

Humboldt Bay Municipal Water District

To: Board of Directors

From: John Friedenbach

Date: September 19, 2024

Re: **Addendums to Tesla Energy Products Purchase Agreements SGIP: Essex & TRF****Discussion**

As the Board is aware, the District has partnered with TESLA to participate in the PG&E SGIP grant funding to install two battery bank systems – one at Essex and one at the TRF. The projects have been completed and are operational. The interface with our 2MW generator at Essex remains to be completed under the contract that the Board approved with Schatz Energy. TESLA and its finance company, Participate Energy, have approached the District to share the Federal Investment Tax Credit (ITC) for which these two battery bank projects are eligible. See the attached proposed contract addendums. District Counsel has reviewed the proposed Addendums. Both Counsel and Staff recommend that the Board agree to the Addendums.

The proposed ITC sharing split is 81.7%/18.3% and 80%/20% between Tesla and the District for the Essex and TRF facilities respectively. The amounts to be received by the District are: \$222,881.17 for the Essex facility and \$103,500.08 for the TRF facility or a total of \$326,381.25.

Staff intends to utilize these fund as follows:

1. Schatz Energy generator interface project: \$37,576.
2. Reservoirs Seismic Retrofit project: \$288,805.25.

Staff Recommendation

Staff recommends that the Board authorize staff to sign the Addendum to Tesla Energy Products Purchase Agreement California Self-Generation Incentive Program (SGIP) agreements for the Essex and TRF projects and direct staff to cooperate with TESLA and Participate Energy to file the necessary ITC tax forms.



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

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

This Addendum amends the Tesla Energy Products Purchase Agreement between Buyer and Tesla dated June 12th 2020 ("Agreement"). Buyer and Tesla agree that the Agreement, as amended by this Addendum, is in full force and effect in accordance with its terms and is hereby ratified and confirmed, and except as modified by this Addendum, all other terms and conditions of the Agreement remain unchanged.

1. Revised Price Sheet

The Price Sheet set forth in the Agreement is hereby amended and restated as follows:

Price Sheet

Buyer information

Buyer Name: Humboldt Bay Municipal Water District
 Buyer Business Address: 7270 West End Rd, Arcata, CA 95521, US
 Signatory Name: John Friedenbach
 Signatory Phone Number: 707-443-5018

Tesla entity

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

Energy Products and Contract Price

Energy Storage System:	980.0 kW/ 3,944 kWh	
SGIP Eligible Cost:	\$4,124,398.65	
Assigned SGIP Incentive:	\$2,966,000.00	
Assigned Federal Incentive:	\$ 996,144.79	
Contract Price:	\$4,063,420.00	
Expected 30% Federal Incentive:	\$1,219,026.00	100.0%
Assigned Federal Incentive:	\$ 996,144.79	81.7%
Retained Portion of Federal Incentive*	\$ 222,881.17	18.3%
Remaining Contract Balance due after Assignment:	\$0.00	
Job No.:	JB-955125-00	

*retained portion of Federal Incentive to be utilized for Buyer expense reimbursement.

**2. Amendment of Section 2. Section 2 of the Agreement is amended by inserting the following:**

(a) The following provision is added as new Section 2.(c):

(c) *In addition to qualification for the SGIP Incentive, the Parties anticipate that the Products will qualify for a "Investment Tax Credit" under Section 48 of the Internal Revenue Code of 1986, as amended, which will either be in form of a transferable credit against income taxes ("Transferable ITC"), if Buyer is a taxable entity, or in form of a direct payment ("Direct Payment," and collectively with the "Transferable ITC," or each, separately referred to herein as the "Federal Incentive"), if Buyer is a non-taxable entity. The Parties agree that, due to increased Product costs based on supply chain issues and inflation, Buyer will apply for and assign to Tesla the portion of the Federal Incentive ("Assigned Federal Incentive") set forth above in the Price Sheet, which assignment enables Tesla to sell to Buyer the Product at the Contract Price set forth in the Price Sheet and Buyer shall retain the balance of the Federal Incentive set forth above in the Price Sheet ("Retained Incentive"). Buyer hereby irrevocably assigns to Tesla all of its rights to and interests in the Assigned Federal Incentive described in the Price Sheet and agrees that the Assigned Federal Incentive shall be paid on behalf of Buyer to an account determined by Tesla.*

Buyer to select one of the following:

- Agency. Buyer hereby appoints Tesla and its assignee as Buyer's irrevocable attorney-in-fact for the sole purpose of applying for the Federal Incentive, including, without limitation the right to execute any documents, agreements and instruments, and to perform all acts necessary to obtain the Federal Incentive in Buyer's name, payable directly to (a) Tesla or its assignee or (b) if the Internal Revenue Code of 1986 or regulations thereunder require payment of the Federal Incentive directly to Buyer, to Buyer for the benefit of Tesla or its assignee. If Buyer receives payment of the Federal Incentive, it shall pay Tesla or Tesla's assignee an amount equal to the Assigned Federal Incentive within 30 days after Buyer's receipt of the Federal Incentive.*
- Collaboration. Buyer hereby agrees to collaborate with Tesla for the sole purpose of applying for the Federal Incentive, including, preparing and executing any documents, agreements and instruments, and to perform all acts necessary to obtain the Federal Incentive in Buyer's name, payable directly to (a) Tesla or its assignee or (b) if the Internal Revenue Code of 1986 or regulations thereunder require payment of the Federal Incentive directly to Buyer, to Buyer for the benefit of Tesla or its assignee. If Buyer receives payment of the Federal Incentive, it shall pay Tesla or Tesla's assignee an amount equal to the Assigned Federal Incentive within 30 days after Buyer's receipt of the Federal Incentive.*

(b) Section 2.(c) becomes Section 2.(d) and is amended as follows:

- i. The words "*and the Federal Incentive*" are inserted in the first line of Section 2.(d) after the words "*SGIP Incentive*."
- ii. The words "*or such other email address that Tesla or its assignee may provide from time to time*" are inserted at the end of Section 2.(d) before the period.

(c) Section 2.(d) becomes Section 2.(e).

(d) The following provision is inserted as new Section 2.(f):

(f) *Buyer agrees to execute, acknowledge and deliver, and cooperate with Tesla or its assignee in executing, any and all such further assurances and other documents agreements or instruments, and take or cause to be taken all such other action, as may be*



reasonably necessary or requested by Tesla or its assignee from time to time to obtain and achieve the SGIP Incentive and the Federal Incentive payments to Tesla or its assignee as set forth in this Section 2.

(e) The following provision is inserted as new Section 2.(g):

(g) Should Buyer comply with all reasonable requests by Tesla or its assignee under Section 2(f) above, Buyer shall not be liable if Tesla or its assignee do not receive the Assigned Federal Incentive or any portion thereof. Notwithstanding the foregoing, should any actively negligent or willful act by Buyer prevent Tesla or its assignee from receiving all or any part of either the Assigned SGIP Incentive or the Assigned Federal Incentive in the full amount set forth in the Price Sheet, or result in a full or partial recapture of the Assigned SGIP Incentive or Assigned Federal Incentive, Buyer will pay that portion of the Contract Price to Tesla or its assignee, which payment shall be an amount equal to the amount of Assigned SGIP Incentive or Assigned Federal Incentive not received by, or recaptured from, Tesla or its assignee. If Tesla or its assignee fails to receive, or will be obligated to repay, any amount of Assigned SGIP Incentive or Assigned Federal Incentive for reasons resulting from any actively negligent or willful act by Buyer, Tesla or its assignee will invoice Buyer and Buyer will pay such invoice within 30 days after receipt.

Signed by

Buyer:

Tesla, Inc. (on behalf of itself and financing party Corporate Credit, Inc):

Name: _____

Name: _____

Signature: _____

Signature: MSD

Title: _____

Title: _____

Date: _____

Date: _____



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

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

This Addendum amends the Tesla Energy Products Purchase Agreement between Buyer and Tesla dated June 29th 2020 ("Agreement"). Buyer and Tesla agree that the Agreement, as amended by this Addendum, is in full force and effect in accordance with its terms and is hereby ratified and confirmed, and except as modified by this Addendum, all other terms and conditions of the Agreement remain unchanged.

1. Revised Price Sheet

The Price Sheet set forth in the Agreement is hereby amended and restated as follows:

Price Sheet

Buyer information

Buyer Name: Humboldt Bay Municipal Water District
 Buyer Business Address: 444 Pipeline Road, Arcata, CA 95521
 Signatory Name: John Friedenbach
 Signatory Phone Number: 707-443-5018

Tesla entity

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

Energy Products and Contract Price

Energy Storage System:	280.0 kW/ 1392.0 kWh	
SGIP Eligible Cost:	\$1,772,598.00	
Assigned SGIP Incentive:	\$1,256,000.00	
Assigned Federal Incentive:	\$ 412,715.92	
Contract Price:	\$1,720,720.00	
Expected [30%] Federal Incentive:	\$516,216.00	100.0%
Assigned Federal Incentive:	\$412,715.92	80.0%
Retained Portion of Federal Incentive*	\$103,500.08	20.0%
Remaining Contract Balance due after Assignment:	\$0.00	
Job No.:	JB-955143-00	

*retained portion of Federal Incentive to be utilized for Buyer expense reimbursement.

**2. Amendment of Section 2. Section 2 of the Agreement is amended by inserting the following:**

(a) The following provision is added as new Section 2.(c):

(c) *In addition to qualification for the SGIP Incentive, the Parties anticipate that the Products will qualify for a "Investment Tax Credit" under Section 48 of the Internal Revenue Code of 1986, as amended, which will either be in form of a transferable credit against income taxes ("Transferable ITC") if Buyer is a taxable entity, or in form of a direct payment ("Direct Payment," and collectively with the "Transferable ITC," or each, separately referred to herein as the "Federal Incentive"), if Buyer is a non-taxable entity. The Parties agree that, due to increased Product costs based on supply chain issues and inflation, Buyer will apply for and assign to Tesla the portion of the Federal Incentive ("Assigned Federal Incentive") set forth above in the Price Sheet, which assignment enables Tesla to sell to Buyer the Product at the Contract Price set forth in the Price Sheet and Buyer shall retain the balance of the Federal Incentive set forth above in the Price Sheet ("Retained Incentive"). Buyer hereby irrevocably assigns to Tesla all of its rights to and interests in the Assigned Federal Incentive described in the Price Sheet and agrees that the Assigned Federal Incentive shall be paid on behalf of Buyer to an account determined by Tesla.*

Buyer to select one of the following:

- Agency. Buyer hereby appoints Tesla and its assignee as Buyer's irrevocable attorney-in-fact for the sole purpose of applying for the Federal Incentive, including, without limitation the right to execute any documents, agreements and instruments, and to perform all acts necessary to obtain the Federal Incentive in Buyer's name, payable directly to (a) Tesla or its assignee or (b) if the Internal Revenue Code of 1986 or regulations thereunder require payment of the Federal Incentive directly to Buyer, to Buyer for the benefit of Tesla or its assignee. If Buyer receives payment of the Federal Incentive, it shall pay Tesla or Tesla's assignee an amount equal to the Assigned Federal Incentive within 30 days after Buyer's receipt of the Federal Incentive.*
- Collaboration. Buyer hereby agrees to collaborate with Tesla for the sole purpose of applying for the Federal Incentive, including, preparing and executing any documents, agreements and instruments, and to perform all acts necessary to obtain the Federal Incentive in Buyer's name, payable directly to (a) Tesla or its assignee or (b) if the Internal Revenue Code of 1986 or regulations thereunder require payment of the Federal Incentive directly to Buyer, to Buyer for the benefit of Tesla or its assignee. If Buyer receives payment of the Federal Incentive, it shall pay Tesla or Tesla's assignee an amount equal to the Assigned Federal Incentive within 30 days after Buyer's receipt of the Federal Incentive.*

(b) Section 2.(c) becomes Section 2.(d) and is amended as follows:

- i. The words "*and the Federal Incentive*" are inserted in the first line of Section 2.(d) after the words "*SGIP Incentive*."
- ii. The words "*or such other email address that Tesla or its assignee may provide from time to time*" are inserted at the end of Section 2.(d) before the period.

(c) Section 2.(d) becomes Section 2.(e).

(d) The following provision is inserted as new Section 2.(f):

(f) *Buyer agrees to execute, acknowledge and deliver, and cooperate with Tesla or its assignee in executing, any and all such further assurances and other documents agreements or instruments, and take or cause to be taken all such other action, as may be*



reasonably necessary or requested by Tesla or its assignee from time to time to obtain and achieve the SGIP Incentive and the Federal Incentive payments to Tesla or its assignee as set forth in this Section 2.

(e) The following provision is inserted as new Section 2.(g):

(g) *Should Buyer comply with all reasonable requests by Tesla or its assignee under Section 2(f) above, Buyer shall not be liable if Tesla or its assignee do not receive the Assigned Federal Incentive or any portion thereof. Notwithstanding the foregoing, should any actively negligent or willful act by Buyer prevent Tesla or its assignee from receiving all or any part of either the Assigned SGIP Incentive or the Assigned Federal Incentive in the full amount set forth in the Price Sheet, or result in a full or partial recapture of the Assigned SGIP Incentive or Assigned Federal Incentive, Buyer will pay that portion of the Contract Price to Tesla or its assignee, which payment shall be an amount equal to the amount of Assigned SGIP Incentive or Assigned Federal Incentive not received by, or recaptured from, Tesla or its assignee. If Tesla or its assignee fails to receive, or will be obligated to repay, any amount of Assigned SGIP Incentive or Assigned Federal Incentive for reasons resulting from any actively negligent or willful act by Buyer, Tesla or its assignee will invoice Buyer and Buyer will pay such invoice within 30 days after receipt.*

Signed by

Buyer:

Tesla, Inc. (on behalf of itself and financing party
Corporate Credit, Inc):

Name: _____

Name: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____