

BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors
FROM: Pete Kampa, General Manager
DATE: March 9, 2021
SUBJECT: Agenda Item 4C. Adoption of a Resolution Approving a Plan Check and Inspection Agreement with Tuolumne County for the Groveland Community Resilience Center

RECOMMENDED ACTION:

I move to adopt Resolution 09-2021 approving a Plan Check and Inspection Agreement with Tuolumne County for the Groveland Community Resilience Center.

BACKGROUND:

The District's development policies require that applicants for new services or main extensions for water and or sewer service submit applications and deposits for engineering legal and administrative costs. The policies further require that the service applicant enter into a Plan Check and Inspection Agreement with the District to establish the terms and conditions for review of project plans and specifications, construction inspection by the District and eventual acceptance a public infrastructure by the District.

The District has been working with Tuolumne County staff for several years in the final stages of planning and now implementation of the Groveland Community Resilience Center (GCRC). The GCRC project is now out to public bid, with construction likely starting in the next few months if all goes well. To facilitate the construction and installation of the water and sewer service laterals and connections to the GCRC, the district's standard plan check and inspection agreement is now required. The agreement and supporting resolution is attached.

We are excited and proud to work together with the County on this project. As detailed in the agreement, the County will be installing the appropriate service connections in accordance with district standards and the construction plans that have been reviewed and approved by the district engineer. The County will be paying all costs for the construction and connection, as well as inspection costs and any acceptance costs through the process. The County will also be paying the connection and participation fees outlined in our water and sewer ordinances.

ATTACHMENTS:

- GCRC Plan Check and Inspection Agreement
- Resolution 09-2021

FINANCIAL IMPACT:

Execution of this Agreement conveys no expense to the District, and all costs for plan approvals, construction, inspections and acceptance are funded by the county.

**GROVELAND COMMUNITY SERVICES DISTRICT
PUBLIC FACILITY CONSTRUCTION
PLAN CHECK AND INSPECTION AGREEMENT
GROVELAND COMMUNITY RESILIENCE CENTER**

THIS PUBLIC FACILITY CONSTRUCTION, PLAN CHECK AND INSPECTION AGREEMENT ("**Agreement**") is made this 9th day of March 2021, by and between the Groveland Community Services District, a political subdivision of the State of California and a community services district formed and operating pursuant to the provisions of California Government Code Section 61000, et. Seq. ("**District**"), and County of Tuolumne, a political subdivision of the State of California ("**Applicant**"). District or Applicant are sometimes referred to in this Agreement as a "**Party**", and collectively as the "**Parties**".

RECITALS:

A. Pursuant to a March 9, 2021 Plan Check and Inspection Agreement entered into by and between the Parties in conjunction with this Agreement, Applicant is required to construct and provide water service to the Groveland Community Resilience Center, described on Exhibit "A", attached hereto ("**Property**").

B. Applicant proposes to design and construct the facilities on and about the Property described below that are referred to in this Agreement and elsewhere as the "**Project**"; the work necessary to design, build, install and do all things necessary and proper to complete the Project is referred to as the "**Work**":

1. Construct inter-tie facilities, public laterals, meters, valves and boxes to connect to the District's water and sewer system.

C. The Parties understand that the process related to the provision of water and other services to be complex and will require the active participation of the Parties. Such participation will result in expenditures by the District ("**Expenditures**"), including, but not limited to, consultant, legal, administrative, and other fees and costs, associated with the performance of its duties under this Agreement and at law. Currently the District does not have funds to pay for the Expenditures.

D. The District is willing to accept the transfer, operation, and maintenance of the Project and to provide service therefrom through the District's water system, on the terms and conditions hereinafter provided.

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NOW, THEREFORE, the parties agree as follows:

1. Construction

- (a) Applicant, at its sole cost and expense, will design, prepare plans and specifications, develop, construct, and install the Project and otherwise perform the Work. Applicant agrees to develop, construct, and install the Project in accordance with District's Engineering Standards. The Project will be constructed by a contractor who is licensed under the Business and Professions Code of the State of California to perform and complete the Work ("**Contractor**") as described in the plans and specifications for the Project ("**Plans and Specifications**") approved by District. Prior to start of construction for the Project, Applicant will submit to District for its approval the Plans and Specifications; Applicant will not commence construction of the Project unless and until District approves the Plans and Specifications. Prior to commencement of Project construction, Applicant will deposit with the District the following:
1. Two complete sets of the approved Plans and Specifications, plus one electronic set; and
 2. A copy of the contractor's license of the Contractor; and
 3. A copy of the Applicant's contract with the Contractor; and
 4. Proof of insurance, as required by Section 14 of this Agreement.
- (b) Applicant will be responsible for determining whether the construction of the Project requires the payment of prevailing wages and if so, Applicant will to the extent required by the California Labor Code, pay no less than the applicable prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the wage determination are on file at the District's office or are otherwise available at www.dir.ca.gov.
- (c) Applicant will be responsible for determining whether the construction of the Project requires the Contractor to be registered with the Department of Industrial Relations as a Public Works Contractor and meeting all associated Labor Code requirements.

2. Deposit for District Services

At the time of execution of this Agreement, Applicant will advance to the District the sum of \$5,000.00 for payment in whole or in part of the Expenditures ("**Deposit**"). Applicant authorizes District to withdraw from the Deposit to pay for the Expenditures as they are incurred by District.

District will notify Applicant whenever the Deposit is reduced to \$1,000.00 or less. Within 15 days after such notification is mailed, Applicant will make an additional deposit in the same amount as the initial one as follows:

- (a) Request for additional deposit received by the 1st day of the month will be deposited with District by the 15th day of that month; and
- (b) Request for additional deposit received by District by the 15th day of the month will be deposited by the 30th day of that month.

Upon completion of construction and acceptance of the Project by the District, any funds so deposited by Applicant in excess of District's actual costs will be refunded to Applicant.

3. Permits

Applicant, at its sole cost and expense, will obtain all necessary local, county, state and private permits and approvals relative to the Project, including but not limited to, Tuolumne County and/or Caltrans Encroachment Permits, permits or approvals required by the Pine Mountain Lake Association, and will comply with all requirements thereof.

4. Project Completion

Applicant agrees to complete the Project to the satisfaction of the District within two (2) years from the date of this Agreement. If not completed by that time, Applicant must complete and submit to District an updated PUBLIC FACILITY CONSTRUCTION, PLAN CHECK AND INSPECTION AGREEMENT.

5. Right of Entry

Permission is hereby granted by the Applicant to the District, or its authorized agent, to enter upon the Property for the purpose of inspecting the Project, the improvements to be constructed, and the Work to be performed under this Agreement.

6. Final Inspection and Testing

Upon completion of construction of the Project and prior to District acceptance, Applicant will notify the District thereof and request a final inspection of the Project. All facilities in the Project will be tested to meet District requirements as required by then-applicable District standards and specifications. Applicant will supply and pay for all necessary equipment, services and devices to inspect and test the improvements installed. This will include, among other things, TV inspection of sewer lines, pressure testing equipment, and cleaning devices.

7. Notice of Acceptance

The District will not provide water service or a written notice of acceptance of the Project until all of the following have occurred:

- (a) The Project is finally inspected, tested and approved by the District as provided in Section 6, above;
- (b) An engineer's certification that the Project has been constructed in substantial conformance with the Plans and Specifications has been presented to the District, the form and content of which is acceptable to District in its sole and absolute discretion;

- (c) All easements required to provide service through the Project, rights-of-way, permits, licenses, and other approvals to be obtained and delivered to the District have been so obtained and delivered to the District, the form and content of which are acceptable to District in its sole and absolute discretion;
- (d) All record drawings (reproducible as-builts), specifications, accounting, operation manuals and instructions, CAD disk and warranties relative to the Project have been delivered to the District;
- (e) Applicant has paid to the District all applicable fees and charges of the District relative to the Project, all in accordance with the rules and regulations for the District;
- (f) Applicant has delivered or caused to be delivered to District a detailed accounting of amounts expended for all improvements relative to the Project;
- (g) Applicant has delivered to District a complete and accurate list of all assessor parcel numbers and service addresses to be served by the Project; and
- (h) Applicant has provided District with a "Maintenance Guarantee" as required in Section 12(b) below.

8. Transfer of the Project

Upon Applicant's receipt of a notice from the District advising District will accept the Project ("**Notice of Acceptance**"), Applicant will promptly deliver conveyance documents satisfactory in form and content to the District, transferring absolute and unencumbered ownership of the completed Project to the District. The Parties agree that the transfer of the Project to the District will not be effective or completed until the conveyance documents transferring the Project have been formally accepted by the District via the affirmative vote of a majority of the members of the District's Board of Directors at a duly-called meeting ("**Acceptance**").

9. Risk of Loss/Ownership

- (a) Upon Acceptance, the Project will become the property of the District. The District will own and be free in every respect to operate, manage, modify, expand, and improve the Project as it deems appropriate.
- (b) Prior to Acceptance, all risk of loss or injury or destruction to the Project and related facilities will be solely upon Applicant.

10. District Service

District will not provide service through the Project until Acceptance occurs. Service through the Project will be supplied in accordance with the District's rates, ordinances, rules and regulations as the same may be amended from time-to-time. Applicant will not allow any

person or entity to use or commence operation of any part of the Project prior to Acceptance without the prior written consent of the District, which may be conditioned, delayed, or withheld by District for any or no reason.

11. Maintenance of Facilities

District assumes no obligation as to maintenance and operation of the Project until such time as Acceptance occurs; prior to that time, Applicant must at its sole cost and expense maintain the Project in good and working condition.

12. Applicant's Guaranty

- (a) Maintenance: Applicant warrants and guarantees all materials and workmanship furnished to the Project pursuant to this Agreement for a one (1) year period from the date of Acceptance. This guarantee does not excuse the Applicant or Applicant's agents from breaches of contract causing defects that occur or are discovered more than one year after the transfer of the Project.
- (b) Maintenance Guarantee: As a condition precedent to the delivery by District to Applicant of the Notice of Acceptance, Applicant must provide the District with a letter of credit or other security satisfactory to the District ("**Maintenance Guarantee**") in a sum equal to no less than ten percent (10%) of the total costs of the Project, or such agreement satisfactory to the District whereby the Contractor's one-year warranty for all material and workmanship in the Project is assigned to the District and fully binding between the Contractor and the District, for the purpose of warranting all materials and workmanship furnished pursuant to this Agreement for one (1) year from the date of the Notice of Acceptance. This guarantee does not excuse the Applicant from breaches of contract causing defects that occur or are discovered more than one year after the Notice of Acceptance.

Applicant or its surety under the Maintenance Guarantee will repair or replace to the satisfaction of the District any or all Work that may prove defective in workmanship or materials, ordinary wear and tear excepted, together with any other improvements which may be damaged or displaced in so doing.

District may repair or replace, or cause to be repaired or replaced, or any combination thereof, any defective Work not promptly repaired or replaced by Applicant or its surety as required under this Section 12. In such event, Applicant and its surety under the Maintenance Guarantee will be jointly and severally liable to the District for all costs and expenses incurred by District relating to the defective Work, including, but not limited to, all repairs and replacements, management and administrative costs, and engineering, legal and other costs. The District will bill Applicant and the surety for such costs, which bill must be paid within thirty (30) days of its date. Interest will accrue on any late payment at the lower of 18% per annum or the maximum rate then-allowed under the law.

13. Changes in the Project.

If Applicant proposes to change the approved plans and specifications for the Project, it must first obtain the written approval of the District for any such change, which approval may be on such terms and conditions as required by the District.

14. Insurance

Applicant or any Contractor performing any of the Work must, prior to commencing any of the Work, procure and maintain from one or more insurance companies authorized to do business in the State of California with an A.M. Best's rating of not less than A-(IX), "on an occurrence basis", commercial general and automobile liability insurance. The insurance will include but will not be limited to protection against claims arising from death, bodily or personal injury, or damage to property resulting from operations, equipment or products of Applicant or its Contractor or by their employees, agents, consultants, or anyone directly or indirectly employed by any of the foregoing. The amount of insurance will not be less than ONE MILLION DOLLARS (\$1,000,000.00) single limit coverage applying to bodily and personal injury and property damage, or a combination of both.

Such insurance will be primary insurance with respect to the interest of the District, and any other insurance maintained by the District is excess and not contributing insurance with the insurance required hereunder. Insurance provided by Applicant as required by this Section 14 will specifically name the District, its directors, officers, and employees as additional insureds, and will contain an endorsement providing that written notice will be given to the District at least thirty (30) days prior to termination, cancellation, or reduction of coverage in the policies. The commercial general and automobile liability insurance coverage will also furnish the District with certificates of insurance as satisfactory proof that Applicant or Applicant's Contractor carries worker's compensation insurance as required by law and liability insurance in compliance with these requirements.

15. Indemnification and Hold Harmless.

Applicant recognizes and hereby agrees that the District and its directors, officers, employees and agents will not be liable for any injury or death to any person or damage to any property arising from the performance of any Work. Applicant will protect, defend, indemnify and hold the District harmless from any and all claims, causes of action, demands or charges and from any loss or liability, including all costs, penalties, expenses, attorney's fees, litigation costs, and other fees arising out of or in any way connected with the performance or with the failure to perform under this Agreement by Applicant, its officers, employees, independent contractors or agents, including, but not limited to, the construction of the Project. If the District, its directors, officers, employees or agents should be sued as a result of such performance, the District will notify the Applicant, which then will have the duty to defend the District, its directors, officers, employees or agents, or, at the District's option, pay for such defense including, but not limited to, payment of all reasonable attorney's fees and expenses incurred by the District, its directors, officers, employees or agents. This Indemnity and hold harmless will survive the Acceptance.

16. Waiver of Rights.

Any waiver at any time by either Party of all or some of its rights with respect to a breach or default, or any other matter arising in connection with this Agreement, will not be deemed to be a waiver with respect to any other breach, default or matter.

17. Amendment

Any amendment to this Agreement will be of no force and effect unless it is in writing and signed by the Applicant and the District.

18. Notices.

All notices, statements, reports, approvals, requests, bills or other communications that are required either expressly or by implication to be given by either Party to the other under this Agreement will be in writing and signed for each Party by such officers as each may, from time to time, be authorized in writing to so act. All such notices will be deemed to have been received on the date of delivery if delivered personally or three (3) days after mailing if enclosed in a properly addressed and stamped envelope and deposited in a United States Post Office for delivery. Unless and until formally notified otherwise, all notices will be addressed to the Parties at their addresses as shown below:

District:

Groveland Community Services District
18966 Ferretti Rd.
Groveland, CA 95320

Applicant:

County of Tuolumne,
a political subdivision of the State of California
2 South Green Street, Sonora CA 95370

19. Venue

This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement will be determined and governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in Tuolumne County and such County will be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

20. Interpretation of this Agreement.

The Parties acknowledge that each Party and its attorney have reviewed, negotiated and revised this Agreement and that the normal rule of construction to the effect that any

ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any document executed and delivered by any Party in connection with the transactions contemplated by this Agreement.

21. Agreement Binding

This Agreement will apply to and be binding upon the successors, grantees, and assigns of the Parties, provided, however, that Applicant may not assign any of its rights or obligations under this Agreement without the prior written consent of District, which consent may be withheld, conditioned, or delayed for any or no reason.

22. Headings.

The Section headings used in this Agreement are for reference only, and will not in any way limit or amplify the terms and provisions hereof, nor will they enter into the interpretation of this Agreement.

23. Recitals.

The recitals at page 1 of this Agreement are incorporated herein by this reference and made a part hereof.

24. Representations and Warranties of Applicant.

- (a) Applicant represents and warrants that: (a) it is duly-organized and legally existing under the laws of the State of California and is duly-qualified to do business in the State of California; (b) this Agreement will constitute, legal, valid and binding obligations of Applicant enforceable in accordance with its terms; and (c) the execution and delivery of this Agreement is within Applicant's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite action and are not in contravention of Applicant's contracts, charter, bylaws or other organizational documents.
- (b) Applicant Indemnity. Applicant will defend, indemnify and hold the District harmless against any loss, claim, damage, liability or expense (including, without limitation, reasonable attorneys' fees) arising out of the representations and warranties of Subsection 24(a) above.

25. Days.

Unless otherwise specified to the contrary, "days" in this Agreement will mean calendar, not business, days.

DISTRICT:

Groveland Community Services District,
a political subdivision of the State of
California

Dated: _____

By: _____

Name: _____

Title: _____

ATTEST:

Rachel Pearlman
Board Secretary

APPROVED AS TO FORM:

Daniel J. Schroeder
District General Counsel

APPLICANT:

Ryan Campbell
Chairman of the Board of Supervisors

By: _____

Name: _____

Title: _____

EXHIBIT "A"
REAL PROPERTY DESCRIPTION

Construction of a Community Resilience Center approximately 8,785 sq. ft. in size. This facility will contain the following amenities: office space, classroom, commercial kitchen, large meeting area, generator, and parking. Building materials for this facility include: : slab on grade steel frame structures; roofs are made up of two types of roofing systems- standing seam metal roof and TPO roofing and both roofing systems is applied over metal decking without concrete. The exterior finishes include cement plaster, exposed fastener metal siding, and veneer masonry and all on exterior metal stud framing. The entry utilizes an aluminum storefront system.

DRAFT

RESOLUTION 09-2021

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND
COMMUNITY SERVICES DISTRICT APPROVING A PLAN CHECK AND
INSPECTION AGREEMENT WITH TUOLUMNE COUNTY FOR THE GROVELAND
COMMUNITY RESILIENCE CENTER**

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, Tuolumne County has received funding through the National Disaster Resiliency Competition for the development of the Groveland Community Resilience Center adjacent to the District administrative office; and

WHEREAS, the Groveland Resilience Center will provide great benefit to the community and region; and

WHEREAS, new water and sewer service connections and laterals must be installed on the District water and sewer system, requiring the execution of the District's standard Plan Check and Inspection Agreement which outlines the obligations and responsibilities of the District and County associated therewith.

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT DOES hereby adopt Resolution 09-2021 approving a Plan Check and Inspection Agreement with Tuolumne County for the Groveland Community Resilience Center.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on March 9, 2021 by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Rachel Pearlman, Board Secretary

Janice Kwiatkowski, President - Board of Directors

CERTIFICATE OF SECRETARY

I, Rachel Pearlman, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on March 9, 2021.

DATED: _____