



**WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES
RESOLUTION NO. 26090801**

**AUTHORIZATION FOR FINDINGS AND APPROVAL OF AN ENERGY SERVICE
CONTRACT PURSUANT TO GOVERNMENT CODE SECTIONS 4217.10 THROUGH 4217.18
SOLAR PHOTOVOLTAIC RESTORATION AND ENERGY CONSERVATION SERVICES
WEST VALLEY COLLEGE AND MISSION COLLEGE**

AUTHORITY AND PROCEDURE

WHEREAS, the West Valley-Mission Community College District (“District”) owns and operates solar photovoltaic generating facilities and battery energy storage systems located at West Valley College in Saratoga, California, and at Mission College in Santa Clara, California, which facilities were installed in phases beginning in 2011 and expanded in 2019 and 2020.

WHEREAS, the Governing Board of the District (“Board”) finds it to be in the best interests of the District to restore those facilities to their design performance and to secure ongoing energy conservation services in order to reduce the District’s energy costs and to protect the District’s substantial capital investment in those facilities.

WHEREAS, Government Code sections 4217.10 through 4217.18 authorize the Board, without advertising for bids, to enter into one or more energy service contracts with any person or entity pursuant to which that person or entity will provide electrical or thermal energy or conservation services to the District from an energy conservation facility, upon the findings required by Government Code section 4217.12.

WHEREAS, Government Code section 4217.11(c) defines “conservation measures” to mean equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy; and section 4217.11(d) defines “conservation services” to mean the electrical, thermal, or other energy savings resulting from conservation measures, which savings shall be treated as a supply of such energy.

WHEREAS, Government Code section 4217.11(j) expressly includes a community college district within the definition of “public agency,” and section 4217.11(e) defines “energy conservation facility” to include alternate energy equipment and conservation measures located in public buildings or on land owned by public agencies.

WHEREAS, Government Code section 4217.16 provides that, prior to awarding or entering into an agreement, the public agency may request proposals from qualified persons, and that after evaluating the proposals the public agency may award the contract on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations.

WHEREAS, Government Code section 4217.18 directs that the chapter be construed to provide the greatest possible flexibility to public agencies in structuring agreements entered into thereunder so that economic benefits may be maximized.

WHEREAS, the findings required under Government Code section 4217.12 must be made at a public hearing conducted at a regularly scheduled meeting of the Board after at least two weeks’ prior public notice; such

notice was duly posted and published by the District on August 24, 2026, and the Board conducted the required public hearing at its regularly scheduled meeting of September 8, 2026, at which all interested persons were afforded the opportunity to be heard.

BACKGROUND - CONDITION OF THE DISTRICT'S SOLAR AND STORAGE ASSETS

WHEREAS, the District's solar photovoltaic facilities were designed and constructed by SunPower Corporation ("SunPower") in two phases: an initial installation of approximately 2.2 megawatts of solar carport capacity placed in service in 2011 ("Phase 1"), and an expansion approved in 2019 consisting of approximately 5.4 megawatts of solar carport capacity together with battery energy storage systems totaling approximately 2 megawatts and 3,800 kilowatt hours ("Phase 2").

WHEREAS, Phase 2 was financed with proceeds of bonds authorized by District voters under Measure W; the District retained ownership of the systems; and SunPower undertook to provide operations and maintenance services together with a twenty-five (25) year performance guarantee.

WHEREAS, SunPower's Commercial and Industrial Solutions business, which held the District's operations, maintenance and performance guarantee obligations, was acquired by TotalEnergies Renewables USA, LLC by equity purchase, which transaction closed on May 31, 2022, and those obligations thereafter were held by the successor entity ("TotalEnergies"); that transaction preceded and was independent of the Chapter 11 proceeding commenced by SunPower Corporation on August 5, 2024.

WHEREAS, in the fall of 2025 TotalEnergies advised the District that it did not intend to perform, and was not performing, maintenance on the District's solar photovoltaic and battery energy storage systems.

WHEREAS, District staff thereafter retained Gridscape Energy Solutions, Inc. ("Gridscape") to review areas of concern with the systems; the District provided the resulting findings to TotalEnergies; TotalEnergies did not address the identified deficiencies; and TotalEnergies subsequently issued a letter purporting to terminate its agreement on the asserted ground of non-payment of an invoice directed to a former District Director of Facilities.

WHEREAS, in the fall of 2025 District staff installed data acquisition system ("DAS") devices on the solar arrays in order to determine the actual operating condition and output of the systems, and in November 2025 the District contracted with Gridscape to perform a more thorough analysis of energy losses to the District and to install additional DAS devices at the main meters and battery energy storage systems.

WHEREAS, Gridscape completed the initial survey and DAS installation task, placing seven DAS units in service on April 23, 2026, four at West Valley College and three at Mission College, and reported the following conditions: West Valley College Lots 1 and 2 producing no energy by reason of protective relays locked out following a utility outage; West Valley College Lots 4 and 5 producing no energy by reason of inverter failure; West Valley College Lot 7 online but operating at an approximately fifty-seven percent (57%) production loss by reason of a vehicle-damaged carport canopy, together with a ground fault relay trip; Mission College Lot C producing no energy by reason of inverter failure; and Mission College Lots B and E online without major production issues.

WHEREAS, the inverters serving West Valley College Lots 4 and 5 and Mission College Lot C are SatCon model PVS-500 units installed as part of Phase 1; SatCon Technology Corporation filed for bankruptcy protection in October 2012 and thereafter liquidated; original equipment manufacturer support, warranty coverage and factory spare parts are no longer available; the units are approximately fifteen (15) years of age and have reached the end of their useful service life; and repair of the units is neither technically nor economically feasible.

WHEREAS, as a consequence of the foregoing conditions and of the absence of maintenance, the District has incurred energy costs materially in excess of those it would have incurred had the systems operated as designed.

THE PROPOSED AGREEMENT

WHEREAS, Gridscape is a California clean energy firm organized in 2013 and headquartered in Fremont,

California, which designs, installs, operates and maintains solar photovoltaic, battery energy storage and microgrid systems; has received competitively awarded grants from the California Energy Commission and the United States Department of Energy; and has delivered and maintained systems for numerous California public agencies, including community college districts, municipalities and public safety facilities.

WHEREAS, Gridscape designed and installed the District's DAS infrastructure, has performed the District's system condition survey and energy loss analysis, possesses detailed site-specific knowledge of the District's systems, and its monitoring platform is already integrated with the District's installed equipment.

WHEREAS, the District requested and evaluated a proposal from Gridscape and, applying the criteria set forth in Government Code section 4217.16, has considered the experience of the contractor, the type of technology employed, the cost to the District, and other relevant considerations including continuity of monitoring, avoidance of duplicative mobilization, and the urgency of restoring generation before further energy losses accrue.

WHEREAS, the proposed agreement ("Agreement") provides for (i) the design, permitting, demolition, replacement, testing, configuration and commissioning of the failed inverters and associated transformers at West Valley College Lots 4 and 5 and Mission College Lot C, at a fixed price of \$1,466,093, consisting of \$758,626 at West Valley College and \$707,467 at Mission College; and (ii) ongoing energy conservation services consisting of continuous remote monitoring, outage alerting, periodic and consolidated performance reporting, software maintenance, historical data retention, reporting to Silicon Valley Power in connection with the Mission College excess production arrangement, and not fewer than two onsite inspections and verifications of all equipment at each college annually, at an annual cost of \$150,400 for Fiscal Year 2027 and \$134,912 for Fiscal Year 2028 with a 3% escalation factor for each year until June 30, 2041.

WHEREAS, the Agreement further provides that, during its term, the District may authorize Gridscape to perform additional repairs to the solar photovoltaic and battery energy storage facilities where such repairs constitute conservation measures within the meaning of Government Code section 4217.11(c) and are reasonably necessary to maintain or restore the energy performance of the systems, including repairs to conditions first identified during the inspections performed under the Agreement; such repairs to be authorized individually as task orders under the Agreement and subject to the limitations set forth in this Resolution; and nothing in the Agreement shall limit or impair the District's right to solicit and compare quotations from other vendors before authorizing any such repair.

WHEREAS, the District will at all times own the energy conservation facility and all equipment installed under the Agreement; no facility ground lease as defined in Government Code section 4217.11(h) is contemplated, required or granted under the Agreement; and no real property interest of the District is leased, encumbered or conveyed thereby.

WHEREAS, the District will fund the Agreement from Capital Improvement Funds and General Funds; no financing is provided by the contractor or by any third party; and accordingly the Agreement does not constitute a facility financing contract within the meaning of Government Code sections 4217.11(g) and 4217.13.

WHEREAS, the work to be performed under the Agreement constitutes a public work for purposes of the California Labor Code, and the Agreement requires payment of prevailing wages, registration of the contractor and all subcontractors with the Department of Industrial Relations, and payment and performance bonds.

WHEREAS, the District has determined that approval of the Agreement is a project that is categorically exempt from the California Environmental Quality Act pursuant to title 14, California Code of Regulations, sections 15301 and 15302, in that the work consists of the repair, maintenance and in-kind replacement of existing mechanical and electrical equipment at existing facilities, will be located on the same sites as the equipment replaced, will serve substantially the same purpose and capacity as the equipment replaced, and involves negligible or no expansion of the existing use; and the District further determines that none of the exceptions to the categorical exemptions set forth in title 14, California Code of Regulations, section 15300.2 applies to the Agreement.

WHEREAS, Gridscape has provided to the District an analysis of the District's existing and projected energy costs, of the energy losses attributable to the current condition of the systems, and of the energy cost savings to be achieved under the Agreement, which analysis demonstrates that the anticipated cost to the District for the conservation services provided under the Agreement is less than the anticipated marginal cost to the District of the electrical energy that would have been consumed by the District in the absence of the Agreement, and which analysis was presented as evidence at the public hearing held on the date of this Resolution.

WHEREAS, the District expressly reserves all rights, claims, causes of action and remedies it may have against SunPower Corporation, TotalEnergies Renewables USA, LLC, and each of their respective affiliates, successors, assigns and sureties, arising from or relating to the design, construction, warranty, performance guarantee, operation or maintenance of the District's solar photovoltaic and battery energy storage systems, and nothing in the Agreement or in this Resolution shall be construed as a waiver, release, accord, satisfaction or compromise of any such right, claim, cause of action or remedy, or as an acknowledgment of the validity or effectiveness of any purported termination.

NOW, THEREFORE, the Governing Board of the District hereby finds, determines and resolves as follows:

RESOLVED, that the Board does hereby find and determine that the foregoing recitals are true and correct and are hereby incorporated by this reference.

FURTHER RESOLVED, that public notice of the public hearing on the Agreement was given at least two weeks in advance of this regularly scheduled meeting in accordance with Government Code section 4217.12, that the public hearing was duly conducted on the date of this Resolution, and that all interested persons desiring to be heard were afforded the opportunity to be heard.

FURTHER RESOLVED, that pursuant to Government Code section 4217.12(a)(1), the Board finds that the anticipated cost to the District for the electrical energy or conservation services provided by the energy conservation facility under the Agreement will be less than the anticipated marginal cost to the District of thermal, electrical, or other energy that would have been consumed by the District in the absence of those purchases.

FURTHER RESOLVED, that the Board finds that the foregoing determination is supported by measured data recorded by the District's data acquisition systems, by the District's historical utility billing records for service from Pacific Gas and Electric Company at West Valley College and from Silicon Valley Power at Mission College, and by the rate projections of those serving utilities, as authorized by Government Code section 4217.15.

FURTHER RESOLVED, that the finding described in Government Code section 4217.12(a)(2) is inapplicable to the Agreement, in that no facility ground lease is contemplated, required or granted thereunder, the District retaining at all times full ownership of the real property and of the energy conservation facility.

FURTHER RESOLVED, that the Agreement does not constitute a facility financing contract within the meaning of Government Code section 4217.11(g), and accordingly the findings prescribed by Government Code section 4217.13 are not required and are not made.

FURTHER RESOLVED, that pursuant to Government Code section 4217.16 the Board finds that award of the Agreement to Gridscape is warranted on the basis of the experience of the contractor, the type of technology employed by the contractor, the cost to the District, and other relevant considerations, including the contractor's existing knowledge of the District's systems, the integration of the contractor's monitoring platform with the District's installed equipment, and the need to restore generation without further delay.

FURTHER RESOLVED, that the Board determines that the terms of the Agreement are in the best interests of the District, and that the Agreement is hereby approved in the amount of \$1,466,093 for the inverter replacement work and \$150,400 for Fiscal Year 2027 and \$134,912 for Fiscal Year 2028 with a 3% escalation factor for each year until June 30, 2041 annually for energy conservation services, for an initial term of Fifteen (15) years, to be funded from Capital Improvement Fund and General Fund.

FURTHER RESOLVED, that the Board authorizes the Vice Chancellor of Facilities Development and

Operations, or his or her designee, to authorize and issue task orders under the Agreement for additional repairs to the District's solar photovoltaic and battery energy storage facilities, subject to each of the following conditions: (i) each such repair shall constitute a conservation measure within the meaning of Government Code section 4217.11(c) that is reasonably necessary to maintain or restore the energy performance of the systems; (ii) no single repair shall exceed Two Hundred Fifty Thousand Dollars (\$250,000); (iii) the aggregate value of all such repairs shall not exceed Three Hundred Thousand Dollars (\$300,000) in any fiscal year; (iv) each such repair shall be awarded as a task order under the Agreement pursuant to the authority of Government Code section 4217.16, and not as a separate contract; (v) all such work shall be subject to the payment of prevailing wages and to registration of the contractor and all subcontractors with the Department of Industrial Relations; and (vi) any proposed repair exceeding any limitation set forth herein shall be presented to the Board for prior approval.

FURTHER RESOLVED, that staff shall report to the Board not less than annually on all task orders authorized under the preceding clause, identifying for each the scope of work, the amount authorized, and the energy performance condition addressed.

FURTHER RESOLVED, that the Governing Board delegates to the Vice Chancellor of Facilities Development and Operations, or his or her designee, authority to execute the Agreement and any related documents, and to take such other actions as are necessary to fulfill the intent of this Resolution, subject to such non-substantive changes as may be approved by District legal counsel.

FURTHER RESOLVED, that the District expressly reserves, and does not waive, release or compromise, all rights, claims, causes of action and remedies against SunPower Corporation, TotalEnergies Renewables USA, LLC, and each of their respective affiliates, successors, assigns and sureties, and directs staff to account for all costs incurred under the Agreement in a manner that preserves the District's ability to seek recovery of those costs.

FURTHER RESOLVED, that the Board finds that approval of the Agreement is categorically exempt from the California Environmental Quality Act as set forth in the recitals, and directs the Vice Chancellor of Facilities Development and Operations, or his or her designee, to file a Notice of Exemption with the Clerk of the County of Santa Clara within five (5) working days of adoption of this Resolution.

FURTHER RESOLVED, that this Resolution shall be effective as of the date of its adoption.

Dated: 9/8/2026

Signed: Adrienne C. Grey

Adrienne Grey, Board President, WVMCCD

Signed: Bradley J. Davis

Bradley J. Davis, Chancellor, WVMCCD

BOARD OF TRUSTEES

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