

**INTERIM REPORT NO. 1**  
**FOR**  
**IMPERIAL IRRIGATION DISTRICT**  
**REGARDING ALLEGED CONFLICTS IN**  
**BATTERY STORAGE CONTRACT**

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## **BACKGROUND**

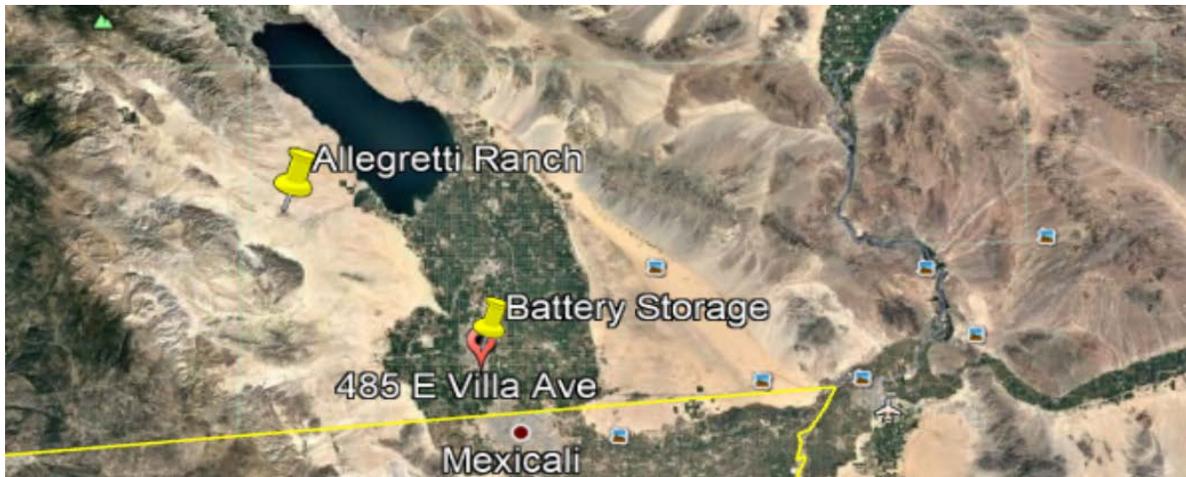
### **A. Alleged Conflicts**

A question has been raised by members of the public about whether two Imperial Irrigation District (IID) directors had financial interests in a battery storage project approved by the IID board on April 14, 2015. These parties claim IID rejected three cheaper offers before awarding the battery contract to Coachella Energy Storage Partners, LLC (CESP), which was partially owned by former IID Director Mike Abatti. This report finds those allegations to be materially incorrect. The directors did not have financial interests in the battery storage project, and there were not three cheaper proposals.

The project is built on IID property near a generating station located at 485 East Villa Avenue, El Centro, which is shown below:



Fifty miles away from the battery storage site is the Allegretti Ranch property located on Highway 78 in West Imperial County.

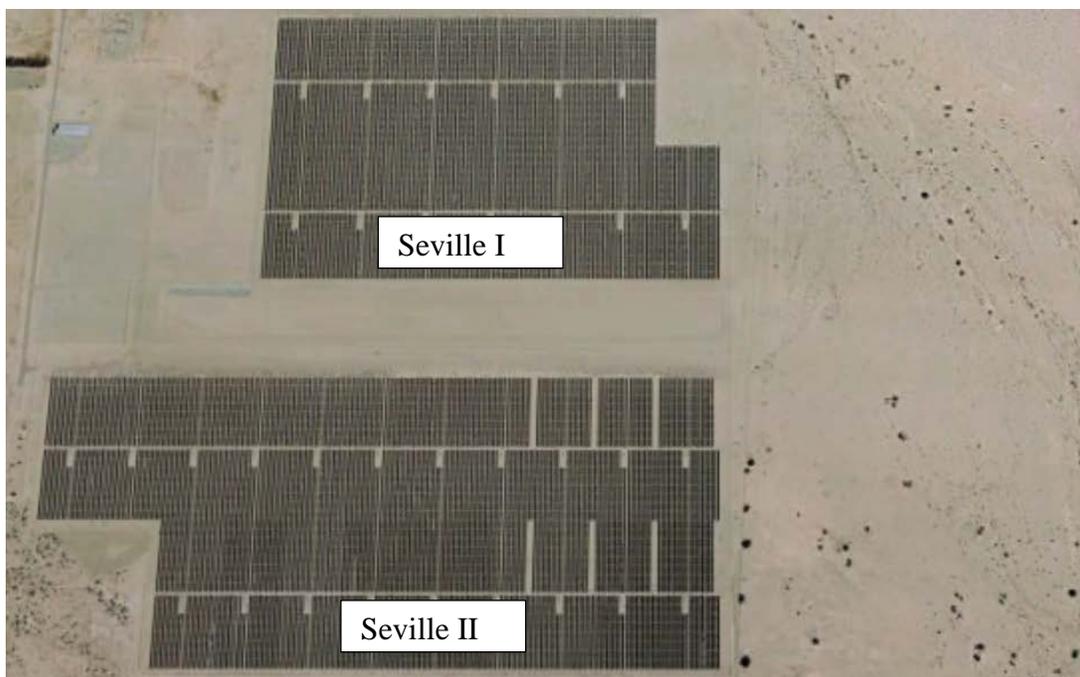


Beginning in January 2015, three months before the IID board approved the battery storage contract, Director Jim Hanks' two adult non-dependent sons went to work for a nursery, clearing and preparing the land for the two solar farms (Seville I, II) at \$15 per hour.

As of late 2015, former Director Abatti held a farm "test lease" on 350 of the 2,440-acre Allegretti Farm (aka Allegretti Ranch). In the spring of 2016, almost one year after the IID board approved the battery contract, Abatti paid \$34,000 to Kuhn Land Leveling for having performed laser leveling to support irrigation for farming on 350 acres. Director Bruce Kuhn has operated Kuhn Land Leveling since 1982. There was no written agreement between Abatti and Kuhn Land Leveling, which is fairly typical in the farming business in Imperial Valley. The parcel at the Allegretti Ranch where Kuhn Leveling performed the laser leveling is shown below:



Solana Energy Farms I, LLC, purchased approximately 2,000 acres of the Allegretti Ranch on January 15, 2015. Two solar projects—Seville I (20 MW) and Seville II (30 MW)—were built at the Allegretti property, and are shown below:



Regenerate Power, LLC (Regenerate) and Kruger Energy, Inc. (Kruger), were the developers of the Seville Solar Project.<sup>1</sup> Regenerate obtained for the project the necessary planning approvals from Imperial County.<sup>2</sup> Kruger then bought out Regenerate's interest in the project. Kruger developed the project, oversaw its construction, started its commercial operation and subsequently sold it to Duke Energy Renewables.<sup>3</sup>

### **IID Interconnection Agreements Relating to Seville**

On August 23, 2011, IID entered into an interconnection agreement for a single Seville project totaling 65 MW with Green Light Energy Corporation (Green Light).

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<sup>1</sup> <http://www.icpds.com/CMS/Media/NOA-SEVILLE-SOLAR-FARM.pdf>;  
<http://energy.kruger.com/en/solar/>

<sup>2</sup> <http://www.icpds.com/CMS/Media/NOA-SEVILLE-SOLAR-FARM.pdf>;

<sup>3</sup> <http://energy.kruger.com/en/solar/>; <https://news.duke-energy.com/releases/duke-energy-renewables-acquires-seville-solar-projects-in-southern-california-totaling-50-mw>

On January 31, 2014, Green Light assigned its original interconnection agreement (65MW) with IID to Regenerate. This interconnection agreement was later split into two separate interconnection agreements for 20 MW and 30 MW. Regenerate assigned 20 MW to Seville Solar One, LLC, and entered into an amended generator interconnection agreement dated October 22, 2015. Regenerate assigned 30 MW to Seville Solar Two, LLC, and entered into an amended generator interconnection agreement dated March 24, 2015. Both amended agreements were derived from the original 65 MW interconnection agreement.

### **Power Purchase Agreements for Seville**

On December 17, 2012, San Diego Gas & Electric entered into a power purchase agreement (PPA) with Seville Solar One, LLC, for the Seville 1 (20MW) project.<sup>4</sup> The seller of the energy was a partnership between Regenerate Power and DBE supplier Tallbear Solar.<sup>5</sup> The agreement is a 20-year PPA to purchase 20 MW from the Seville solar power facility.<sup>6</sup>

On May 27, 2014, the IID board approved a 25-year PPA with Regenerate Power, LLC, for 30 MW. IID entered into a separate power purchase agreement with Regenerate (Seville Solar Two, LLC).<sup>7</sup>

### **B. Battery Contract Award**

The IID board voted for the battery storage contract on April 14, 2015. An allegation was made that the IID board granted the contract to CESP after turning down three other vendors with cheaper prices. At the April 14, 2015 board meeting, the former IID Energy Department manager explained the project “really came out of the FERC mitigation ... negotiations for that FERC settlement.” He was referring to a Federal Energy Regulatory Commission (FERC) case brought against those agencies FERC believed were responsible for the September 8, 2011 Southwest blackout. The 2011 outage left more than 5 million people in Southern California, Arizona and Baja California, Mexico without power for up to 12 hours.

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<sup>4</sup> <https://www.sdge.com/newsroom/press-releases/2012-12-17/sdge-completes-renewable-power-purchase-agreements-diverse>

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> <http://www.iid.com/Home/ShowDocument?id=8909>

FERC attributed the blackout to five entities: the Arizona Public Service Company, the California Independent System Operator Corporation, Southern California Edison Company, the Western Electricity Coordinating Council, and IID.<sup>8</sup>

IID resolved its FERC blackout case by agreeing to, among other mitigation measures, install a backup battery storage system. The project was to be installed and operational no later than December 31, 2016 as mitigation to avoid future system outages. In voting for the battery storage project in April 2015, IID directors were fulfilling IID's legal obligations under the FERC settlement agreement.

The battery project gave the IID grid the ability to balance power and integrate solar while providing spinning reserve and "black start" power restoration capabilities. A black start unit is one that can start its own power without support from the grid in the event of a major system collapse or a system-wide blackout.<sup>9</sup>

At the April 14, 2015 board meeting, the IID contract administrator assigned to the battery contract and other staff explained to the board the procedure followed by the district in letting the storage contract. In the latter part of 2014, IID started competitive procurement solicitations for the battery project in the form of a Qualification Request (QR). Twenty-four prospective vendors responded to QR No.123 and, after review, nine vendors were deemed qualified. These nine qualified vendors were sent the Secondary Request for Proposals (SRFP) No. 169.

On January 8, 2015, seven of the nine vendors submitted proposals for SRFP No. 169. Four of the vendors were deemed nonresponsive during the evaluation process. Three of the nonresponsive vendors failed to meet the minimum requirement of holding a Contractor's A license. The remaining nonresponsive vendors failed to meet the specified capacity of the proposed storage facility. The three remaining vendors were interviewed and evaluated.

At the April 14, 2015 board meeting, a representative of the Invenergy company, one of the unsuccessful and nonresponsive battery storage vendors, suggested his company had provided a cheaper proposal than CESP. "Based on the figures that are being – that -- as the proposal stands today-- the cost figures-- our project, as

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<sup>8</sup> <https://www.ferc.gov/media/news-releases/2015/2015-2/05-26-15.asp>

<sup>9</sup> <http://www.power-eng.com/articles/print/volume-115/issue-7/features/black-start-preparedness-for-any-situation.html>

bid, was **six million** dollars cheaper – less expensive as well.”<sup>10</sup> Immediately after the claim was made, IID staff and board members made clear this claim was inaccurate.

One director explained that Invenergy’s proposal did not include a battery storage building or a 20-year guarantee: “So the comment made that this bid was six million cheaper, it didn’t include those upgrades.”<sup>11</sup> The Energy Department manager clarified what the director asked: “I think he’s asking would Invenergy’s price have stood if they had to meet those other requirements.”<sup>12</sup> Senior project manager David Escobar responded: “...if we were to add the cost increase that CESP added or ended up including in their final price – Invenergy would still be higher.”<sup>13</sup>

Invenergy’s spokesperson had compared apples to oranges: “Based on the figures that are being – that -- as the proposal stands today-- the cost figures—.” Those cost figures included two major items *not* in Invenergy’s proposal: a 20-year guarantee and a battery storage building.

A careful reading of the Invenergy speaker’s statement makes it clear that he was comparing Invenergy’s cost numbers without the building or the 20-year guarantee. The speaker was comparing Invenergy’s cost proposal for the project at the point Invenergy was dropped from the process to the project as it stood at the time of the award to CESP: “-- as the proposal **stands today**-- the cost figures-- our project, as bid, was **six million** dollars cheaper.” Unlike Invenergy, CESP’s submitted proposal included in the cost a preventative maintenance and warranty plan for a period of 30 years.

The newspaper reporter who made the allegation of proposal irregularities did not include the distinction staff made between the key parts of the project, which were omitted from the Invenergy proposal. The reporter also did not provide the Invenergy speaker’s complete quote:

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<sup>10</sup> IID 14 April 2015 board meeting at 1:10:31

<sup>11</sup> IID 14 April 2015 board meeting at 1:18:02

<sup>12</sup> IID 14 April 2015 board meeting at 1:18:25

<sup>13</sup> IID 14 April 2015 board meeting at 1:18:38

| Actual Quote   | Newspaper Reporter   |
|--|--|
| <p>“Based on the figures that are being – that -- <b>as the proposal stands today--</b> the cost figures-- our project, <b>as bid,</b> was six million dollars cheaper– less expensive as well.”</p> | <p>“<b>Our project as bid was \$6 million less expensive (than CESP’s)</b> as well, so we’re not quite understanding.”</p> |
| <p>Matt Giblin April 14, 2015<br/>IID Board Meeting @ 1:10:31</p>  | <p>As quoted in Desert Sun<br/>August 9, 2017</p>  |

The reporter alleged “utility staff said” at a public meeting that three of the proposals IID disqualified were between \$1 million and \$5 million cheaper than CESP's winning proposal. This is factually incorrect. While the article attributed the claim of three cheaper options to “staff,” the headline for the story was both emphatic and misleading: **“For \$35M battery, public agency turned to former official rejecting 3 cheaper offers.”**

As shown above at the IID board meeting — nine months before the newspaper article — there were no cheaper comparable options, let alone three. Staff expressly stated that the Invenergy proposal was not cheaper than CESP’s because it did not include a building for the battery storage, nor did it provide a 20-year guarantee.

As stated above, three of the proposals, Invenergy, S&C Electric Company and ZBB Energy Corporation, were deemed nonresponsive because they did not have a Class A contractor’s license. Performance Mechanical Contractors was deemed nonresponsive because its base proposal was not for a 20 MW/33MVA system, as the specifications required. Invenergy’s proposed cost at the stage it became ineligible was \$26,000,000 for a containerized installation comprised of 40-foot shipping containers, and an 18-month capacity guarantee, rather than the required 20-year guarantee. Performance Mechanical contractors’ proposal came in at \$29,346,513, but provided no guarantee. S&C Electric Company was at \$50,050,000, and ZBB Energy Corporation was at \$30,127,493. Meanwhile, the base proposal from CESP was \$20,496,263. IID selected a CESP option that raised the price to \$25,294,454. Therefore, both CESP proposals were less than all the nonresponsive proposers and less than the other two responsive proposals.

## LEGAL ANALYSIS

California Government Code section 1090 prohibits public officers and employees from making contracts in which they have a financial interest when they act in their official capacities. *People v. Superior Court (Sahlolbei)* (2017) 3 Cal. 5th 230, 233. An official makes contracts within his or her official capacity as governed by § 1090 if it is established he or she had “the opportunity to, and did, influence execution directly or indirectly to promote his personal interest.” *Id.* (citing *People v. Sobel* (1974) 40 Cal. App. 3d 1046, 1052) (explaining a § 1090 violation is possible “no matter whether [the official] actually participated personally in the execution of the specified contract...”).

IID board members, therefore, cannot be “financially interested” in any contract the IID board makes while they are members. Cal. Gov’t Code § 1090. The “primary policy concern [is] that every public officer be guided solely by the public interest, rather than by personal interest, when dealing with contracts in an official capacity.” *Thomson v. Call* (1985) 38 Cal. 3d 633, 650. The defining characteristic of a prohibited financial interest is whether it has the “potential to divide an official's loyalties and compromise the undivided representation of the public interests the official is charged with protecting.” *Eden Township Healthcare Dist. v. Sutter Health* (2011) 202 Cal. App. 4th 208, 221.

Thus, that the interest “might be small or indirect is immaterial so long as it is such as deprives the [people] of his overriding fidelity to [them] and places him in the compromising situation where, in the exercise of his official judgment or discretion, he may be influenced by personal considerations rather than the public good.” *Id.* (citing *Lexin v. Sup. Ct.* (2010) 47 Cal. 5th 1050, 1075).

In determining whether there is a conflict of interest, California courts have stated, “...we cannot focus upon an isolated ‘contract’ and ignore the transaction as a whole.” *Id.* (citing *People v. Honig* (1996) 48 Cal. App. 4th 289, 320). Courts have also emphasized that § 1090 cannot be violated merely because an officer has a financial relationship to the contracting party: “...our Supreme Court has instructed us that the inquiry is whether the official had a cognizable financial interest *in that contract.*” *Torres v. City of Montebello* (2015) 234 Cal. App. 4th 382, 402 (emphasis original).

Therefore, where the interest is ultimately “remote and speculative, no conflict of interest is held to be presumed under [Section 1090].” *Breakzone Billiards v. City of Torrance* (2000) 81 Cal. App. 4th 1205, 1230.

In the *Breakzone Billiards* case, a billiard parlor operator sued the city of Torrance to overturn its decision to deny the operator’s conditional use permit application, claiming the existence of conflicts of interest and biases from the councilmembers. 81 Cal. App. 4th at 1209. The parlor operator sought recusal of four councilmembers, claiming they had each accepted “significant campaign contributions” from entities owned by the parlor operator; the councilmembers refused. *Id.* at 1215, 1217. The court dismissed the § 1090 claim finding no clear connection between the campaign contributions and their decision to entertain an appeal on the permit.

There was neither a “financial or pecuniary benefit to the governmental official which could sway his or her judgment” nor an “express promise to act in a particular way in exercising governmental authority with respect to a particular matter then pending or which may be presented for governmental review and action at a later date.” *Id.* at 1231, 1233. Further, the council’s denial of the permit, and the accused councilmembers votes therein, were based on substantial evidence in the record; conversely, the parlor operator lacked “concrete evidence” showing the “actual existence of bias.” *Id.* at 1233.

Similarly, the court in *Torres* denied a § 1090 claim premised on a board member voting for a contract, despite the financial contributions the contracting party made to that councilmember’s drug counseling nonprofit organization. *Torres v. City of Montebello*, 234 Cal. App. 4th at 402. The court emphasized the contract had no relation to the financial donations made to the nonprofit, and there was no finding that the councilmember received any promises from the contracting party relating thereto. *Id.* The court summarized plainly: “Had the vote concerned a contract with [the nonprofit], or had the [contracting party] conditioned future contributions to [the nonprofit] on approval of the contract, then [the councilmember] would have been subject to disclosure and abstention requirements. But [the nonprofit] was not a party to the contract...” *Id.*

A consistent line of California cases demonstrates that an official’s superficial financial connection to a contracting party does not trigger liability for the official

under § 1090. *Breakzone*, 81 Cal. App. 4th at 1230; *Torres*, 234 Cal. App. 4th at 402; *Eden*, 202 Cal. App. 4th at 228-29 (denying § 1090 claim because the outcome of the contract at issue had no effect on the financial compensation he would earn from the public agency; the contract was not between the entity from whom he was receiving compensation).

Here, to assert a §1090 claim against Directors Kuhn and Hanks, there must be a financial benefit at stake for Directors Kuhn and Hanks as expressly indicated by the contract, or evidence showing a promise made from CESP to the directors premised upon their vote on the contract. As explained in the following sections, neither is present.

#### **A. No Financial Interest in the Battery Storage Contract**

The only specific contract Directors Kuhn and Hanks voted for in which they are alleged to have had a financial interest was the IID battery storage contract. Neither director was financially interested in said contract.

There is no factual nexus between the laser leveling services Kuhn performed at the Allegretti Ranch for Abatti and the work done for the battery storage project. There is also no factual nexus between the land-clearing services Hanks' sons performed for Foss Nursery at the Allegretti Ranch and the construction of the battery storage facility, as the sons did not work for former Director Abatti. Neither Kuhn, nor his land leveling business, nor Hanks' sons did any work on the battery project. The battery storage contract called for the facility to be built in El Centro, where it is now located. Yet, the services at issue here were performed at the Allegretti Ranch, 50 miles away from the facility. Indeed, these individuals or entities, in fact, do not appear on the contract. No money from the battery contract was paid to any of these individuals or entities.

There is no temporal relationship between the date the IID board approved the battery contract (April 14, 2015) and the employment contracts for Hanks' adult sons and Kuhn's leveling business. Kuhn provided services at the Allegretti Ranch in late 2015 and early 2016. Hanks' adult non-dependent sons began working on the Allegretti Ranch in January 2015, three months *before* the battery contract was made.

Moreover, Director Hanks will not have a financial interest in any contract that will benefit his adult, non-dependent children, so long as the contract does not benefit Director Hanks directly. *See* 88 Ops.Cal.Atty.Gen. 222 (2005) ("While a

public official must abstain from making governmental decisions under the terms of Government Code section 87100 that will have a material financial effect on the official or his or her immediate family, this term includes only the official's spouse and dependent children.”) (citations omitted).

The *Breakzone* and *Torres* cases discuss the possibility of a financial interest arising if a promise was made between Abatti and Directors Kuhn and Hanks to hire them for their services. However, the amounts paid to Kuhn (\$34,000) and Hanks' sons (\$15 per hour) do not suggest a rational relationship to the \$35-million battery contract. This is especially true because Kuhn and Hanks' sons provided equivalent services for the compensation they received.

The laser leveling services provided by Kuhn for Abatti at Allegretti Ranch and the land clearing services provided by the nursery for whom Hanks' sons worked therefore lack any cognizable relationship to the battery storage contract. The contract makes no mention of services by Kuhn or Hanks' sons, the battery storage facility was to be located on a different parcel of land located 50 miles away, and the timing of these services in relation to the battery project are too far apart to support an inference that Kuhn and Hanks' sons were offered such work by Abatti in return for promises to vote in favor of Abatti's battery project. The paltry sums of money involved in both transactions, when compared to the \$35-million battery contract, further indicate the lack of a cognizable relationship between these events.

Indeed, courts will not assume the existence of a financial relationship without clear evidence demonstrating the existence of promises or other quid pro quo arrangements. The merely coincidental relationship detailed herein resembles those in both the *Breakzone* and *Torres* cases, and any claim of § 1090 violation premised thereupon will similarly fail.

## **B. Battery Storage Contract Was Adopted in the Public Interest**

In addition to there being no cognizable financial interest in the contract for Directors Kuhn and Hanks, there was a cornucopia of independently justifiable reasons why Kuhn and Hanks, in their capacities as directors of IID, approved CESP's battery project proposal. The factual record demonstrates Directors Kuhn and Hanks acted solely in the public interest in voting for the battery storage contract.

IID resolved its FERC blackout case, in large part, by agreeing to install a backup battery storage system. The project was to be installed and operational no later than December 31, 2016 as mitigation to avoid future system outages. In voting for the battery storage project in April 2015, IID directors were fulfilling the district's legal obligations under the FERC settlement agreement.

The battery project gave the IID grid the ability to better balance power and integrate solar while providing spinning reserve and “black start” power restoration capabilities. A black start unit is one that can start its own power without support from the grid in the event of a major system collapse or a system-wide blackout.<sup>14</sup> Black start is the process of restoring an electric power station, or a part of an electric grid, to operation without relying on the external transmission network.

General Electric built the battery project; it went online in October 2016. By all accounts the battery storage contract has been highly successful. In May 2017, IID successfully demonstrated the emergency black-start capability of the state-of-the-art battery energy storage system. The battery successfully furnished the electricity needed to start IID's 144-megawatt combined-cycle natural gas turbine at the El Centro Generating Station. To stabilize the power plant, the battery energy storage system then converted, by design, to become an energy load repository.

As a result, in the event of an electric system blackout, IID can utilize the battery to produce electricity to start up its power plants. Once a plant starts up, the battery energy storage system absorbs the energy produced by the plant until grid operators begin restoring customers to the system, according to Chris Beltran, IID general superintendent of fossil fuel generation.

In May 2017, Mirko Molinari, general manager, Digital Grid, GE Energy Connections, vouched for the project: “We brought together our unique knowledge of power plants, grids and energy storage systems to develop this application to increase grid resiliency. This success is an essential next step in increasing the resiliency of IID's grid to recover from power outages to ensure district customers have the electricity they require every day.”

The 30-megawatt, 20-megawatt-hour lithium-ion battery energy storage system provides stability and mitigates power quality issues as renewable energy resources

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<sup>14</sup> <http://www.power-eng.com/articles/print/volume-115/issue-7/features/black-start-preparedness-for-any-situation.html>

are integrated into the local grid, allowing the district to further diversify its energy portfolio. In April, survey results released by the Smart Electric Power Alliance ranked IID as No. 1 in the nation for having the most installed energy storage connected to the grid (30 megawatts).

### **C. IID Followed Competitive Procurement Rules**

IID's competitive procurement process for the battery storage project contract crystallizes the conclusion that no financial relationship can be inferred between Directors Kuhn's and Hanks' activities and Abatti's battery project. For there to be such a financial relationship, Directors Kuhn and Hanks would have had to use their authority as directors to influence the evaluative processes throughout to ensure CESP's proposals would be available to vote upon. Without clear evidence demonstrating such behavior from the directors, no court will infer the existence of a financial relationship to which Govt Code § 1090 could be applied.

In the latter part of 2014, IID started competitive procurement solicitations for the battery project in the form of Qualification Requests (QR). IID received 23 responses. Nine of the 23 vendors were invited to participate in a secondary Request for Proposal (RFP). Because the battery storage project was very complex, IID used a Secondary Request for Proposal (SRFP) to ensure qualified proposers. The battery storage contract request was identified as SRFP-169.

Of the nine vendors that were invited to a mandatory meeting at IID, seven of them submitted proposals and, of the seven, four were determined to be nonresponsive. Of the remaining three, an independent committee of IID staff found CESP to be the lowest qualified proposer. Even the reporter raising these issues agreed of the final candidates, "CESP's proposal had the lowest cost."

At the April 14, 2015 board meeting, IID staff explained that proposers who did not hold a Class A contractor's license were deemed nonresponsive. Class A licenses are held by general engineering contractors whose principal business is in connection with fixed works requiring specialized engineering knowledge and skill.<sup>15</sup> Three of the proposers did not have a Class A license. One failed to propose the minimum specifications requested.

CESP's joint venture partner, Industrial Mechanical Services (IMS), held a Class A license. However, after the proposal was awarded, IID insisted that the contractor

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<sup>15</sup> <http://www.cslb.ca.gov/Resources/GuidesAndPublications/DescriptionOfClassifications.pdf> p. 3

enter into a Project Labor Agreement, IMS dropped out and CESP added another general contractor as a joint venturer. Yet, none of the unsuccessful candidates utilized the established procedures for challenging IID’s awarding of the contract to CESP. These procedures were clearly outlined in SRF-169.

David Escobar, senior project manager for the storage contract at the March 24, 2015, IID board meeting, responded to questions about the proposal process. Director Stephen Benson asked whether all of the disqualified proposals were at least as expensive as CESP’s proposal. Escobar answered that three of the disqualified proposers were cheaper than CESP, at least in one sense: The disqualified proposers were cheaper when adding to CESP’s base proposal the additional cost of a 20-year life cycle warranty. (At proposal acceptance, IID selected a CESP alternative that raised the base proposal to \$25 million. Adding the cost of the life cycle warranty raised that amount to \$31 million.)

However, CESP’s base proposal and the chosen alternative were cheaper than all other proposals. The 20-year life cycle warranty was an add-on that increased the CESP proposal and would have also driven all other proposals upward as well.

| <b>Base Proposals</b>              |              |
|------------------------------------|--------------|
| CESP                               | \$20,486,263 |
| Invenergy                          | \$26,080,000 |
| Performance Mechanical Contractors | \$29,346,513 |
| ZBB Energy                         | \$30,127,493 |
| S&C Electric Co                    | \$50,050,000 |

| <b>Non-qualifying Proposals</b> |                            |
|---------------------------------|----------------------------|
| AES Energy Storage              | \$47,950,000 <sup>16</sup> |
| Black & Veatch                  | \$32,500,000 <sup>17</sup> |

<sup>16</sup> Both AES and Black & Veatch were qualifying proposers.

<sup>17</sup> Black & Veatch offered an indefinite proposal without a firm price. Black & Veatch reserved the right to change the proposal amount.

## CONCLUSION

The evidence does not support the conclusion that Director Kuhn violated Government Code section 1090. Director Kuhn's leveling work at the Allegretti Ranch was not part of the battery storage contract he voted to adopt.

The evidence does not support the conclusion that Director Hanks violated Government Code section 1090. The contract under which the director's adult sons worked was not the battery storage contract on which the director voted. This is especially true because Director Hanks does not have a specific financial interest in his two adult sons' employment contract.

Rather, the evidence strongly indicates Directors Hanks and Kuhn voted to ensure IID complied with the settlement it reached with FERC to build a battery storage project that would enhance IID's reliability. The battery storage facility, in fact, serves that need by allowing IID to black-start its generation facilities in the event of an outage.

The battery storage project was awarded after a competitive proposal process. Of those responsive proposers with proposals that included proper licensing, a battery storage building and a 20-year guarantee, CESP's proposal was accepted. Accordingly, the facts and law do not support the allegations that Directors Hanks and Kuhn have violated Government Code section 1090.