year July 1 - Dec 31	FY 19-20 Budget	FY 19-20 Budget	Current Year July 1 - Dec 31	FY 20-21 Budget	FY 20-21 Budget	Variance Explanation
REVENUES							
Residential	294,968	605,500	49%	312,752	625,000	50%	
Commercial	93,158	172,000	54%	74,475	150,000	50%	
Subtotal Operating Revenue	388,126	777,500	50%	387,227	775,000	50%	Revenue Target - 50%
EXPENSES							
Salaries & Benefits	197,267	360,225	55%	209,261	374,414	56%	
Director Expenses	969	2,000	48%	800	2,000	40%	
Operator Training & Certs	0	1,500	0%	325	1,500	22%	
Gas, Diesel, Oil & Filters	2,400	3,000	80%	0	3,500	0%	
Insurance	12,064	23,000	52%	8,999	16,000	56%	
Memberships & Conferences	5,908	7,000	84%	4,683	4,600	102%	
Office Expenses & Supplies	5,539	10,000	55%	4,971	10,000	50%	
Field Expenses & Supplies	16,416	20,000	82%	10,566	25,000	42%	
Grooming, Snow Removal & Vehicle Storage	1,191	3,500	34%	394	3,500	11%	
Engineering & Consulting	315	5,000	6%	0	5,000	0%	
Legal & Accounting	13,665	10,000	137%	780	10,000	8%	Audit Delayed
Equipment Rental	226	600	38%	402	800	50%	
Repairs & Maintenance	63,376	60,000	106%	41,278	60,000	69%	
Laboratory Fees	7,967	15,000	53%	7,977	15,000	53%	
Regulatory Reporting & Comp. Projects	3,587	6,700	54%	0	7,000	0%	GW Reporting To Be Paid
Taxes, Fees, Licenses & Assessments	40,171	39,000	103%	30,515	45,000	68%	
Utilities	38,481	60,000	64%	31,308	60,000	52%	
Subtotal Operating Expenses	409,543	626,525	65%	352,259	643,314	55%	Expense Target - 65%
Net Operational Income	-21,417	150,975	-14%	34,968	131,686	27%	
OTHER REVENUE							
Interest Income - LAIF	1,943	7,000	28%	1,188	6,000	20%	RR 2.29 % > 0.63%
Late Fee, Penalties and Interest	4,758	7,000	UBD	1,189	2,000	59%	USFS Paid Conc EXP
Expense Reimbursements - USFS Campground	6,685	3,538	189%	13,726	8,375	164%	
Expense Reimbursements - Concessionnaire	2,740	5,887	47%	3,991	9,665	41%	
Misc Other Income	446	0	UBD	2,850	0	UBD	
Subtotal Other Revenue	16,572	23,425	71%	22,944	26,040	88%	
OTHER EXPENSES							
Loan Interest	8,038	15,680	51%	7,230	12,318	59%	
Depreciation	55,010	114,223	48%	58,600	106,825	55%	
Misc Expense	330	0	UBD	30	0	UBD	
Subtotal Other Expenses	63,377	129,903	49%	65,860	119,143	55%	
Net Other Income	(46,805)	(106,478)	44%	(42,916)	(93,103)	46%	
NET INCOME	-68,222	44,497	-153%	-7,948	38,583	-21%	
NON CASH EXPENDITURES (included in net income)							
Depreciation	55,010	114,223	48%	58,600	106,825	55%	
Subtotal Non-Cash Expenses	55,010	114,223	48%	58,600	106,825	55%	
CASH EXPENDITURES (Not Included in net income)							
Capital Improvements / Replacements	(177,159)	(189,053)	94%	(16,450)	(22,000)	75%	On Target
Loan Payments - Principal	(20,131)	(40,657)	50%	(20,939)	(44,019)	48%	
Subtotal Addl Cash Expenses	(197,290)	(229,710)	86%	(37,388)	(66,019)	57%	
NET CASH FLOW	-210,502	-70,990	-33%	13,264	79,389	17%	

BVWD
Balance Sheet Prev Year Comparison
As of December 31, 2020

	<u>Dec 31, 20</u>	<u>Dec 31, 19</u>	<u>\$ Change</u>	<u>% Change</u>
ASSETS				
Current Assets				
Checking/Savings				
11015 · F&M Bank	363,013.57	241,900.21	121,113.36	50.07%
11018 · LAIF	319,032.67	313,312.73	5,719.94	1.83%
11020 · Petty Cash	50.00	50.00		
11025 · Capital Facilities Fund	21,656.00	21,656.00		
Total Checking/Savings	703,752.24	576,918.94	126,833.30	21.99%
Accounts Receivable				
11050 · Accounts Receivable	-32,439.09	-19,425.48	-13,013.61	-66.99%
Total Accounts Receivable	-32,439.09	-19,425.48	-13,013.61	-66.99%
Other Current Assets				
11055 · Accounts Receivable-Tax Roll	10,193.50	14,583.32	-4,389.82	-30.1%
11140 · Prepaid Insurance	3,378.36	3,983.27	-604.91	-15.19%
11170 · Prepaid Dam Fees	13,548.00		13,548.00	100.0%
Total Other Current Assets	27,119.86	18,566.59	8,553.27	46.07%
Total Current Assets	698,433.01	576,060.05	122,372.96	21.24%
Fixed Assets				
12010 · Land	25,805.16	25,805.16		
12020 · SbSrfLine	1,196,893.29	1,196,893.29		
12040 · Col Facilities	485,584.50	485,584.50		
12041 · LA Facilities	166,428.79	166,428.79		
12050 · TRT Facilities	1,352,893.09	1,127,133.14	225,759.95	20.03%
12060 · DSP Facilities	1,264,402.01	1,244,788.01	19,614.00	1.58%
12080 · P & A (Plant & Admin)Facilities	482,118.91	482,118.91		
12100 · Accumulated Depreciation	-2,843,519.02	-2,729,909.50	-113,609.52	-4.16%
14030 · Work in Progress				
14030.0 · W.I.P. - GIS Consulting Support	6,222.05	5,574.05	648.00	11.63%
14030.6 · Treatment Pond Dock		4,664.11	-4,664.11	-100.0%
16530 · Hydro Jetter	11,463.45		11,463.45	100.0%
16545 · Transfer Flow Meter	5,943.27		5,943.27	100.0%
16550 · Inundation Mapping Project		15,691.20	-15,691.20	-100.0%
16560 · Treatment Pond Improvement Proj		220,624.98	-220,624.98	-100.0%
16565 · FY20/21 - NPDES PERMIT (5 YR.)	30,249.50		30,249.50	100.0%
16570 · Reservoir Outlet & Gate Valve	1,235.55		1,235.55	100.0%
Total 14030 · Work in Progress	55,113.82	246,554.34	-191,440.52	-77.65%
Total Fixed Assets	2,185,720.55	2,245,396.64	-59,676.09	-2.66%
TOTAL ASSETS	<u>2,884,153.56</u>	<u>2,821,456.69</u>	<u>62,696.87</u>	<u>2.22%</u>
LIABILITIES & EQUITY				
Liabilities				
Current Liabilities				
Accounts Payable				
21021 · Accounts Payable	3,566.00	15,766.78	-12,200.78	-77.38%
Total Accounts Payable	3,566.00	15,766.78	-12,200.78	-77.38%
Other Current Liabilities				

BVWD
Balance Sheet Prev Year Comparison
As of December 31, 2020

	Dec 31, 20	Dec 31, 19	\$ Change	% Change
21040 · Prepaid Revenue	232.97		232.97	100.0%
21090 · Payroll Liabilities	27,099.83	15,463.63	11,636.20	75.25%
2110 · Direct Deposit Liabilities	-8.18	-8.18		
22021 · Accrued Vacation	21,200.52	10,309.64	10,890.88	105.64%
Total Other Current Liabilities	48,525.14	25,765.09	22,760.05	88.34%
Total Current Liabilities	52,091.14	41,531.87	10,559.27	25.42%
Long Term Liabilities				
26025 · F&M Bank Loan	354,841.72	396,312.61	-41,470.89	-10.46%
Total Long Term Liabilities	354,841.72	396,312.61	-41,470.89	-10.46%
Total Liabilities	406,932.86	437,844.48	-30,911.62	-7.06%
Equity				
29000 · Retained Earnings	1,888,512.83	1,855,178.28	33,334.55	1.8%
29100 · O & M Emergency Reserve Fund	150,000.00	150,000.00		
29200 · CIP Reserve Fund	425,000.00	425,000.00		
29300 · Capacity Fee Reserve Fund	21,656.00	21,656.00		
Net Income	-7,948.13	-68,222.07	60,273.94	88.35%
Total Equity	2,477,220.70	2,383,612.21	93,608.49	3.93%
TOTAL LIABILITIES & EQUITY	2,884,153.56	2,821,456.69	62,696.87	2.22%

BVWD
A/P Aging Summary
As of September 30, 2020

Prepays September 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
A.T. & T	58.85					58.85	U-Verse for Main Office
A.T. & T	165.65					165.65	Telephone for Lake Alpine Boat Ramp
A.T. & T	210.56					210.56	Telephone for Main Office
E.D.D.	137.05					137.05	State Payroll Taxes
E.D.D.	362.41					362.41	State Payroll Taxes
E.D.D.	396.21					396.21	State Payroll Taxes
E.D.D.	142.17					142.17	State Payroll Taxes
F & M Bank	4,694.80					4,694.80	Principal & Interest on Loan
Forney	96.35					96.35	Refund for Overpayment
ICMA Retirement	24.15					24.15	Administration Fees
I.R.S.	3,412.62					3,412.62	Federal Payroll Taxes
I.R.S.	3,532.36					3,532.36	Federal Payroll Taxes
Petty Cash	15.21					15.21	Office, Postage
Lake Alpine Water	171.09					171.09	Water for Main Office
Scott Thompson	250.00					250.00	Labor for Tree Service
SDRMA	1,858.44					1,858.44	Health Benefits for Employees
SDRMA	678.26					678.26	Dental, Vision, LTD, & Life Insurance for Employees
U.S.P.S.	110.00					110.00	Postage for October A/R Invoices
Vantage	370.99					370.99	Retirement for Employees
Vantage	1,176.76					1,176.76	Retirement for Employees
Vantage	375.99					375.99	Retirement for Employees
Vantage	1,205.18					1,205.18	Retirement for Employees
The Zenith	786.00					786.00	Workers Compensation Insurnace
TOTAL	20,231.10					20,231.10	

Accounts Payable September 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
Alpha Analytical Laboratories Inc.		682.00				682.00	Laboratory Analysis
Aqua Sierra Controls, Inc.		659.42				659.42	Chlorine Ejector Parts
Arnold Auto Supply Inc.		115.70				115.70	Parts For Generator
Card Services		1,592.49				1,592.49	Office, Telephone. Field Supplies, Computer Backup
Diane Lundquist				100.00		100.00	Director Fees For Regular Meeting
EBBETTS PASS GAS CO. Inc.		389.45				389.45	Propane for Main Office
Ebbetts Pass Lumber Co. Inc.		75.79				75.79	Field Supplies

BVWD
A/P Aging Summary
As of September 30, 2020

Accounts Payable September 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
El Dorado Septic Service, Inc.		134.06				134.06	Porta Potty Rentals
Gateway Press Inc.		330.91				330.91	Envelopes for October A/R Invoicing / Billing
Jim Bissell				100.00		100.00	Director Fees For Regular Meeting
John Boyle				100.00		100.00	Director Fees For Regular Meeting
Ken Brown				100.00		100.00	Director Fees For Regular Meeting
Neumiller and Beardslee		255.00				255.00	Legal Fees
P.G.&E.		6,190.46				6,190.46	Electricity for September
Stantec Consulting Services Inc.		3,751.00				3,751.00	Groundwater Reporting
TOTAL		14,176.28		400.00		14,576.28	

BVWD
A/P Aging Summary
As of October 31, 2020

Prepays October 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
A.T.&T.	58.85					58.85	U-Verse for Main Office
A.T.&T.	211.87					211.87	Telephone for Main Office
A.T.&T.	166.26					166.26	Telephone for Lake Alpine Boat Ramp
E.D.D.	142.43					142.43	State Payroll Taxes
E.D.D.	392.54					392.54	State Payroll Taxes
E.D.D.	63.05					63.05	State Payroll Taxes
E.D.D.	142.34					142.34	State Payroll Taxes
E.D.D.	336.64					336.64	State Payroll Taxes
E.D.D.	118.00					118.00	State Payroll Taxes
F&M Bank	4,694.80					4,694.80	Principal & Interest on Loan Payment
I.R.S.	3,516.64					3,516.64	Federal Payroll Taxes
I.R.S.	3,511.14					3,511.14	Federal Payroll Taxes
Lake Alpine Water Company	169.92					169.92	Water For Main Office
P.G.&E.	1,113.79					1,113.79	Electricity for October
SDRMA	1,858.44					1,858.44	Health Insurance for Employees
SDRMA	678.26					678.26	Dental, Vision, LTD, & Life Insurance for Employees
Vantage	373.58					373.58	Retirement for Employees
Vantage	1,278.39					1,278.39	Retirement for Employees
Vantage	373.58					373.58	Retirement for Employees
Vantage	370.24					370.24	Retirement for Employees
Vantage	1,235.95					1,235.95	Retirement for Employees
Vantage	302.53					302.53	Retirement for Employees
The Zenith	786.00					786.00	Workers Compensation Insurance
TOTAL	21,895.24					21,895.24	
Accounts Payable October 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
Alpha Analytical Laboratories Inc.		2,860.00				2,860.00	Laboratory Analysis
Alpine Cnty Tax Collector	565.68					565.68	Property Tax Installment Payment
Arnold Auto Supply Inc.		44.98				44.98	Parts for Repairs
Card Services		955.52				955.52	Office
Columbia Communications Inc.		39.00				39.00	Pager Service for Staff
CSDA		2,094.00				2,094.00	Dues

BVWD
A/P Aging Summary
As of October 31, 2020

Accounts Payable October 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
Diane Lundquist		100.00				100.00	Director Fees for Regular Meeting
DMV		27.00				27.00	Registration
Gunnar Thordarson		100.00				100.00	Director Fees for Regular Meeting
Guy West		63.83				63.83	Reimbursement for Mileage
Industrial Electrical Co.		960.00				960.00	Repairs & Maint
Jim Bissell		100.00				100.00	Director Fees for Regular Meeting
John Boyle		100.00				100.00	Director Fees for Regular Meeting
M & K ARNOLD		28,452.85				28,452.85	Repair & Maintenance Collection System
Neumiller and Beardslee		250.00				250.00	Legal Fees
Thatcher Company of California		6,293.56				6,293.56	Chlorine
Vantagepoint Transfer Agents		-373.58				-373.58	Refund for Duplicate ACH Payment Initiated at F&M Bank
TOTAL	565.68	42,067.16				42,632.84	

BVWD
A/P Aging Summary
As of November 30, 2020

	Prepays November 2021	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
	A.T.&T.	216.48					216.48	Telephone for Main Office
	A.T.&T.	167.80					167.80	Telephone for Lake Alpine Boat Ramp
	A.T.&T.	58.85					58.85	U-Verse for Main Office
	Boyle Refund	1,900.00					1,900.00	Refund for BV Snowmobile Check Deposited
	Card Services	2,212.92					2,212.92	Office, Field Supplies, Telephone, Backups, Constant Contact
	E.D.D.	271.12					271.12	State Payroll Taxes
	E.D.D.	84.28					84.28	State Payroll Taxes
	E.D.D.	151.41					151.41	State Payroll Taxes
	E.D.D.	85.53					85.53	State Payroll Taxes
	E.D.D.	164.42					164.42	State Payroll Taxes
	F & M Bank	4,694.80					4,694.80	Principal & Interest on F&M Bank Loan
	I.R.S.	2,817.76					2,817.76	Federal Payroll Taxes
	I.R.S.	2,099.04					2,099.04	Federal Payroll Taxes
	I.R.S.	2,142.20					2,142.20	Federal Payroll Taxes
	Lake Alpine Water Company	167.49					167.49	Water for Main Office
	Nichols	289.05					289.05	Refund for Credit on Property Sold
	SDRMA	1,854.44					1,854.44	Health Benefits for Employees
	SDRMA	678.26					678.26	Dental, Vision, LTD, Life Insurance
	Vantagepoint Transfer	1,055.54					1,055.54	Retirement for Employees
	Vantagepoint Transfer	243.43					243.43	Retirement for Employees
	Vantagepoint Transfer	865.30					865.30	Retirement for Employees
	Vantagepoint Transfer	249.50					249.50	Retirement for Employees
	Vantagepoint Transfer	871.37					871.37	Retirement for Employees
	The Zenith	788.00					788.00	Workers Compensation Insurance
	TOTAL	24,128.99					24,128.99	

Accounts Payable November 2021	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
Alpha Analytical Laboratories Inc.	124.00	657.00				781.00	Laboratory Analysis
Alternative Energy Co.		354.00				354.00	Heater Winterization & Annual Maintenance
CISCO Fire Sprinkler, Inc.		100.00				100.00	Fire Extinguisher Annual Maintenance
Clay Eastman Snow Removal		394.10				394.10	Snow Removal & Grooming
EBBETTS PASS GAS CO. Inc.		973.76				973.76	Propane
Ebbetts Pass Lumber Co. Inc.		872.28				872.28	Field Supplies
El Dorado Septic Service, Inc.		1,955.00				1,955.00	Annual Pumping of Lift Stations

BVWD
A/P Aging Summary
As of November 30, 2020

Accounts Payable November 2021	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
Esri		1,500.00				1,500.00	GIS Desktop Use Primary Maintenance - Annual
Hach		373.47				373.47	Laboratory Supplies
ICMA Retirement Corporation		138.74				138.74	Administration Fees
Neumiller and Beardslee		275.00				275.00	Legal Fees
Stantec Consulting Services Inc.		3,394.50				3,394.50	1st & 2nd Tri Annual Groundwater Monitoring Reports
SWRCB-AFRS		28,507.00				28,507.00	Damn Fees
Vantagepoint Transfer Agents			-373.58			-373.58	Refund for ACH
Weber Ghio and Associates, Inc		1,235.55				1,235.55	Engineering Fees for Damn Slide Gate Valve
TOTAL	124.00	40,730.40	-373.58			40,480.82	

BVWD
A/P Aging Summary
As of December 31, 2020

PREPAIDS DECEMBER 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
A/R Refund	271.11					271.11	Property Sold - Refund Credit
A.T.&T.	58.85					58.85	U-Verse for Main Office
A.T.&T.	215.3					215.30	Telephone for Main Office
A.T.&T.	168.16					168.16	Telephone for Lake Alpine Boat Ramp
E.D.D.	86					86.00	State Payroll Taxes
E.D.D.	166.38					166.38	State Payroll Taxes
E.D.D.	88.35					88.35	State Payroll Taxes
E.D.D.	183.2					183.20	State Payroll Taxes
F&M Bank	4694.8					4,694.80	Principal & Interest on F&M Bank Loan
I.R.S.	2155.36					2,155.36	Federal Payroll Taxes
I.R.S.	2190.58					2,190.58	Federal Payroll Taxes
Lake Alpine Water Company	164.26					164.26	Water for Main Office
P.G.&E.	1638.29					1,638.29	Electricity for November
P.G.&E.	1458.28					1,458.28	Electricity for December
SDRMA	1858.44					1,858.44	Health Benefits for Employees
SDRMA	678.26					678.26	Dental, Vision, LTD, Life Insurance
Vantagepoint Transfer	250.91					250.91	Retirement for Employees
Vantagepoint Transfer	875.56					875.56	Retirement for Employees
Vantagepoint Transfer	872.76					872.76	Retirement for Employees
Vantagepoint Transfer	250.89					250.89	Retirement for Employees
TOTAL	18,325.74					18,325.74	

ACCOUNTS PAYABLE DECEMBER 2020	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL	Description
Alpha Analytical Laboratories Inc.	502.00					502.00	Laboratory Analysis
Alpine Cnty Tax Collector	565.68					565.68	Property Tax Installment
Card Services	1,501.84					1,501.84	Office, Telephone, Field Supplies, Backups
EBBETTS PASS GAS CO. Inc.	970.48					970.48	Propane
State Water Resources Control Bd/OPERATOR	150.00					150.00	License for Jeff Gouveia
TOTAL	3,690.00	0.00				3,690.00	

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BVWD
A/R Aging Summary
As of February 11, 2021

BV082			289.05		289.05	578.10
OS416			289.05	28.91	289.05	607.01
CS006			289.05	28.91	289.05	607.01
BV137			289.05	28.91	290.89	608.85
BV175			289.05	28.91	348.71	666.67
LA023			289.05	28.91	375.78	693.74
CS036			289.05	28.91	384.94	702.90
CM091		257.43		257.43	264.36	779.22
BV179			289.05		593.00	882.05
BV181			289.05	28.91	607.01	924.97
CS116			289.05	28.91	607.01	924.97
CO003		1,199.81				1,199.81
CO001		1,580.70			0.06	1,580.76
CM080		1,256.56		1,256.56		2,513.12
CM150		8,370.80			0.40	8,371.20
CM010		17,887.56			-2.00	17,885.56
TOTAL		<u>33,206.66</u>	<u>19,761.46</u>	<u>1,040.65</u>	<u>-52,279.94</u>	<u>1,728.83</u>
TOTAL CREDITS		-1,605.34	-867.15	-3,283.23	-58,038.63	-63,794.35
TOTAL DEBITS		34812.00	20,628.61	4323.88	5,758.69	65,523.18
TOTAL		<u>33,206.66</u>	<u>19,761.46</u>	<u>1,040.65</u>	<u>-52,279.94</u>	<u>1,728.83</u>

BVWD
A/R Aging Summary
As of February 11, 2020

TOTAL	578.10	4,213.64	26,453.76	-227.62	-42,318.41	-11,300.53
TOTAL CREDITS	0.00	-5245.67	-271.11	-2676.93	-55128.71	-63,322.42
TOTAL DEBITS	578.10	9459.31	26,724.87	2449.31	12810.3	52,021.89
TOTAL	578.10	4213.64	26,453.76	-227.62	-42318.41	-11,300.53