

ENERGY SERVICES CONTRACT

This Energy Services Contract ("**Contract**") is made and entered into as of [DATE] ("**Effective Date**"), between Syserco Energy Solutions, Inc., a California company ("**Energy Services Contractor**"), having its principal offices at 215 Fourier Ave, Suite 140, Fremont, CA 94539, and Emery Unified School District, having its principal office at 4727 San Pablo Ave. Emeryville, CA 94608-3035 ("**Customer**"), who are collectively referred to as the "**Parties**", or individually as a "**Party**".

WHEREAS, California Government Code § 4217.10 et seq. authorizes the Customer to enter into agreements, contracts and related documents with private sector entities for developing energy generation and conservation projects upon Customer's finding that the anticipated costs for such services provided under the contract, together with any financing costs (if any), will be less than the anticipated marginal costs to the Customer;

WHEREAS, Energy Services Contractor is a company with experience and technical and management capabilities to provide for the discovery, engineering, procurement, installation, financing, maintenance and monitoring of energy saving measures, solar power generation measures ("Solar System"), and/or operations and maintenance cost reductions at facilities similar to Customer's facilities;

WHEREAS, Energy Services Contractor has prepared a project proposal and funding in the form of an Energy Services Proposal ("**Proposal**") for Customer;

WHEREAS, Customer desires to reduce energy consumption and operational expenses through the installation of certain energy conservation/energy generation technologies and Customer desires for Energy Services Contractor to perform certain energy conservation work as identified in this Contract, and Energy Services Contractor desires to perform such work; and

WHEREAS, the Customer's Governing Board, after holding a hearing at a regularly scheduled public meeting and after having provided two weeks advance notice of such hearing, made all findings required by Government Code section 4217.12 for the Customer to enter into this Contract.

NOW THEREFORE, the parties agree as follows:

1. **Contacts.** As of the Effective Date, and subject to change from time to time, the following persons are the primary representatives of each party as related to execution of this project:

For Energy Services Contractor:

Name:
Title:
Address: 215 Fourier Ave., Suite 140, Fremont, CA 94539
Telephone:
Email:

For Customer:

Name:
Title:
Address:
Telephone:
Email:

2. **Scope of Work.** Energy Services Contractor agrees to perform the design and/or construction work set forth in the proposal described as Energy Services Proposal (“**Work**”) and attached hereto as Exhibit A. Customer and Energy Services Contractor agree to take all actions identified in this Contract that are necessary to achieve the project benefits identified. Energy Services Contractor will provide all labor, materials, equipment, and supervision, including subcontractors, necessary to perform the Work. No construction work shall commence under this Contract until final approval of the plans by the Division of the State Architect has been obtained.
3. **Compensation.** Customer shall pay Energy Services Contractor Five Million Eighty Seven Thousand Nine Hundred and Sixty Nine Dollars (**\$5,087,969**) (“**Price**”) as compensation for Energy Services Contractor’s performance of the Work and Services as provided herein. Customer shall pay Energy Services Contractor for the Work in accordance with the Schedule of Values that shall be reviewed and approved by Customer prior to beginning the Work and incorporated into this Contract as Exhibit B once final. The Schedule of Values shall be sufficiently detailed to enable the Customer to accurately evaluate the completion percentages requested by the Energy Services Contractor.
 - a. **Scope of Payment:** Payment to the Energy Services Contractor at the lump sum Price fixed in the Contract for performing all the Work required under the Contract, shall be full compensation for furnishing all labor, materials, equipment and tools necessary to the Work, and for performing and completing, in accordance with the plans and specifications, all Work, and for all expense incurred by the Energy Services Contractor for any purpose in connection with the performance and completion of the Work.
 - b. **Progress Payments:** The Energy Services Contractor will, on or about the 25th day of each month, make an estimate of the value of the Work completed by Energy Services Contractor in the performance of the Contract. These estimates shall be subject to the expedient review and approval of the Customer. The first such estimate will be of the value of the Work completed after the Energy Services Contractor commenced the performance of the Contract, and every subsequent estimate, except the final estimate, will be of the value of the Work completed since the immediately preceding estimate. Such estimates will be based on labor, materials and equipment incorporated into the Work, and items of materials and equipment delivered to the site. Payment will be made in accordance with CA PCC § 20104.50. The Energy Services Contractor shall be responsible for the security and protection of such materials and equipment delivered to the site and not incorporated in the Work. Within thirty (30) calendar days after the approval of each estimate for progress payment, the Customer will pay to the Energy Services Contractor an amount equal to ninety-five (95) percent of the approved estimate. Payments may at any time be withheld if the work is not proceeding in accordance with the Contract, the Energy Services Contractor is not complying with the requirements of the Contract, stop notices have been timely filed, the estimate contains an error, or the Customer has incurred costs or requests reasonable financial assurances regarding defective work by the Energy Services Contractor.
 - c. **Final Payment:** Within thirty (30) days after all required Work is fully completed in accordance with the Contract, the Energy Services Contractor shall submit a final invoice for the total value of the Work completed in accordance with the Contract, which shall be subject to review and approval by the Customer. As required by law, Customer shall pay the Energy Services Contractor the unpaid balance of the Contract price of the Work, or the whole Contract price of the Work if no progress payment has been made, determined in accordance with the terms of the Contract, less such sums as may be lawfully retained under any provision of the Contract, including, but not limited to, stop notices, for third-party claims for which the Energy Services Contractor is required to indemnify the Customer, for defective work and costs incurred by the Customer in connection therewith, or for other such claims and damages attributable to the Energy Services Contractor (“**Final Payment**”). Prior progress estimates and payments are subject to correction in the Final Payment. Tender of the Final Payment shall constitute denial by the Customer of any unresolved claim. Energy Services Contractor’s unconditional acceptance of the Final Payment shall operate as a full and final release to the Customer and its agents from any and all unasserted claims Energy Services Contractor has, or may have, related to this Contract.

d. Payments Do Not Imply Acceptance of Work: The granting of any progress payment or payments by the Customer or the receipt thereof by the Energy Services Contractor shall not constitute acceptance of the Work or of any portion thereof, and shall in no way lessen the liability of the Energy Services Contractor to replace Work that fails to conform with this Contract, whether or not the unsatisfactory character of such work or material was apparent or detected at the time such payment was made.

e. Retention of Sums Charged Against Energy Services Contractor: It is mutually understood and agreed that when under any provision of this Contract the Customer shall charge any sums of money against the Energy Services Contractor, the amount of such charge shall be deducted and retained by the Customer from the amount of the next succeeding progress estimate, or from any other monies due or that may become due the Energy Services Contractor on account of the Contract. If on completion or termination of the Contract such monies due the Energy Services Contractor are found insufficient to cover the Customer's charges against the Energy Services Contractor, the Customer shall have the right to recover the balance from the Energy Services Contractor or its sureties. If Energy Services Contractor remedies the Work that failed to conform with the requirements of this Contract, Customer shall pay to Energy Services Contractor within ten (10) days following completion of such remediation any amounts withheld on account of such Work.

f. Release: The Energy Services Contractor and each assignee under an assignment in effect at the time of Final Payment shall, if required by the Customer, execute and deliver at the time of Final Payment and as a condition precedent to Final Payment, a conditional release in statutory form and substance, discharging the Customer, its officers, agents and employees of and from liabilities, obligations and claims arising under this Contract.

g. Payment to Subcontractors and Suppliers: The Energy Services Contractor shall pay each subcontractor and supplier promptly on receipt of each progress payment from the Customer for the materials, labor and equipment delivered to the site or incorporated in the Work by each subcontractor during the period for which the progress payment is made, less any retention as provided above.

h. Stop Notice Costs: The Customer reserves the right to charge the Energy Services Contractor or its surety, or to withhold from release of retention, all costs incurred by the Customer, including attorney's fees, for processing and defending stop notice claims.

4. **Time**. The Work to be performed under this Contract shall begin within thirty (30) days of the date of an Executed Contract or Letter of Award ("**Commencement Date**") and is anticipated to end by the earlier of the dates set forth in section 4.a. or 4.b., below ("**Time**"). If the Work is divided into phases or individual projects, each phase or project will start in accordance with the timeline included as part of this Contract. Should the Customer authorize suspension of the Work for any cause, the Energy Services Contractor shall be entitled to a Change Order for the time of the suspension and for compensation for costs impacts caused to Energy Services Contractor by the suspension. As may be adjusted, the Work shall be completed by the date that is the earlier of:

a. Substantial Completion: The date on which Energy Services Contractor is substantially complete with the Work. Substantial completion means that Energy Services Contractor has performed enough of the Work so that Customer may use the Work for its intended purpose or realize an intended benefit from the Work and as defined in section 15 below. If the Work is divided into phases or individual projects for which individual prices have been negotiated ("**Phase**"), then substantial completion dates shall apply to each phase or individual project as indicated in this Contract. Substantial completion should be demonstrated via execution by Customer of a certificate of substantial completion.

b. Number of Days: Four Hundred (400) days after the Commencement Date, subject to equitable extensions of Time, as defined herein, or pursuant to this Contract.

5. Permits, Approvals, Taxes. Unless obtained by Customer or otherwise specified in this Contract, Energy Services Contractor shall obtain all permits, licenses, authorizations, and inspections that are required for the Work. Customer shall be responsible for securing all other necessary approvals, easements, zoning changes, or similar entitlements. An equitable adjustment in the Time and Price of the Contract shall be made to account for any time Customer spends securing any of these items after the Commencement Date, and reasonable costs incurred by Energy Services Contractor as a result. Customer shall pay all tariffs and taxes associated with the Work including, sales, use, real estate, and personal property taxes.

6. Codes and Regulations

a. The Energy Services Contractor shall be knowledgeable regarding and shall comply with applicable portions of California Code of Regulations Title 24, the applicable Building Code, and all other codes, ordinances, regulations or orders of properly constituted authority having jurisdiction over the Work, including any authority governing the award of Project Funds. The Energy Services Contractor shall examine the Contract for compliance with these codes and regulations, and shall promptly notify the Customer of any discrepancies.

b. All work and materials shall be in full accordance with the latest rules and regulations of the Safety Orders of the Division of Industrial Safety, the National Electric Code, the Uniform Plumbing Code published by the Western Plumbing Officials Association, and other applicable State laws or regulations. Nothing in the Work plans or specifications is to be construed to permit work not conforming to the applicable Codes. Buildings and/or all other construction designed or built by Energy Services Contractor and covered by this Contract shall meet all the regulations for access by the physically handicapped as administered by the Division of the State Architect, and as may be required by federal or state law. Energy Services Contractor shall not be responsible for existing conditions not in compliance with such laws unless specifically included within the scope of the Work.

c. **Roof Mounts for Solar System.** Energy Services Contractor shall use reasonable efforts during roof mounts installation to comply with all requirements of the manufacturer of Customer's roofing system and obtain the manufacturer's warranty continuance letter, however, Energy Services Contractor accepts no responsibility for such manufacturer's warranty and cannot guaranty that the manufacturer will honor its warranties following installation of the roof mounts. Energy Services Contractor shall water test Customer's existing roofing system, and Customer shall repair any leaks at its own cost and expense before Energy Services Contractor is obligated to commence its roof mounts installation. Energy Services Contractor shall be entitled to equitable adjustments of Contract Time and Contract Price for any impacts caused by repair of any leaks discovered in Customer's existing roofing system. Energy Services shall water test its roof mounts installation, repair any leaks discovered, and re-water test until leak-proof installation is achieved. If Customer's roof is damaged by Energy Services Contractor's acts or omissions during the roof mount installation, Energy Services Contractor shall make the requisite repairs at its sole cost and expense according to the roofing system manufacturer's recommendations. Upon completion of the repair of such roof damage and leak proof water testing, Energy Services Contractor shall notify Customer that said repairs are complete. Installation of roof mounts shall not proceed until Customer has provided Energy Services Contractor with tentative approval that Customer's property insurance will cover the as-planned roofing mounts installation. Once installed by the Energy Services Contractor and approved by the District's insurer, the roof mounts will be added to the Customer's insurance policy. Prior to installation, roof mounts shall remain the sole responsibility of the Energy Services Contractor.

d. **Safety.** Energy Services Contractor shall be responsible for initiating, maintaining, and supervising safe performance of the Work. Energy Services Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities related to safety of persons or property. The Energy Services Contractor shall comply with COVID-19 Protocols and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. For purposes of this section, "COVID-19 Protocols" shall mean all federal, state, and local orders, directives and guidance regarding

COVID-19 requirements, precautions and measures including without limitation, social distancing, PPE supply, jobsite safety, cleaning procedures and staffing limits.

7. **Cleanup.** Energy Services Contractor shall keep the premises and the surrounding area free from accumulation of waste materials or rubbish caused by the Work. Upon completion of the Work, Energy Services Contractor shall remove all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials.
8. **Subcontractors.** Energy Services Contractor may hire subcontractors to perform any portion of the Work or Services under this Contract. Energy Services Contractor is entirely and ultimately responsible for compliance with the provisions of this Contract and for any part of work that is performed by a subcontractor. Nothing contained in this Contract shall create any contractual relationship between any subcontractor and the Customer. The Customer shall be deemed to be the third party beneficiary of the contract between the Energy Services Contractor and each subcontractor.

The Energy Services Contractor shall insert appropriate provisions in all subcontracts pertaining to Work requiring the subcontractors to be bound by all applicable terms of this Contract. The Energy Services Contractor shall be as fully responsible for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by them, as the Energy Services Contractor is for the acts and omissions of persons directly employed by the Energy Services Contractor.

9. **Borrowed Equipment.** If requested by Energy Services Contractor and if permitted in writing by Customer's representative, Energy Services Contractor may use Customer's equipment in performing the Work or Services. Energy Services Contractor assumes full and complete responsibility for the use of the equipment, will ensure that only a competent operator will be permitted to use the equipment and only after fully inspecting the equipment, shall not modify the equipment, shall be solely responsible for all claims, demands, lawsuits, losses, expenses and/or liabilities that arise from its use of the equipment to the extent of Energy Services Contractor's negligence, and agrees that Customer makes no representation or warranty regarding the condition or suitability of equipment for any intended use.
10. **Insurance.**
 - a. Energy Services Contractor shall obtain the following insurance from a company or companies as set forth below. All required insurance must be written by a company licensed to do business in the State of California at the time the policy is issued. All required insurance shall be equal to or exceed an A VIII rating as listed in Best's Insurance Guides' latest edition. On a case-by-case basis, the Customer may accept insurance written by a company listed on the State of California Department of Insurance List of Eligible Surplus Lines ("LES LI List") with a rating of A VIII or above as listed in Best's Insurance Guides' latest edition. When commercially reasonably available, all policies shall provide that the inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverages afforded shall apply as though separate policies have been issued to each insured. Required documentation of such insurance shall be furnished to the Customer immediately upon execution of this Contract. Energy Services Contractor shall not commence Work nor shall it allow its employees or subcontractors or anyone to commence Work until all insurance required hereunder has been submitted and approved in writing by the Customer.
 - b. Required Insurance: The Energy Services Contractor shall take out and maintain at all times during the life of this Contract, up to the date of acceptance of the work by the Customer, the following policies of insurance:
 - 1) General Liability Insurance: Personal injury and property damage insurance for all activities of the Energy Services Contractor and its subcontractors arising out of or in connection with this Contract, written on a comprehensive general liability form including Energy Services Contractor's protected

coverage, blanket contractual, completed operations, vehicle coverage and employer's non-ownership liability coverage, in an amount no less than \$2,000,000.00 combined single limit personal injury and property damage for each occurrence and \$4,000,000.00 annual aggregate.

- 2) Professional Liability Insurance for Engineer of Record (Errors and Omissions): The Energy Services Contractor shall maintain in force for the period covered by this Agreement, professional liability (errors and omissions) insurance covering the Engineer of Record's activities, in the amount not less than \$2,000,000 with an insurance carrier as set forth above. In addition, to the extent that the activities and services of engineers or consultants retained by the Energy Services Contractor are not covered under the Energy Services Contractor's professional liability insurance, the Energy Services Contractor shall require each engineer and consultant to obtain and maintain a policy of professional liability insurance in an amount of not less than \$2,000,000 with an insurance carrier as set forth above, before commencing services on the Work. The Energy Services Contractor shall provide a copy of the insurance policies to the Customer upon request.
- 3) Automobile Liability Insurance: The Energy Services Contractor shall maintain in force for the period covered by this Contract, automobile liability insurance covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit for each occurrence; \$2,000,000 aggregate. Said insurance shall include coverage for owned, hired, rented, and non-owned vehicles. All certificates must state that the insurance is under an occurrence based, and not a claims-made policy (policies).

c. Endorsements:

- 1) The certificate(s) for both the General Liability Policy and the Automobile Liability Policy shall be endorsed with the following specific language:

“The Emery Unified School District is named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and this policy protects the additional insured, its officers, agents and employees against liability for bodily injuries, death or property damage or destruction arising in any respect directly or indirectly in the performance of the Contract.”
- 2) The certificate(s) for both the General Liability Policy and the Automobile Liability Policy must state that the insurance is under an occurrence based, and not a claims-made policy (policies) and shall be endorsed with the following specific language:
 - a. The insurance provided herein is primary and no insurance held or owned by the Customer shall be called upon to contribute to a loss.
 - b. Coverage provided by this policy shall not be reduced or canceled without thirty (30) days written notice given to the Customer by certified mail.

d. Documentation: Within ten (10) calendar days following issuance of the Notice of Award of the Contract, the following documentation of insurance shall be submitted to the Customer for approval prior to issuance of the Notice to Proceed: signed certificates of insurance showing the limits of insurance provided and copies of the specified endorsements for each policy. Certified copies of all policies shall be provided to the Customer upon request.

e. Failure to Maintain Insurance: If the Energy Services Contractor fails to maintain such insurance, the Customer may take out such insurance to cover any damages for which the Customer might be held liable on account of the

Energy Services Contractor's failure to pay such damages and deduct and retain the amount of the premiums from any sums due the Energy Services Contractor under the Contract.

f. Workers' Compensation Insurance:

- 1) Within ten (10) calendar days following issuance of the Notice of Award of the Contract, the Energy Services Contractor shall submit to the Customer satisfactory proof that the Energy Services Contractor and all subcontractors it intends to employ have procured, for the period covered by the Contract, full Workers' Compensation insurance and employer's liability with limits of at least \$1,000,000 with an insurance carrier as set forth above for all persons whom the Energy Services Contractor may employ in carrying out the work contemplated under this Contract in accordance with the Workers' Compensation Insurance and Safety Act, approved May 26, 1913, and all acts amendatory or supplemental thereto (the "Act"). Such insurance shall be maintained in full force and effect during the period covered by the Contract. In the event the Energy Services Contractor is self-insured, the Energy Services Contractor shall furnish a Certificate of Permission to Self-Insure, signed by the Department of Industrial Relations Administration of Self-Insurance, Sacramento, California.
- 2) If the Energy Services Contractor fails to maintain such insurance, the Customer may take out worker's compensation insurance to cover any compensation which the Customer might be liable to pay under the provisions of the Act, because of any employee of the Energy Services Contractor being injured or killed, and deduct and retain the amount of the premiums for such insurance from any sums due the Energy Services Contractor under the Contract, or otherwise recover that amount from the Energy Services Contractor or the Surety.
- 3) The policies represented by the certificates shall be endorsed with a Waiver of Subrogation and must contain the provision (and the certificates must so state) that the insurance cannot be canceled until thirty (30) days after written notice of intended cancellation has been given to the Customer by certified mail.

12. Bonds.

- a. If required by Customer, The Energy Services Contractor shall file with the Customer the following bonds, using the bond forms provided with this Contract:
 - 1) Performance Bond: A corporate surety bond, in a sum not less than 100 percent of the amount of the Work under this Contract, to guarantee the faithful performance of the Contract, substantially in form of Attachment No. 1, attached hereto.
 - 2) Payment Bond: A corporate surety bond, in a sum not less than 100 percent of the amount of the Work under this Contract, to guarantee the payment of wages for services engaged and of bills contracted for materials, supplies, and equipment used in the performance of the Contract, substantially in the form of Attachment No. 2, attached hereto.
- b. Corporate sureties on these bonds and on bonds accompanying proposals must be admitted sureties as defined by law, legally authorized to engage in the business of furnishing surety bonds in the State of California.
- c. The amount of the Contract, as used to determine the amounts of the bonds, shall be the total amount fixed in the Proposal for the performance of the required Work.
- d. During the period covered by the Contract, if any of the sureties upon the bonds shall become insolvent or unable to pay promptly the amount of such bonds to the extent to which surety might be liable, the Energy Services Contractor,

within thirty (30) days after notice given by the Customer to the Energy Services Contractor, shall provide supplemental bonds or otherwise substitute another and sufficient surety approved by the Customer in place of the surety becoming insolvent or unable to pay. If the Energy Services Contractor is unable using commercially reasonable efforts within such thirty (30) day period to substitute another and sufficient surety, the Customer may suspend the Contract.

13. Hazardous Materials. The Work and Services expressly exclude any work of any nature associated or connected with the identification, abatement, cleanup, control, removal, or disposal of hazardous materials or substances, including but not limited to asbestos, lead, or PCBs. As of the Effective Date, Customer represents that, to the best of its knowledge, there is no hazardous material on the premises that may in any way relate to the Work or affect Energy Services Contractor's ability to deliver the Work or Services. Prior to the Commencement Date, Customer shall provide to Energy Services Contractor a comprehensive good faith survey that at a minimum complies with applicable regulatory requirements, and identifies all actual or suspected hazardous materials, quantities, and specific locations of such materials on the premises. Failure to provide such good faith survey timely shall result in an equitable adjustment to Time and compensation to the Energy Services Contractor. If Energy Services Contractor becomes aware of or suspects the presence of hazardous materials on the premises during the Work or Services, Energy Services Contractor shall notify Customer, Customer shall investigate and correct the suspected hazardous materials in accordance with all applicable laws, Energy Services Contractor shall have the right to stop work in the affected area until the suspected hazardous materials are investigated and remediated by Customer, and the Time and Price shall be equitably adjusted relative to the duration of Customer's investigation and remediation of the suspected hazardous materials.

14. Delays.

a. The Energy Services Contractor may be granted a time extension and compensation for Force Majeure events as set forth in section 24.

b. A request for extension of time and compensation related thereto shall be made in writing to the Customer within ten (10) calendar days of the date the delay is encountered. The request shall include a detailed description of the reasons for the delay and corrective measures by the Energy Services Contractor. The request shall be accompanied by evidence that the insurance policies required by the Contract shall be in effect during the requested additional period of time. In order for the Customer to consider a request for time extension, the Energy Services Contractor must prove that the reasons stated for the delay actually caused a delay in portions of the Work which will result in completion beyond the date specified in the Contract. The Energy Services Contractor shall also be granted a time extension for changes in the scope of Work which affect the time of completion of the Work, which request for extension of time shall be included in a Contract modification proposal.

c. Customer's liability to the Energy Services Contractor for delays for which Customer is responsible shall be limited to an extension of time unless such delays were unreasonable under the circumstances involved and were not within the contemplation of the parties when the Contract was awarded. The Energy Services Contractor shall provide to the Customer the actual, substantiated costs to the Energy Services Contractor for which the Energy Services Contractor may claim damages from Customer. Such costs, if any, shall be directly related to the Work, and shall not include costs that would be borne by the Energy Services Contractor in the regular course of business for the Contract Time, including, but not limited to, office overhead and ongoing insurance costs. Delay damages shall not include Energy Services Contractor or subcontractor markup for overhead and profit, but only actual, documented, and direct actual costs. The Customer shall not be liable for any damages which the Energy Services Contractor could have avoided by any reasonable means including, but not limited to, conducting reasonable due diligence of the Project feasibility or more judicious handling of forces or equipment.

15. Certificate of Substantial Completion.

Substantial Completion shall be achieved when:

- a) All materials and equipment associated with the System have been installed in accordance with the Specifications and applicable manufacturer's instructions,
- b) All required connection of the System to the applicable utility equipment at the Site has been completed, including interconnection wiring, controls, meters, and monitoring.
- c) Energy Services Contractor has successfully completed and obtained Customer's acceptance of Commissioning and Performance Tests according to procedures set forth in Exhibit C.
- d) The System has received approval to operate from the Interconnecting Utility.
- e) Energy Services Contractor has completed the Services, except for Final Punchlist items.
- f) All System keys, combinations and passwords have been delivered to Customer.
- g) All permits licenses and other necessary authorizations to operate the System have been obtained and delivered to Customer.
- h) All documents regarding title, ownership, custody and control of the System not previously delivered, have been delivered to Customer, including As-Built Drawings;
- i) All Energy Services Contractor and any Tiered Contractors warranties related to the Services and the System have been delivered to Customer.

15.1 When Energy Services Contractor believes that it has achieved the requirements of substantial Completion as defined above, Energy Services Contractor shall provide written notice to Customer stating that Energy Services Contractor has achieved Substantial Completion, together with all documents that are required to be delivered to Customer. Customer shall review the notice of Substantial Completion and notify Energy Services Contractor of its approval or rejection within ten (10) business days.

15.2 If Customer approves the Notice of substantial Completion, such approval not to be unreasonably withheld, Customer shall notify Energy Services Contractor of its approval by executing and returning the Notice of Substantial Completion.

15.3 Final Punchlist.

At the time Energy Services Contractor delivers the Notice of Substantial Completion, Energy Services Contractor shall generate an initial list of Services, if any, which remain to be completed after Substantial Completion and provide such list to Customer. Customer may (but is not required to) conduct or obtain an on-site inspection of the System and may add any additional remaining Services, to such list (together with the initial list created by Energy Services Contractor, the "Final Punchlist"). The Final Punchlist shall include a proposed schedule within which Energy Services Contractor will complete such remaining Services.

16. Certificate of Final Completion.

Final Completion shall be achieved when:

- a) Completion of, and continuing conformation with, all items constituting Substantial Completion, plus completion, and acceptance by Customer, of all Final Punchlist items
- b) All equipment manufacturers' warranties related to the Services and the System have been transferred and delivered to Customer.
- c) Any updates to the As-Built Drawings following Substantial Completion have been delivered to Customer;
- d) All final lien releases and proof of payment to Energy Services Contractor's subcontractors have been delivered to Customer.
- e) Customer's approval of the Notice of Final Completion

16.1 When Energy Services Contractor believes that it has achieved the requirements of Final Completion, Energy Services Contractor shall provide written notice to Customer stating that Energy Services Contractor has achieved Final Completion, together with all documents that are required to be delivered to Customer.

Customer shall have ten(10) business days from receipt to review the Notice of Final Completion.

16.2 If Customer approves the Notice of Final Completion, such approval not to be unreasonably withheld, Customer shall notify Energy Services Contractor of its approval by executing and returning the Notice of Final Completion.

17. Customer Use. Upon Substantial Completion, , Customer is responsible for use, operation, and maintenance of all aspects of the Work and Services. Energy Services Contractor shall not be responsible for improper use, operation, or maintenance of any aspect of the Work or Services by Customer or others at any time.

18. Warranty. Energy Services Contractor warrants that its labor and materials to install the Solar System shall conform with the Contract and be free from defects in material and workmanship arising from normal usage for a period of One (1) year from the date of substantial completion, or start of beneficial use by Customer, whichever is earlier. Energy Services Contractor's warranty for the Solar System itself is as set forth in Exhibit D. This warranty does not cover any improper use, operation, or maintenance of any aspect of the Work, or if the Work has been abused, altered, or repaired by the Customer or third parties without supervision by or prior written approval from Energy Services Contractor, or if serial numbers or warranty date decals have been removed or altered. Customer must report any warranty claims to Energy Services Contractor in writing, and such claims must be presented immediately upon having reason to know that a warranty issue exists. The Energy Services Contractor agrees to respond to a Warranty claim made by the Customer, assess the claim and present the Customer with a remediation plan within ten (10) days of being notified. Energy Services Contractor will use its best commercial efforts to remedy a Warranty Claim based on the most expedient availability of materials and labor required to return the defective Work to operation. In the event of the Energy Services Contractor's failure to comply with the above-mentioned obligations within ten (10) calendar days of notice, or sooner, if required by an emergency, the Energy Services Contractor hereby authorizes the Customer to have the defects or deficiencies repaired, remedied, corrected and made good at the Energy Service Contractor's expense. Failure by Customer to notify Energy Services Contractor of the need for warranty service within ten days of discovery of a warranty claim will void this warranty. Additionally, Customer shall not hire or direct others to repair any warranty item without Energy Services Contractor's written consent. Customer's repair of any warranty item without the written consent of Energy Services Contractor shall void this warranty with respect to such item, and the cost of such repair shall not be reimbursable to Customer by Energy Services Contractor. Energy Services Contractor makes no warranty whatsoever regarding materials or products outside the scope of Work, which are provided and/or installed by third parties and incorporated into the Work. Except as otherwise provided in this section 18, Customer's sole recourse and remedy for any defective materials or products incorporated in the Work shall be against the manufacturer of such materials or products. Energy Service Contractor will provide Customer with copies of pass-through warranties provided by photovoltaic module and inverter suppliers for the benefit of Customer.

THE WARRANTIES CONTAINED IN THIS CONTRACT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE.

19. Damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY CONSEQUENTIAL, INDIRECT, OR SIMILAR DAMAGES OR LOSSES, INCLUDING LOSS OF PROFITS , ARISING OUT OF OR RELATING TO THIS CONTRACT, WHETHER BASED IN CONTRACT OR TORT OR ANY OTHER THEORY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES

20. Indemnity. Each Party ("Indemnitor") shall indemnify and hold harmless the other Party and its directors, officers, agents and employees against loss, liability, damage, and expense including attorneys' fees awarded by a court of competent jurisdiction, for third party claims for injury or death to persons or damage to property, caused by the negligent conduct of the Indemnitor in connection with the work, but only to the extent of the Indemnitor's negligence.

The Energy Services Contractor shall defend with counsel acceptable to the Customer, which approval shall not be unreasonably withheld, indemnify and hold harmless to the full extent permitted by law, the Customer and its Board of Trustees, officers, agents, employees and volunteers from and against any and all liability, loss, damage, claims, expenses, fines, judgments and costs (including, without limitation, attorney's fees and costs and fees of litigation) (collectively, "**Liability**") of every nature arising out of or in connection with Energy Services Contractor's performance of the Work or Services or its failure to comply with any of its obligations contained in this Contract, except such Liability caused by the active negligence, sole negligence or willful misconduct of the Customer or third parties for whose acts and omissions the Energy Services Contractor is not legally liable. Such indemnification shall extend to all claims, demands, or liabilities occurring after completion of the Work as well as during the progress of the Work.

21. No Discrimination. It is the policy of the Customer that, in connection with all work performed under this Contract, there shall be no discrimination against any prospective or active employee or any other person engaged in the Work because of actual or perceived race, color, ancestry, national origin, ethnic group identification, religion, sex, gender, gender identity, sexual orientation, age, physical or mental disability, or marital status. The Energy Services Contractor agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment Practice Act, beginning with Government Code §12900, Government Code §11135, and Labor Code §§ 1773.5, 1777.5, 1777.6 and 3077.5. In addition, the Energy Services Contractor agrees to require like compliance by all subcontractors and suppliers.

21. Labor Standards

a. Work Hours: In accordance with Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work under this Contract. The Energy Services Contractor and any subcontractor shall pay workers employed by them overtime pay as required by Labor Code section 1815. The Energy Services Contractor shall and shall cause each subcontractor to pay each worker, laborer, mechanic or persons employed by them and performing Work under this Contract at a rate not less than the prevailing wage for each craft or classification covering the Work actually performed.

b. Penalty: If levied, the Energy Services Contractor shall pay any penalty levied due to violation by Energy Services Contractor of Article 3, Division 2, Part 7, Chapter 1 of the California Labor Code.

c. Labor Code Sections Incorporated: The Energy Services Contractor shall be knowledgeable of and comply with Labor Code sections 1727, 1773.5, 1775, 1777, 1777.5, 1810, 1813, 1860, including all amendments thereto; each of these sections is incorporated by reference into this Contract.

22. General Rate of Per Diem Wages

a. On File: As required by Labor Code section 1773.2, the Customer has available copies of the general prevailing rate of per diem wages for workers employed on public work as determined by the Director of the Department of Industrial Relations, which shall be available to any interested party on request. The Energy Services Contractor shall post a copy of the document at each job site and may use Customer posting areas.

b. Prevailing Wage Rate: The Energy Services Contractor and each subcontractor shall pay each worker performing work under this Contract at a rate not less than the prevailing wage as defined in Labor Code section 1771 and 1774 and Section 16000(a) of Title 8, California Code of Regulations.

c. Penalty: The Energy Services Contractor shall pay any penalty levied due to violation by Energy Services Contractor of Section 1775 of the Labor Code for each worker paid less than the prevailing wage rates, as determined by the Director of the California Department of Industrial Relations, for any work done under this Contract by the Energy

Services Contractor or by any subcontractor. The Energy Services Contractor shall also pay each worker employed by him and shall cause the subcontractor employer of any worker the difference between the stipulated prevailing wages rates and the amount actually paid to such worker.

23. Recordkeeping

- a. The Energy Services Contractor agrees to comply with the provisions of Sections 1776 and 1812 of the Labor Code. The Energy Services Contractor and each subcontractor shall keep or cause to be kept an accurate record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours worked each day and week of all workers employed by the Energy Services Contractor in connection with the execution of this Contract or any subcontract there under and showing the actual per diem wages paid to each of such workers. These records shall be certified and shall be open at all reasonable hours to the inspection of the Customer awarding the Contract, its officers and agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Law Enforcement of the State Department of Industrial Relations, and his or her other deputies and agents.
- b. In addition, copies of the above records shall be available as follows:
 - 1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request;
 - 2) A certified copy of all payroll records shall be made available for inspection or furnished upon request to the Customer, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations;
 - 3) A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the Customer, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided, the requesting party shall, prior to being provided the records, reimburse the costs of the Energy Services Contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Energy Services Contractor.
- c. The Energy Services Contractor shall file a certified copy of the records with the entity requesting the records within ten (10) days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the Customer, shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Energy Services Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.
- d. The Energy Services Contractor shall inform the Customer of the location of the records, including the street address, city and county, and shall, within five working days, provide a notice of a change of location and address.
- e. In the event of noncompliance with the requirements of this section, the Energy Services Contractor shall have ten (10) days in which to comply after receipt of written notice specifying in what respects the Energy Services Contractor must comply with this section. Should noncompliance still be evident after the ten-day period, the Customer may upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, withhold from payment due to the Energy Services Contractor the amount of any penalty levied for each calendar day, or portion thereof, for each worker until strict compliance is effectuated.

- f. Responsibility for compliance with this provision shall be with the Energy Services Contractor.

24. Force Majeure

Except as provided for herein, Energy Services Contractor shall not be liable to Customer for damages, loss, injury, or delay caused by conditions that are beyond the reasonable control of Energy Services Contractor. Such conditions include, but are not limited to fire, flood, theft, vandalism, labor disputes, abnormal adverse weather conditions, acts of God, epidemic, pandemic, acts of the public enemy, riot, war, unavailability of equipment or supplies, or supply chain delays caused by any of the foregoing.

- a. The Contract Time and Contract Price shall be adjusted for delays as provided for in the Contract Documents. All adjustments to the Contract Time shall be made by adding work days, as opposed to calendar days. To the extent any such adjustment is made as a result of causes which are within the control of Owner or its agents or consultants, the Contract Price and Contract Time shall be equitably adjusted. The intended date for Substantial Completion, the project schedule and the Contract Time are all subject to adjustments as provided in the Contract Documents. Energy Services Contractor is entitled to complete the Work prior to the Contract Time set forth pursuant to this section.
- b. The parties acknowledge that the coronavirus disease ("COVID-19") pandemic is impacting the construction industry and the performance of construction projects. Some of these impacts are known and predictable, and others are not yet fully known and are beyond the control of the parties. The parties agree that the cost of certain impacts may be relatively accurately estimated, and these are included in the Contract Sum. For example, time consumed in checking in workers at the job site, training them on COVID-19 protocols, and implementing those protocols (including but not limited to social distancing, hand washing, and sanitizing) are all included within the Contract Sum. If government orders or decrees increase required safety protocols affecting the Work after the execution date of this Agreement, Energy Services Contractor shall be entitled to an equitable adjustment of the Contract Time and Contract Sum to cover the time impact and cost of such increased safety protocols.

However, certain impacts cannot be predicted, such as (1) disruptions to material and/or equipment supply; (2) COVID-19 illness of any subcontractor's workforce and/or unavailability of labor by reason of COVID-19 illness or quarantine of subcontractors' employee(s); (3) government quarantines, shelter-in-place orders, closures, or other mandates, restrictions, and/or directives directly impacting construction. The parties agree that delays related to such events shall entitle Energy Services Contractor to a reasonable extension of time, but only to the extent the delay actually impacts the project's critical path schedule despite Energy Services Contractor's reasonable efforts to mitigate such delay.

- c. Further, to the extent any of the causes identified herein results in an increase in the price of labor, materials, or equipment used in the performance of this Agreement, Energy Services Contractor shall be entitled to an equitable adjustment to the Contract Price for such increases, but only to the extent Energy Services Contractor presents documentary proof of the cause of such increases and evidence of Energy Services Contractor's reasonable efforts to find alternative sources of material, equipment supply, and/or labor.
- d. The foregoing notwithstanding, Energy Services Contractor shall use commercially reasonable efforts to reduce the risk of materials price escalations by purchasing materials needed for performance of the Work as quickly as possible following the effective date of this Contract, subject, however, to Owner's payment for such materials within ten (10) days of Energy Services Contractor's invoice therefor, and Owner shall pay Energy Services Contractor's costs of storing such materials offsite, if needed, before the project is ready for installation thereof.

25. Fire Safety and Security Equipment. If this Contract covers fire safety or security equipment, Customer acknowledges that Energy Services Contractor is not an insurer regarding those services, and Energy Services Contractor shall not be responsible for any damage or loss that may result from fire safety or security equipment that fails to perform properly or fails to prevent a casualty loss.

26. Changes. The Work or Services may be changed pursuant to a written change order executed by an authorized Energy Services Contractor signer and Customer signer (“**Change Order**”) and duly authorized by the Customer. A Change Order is valid only to the extent that it changes the scope of Work or Services, Price, and/or Time. Any invalid portions of a Change Order shall be disregarded. The Parties contemplate that Change Orders may include scope changes such as installation of additional utility conservation measures, facility improvement measures, and operational efficiency improvements or the furnishing of additional services within the identified facilities.

27. Intellectual Property. Plans, designs, specifications, drawings, materials, exhibits, reports, memoranda, studies, software code, electronic data, and other intellectual information and materials provided by Energy Services Contractor to Customer (collectively the “**Intellectual Property**”) as part of the Work or Services are instruments of service owned by Energy Services Contractor and are not “work made for hire” as such term is defined under U.S. copyright law.

a. If this Contract is performed to completion and paid in full, then Energy Services Contractor grants to Customer a limited license to use the Intellectual Property to operate, maintain, renovate, and manage the subject matter of this Contract. The Intellectual Property shall not be used on other projects or for completion of the Work or Services by others, unless Energy Services Contractor consents in writing.

b. The parties acknowledge that monetary damages may not be a sufficient remedy for unauthorized use of Intellectual Property and that Energy Services Contractor shall be entitled, without waiving any other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction. If any bond is required in connection with such an action, the complaining party agrees that \$3,000 shall be a reasonable amount of such bond.

28. Termination. This Contract may be terminated at any time as described below:

a. Termination for Cause: If Energy Services Contractor materially fails to perform under this Contract, Customer may notify Energy Services Contractor in writing of Customer’s intent to terminate this Contract along with a description of the alleged failure. If Energy Services Contractor does not in good faith take reasonable steps to commence and continue diligently to correct such failure within fifteen (15) days after receipt of such notice, Customer may terminate this Contract, and Energy Services Contractor shall be entitled to receive payment for all amounts earned prior to termination. If it is determined for any reason that termination was improper, the termination shall be treated as a termination for convenience.

b. Termination for Convenience: Customer may terminate this Contract in whole or in part for any reason by providing written notice of termination to Energy Services Contractor and specifying the date on when the termination becomes effective. Upon receipt of such notice, Energy Services Contractor shall incur no further obligations in connection with the terminated work and will stop work to the extent specified. Energy Services Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. Energy Services Contractor shall settle liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work, and Customer shall pay Energy Services Contractor for such expenses, demobilization costs incurred by Energy Services Contractor due to the termination, overhead through the end of work performed due to termination of the Contract, and lost profits on terminated work, which shall not exceed fifteen percent (15%) of the total cost of the Work performed as of the date of the notice of termination. Such amounts shall be paid by Customer to Energy Services Contractor within fifteen (15) days of Energy Services Contractor’s delivery to Customer of a request for payment.

c. Unappropriated Public Funds: If Customer is a public entity that is prohibited by law from making fiscal commitments beyond the term of its current fiscal period and does not currently have funds set aside to pay for this Contract in future years, then Energy Services Contractor’s obligation to perform and compensation in future years is

contingent upon the availability of appropriations in future years sufficient to pay for this Contract. Customer is also in the process of applying for a variety of state and federal funding sources for the Contract, some of which require additional approval and/or appropriation processes before Customer receives said funds.

Payments pursuant to this Contract shall be made only from funds appropriated or available to pay for this Contract, and Customer's liability for payments shall be limited to the amount of appropriated funds. If Customer funds are not appropriated or available to fund this Contract, then Customer may terminate this Contract without further obligation related to the non-appropriated or unavailable funds.

29. Disputes. The Parties agree that the following process will be used to resolve any dispute between them. All dispute resolution shall be conducted in good faith, shall be confidential, to the extent permitted by law, shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence, and shall be inadmissible in any litigation, or other judicial proceeding.

a. Negotiations: First, the Parties will attempt to negotiate a resolution.

b. Mediation: If a dispute remains unresolved more than thirty (30) calendar days after the commencement of negotiations and the Parties have not mutually agreed to extend the negotiation period, then the Parties shall pursue mediation. In mediation, the Parties shall mutually select a mediator, the cost of the mediator and other administrative costs shall be shared equally by the Parties, and each Party shall be responsible for its own costs and expenses.

c. Litigation or Arbitration:

- 1) All claims which are not resolved under this Contract between the Energy Services Contractor and the Customer are subject to the provisions of Article 1.5 (commencing with §20104) of Chapter 1 of Part 2 of the Public Contract Code ("**Article 1.5 claim**"). For purposes of Article 1.5, "**public work**" has the same meaning as set forth in §9000 of the Civil Code; "**claims**" means a separate demand by Energy Services Contractor for a time extension or payment of money or damages arising from work done by or on behalf of the Energy Services Contractor pursuant to the Contract and
 - a. payment for which is not otherwise expressly provided;
 - b. the claimant is not otherwise expressly entitled to receive; or
 - c. the amount of which payment Customer disputes.
- 2) For all unresolved claims that the Energy Services Contractor wishes to pursue, the Energy Services Contractor shall file a timely claim pursuant to the Government Claims Act and shall otherwise comply with the procedures set forth in that Act prior to commencing any litigation against the Customer.

30. Fingerprinting. The Customer has considered the totality of the circumstances concerning the Work and has determined that the Energy Services Contractor and its employee (which includes subcontractor employees): are not subject to the requirements of Education Code §45125.2. By execution of the Contract, the Energy Services Contractor acknowledges that it is entering into a contract for the construction, reconstruction, rehabilitation or repair of a school facility involving only limited contact with students. Accordingly, the parties agree that the following conditions apply to any work performed by the Energy Services Contractor and its employees on a school site: (1) Energy Services Contractor and its employees shall check in with the school office each day immediately upon arriving at the school site; (2) Energy Services Contractor and its employees shall inform school office staff of their proposed activities and location at the school site; (3) Once at such location, the Energy Services Contractor and its employees shall not change locations without contacting the school office; (4) the Energy Services Contractor and its employees shall not use student restroom facilities; and (5) If the Energy Services Contractor

and/or its employees find themselves alone with a student, the Energy Services Contractor and its employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

31. Labor Compliance Program. The Energy Services Contractor acknowledges that the Work is subject to compliance monitoring and enforcement by the California Department of Industrial Relations in accordance with California Labor Code sections 1725.5 and 1770 *et seq.* All contractors and subcontractors working at the site shall be duly registered with the Department of Industrial Relations at time of contract execution and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any Work. Energy Services Contractor shall work with the Customer to ensure that the Department of Industrial Relations is advised of the award of this Contract in a timely manner by filing form PWC-100 with DIR within ten (10) days of award of the Contract, but no later than the first day in which the Energy Service Contractor has workers employed for the Work.

32. Drug-Free Workplace Certification. The Energy Services Contractor certifies all of the following:

- a. The Energy Services Contractor is aware of the provisions and requirements of California Government Code §§ 8350 *et seq.*, the Drug Free Workplace Act of 1990.
- b. The Energy Services Contractor is authorized to certify, and does certify, that a drug free workplace will be provided by doing all of the following:
 - 1) Publishing a statement notifying all employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the Energy Service Contractor's workplace and specifying actions which will be taken against employees for a violation of the prohibition;
 - 2) Establishing a drug-free awareness program to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. Energy Services Contractor's policy of maintaining a drug-free workplace;
 - c. Availability of drug counseling, rehabilitation and employee-assistance programs; and
 - d. The penalties that may be imposed upon employees for drug abuse violations;
 - 3) Requiring that each employee engaged in the performance of Work be given a copy of the statement required by subdivision (a), above, and that as a condition of employment by the Energy Services Contractor in connection with the Work, the employee agrees to abide by the terms of the statement.
- c. The Energy Services Contractor understands that if the Customer determines that the Energy Services Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of Government Code §§ 8350 *et seq.*, the Contract is subject to termination, suspension of payments, or both. The Energy Services Contractor further understands that, should it violate the terms of the Drug-Free Workplace Act of 1990, the Energy Services Contractor may be subject to debarment in accordance with the provisions of Government Code §§ 8350, *et seq.*

33. Provisions Required by Law Deemed Inserted. Every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted, and this Contract shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the Contract shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject which are in effect as of the date of this Contract.

34. Notices.

a. All notices to Energy Services Contractor shall be written, shall be sent via certified mail, a national courier service, or personal delivery, and shall consist of one original to Attn: [REDACTED], Energy Services Contractor, 215 Fourier Ave, Suite 140, Fremont, CA 94539, and one original to the primary Energy Services Contractor contact for the Work, and shall be deemed delivered when received by the [REDACTED].

b. All notices to Customer shall be written, shall be sent via certified mail, a national courier service, or personal delivery, and shall consist of one original to Attn: [REDACTED] and one original to the primary Customer contact for the Work, and shall be deemed delivered when received by the [REDACTED].

35. Choice of Law/Venue. This Agreement shall be governed and construed under the laws of the State of California, notwithstanding any choice of law provision whether statutory, common law, or contractual. The Parties consent to exclusive jurisdiction and venue in the County of Alameda, California and no other place. Energy Services Consultant and Customer waive all defenses of lack of personal jurisdiction and forum non conveniens.

36. Assignment. Neither Party may assign or transfer its rights and/or obligations under this Contract without the prior written consent of the other Party which shall not be unreasonably withheld, unless the assignment is to an affiliate or successor entity of the Party provided, however, that any such assignee shall agree to be bound by the terms and conditions hereof.

37. No Waiver. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Contract shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver.

38. No Third-Party Beneficiaries. There are no third-party beneficiaries under this Contract or any portion thereof.

39. Severability, Survival. If any portion of this Contract shall be held invalid in whole or in part under any law, rule, regulation, or order, then such portion shall remain in effect only to the extent permitted, and the remaining portions of the Contract shall remain in full force and effect. Any invalid portions shall be substituted with an interpretation that most accurately reflects the Parties' intentions.

40. Tax Benefits. Unless otherwise specified in this Contract, Energy Services Contractor is solely entitled to claim tax benefits available under section 179D of the Internal Revenue Code (EPAct), or its successor.

41. Waiver of Subrogation. The Parties waive all rights against each other and their directors, officers, agents, and employees, and other contractors, for damages or losses to the extent covered by insurance.

42. Amendment. This Contract may not be amended except pursuant to a written amendment signed by an authorized signer of each Party.

43. Headings. The headings of this Contract are for purposes of reference only and shall not limit or define the meaning of the provisions of this Contract.

44. Complete Agreement. This Contract, including the exhibits attached hereto, is a fully integrated agreement and contains the entire understanding between Energy Services Contractor and Customer with respect to the subject matter hereof. Any legal terms and conditions appearing in any attachment to this Contract shall be ignored to the extent they

contradict or are inconsistent with the terms and conditions contained in the foregoing numbered paragraphs. All previous agreements between Energy Services Contractor and Customer as to the Work are superseded by this Contract.

45. Contract Documents. By this reference, the following exhibits are attached hereto and all terms herein are incorporated into this Contract:

Exhibit A:	Energy Services Proposal, dated April 22, 2022
Exhibit B:	Schedule of Values
Exhibit C:	Substantial Completion Commissioning Plan
Exhibit D:	Warranty Information
Exhibit E:	Estimated Production and Savings

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

ENERGY SERVICES CONTRACTOR

CUSTOMER

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date Signed: _____

Date Signed: _____

Exhibit A
Energy Services Proposal
[TO BE ATTACHED]

Exhibit B: Schedule of Values

[TO BE INSERTED ONCE COMPLETE]

Exhibit C: Substantial Completion Solar Commissioning Plan

Performance Tests

OVERVIEW

Project take-over for the system will depend upon the successful completion of a series of DC-side tests and AC-side commissioning activities. This Exhibit describes the relevant DC and AC test procedures and analyses in detail.

SYSTEM TESTS

Energy Services Contractor technical personnel, with the assistance of the equipment manufacturer(s) as needed, will perform a complete commissioning of the DC and AC system equipment following Energy Services Contractor's rigorous commissioning procedures. These commissioning procedures include the tests outlined in this Exhibit as well as other standard tests, inspections, safety and quality checks. All testing and commissioning will be conducted in accordance with the manufacturer's specifications. The system inverters will be commissioned on site by a manufacturer's representative or qualified technician and will confirm that the inverter can be operated locally per specification and that automatic operations such as wake-up and sleep routines, power tracking and fault detection responses occur as specified.

Upon completion of each of the commissioning procedures, Energy Services Contractor's technician or engineer will initial the commissioning checklist or test result page to indicate that the test has been completed successfully. The results of string testing will be summarized, and complete results will be provided in digital format.

Open Circuit Voltage Test

Purpose:	Open Circuit Voltage Testing provides a simple method to determine that all strings are properly connected (module and string polarity) and that all PV modules are producing an appropriate voltage level.
Scope:	All strings
Party:	Energy Services Contractor technical personnel
Equipment /Materials:	rubber insulating gloves
	voltmeter with an accuracy of at least 1 percent of reading
	fuse puller
	infrared thermometer or thermocouple
	PV specification for V_{oc} as a function of temperature
	jumper wire
Conditions :	This test should be conducted under full sun ($>500 \text{ W-m}^{-2}$) and stable sky conditions, generally between the hours of 10:00am and 2:00pm.
Procedure:	Measure the temperature of the PV modules using an infrared thermometer or thermocouple. (It is sufficient to measure the temperature of 2-3 modules and take the average).
	Calculate Expected V_{oc} : Referring to the PV manufacturer supplied equation for V_{oc} as a function of temperature, calculate the expected V_{oc} of each string.
	Remove Fuses: Wearing rubber insulating gloves and using a fuse puller, carefully remove the fuses from the combiner box. Failure to remove the fuses will result in identical voltage measurements for every string since they are in parallel with the fuses in place.

	Test String Voltages: Place the positive lead on the fuse block of the string you are testing while the negative lead is attached to the negative block. Continue testing each string by moving to each positive string fuse block. Test and record the voltage of each electrical string.
Criteria:	<p>For stable sky conditions and irradiance above 500 W-m⁻², string voltages should conform to within 10% of expected voltage as calculated in Step 2 above and each string should conform to within 5% of the average string voltage in the same combiner box under identical temperature and irradiance conditions.</p> <p>For irradiance less than 500 W-m⁻² or for unstable sky conditions (if irradiance changes by more than 10%, or ambient temperature changes by more than 5°C), compare each string's measured voltage to periodic measurements on a known good (reference) string. The reference string must be measured at irradiance above 500 W-m⁻² and its measured voltage must be within 10% of the voltage calculated using Step 2 above. Voltage on non-reference strings should be within 10% of the reference string voltage under the same temperature and irradiance conditions.</p> <p>For irradiance less than 200 W-m⁻², test results may be used only to confirm proper string connection, and not to evaluate voltage performance.</p>

Operating Current Test

Purpose:	The purpose of this test is to ensure that all strings are producing an adequate and consistent operating current.
Scope:	All strings, after connection with utility grid and inverter start-up
Party:	Energy Services Contractor technical personnel
Equipment/ Materials:	rubber insulating gloves DC clamp-on ammeter, 0-40 A scale with 2 per cent. of full scale accuracy
Procedure:	<p>Start the Inverter: Start the inverter if it is not already running, making sure all fuses are installed. Wait 5 minutes for the power tracker to stabilize.</p> <p>Prepare for Readings: Open the combiner box, turn on the ammeter, and carefully zero the meter. Keep the clamp away from large bundles of wire, as they will affect the zero, and therefore the actual reading on the meter.</p> <p>Record the "Zero" Value: Wearing rubber insulating gloves, place the meter near a string's homerun wire. Record the "zero" value.</p> <p>Record the Current Value: While still wearing gloves, clamp the meter on each service loop in the box, recording the current readings.</p> <p>Calculate Actual Current: Calculate and record the actual string currents as the difference between the string current reading and the "zero" value.</p> <p>Example :</p> <ul style="list-style-type: none"> • "Zero" value = 0.3 A • Current reading = 3.0 A • Actual Current: 3.0 A - 0.3 A = 2.7 A
Conditions:	Measurements should be made during clear and stable sky conditions. The total inverter output should be at least 50% of the aggregate rating of the active inverters. This test should be conducted under full sun (>500 W-m ⁻²), generally between the hours of 10:00am and 2:00pm. Irradiance must be greater than 200 W-m ⁻² .
Criteria:	Under clear and stable sky conditions with irradiance greater than 500 W-m ⁻² , current readings within each GA6 box should be within 10% of the average under identical sky conditions. A reasonable effort shall be made to conduct this test under conditions with irradiance greater than 500 W-m ⁻² , however, if such conditions are not

	available in the commissioning period, then the Current Test will be performed as a sign-of-life test only, without the 10% criteria.
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Inverter Commissioning

Purpose:	Verify the proper operation of the inverter systems
Scope:	All inverters
Party:	Installer and/or manufacturer, with Energy Services Contractor supervision
Schedule:	At inverter start-up
Equipment /Materials:	rubber insulating gloves
	digital multi-meter an accuracy of at least 1 percent of reading for voltage
	other equipment as required by manufacturer
Procedure:	Follow all manufacturer's guidelines for inverter start-up and commissioning, including verification of safety and control features.
Conditions :	No special conditions apply.
Criteria:	The inverter and controls should operate as stated in the purchaser or manufacturer specifications.
Comments:	Remote functions should only be tested on those systems that will utilize this feature.

Commissioning Plan

Solar System		
	Overall Site Condition	Inspect general condition of the Site. Verify cleanliness of Site, structure, and tiles. Confirm 'Danger' signage is erected and check security and safety features are in place.
	Installed Equipment	Verify that all equipment on construction drawings is installed per design documents and manufacturer's specifications.
	PV Mounting	Verify that all modules are properly placed, spaced and aligned. Check for cracks and other defects in each module. Verify that condition frames and clamps are in place. Evaluate the potential degree of soiling that may occur, assess any shading issues, and review any clearance concerns and obstacles for the modules.
	Array Wiring	Check the grounding integrity, all wiring connections, and the wire condition.

Electrical		
	Combiner Box and Terminal Boxes	Check for loose wires and conduit, door seals, fuses and all wiring connections. Verify that the correct signage and labeling is in place.
	Inverter	Follow manufacturer start up and commissioning procedures.
	AC/DC Disconnect	Inspect each disconnect and ensure the proper positioning. Also, check that the appropriate safety signage is in place.

Monitoring		
	Data Acquisition System ("DAS")	Inspect the DAS logger. Verify that operational data is collected.

Testing		
	Test Open Circuit Voltage (All Strings)	
	Test DC Amperage (All Strings)	

Exhibit D: Solar System Warranty

1. Energy Services Contractor Solar System Warranty

Commencing on the Substantial Completion Date for the solar system to be provided pursuant to the Contract ("System"), and for a period of One (1)) years following the Substantial Completion Date, Energy Services Contractor warrants that such System will be free from defects in design, construction, and workmanship under normal operating conditions and shall conform to the requirements of the Contract (the "Warranty"). Notwithstanding the foregoing, this Warranty shall not include any warranty statements provided by manufacturers other than Energy Services Contractor. If such System, or any component thereof, fails to conform to the Warranty, Energy Services Contractor will, at its option, promptly either repair the defective work or replace any defective parts at its sole cost and expense. All repaired or replaced parts shall have a warranty equal to the longer of (a) the unexpired term of the warranty or (b) one (1) year. Unless this Warranty is extended by written agreement or a Manufacturer Warranty applies, as between Customer and Energy Services Contractor, Customer shall pay for any repair costs incurred by Energy Services Contractor after the One (1) year Warranty expires.

2. Solar Manufacturer Warranties

Energy Services Contractor assigns to Customer the applicable pass-through warranties from Energy Services Contractor's manufacturers, including photovoltaic modules and inverters ("Other Manufacturers") if those materials are procured by the Energy Services Contractor. The Other Manufacturers used for the Systems shall be stated in Design Submittal. Energy Services Contractor makes no representation or warranty, and Customer shall seek no recourse from Energy Services Contractor, regarding the warranties of Other Manufacturers, including, without limitation, the power output of the PV modules. Energy Services Contractor shall provide equipment from manufacturers whose warranty on modules shall be at least for ten (10) years with a performance guarantee of twenty-five (25) years and whose warranty on inverters shall be for at least ten (10) years.

The above is subject to terms and conditions of manufacturer's warranty.

3. Warranty Exceptions

This Warranty shall be void in the event of any of the following:

- a. Alterations or repairs made to the applicable System's supporting structure, or to any part of such System or associated wiring and parts without Energy Services Contractor's prior written approval;
- b. Use of such System beyond the scope contemplated in its operating manuals or Technical Specifications;
- c. A change in usage of the applicable Site, which may affect building or site permits and related requirements, without the written approval of Energy Services Contractor; and
- d. Damage, malfunction or degradation of electrical output caused by third-party abuse, negligence, improper use or vandalism.

4. Disclaimer

Neither this Contract nor any document furnished under it, unless explicitly stated, is intended to express or imply any warranty or guarantee with regard to the performance of the System with respect to (i) reduction in energy costs or environmental savings, (ii) financial savings or return on investment and (iii) public recognition.

Exhibit E: Estimated Production and Savings for Project



Exhibit A

Energy Services Proposal

Prepared for Emery Unified School District, Emeryville, CA



Date Submitted: April 22, 2022

Presented by: Josh Sarpotdar, PE, CEM, CMVP, EMP, PMP
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SECTION 0 – EXECUTIVE SUMMARY

Emery Unified School District (“Emery USD” or “District”) selected Syserco Energy Solutions, Inc. (“SES”) as its Design-Build Contractor for District-wide Energy Efficiency and Renewable Energy Upgrades. The process of developing the Energy Conservation Measures (“ECMs”) for the District involved performing an Investment Grade Audit (“IGA”) of the District’s facilities. The IGA established a historical energy use baseline and identified Facility Improvement and Energy Conservation Measures that address the primary objectives of the District’s Facilities team.

SES is pleased to present the following energy efficiency and facility improvement project to Emery USD. This project represents the approved Scope of Work by District Staff and will result in improved facility conditions and significant operational cost reductions for the District.

The primary goal of this Project is to install a solar array and battery storage to reduce utility bills and improve reliability. Secondary goals include California AB 841 (“CalSHAPE”) measures, energy efficiency measures, improved space conditions for students and staff, future capital cost avoidance, and the reduction of greenhouse gases across the District.

The following table represents the Project Cost and estimated Grants and Incentives, resulting in the Net Project Cost to the District.

Project Cost	\$5,087,969
Estimated Grants and Incentives	\$353,430
Estimated Net Cost to Emery USD	\$4,699,539

SECTION 1 – INTRODUCTION

Syserco Energy Solutions, Inc. is pleased to present this Energy Services Proposal (“ESP”) to Emery Unified School District for the purpose of implementing the recommended ECMs as approved by District staff. By implementing this project, the District will realize improved occupant comfort conditions and reduced utility consumption resulting in ongoing maintenance and operational cost savings.

This ESP marks the culmination of a detailed energy and operational audit of the District’s facilities, during which resource consuming systems and equipment were analyzed to understand the potential for energy and operational cost savings. To develop the recommended project, experienced Energy Engineers, Project Managers and Project Developers from SES have assessed and analyzed energy efficiency and renewable energy generating opportunities. SES has investigated multiple means for accomplishing this goal, including retrofitting equipment or installation of new devices and/or employing enhanced strategies to improve operational efficiency.

1.1 TEAM EFFORT

SES would like to thank members of District administration, staff and facilities personnel who worked closely with our team throughout this process. Without their assistance, this project would not have been possible.

1.2 APPROACH

The IGA process involved numerous site visits, interaction with Emery USD administration and facilities staff, as well as a detailed analysis of existing equipment and systems, current utility consumption and any available logs and profiles of equipment. Studies of the energy usage, operating conditions and interviews with facility personnel were valuable sources of information that contributed greatly to this effort. SES has taken into consideration the input provided and has integrated the various infrastructure needs of the District through the proposed ECMs.

SECTION 2 – SCOPE OF WORK

2.1 ENERGY CONSERVATION MEASURE (ECM) SUMMARY

For the detailed scope of work descriptions please refer to “2.6 ECM DESCRIPTIONS & DETAILED SCOPES OF WORK” in this section.

The following table highlights Unit Savings and Emissions Reductions for each ECM:

Short Name	Phase	Elec Savings (kWh/yr)	Gas Savings (therms/yr)	Total Emissions Savings (mtCO2/yr)
Emery USD	CO2 Sensors CalSHAPE HVAC Rejuvenation Solar Battery Storage Building Envelope Refrigeration Controls	1,189,788	3,310	17.5

The following table shows the cost savings per year:

ECM #	ECM Description	Elec Cost Savings (\$/yr)	Gas Cost Savings (\$/yr)	Total Cost Savings (\$/yr)
1.01	CO2 Sensors	\$0	\$0	\$0
1.02	Refrigeration Controls	\$1,013	\$0	\$1,013
2.01	HVAC Rejuvenation	\$950	\$0	\$950
2.02	HVAC Testing	\$0	\$0	\$0
3.01	LED Lighting	\$22,505	\$0	\$22,505
5.01	Solar PV	\$181,207	\$0	\$181,207
5.02	Battery Storage	\$23,926	\$0	\$23,926
7.01	Building Envelope	\$1,461	\$3,697	\$5,158
Total	--	\$231,062	\$3,697	\$234,759

Projected energy reduction and cost avoidance figures are calculated based upon existing building occupancy, operation, and stipulated assumptions of performance. All calculations are based upon industry best practices and methodologies.

2.2 ENERGY SERVICES

SES will include the following services related to this project:

1. **ENERGY AUDIT:** The IGA is complete and Project Recommendation is presented in the ESP report.
2. **DESIGN SERVICES:** SES will provide detailed engineering design as needed to install each ECM according to code and construction requirements. SES will also provide Project/Construction Management Services, On-Site Supervision, Start-up, Testing, As-built drawings of systems designed, and relevant operations and maintenance manuals.
3. **CONSTRUCTION:** SES will provide, or cause to be provided, all material, labor, and equipment, including paying for permits, fees, bonds, and insurance, as required for complete working installation of the proposed equipment.
 - a. SES will provide a Site Superintendent who will be responsible for the onsite supervision and coordination of trades and subcontractors. This individual's responsibilities will include regular work observations, quality control, enforcement of site-specific safety plan(s), as well as coordinating any impact upon building occupants with the District.
 - b. SES may perform portions of the contract work or may subcontract portions to qualified firms.
 - c. When SES has completed the installation of the equipment, including start-up, operations verification, and training in accordance with the proposal, SES will provide to District a "Notice of Commencement of Energy Savings".
 - d. At the conclusion of the project, SES will submit a "Notice of Substantial Completion" to the District.
4. **CONSTRUCTION MANAGEMENT:** SES will provide an experienced Construction/Project Manager who will provide contract administration services for the Project. The District is expected to coordinate day-to-day communications with occupants/tenants and any scheduling of occupant/tenant relocations in and around occupied areas.
5. **OPERATION TRAINING:** SES will provide on-going training of Facilities Staff during the construction and close out period. In addition to this, the manufacturer recommended training for all new and upgraded systems will be provided upon completion.
6. **WARRANTY:** SES will warrant equipment and workmanship for (1) year following Notice of Substantial Completion. Specific information regarding equipment warranties will be passed on to District.
7. **EQUIPMENT MAINTENANCE:** Under this proposal, SES will provide no equipment maintenance or repairs after the warranty period. Following the completion of the installation and District acceptance of the equipment, the District shall provide all necessary service, repairs, and adjustments to the equipment so that the equipment will perform in the manner and to the extent set forth in the proposal. SES shall have no obligation to service or maintain the equipment after the warranty period.

A separate proposal will be provided for five (5) years of maintenance service for solar and batteries.

8. **HAZARDOUS WASTE:** The Work and Services expressly exclude any work of any nature associated or connected with the identification, abatement, cleanup, control, removal, or disposal of hazardous materials or substances, including but not limited to asbestos, lead, or PCBs. As of the Effective Date, District represents that, to the best of its knowledge, there is no hazardous material on the premises that may in any way relate to the Work or affect the ability of SES to deliver the Work or Services. Prior to the Commencement Date, District shall provide to SES a comprehensive good faith survey that at a minimum complies with applicable regulatory requirements, and identifies all actual or suspected hazardous materials, quantities, and specific locations of such materials on the premises. Failure to timely provide such good faith survey shall result in an equitable adjustment to project schedule. If SES becomes aware of or suspects the presence of hazardous materials on the premises during the Work or Services, SES shall notify District. District shall investigate and correct the suspected hazardous materials in accordance with all applicable laws. SES shall have the right to stop work in the affected area until the suspected hazardous materials are investigated and remediated by District, and the project schedule shall be equitably adjusted relative to the duration of District's investigation and remediation of the suspected hazardous materials.

2.3 CLARIFICATIONS & EXCLUSIONS

2.3.1 CLARIFICATIONS

- All work to be performed during regular work hours.
- All field craft labor will comply with prevailing wage requirements and current California DIR.
- All existing field sensors, valves, actuators, conduit, and wiring will be re-used unless specifically stated otherwise.
- Emery USD to provide all required static IP addresses and Ethernet drops for equipment, related to improvements included in this project.
- It is assumed that the District will provide a laydown and storage area during the construction period.
- All permit drawings and permit fees required for the execution of the work are included.
- It is assumed that Emery USD will provide electrical power to operate electrical construction tools and equipment.
- Proposal is based on reusing existing electrical circuits unless specifically stated.
- Assumes proper grounding exists for all electrical equipment.
- Pricing is based on a single-phase project, multiple phases or extensions to schedule may constitute a change in scope and project schedule.
- A one-year warranty from date of Notice of Substantial Completion is included.

2.3.2 EXCLUSIONS

- Temporary heating, cooling, fans and domestic water are excluded.
- Any repair work for existing systems is to be excluded, all existing equipment is assumed to be in good working order.
- Work or other performance requirements shown in any other documents not stated in this proposal.
- Fire and life safety system programming or related work.
- Repairs or modifications to existing electrical, mechanical, controls, structural or other systems and code violations unless specifically stated in this scope.

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- Hazardous material abatement.

2.4 EXTENT OF SUBCONTRACTING

SES may subcontract portions of the final M/E/P/S design, equipment installation, start-up, and training of this contract to qualified firms.

2.5 PROJECT SCHEDULE

Final Construction Schedule start date shall be based upon execution of Contract as the predecessor milestone. A formal schedule will be presented, together with a Schedule of Values following Contract execution.

2.6 ECM DESCRIPTIONS & DETAILED SCOPE OF WORK

2.6.1 INTRODUCTION

A number of ECMs have been identified to meet the specific needs of the facilities. ECM identification and selection is the result of SES' detailed review of the sites, in conjunction with Emery USD's building plans, specifications, physical equipment inspections and site interviews with personnel. These ECMs are intended to improve the efficiency of the buildings through new equipment, repair, retrofit and reprogramming of the various systems in the buildings.

The following are the detailed description of each proposed ECM. Each description includes the existing and proposed conditions, design method, planned scope of work, and any operation and maintenance impacts.

2.6.2 DETAILED SCOPE OF WORK

1.0 –Controls ECM

ECM 1.1 – HVAC Controls with CO2 sensors

General Intent

There are fifty (50) classrooms at Anna Yates and Emery Secondary. Currently the HVAC units are controlled by a Building Management System with thermostats that do not have CO2 sensors. CO2 sensors are required in every classroom in order to be eligible to receive the CalSHAPE grant. This ECM will add thermostats with integrated CO2 sensors into each classroom.

ECM Benefits

SES will provide a turnkey solution to retrofit the current controls to controls with integrated CO2 sensors. The key benefit of this ECM is to provide a reading of CO2 levels in classrooms to be able to provide fresh, ventilated, air to students. An ancillary benefit is to be eligible for the CalSHAPE grant.

Impacted Equipment

Forty (40) Classrooms at Anna Yates and ten (10) Classrooms at Emery Secondary School.

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ECM 1.2 – Refrigeration Controls

General Intent

There is one (1) walk in cooler and one (1) walk in freezer at Emery USD. Two (2) controllers will provide savings by controlling the temperature, evaporator fans and door heaters on the entry doors of the walk-in cooler and freezer.

ECM Benefits

SES will provide a turnkey solution to retrofit the existing walk-in cooler and freezer with refrigeration controls. Energy will be saved by automatically turning off the evaporator fans when cooler doors are open and provide other control measures to reduce energy consumption.

Impacted Equipment

One (1) walk in cooler and one (1) walk in freezer at Emery USD.

2.0 – HVAC ECMs

ECM 2.1 – HVAC Rejuvenation

General Intent

Emery USD has HVAC units with condensing unit coils and their performance is key to the efficiency of a unit's energy performance. Coils that have deterioration, scaling, decomposition, or damage due to fin collapse consume more energy than original design. As condensing coils corrode and deteriorate their ability to reject heat decreases, which decreases the efficiency of the entire unit, causing energy consumption to increase.

ECM Benefits

HVAC rejuvenation combs and straightens the condenser fins/coils and adds a covalently bonded coating which improves efficiency and extends the life of the unit with physical protection of coil. Savings of 10-15% are expected. HVAC rejuvenation also presents a barrier to further corrosion and efficiency depleting wear, which extends the life cycle of the equipment for this critical component. HVAC rejuvenation protectant is not only a UV inhibitor but requires only water for further cleaning. Additionally, the coating will slow the aging and decomposition of the coil.

Impacted Equipment

Building Name	MFGR	Model	Serial	Type
Emery USD	Lennox	TPA048H4N42G	5815E02536	P / U
Emery USD	Lennox	TPA048H4N42G	5815E12587	P / U
Emery USD	Daikin	RZQ24PVJU9	5815E12588	S / S
Emery USD	Daikin	RZQ24PVJU10	5815E12589	S / S
Emery USD	Daikin	RZQ24PVJU11	A003483	S / S
Emery USD	Daikin	RZQ24PVJU12	A003475	S / S
Emery USD	Daikin	RZQ24PVJU13	A003423	S / S
Emery USD	Daikin	RZQ24PVJU14	A003822	S / S
Emery USD	Daikin	RZQ24PVJU15	A003855	S / S
Emery USD	Daikin	RZQ24PVJU16	A002707	S / S
Emery USD	Daikin	RZQ24PVJU17	A003208	S / S

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Building Name	MFGR	Model	Serial	Type
Emery USD	Daikin	RZQ24PVJU18	A002865	S / S
Emery USD	Daikin	RZQ24PVJU19	A003800	S / S
Emery USD	Daikin	RZQ24PVJU20	A003482	S / S
Emery USD	Daikin	DPS005AHCW4PW-4	FBOU15090098	P / U
Emery USD	Daikin	DPS004AHHY4PW-4	FBOU15090098	P / U
Emery USD	Daikin	RXYQ120TYDN	1508288034	P / U
Emery USD	Daikin	RXYQ120TYDN	1508261737	P / U
Emery USD	Daikin	DPS007AHHY4PW-3	FBOU15110113	P / U
Emery USD	Daikin	DPS015AHMW4PW-6	FBOU15110111	P / U
Emery USD	Daikin	DPS012AHHY4PW-4	4FBOU1511012	P / U
Emery USD	Daikin	RCS10F120D	F341500972	S / S
Emery USD	Daikin	DPS010AHHY4PW-4	FBOU15080005	P / U

ECM 2.2 – California AB 841 CalSHAPE

General Intent

The California School Reopening Ventilation and Energy Efficiency Verification and Repair Program is one of the two grant programs under the School Energy Efficiency Stimulus Program, established by Assembly Bill 841. The program authorizes funding to local educational agencies for assessing, maintaining, and repairing or upgrading school ventilation systems to ensure that systems meet certain classroom ventilation requirements. These guidelines provide requirements for program participation including eligible applicants and projects, the application process, funding awards and distribution, as well as project documentation and reporting requirements.

ECM Benefits

This ECM will complete required testing on all classroom units as outlined by the California Schools Healthy Air, Plumbing, and Efficiency Ventilation Program, HVAC Assessment and Maintenance Pathway. Additionally, required reports will be completed and submitted to the CEC on behalf of Emery USD. Included in this program is a MERV 13 filter for each unit and an additional 20% of total grant funding awarded to be applied toward repair/maintenance issues that are discovered during the assessments/testing.

Impacted Equipment

1. Assessment and Maintenance
 - a. 63 units at Anna Yates Elementary
 - b. 25 unit at Emery Secondary
2. Merv13 Filters
 - a. 252 filters at Anna Yates Elementary
 - b. 75 filters at Emery Secondary
3. Contingency Repairs
 - a. \$23,180.00 at Anna Yates Elementary
 - b. \$9,325.00 at Emery Secondary

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3.0 – Lighting ECM

ECM 3.1 – Interior and Exterior Lighting

General Intent

The existing lighting systems in the schools and district buildings are a mix of LEDs and linear T5 or T8 fluorescent tubes. Some schools have had more LEDs installed as part of retrofit work but still have not completed the full adoption of LED. This measure will replace the existing, non-LED lighting systems identified in the lighting audit with new LED lamps or fixtures as recommended.

ECM Benefits

By replacing the exiting lighting systems with LED a full round of maintenance will be realized as well as longer lamp life with reduced energy consumption and increased light production.

Impacted Equipment

Building	Location	Qty	Existing fixture description
Ann Yates Bldg. A	A110 Kinder Buddies	11	1x4 Direct Indirect Pendant Mount T8
Ann Yates Bldg. A	A110 Kinder Buddies	2	1x4 Direct Indirect Pendant Mount T8
Ann Yates Bldg. A	A110 Restroom	1	2x4 Recessed Troffer T8
Ann Yates Bldg. A	A100 Community Center	9	12' Recessed 5" wide Fixture T5
Ann Yates Bldg. A	A100 Community Center	2	8' Recessed 5" wide Fixture T5
Ann Yates Bldg. A	A101 Catering/ Kitchen	2	2x4 Recessed Troffer T8
Ann Yates Bldg. A	A101 Catering/ Kitchen	2	2x4 Recessed Troffer T8
Ann Yates Bldg. A	A100 Storage	3	2x4 Recessed Troffer T8
Ann Yates Bldg. A	A100 Electrical Room	1	1x4 Surface Mount Troffer T8
Ann Yates Bldg. A	A100 Electrical Room	1	1x4 Surface Mount Troffer T8
Ann Yates Bldg. A	A103 Vestible	1	8' Recessed 5" wide Fixture T5
Ann Yates Bldg. A	A104 Janitor	1	1x4 Surface Mount Troffer T8
Ann Yates Bldg. A	A100 Mens Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates Bldg. A	A100 Womens Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates Bldg. A	A100 Mothers Room	5	2x4 Recessed Troffer T8
Ann Yates Bldg. A	A100 Mothers Room	1	2x4 Recessed Troffer T8
Ann Yates K-8	C301 Learning Center	2	2x4 Recessed Troffer T8
Ann Yates K-8	C301.1	3	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C301.2	3	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C301.3	1	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C301.4	1	1x4 Surface Mount Troffer T8
Ann Yates K-8	C302 Classroom	2	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C302 Classroom	2	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C302 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C303 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C303 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C303.1 Classroom	6	2x4 Recessed Troffer T8
Ann Yates K-8	C305 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C305 Classroom	2	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C305 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C Third Floor Womens Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C Third Floor Womens Restroom	2	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C307 Janitor	1	1x4 Surface Mount Troffer T8

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Building	Location	Qty	Existing fixture description
Ann Yates K-8	C Third Floor Multi Gender Restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C312.1	2	1x4 Surface Mount Troffer T8
Ann Yates K-8	C Third Floor Mens Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C Third Floor Mens Restroom	2	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C309 Copy Room	4	2x4 Recessed Troffer T8
Ann Yates K-8	C310 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C310 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C310 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C311 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C311 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C311.1 Prep	3	2x4 Recessed Troffer T8
Ann Yates K-8	C313 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C313 Classroom	2	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C313 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C314 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C314 Classroom	4	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C Third Floor Hallway	5	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C Third Floor Hallway	4	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C201 Parent Resources	2	2x4 Recessed Troffer T8
Ann Yates K-8	C202 English Learning	3	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C203 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C203 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C203 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C204 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C204 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C204 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C205 Learning Center	4	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C205 Learning Center	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C205.1 Storage	1	2x4 Recessed Troffer T8
Ann Yates K-8	C205.2 Speech	2	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C205.3 Small Classroom	3	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C205.4 Small Classroom	3	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C206 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C206 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C206 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C207 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C207 Classroom	2	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C207 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C second floor Womens Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C Second floor Womens Restroom	2	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C209 Janitor	1	1x4 Surface Mount Troffer T8
Ann Yates K-8	C second floor mens Restroom	5	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C second floor mens Restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C211 Student Wellness	3	2x4 Recessed Troffer T8
Ann Yates K-8	C212 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C212 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C212 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C213 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C213 Classroom	3	4' Recessed 5" Wide Fixture T5

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Building	Location	Qty	Existing fixture description
Ann Yates K-8	C213 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C214 Copy Room	3	2x4 Recessed Troffer T8
Ann Yates K-8	C215 Teledata	2	1x4 Surface Mount Troffer T8
Ann Yates K-8	C216 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C217 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C Second Floor Hallway	14	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C101 Administration	3	2x2 recessed Troffer Biax
Ann Yates K-8	C101 Administration	4	2x4 Recessed Troffer T8
Ann Yates K-8	C101.1 Principals Office	2	2x4 Recessed Troffer T8
Ann Yates K-8	C101.2 Principals Office	2	2x4 Recessed Troffer T8
Ann Yates K-8	C101.3 Copy Room	2	2x4 Recessed Troffer T8
Ann Yates K-8	C102 Science Center	6	2x4 Recessed Troffer T8
Ann Yates K-8	C102.1 Prep	4	2x4 Recessed Troffer T8
Ann Yates K-8	C103 Records	2	2x4 Recessed Troffer T8
Ann Yates K-8	C first floor Multi Gender Restroom	1	1x2 Surface Mount Wrap T8
Ann Yates K-8	C106 Classroom	12	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C106 Restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C107 Classroom	4	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C107 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C107 Classroom	14	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C107 Restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C109 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C109 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C109 Classroom	14	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C109 restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C110 Classroom	3	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C110 Classroom	1	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C110 Classroom	14	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C110 Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C first floor Multi Gender Restroom	1	1x2 Surface Mount Wrap T8
Ann Yates K-8	C113 Classroom	14	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C113 Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C114 Classroom	14	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C114 Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	Elevator Machine Room	1	1x4 Surface Mount Troffer T8
Ann Yates K-8	C 1st Floor Hallway	5	8' Recessed 5" wide Fixture T5
Ann Yates K-8	C 1st Floor Hallway	19	4' Recessed 5" Wide Fixture T5
Ann Yates K-8	C121 Music Studio Upstairs Loft	4	1x4 Surface Mount Troffer T8
Ann Yates K-8	C122 Storage	2	1x4 Surface Mount Troffer T8
Ann Yates K-8	C121.2 Practice	3	2x4 Recessed Troffer T8
Ann Yates K-8	C121.1 Practice	1	2x4 Recessed Troffer T8
Ann Yates K-8	C127 Storage	2	1x4 Surface Mount Troffer T8
Ann Yates K-8	C120 Elec/Data	2	1x4 Surface Mount Troffer T8
Ann Yates K-8	C125 Commercial Kitchen	13	2x4 Recessed Troffer T8
Ann Yates K-8	C125.5 Lockers	1	2x4 Recessed Troffer T8
Ann Yates K-8	C125.5 Lockers	1	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	Coolers	3	4' Vaportite T5
Ann Yates K-8	C125.1	1	1x4 Surface Mount Troffer T8

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Building	Location	Qty	Existing fixture description
Ann Yates K-8	C221 Copy/Mail	5	2x4 Recessed Troffer T8
Ann Yates K-8	C221 Copy/Mail	1	2x4 Recessed Troffer T8
Ann Yates K-8	C222 Lobby	4	2x4 Recessed Troffer T8
Ann Yates K-8	C222 Lobby	3	2x4 Recessed Troffer T8
Ann Yates K-8	C222.1 Work Room	3	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C222..2 Break Room	4	1x4 Direct Indirect Pendant Mount T8
Ann Yates K-8	C222.3 Restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Ann Yates K-8	C222.4 Work Room	1	2x4 Recessed Troffer T8
ECCL	E137 Receiving	9	1x4 Surface Mount Troffer T8
ECCL	E137 Receiving	2	1x4 Surface Mount Troffer T8
ECCL	E138 Receiving Office	2	1x4 Recessed Troffer T8
ECCL	E136 Mechanical	2	4' Vaportite T8
ECCL	E136 Mechanical	7	8' Vaportite T8
ECCL	E136 Mechanical	7	8' Vaportite T8
ECCL	E205 Boiler	3	4' Vaportite T8
ECCL	E201 Data	1	8' Vaportite T8
ECCL	E202 Electrical	1	8' Vaportite T8
ECCL	E123 Gymnasium Hallway	2	1x4 Recessed Troffer T8
ECCL	E123 Gymnasium Hallway	2	1x4 Recessed Troffer T8
ECCL	E130 Boys Locker	17	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E130 Boys Locker	4	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E130 Boys Locker Office	2	1x4 Recessed Troffer T8
ECCL	E124 Girls Locker	18	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E124 Girls Locker	6	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E127 Coach's Offices	2	1x4 Recessed Troffer T8
ECCL	E135 Storage	3	1x4 Surface Mount Troffer T8
ECCL	E129 Large item storage	4	1x4 Surface Mount Troffer T8
ECCL	E129 Large item storage	2	1x4 Surface Mount Troffer T8
ECCL	E104 Women's Locker	11	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E104 Women's Locker	3	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E104 Women's Locker	1	2x4 Recessed Troffer T8
ECCL	E104 Women's Locker	1	2x4 Recessed Troffer T8
ECCL	E104 Women's Locker Storage	1	1x4 Surface Mount Troffer T8
ECCL	E105 Pool Room	8	4' Vaportite T8
ECCL	E105 Pool Room	2	4' Vaportite T8
ECCL	Chlorine Storage	1	4' Vaportite T8
ECCL	Acid Storage	1	4' Vaportite T8
ECCL	E109 Concession Tickets	8	1x4 Recessed Troffer T8
ECCL	E109 Concession Tickets Office	2	1x4 Recessed Troffer T8
ECCL	E111 Cardio/ Fitness	17	2x4 Recessed Troffer T8
ECCL	E111 Cardio/ Fitness	4	2x4 Recessed Troffer T8
ECCL	E113 Dance Studio Closet	2	1x4 Surface Mount Troffer T8
ECCL	E115 Data Closet	1	1x4 Surface Mount Troffer T8
ECCL	E117 Custodial	1	1x4 Surface Mount Troffer T8
ECCL	E118 Concession/ Ticket	4	2x4 Recessed Troffer T8
ECCL	E118 Concession/ Ticket	1	2x4 Recessed Troffer T8
ECCL	E119 Restroom/Shower	11	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E119 Restroom/Shower	3	1x4 Surface Mount Wrap w/ Security Star Bit

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Building	Location	Qty	Existing fixture description
ECCL	E Building Field Restroom Women	4	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E Building Field Restroom men	4	1x4 Surface Mount Wrap w/ Security Star Bit
ECCL	E120 Sport Equipment	6	1x4 Surface Mount Troffer T8
ECCL	E120 Sport Equipment	2	1x4 Surface Mount Troffer T8
Emery High School	D200.1 Custodial	1	1x4 Surface Mount Troffer T8
Emery High School	D200 women's restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D200 women's restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Emery High School	D200 women's restroom	1	1x2 Surface Mount Wrap T8 w/ Security Star Bit
Emery High School	D200 men's restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D200 men's restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Emery High School	D200 men's restroom	1	1x2 Surface Mount Wrap T8 w/ Security Star Bit
Emery High School	D200 Interior Hallway	17	4' Recessed 5" Wide Fixture T5
Emery High School	D203 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D204 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D205 Tele/Data	1	1x4 Surface Mount Troffer T8
Emery High School	D206 Copy Room	2	2x4 Recessed Troffer T8
Emery High School	D207 Custodial	1	1x4 Surface Mount Troffer T8
Emery High School	D208 Restroom	1	1x3 Surface Mount Wrap w/ Security Star Bit
Emery High School	D209 Restroom	1	1x2 Surface Mount Wrap T8 w/ Security Star Bit
Emery High School	D214 Learning Center	4	1x4 Direct Indirect Pendant Mount T8
Emery High School	D214 Learning Center Closet w/ Sliding door	1	1x4 Surface Mount Troffer T8
Emery High School	D211 Small Classroom	3	1x4 Direct Indirect Pendant Mount T8
Emery High School	D212 Small Classroom	2	1x4 Direct Indirect Pendant Mount T8
Emery High School	D213 Small Classroom	2	1x4 Direct Indirect Pendant Mount T8
Emery High School	D215 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D216 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D217 Chemistry Lab	5	4' Recessed 5" Wide Fixture T5
Emery High School	D217.1 Stem Prep	4	2x4 Recessed Troffer T8
Emery High School	D218 Biology Lab	5	4' Recessed 5" Wide Fixture T5
Emery High School	D219 Classroom	4	4' Recessed 5" Wide Fixture T5
Emery High School	D219 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D220 Classroom	4	4' Recessed 5" Wide Fixture T5
Emery High School	D220 Classroom	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D110 Library	62	4' Recessed 5" Wide Fixture T5
Emery High School	D110 Library	16	4' Recessed 5" Wide Fixture T5
Emery High School	D110 Library Storage	1	1x4 Surface Mount Troffer T8
Emery High School	D110 Library Storage #2	2	1x4 Surface Mount Troffer T8
Emery High School	D110 Library Breakroom	5	2x4 Recessed Troffer T8
Emery High School	D110 Library Breakroom	1	2x4 Recessed Troffer T8
Emery High School	D110 Library Breakroom Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D118 Group Study	10	1x4 Direct Indirect Pendant Mount T8
Emery High School	D121 Computer/Tech Lab	15	1x4 Direct Indirect Pendant Mount T8
Emery High School	D108 Men's Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D108 Men's Restroom	2	1x3 Surface Mount Wrap w/ Security Star Bit
Emery High School	D108 Women's Restroom	4	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D108 Women's Restroom	2	1x3 Surface Mount Wrap w/ Security Star Bit
Emery High School	D107 IT Office	3	2x4 Recessed Troffer T8

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Building	Location	Qty	Existing fixture description
Emery High School	D107 IT Office	1	2x4 Recessed Troffer T8
Emery High School	D106 Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D105 Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Emery High School	D104 Safety	4	2x4 Recessed Troffer T8
Emery High School	Hallway by D104 and D124	8	4' Recessed 5" Wide Fixture T5
Emery High School	D124 Reception	7	4' Recessed 5" Wide Fixture T5
Emery High School	D124 Reception	4	2x4 Recessed Troffer T8
Emery High School	D124.1 Copy Room	2	2x4 Recessed Troffer T8
Emery High School	D124.2 Records	1	2x4 Recessed Troffer T8
Emery High School	D124.3 Vice Principals Office	2	1x4 Direct Indirect Pendant Mount T8
Emery High School	D124.4 Principals Office	2	1x4 Direct Indirect Pendant Mount T8
Emery High School	D124.5 Conference Room	3	1x4 Direct Indirect Pendant Mount T8
Emery High School	D122 Career Center	4	2x4 Recessed Troffer T8
Emery High School	D122.1 Counselors Office	2	1x4 Direct Indirect Pendant Mount T8
Emery High School	D101 Storage Closet	4	1x4 Surface Mount Troffer T8
Emery High School	D100.1 Elevator Machine Room	3	1x4 Surface Mount Troffer T8
Emery High School	Fire riser room next to elevator	1	1x4 Surface Mount Troffer T8
Emery USD Office	B100 Teen Center	7	8' Recessed 5" wide Fixture T5
Emery USD Office	B100 Teen Center	1	4' Recessed 5" Wide Fixture T5
Emery USD Office	B102	1	4' Recessed 5" Wide Fixture T5
Emery USD Office	B103 Closet	1	1x4 Surface Mount Troffer T8
Emery USD Office	B104 Conference Room	4	2x4 Pendant Mount Direct Indirect
Emery USD Office	B110 Work Area	14	4' Recessed 5" Wide Fixture T5
Emery USD Office	B110 Work Area	5	4' Recessed 5" Wide Fixture T5
Emery USD Office	B105 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B106 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B107 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B108 CS Storage	2	1x4 Surface Mount Troffer T8
Emery USD Office	B117 Break Room	2	2x2 recessed Troffer Biax
Emery USD Office	B117 Break Room	5	4' Recessed 5" Wide Fixture T5
Emery USD Office	B117 Break Room	3	4' Recessed 5" Wide Fixture T5
Emery USD Office	B130 Office	4	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B117 Family Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Emery USD Office	B128 Records	4	2x4 Recessed Troffer T8
Emery USD Office	B119 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B120 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B121 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B122 Office	3	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B123 Office	4	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B125 Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B124 Conference Room	3	2x4 Pendant Mount Direct Indirect
Emery USD Office	B131 Office	4	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B132 District Office	3	4' Recessed 5" Wide Fixture T5
Emery USD Office	B132 District Office	3	4' Recessed 5" Wide Fixture T5
Emery USD Office	B132 District Office	3	2x2 recessed Troffer Biax
Emery USD Office	B132 District Office	1	2x2 recessed Troffer Biax
Emery USD Office	B127 Mail Room	2	2x4 Recessed Troffer T8
Emery USD Office	B200 Upstairs Lobby and Hallway	16	4' Recessed 5" Wide Fixture T5

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Building	Location	Qty	Existing fixture description
Emery USD Office	B213 Tele/Data	1	1x4 Surface Mount Troffer T8
Emery USD Office	B213 Tele/Data	2	1x4 Surface Mount Troffer T8
Emery USD Office	B200 Office Hallway	2	4' Recessed 5" Wide Fixture T5
Emery USD Office	B200 Office Hallway	3	4' Recessed 5" Wide Fixture T5
Emery USD Office	B202 Wellness Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B203 Wellness Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B204 Counseling	2	1x4 Recessed Troffer T8
Emery USD Office	B205 Counseling	2	1x4 Recessed Troffer T8
Emery USD Office	B220 Team Room	4	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B219 Shared Conference	4	2x4 Pendant Mount Direct Indirect
Emery USD Office	B200 Office Hallway Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Emery USD Office	B200 Office Hallway Family Restroom	1	1x4 Surface Mount Wrap w/ Security Star Bit
Emery USD Office	B209 Closet	1	4' Strip T8
Emery USD Office	B210 Counseling	2	1x4 Recessed Troffer T8
Emery USD Office	B211 Intern Office	2	1x4 Direct Indirect Pendant Mount T8
Emery USD Office	B208 Janitor	1	1x4 Surface Mount Troffer T8
Emery USD Office	B214 Lobby	2	2x4 Recessed Troffer T8
Emery USD Office	B216 Closet	1	4' Strip T8
Emery USD Office	B217 Clean Lab Locked	2	2x4 Recessed Troffer T8
Emery USD Office	B221 Nurse	2	2x4 Recessed Troffer T8
Emery USD Office	B222 COT	2	2x4 Recessed Troffer T8
Emery USD Office	B223 Exam 2	2	2x4 Recessed Troffer T8
Emery USD Office	B224 Exam 1	2	2x4 Recessed Troffer T8
Emery USD Office	B225 Clean Utility	2	2x4 Recessed Troffer T8
Emery USD Office	B226 Dental	4	2x4 Recessed Troffer T8
Emery USD Office	B227 Storage	1	1x4 Surface Mount Troffer T8
Emery USD Office	B229	2	2x2 recessed Troffer Blax
Emery USD Office	Hallway by B229	3	4' Recessed 5" Wide Fixture T5
Emery USD Office	Hallway by B229	3	4' Recessed 5" Wide Fixture T5

5.0 – Renewable/Electrical ECMs

ECM 5.1 – Solar PV + Battery Storage

General Intent

The design of the new solar arrays has been developed in conjunction with an energy efficiency project to offset the district's overall electricity use and costs from PG&E and East Bay Clean Energy. Equipment location, identification, and selection is the result of SES's detailed review of the site, in conjunction with The District's building plans, specifications, physical equipment arrangements, and discussions with the District's personnel. These new solar PV arrays are intended to reduce the annual true-up energy and cost consumption relative to the PG&E bills. The following is the detailed description of the intent, benefits, impacted equipment, design method and construction methods.

This project will design, furnish and install a new solar PV carport structures over existing parking stalls and blacktop areas, attached rooftop arrays, and an energy storage system at Emeryville High School. These new systems, coupled with the energy efficiency measures which will be concurrently constructed, will bring the sites near net zero energy balance relative to the grid purchased electrical energy.

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The energy storage system planned on-site is a 250 kW / 528 kWh Delta Electronics storage system consisting of two (2) power conversion systems, and (3) battery cabinets. The system will be located under the southern-most canopy on site (adjacent to 47th street) on the existing softscape lining the parking lot entrance from 47th street.

The energy storage system is designed to provide financial benefits to the district, though it is not configured for microgrid operation. The battery will optimize the financials of the PV system by storing energy generated during low-value time periods and utilizing the stored energy to offset usage during higher cost time intervals. Additionally, the system will mitigate demand charges on site by discharging energy to offset energy usage peaks as measured by the data acquisition system ("DAS").

ECM Benefits

The benefit to the District is to have a reduced electrical need to provide additional solar production on site to offset the volume of electrical energy purchased from the grid, thus significantly reducing ongoing operational costs.

Impacted Equipment

Emeryville High School: Existing Staff and Visitor parking rows, blacktop area near the athletic field, and rooftops across the site

The following images depict the proposed rendering for the solar arrays on site.

Emeryville High School: 731.7kW DC



Assumed Conditions

1. All work to be performed during regular work hours (Mon-Fri 7:00 am – 3:30 pm).
2. All field craft labor will comply with prevailing wage requirements and current California DIR.
3. The District shall provide all IT support required for the installation of solar PV and energy storage software or interface system for this project.
4. All structural engineering related to the support of equipment as identified is included. All structural work related to the construction of the canopy structures is included. Blocking installation between existing timber framing members is included to facilitate connection of module racking system to existing structure. All other structural work and/or upgrades are excluded.
5. It is assumed that the District will provide a laydown and storage area during the construction period.
6. All permit drawings and permit fees required for the execution of the work are included.

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7. It is assumed that the District will provide electrical power to operate electrical construction tools and equipment.
8. Pricing is based on a single-mobilization project, multiple phases or extensions to schedule may constitute a change in scope and project schedule.
9. A warranty from date of Notice of Substantial Completion is included.
10. All carport solar PV structures shall include LED lighting, as required by code.
11. Self Generation Incentive Program (SGIP) grant will be distributed as a 50% payment after year 1 and five (5) subsequent annual payments of 10%.
12. Proposed Allowances not included in contract price:
 - a. Contract Allowance is a cash allowance allocating design, engineering, project management, and construction funds to portions of the Work that cannot be specified with sufficient particularity at the time of Contract Effective Date

#	Allowance Description	Allowance Price
1	Building array roof system interconnections: Based on discussions with the school district and documents showing that the District's roofs are "solar-ready", this proposal assumes a lineside tap for roofs and canopies, and utilization of existing underground conduits between roofs. If underground conduits do not actually return to the main switchgear then load side interconnections will be required. A physical verification of underground conduit locations will be done after contract execution.	\$TBD
2	Quantity of attachments for roof arrays: This proposal assumes 1108 attachments for PV solar racking installed every 6 feet per typical system design. As it is difficult to determine what will be required by DSA , we recommend an allowance for more frequent attachments if required. (\$370/attachment).	\$135,000
3	Dewatering at foundations: Cursory review of original CGS report found water in some Geotechnical borings but not in the vicinity where the canopy foundations are anticipated to be drilled. This proposal assumes no sleeving is required for the foundations. We recommend an allowance for sleeving in case water is found.	\$260,000
4	North parking lot canopy: This proposal assumes canopy will achieve DSA approval given new cantilever IR. Assumes it will work as depicted with existing concept and or small modifications keeping foundations out of parking stalls. DSA may require reducing the system size too much, or the location requires DSA to request the existing covered walkway canopy be removed.	\$TBD This may be a Price Increase (if DSA rules that the current walk-way canopy must be removed), or a deduct if the district elects to modify the system by reducing the size.
5	5 years of panel cleaning	See separate proposal
6	Removal of Dirt for solar array next to football field	Included

Design Phase

1. Schematic design of the solar PV and energy storage system to meet the targeted electrical production represented in the conceptual design provided in the technical documents at each site or to the maximum system size limits allowed by the footprint available or to an agreed upon size. Sizing shall include accurate and detailed modeling of system production for each specific site and technology provided by SES, and be based on shading analysis performed by SES and other site constraints using industry standard modeling tools. Schematic design plans shall include sufficient detail for analysis and discussion of critical design decisions.
2. Design development and complete construction drawings of the solar PV and energy storage system and all ancillary work sufficient for permitting and construction. Drawings shall fully describe all aspects of the construction work including fencing, directional boring/trenching, excavations, racking and mounting systems, electrical systems, signage, foundations, lighting, ADA, etc. SES will provide Electrical, Structural and all other required California licensed engineers and/or architects [Engineers of Record and Architect of Record] to provide a complete, stamped design set as required to permit and construct a complete energy project for DSA/AHJ submittal. The electrical construction drawings shall show and include all conduit below and above finished grade/finish. All plans and specifications must meet the approval of DSA/AHJ, the District, the District's representative, Local Fire Authority and/or any other agency deemed as having jurisdiction over the Project.
3. All design and engineering will follow the approved submittal process.

Construction Phase

1. Provision and Installation of the following:
 - a. PV racking
 - b. PV modules
 - c. PV inverters
 - d. Attachments/ Foundations
 - e. Roof Waterproofing
 - f. Energy Storage units and power conversion system.
 - g. Data collection and online monitoring system with: (5) years monitoring service subscription, five (5) years cellular service plan, and Weather inputs such as irradiance, panel temperature, ambient temperature and
 - utility grade production
 - utility grade consumption meter
 - BESS discharge meter
 - h. Interconnection Work: includes connection on Client side between the renewable energy solution Main Service Board (MSB) at the Point of Interconnection (POI).
2. Utility interconnection applications and process management will be provided by SES. Materials and coordination for inspection from the local utility is the responsibility of SES. The Interconnection Application process includes a Utility application review phase. The utility engineering review phase can result in

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additional costs not included or reasonably anticipated (as they can only be determined by PG&E at the end of the interconnection application process) upon execution of this Contract.

3. Identification of all Americans with Disabilities Act (ADA) compliance issues that are directly associated with the energy project. SES shall be responsible for covered parking space ratios, signage, and any other compliance issues that are located under the footprint of any PV array canopy, including canopies not located in parking lots. The cost of all other ADA compliance improvements outside of canopy areas (i.e., path-of-travel access issues that fall outside of the canopy footprint) is not known at this time and is therefore excluded from this scope of work but could be added as a change order at a later date.

4. An SES project manager will be assigned for the duration of the project through Final Completion. Regular Coordination meetings (via conference calls or on site if necessary) will be facilitated by the SES project manager.

The assigned project manager will create project schedule with Customer representative utilizing project constraints and information revealed during due diligence activities within the Design and Engineering Phase. Project Schedule will include the following phases sequentially:

- a) Design, Engineering, Interconnection Application Phase
- b) Permitting Phase
- c) Procurement Phase
- d) Construction Phase
- e) Commissioning Phase
- f) Close-out Phase

5. Provide weekly reports for all work performed when on site.

6. Coordination with and support of inspectors, the District, SES, and their consultants during design, construction, commissioning, and close-out.

7. Any significant changes to District property (removal of trees, light standard removal, new lighting, parking islands, etc.) that are required as a result of the installation of the energy projects are the sole responsibility of the Contractor.

All work assumes normal subsurface and digging conditions. Customer acknowledges SES has not yet performed subsurface due diligence or a Geotechnical Engineering Analysis and therefore makes no representation of knowing the impact of the results of the geotechnical study upon the scope, cost or schedule of the proposed project.

8. Any demo of existing soft scape, hard scape, light standards will be the sole responsibility of SES.

9. Project Commissioning, including all associated tasks and documentation related to successfully commissioning the system to the IEC 62446-1 International Standard and will be performed by SES.

10. Final energy system "as-built" Construction Documents clearly conformed with all changes during construction shall be provided.

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11. Provision of a comprehensive set of closeout documents, including an Operations & Maintenance Manuals for each installed system.
12. Conduct a training for the District's staff, with orientation to the Operations & Maintenance Manuals, systems and safety procedures.
13. Secure laydown and storage facility at job site for all canopy materials and energy system equipment and supplies, including any required security.
14. Legal toilet and hand wash sink facilities at job sites including all required safety for COVID safe distancing.
15. Daily cleanup to "broom clean" conditions.
16. Return disturbed areas to pre-construction conditions including repair of all pavement/concrete, street sweeping, restriping, landscape restoration, irrigation restoration, equipment track marks and scuffs on finished concrete surfaces.
17. Project closeout, inclusive of obtaining DSA closed and certified status for all project associated DSA applications.
18. If necessary, provide temporary ADA parking stalls during construction if construction activities make existing facility ADA parking stalls unusable. Quantity and location of temporary stalls shall be coordinated with the District.
19. Provide temporary lighting in place of removed overhead lighting until under-canopy lighting is fully operational.

Customer Furnished/Performed Items

1. Any and all as built drawings or site-specific information necessary to effectively design, engineer and construct the renewable energy solution including but not limited to past site plans, underground private utilities, permits for past work, etc.
2. Original and/or "As-built" plans indicating the location of all existing utilities, including irrigation infrastructure, provided to SES.
3. Utility lines located / line location prior to construction.
4. Water as needed to complete the work. Construction services and, if it is required by the authority having jurisdiction, to fill any fire safety water tanks.
5. Provide and maintain a suitable good-weather Site access road that will accommodate heavy vehicles, deliveries, and service vehicles
6. Site preparation including but not limited to vegetation removal, adequate grading, and soil compaction to SES Renewable energy solution specifications.
7. Provide a mutually acceptable construction staging and storage area(s) adjacent to project Site throughout the construction phase.
8. Unrestricted access to the Site during construction Monday through Friday including hours (6:00 am – 6:00 pm).

Exclusions

1. All ADA upgrades are excluded.

**Emery Unified School District
Energy Services Proposal**

2. Any upgrades determined after due diligence after Contract Effective Date by the AOR will be managed through a contract change order.
3. Excluded is engineering, installation, and maintenance of temporary (for construction) or permanent storm water facilities and features if required by the AHJ, which includes but is not limited to best management practice mitigations including but not limited to riprap, basins, inlet structures down inlet protections.
4. Multiple Mobilizations
5. Environmental Engineering and/or any Environmental/Biological Remediation
6. Floodplain Engineering and/or any alterations to Site and materials to accommodate floodplains.
7. New Electrical Panel and Switchgear, including trench, conduit, and AC wire runs to the POI
8. Service Upgrades at existing Sites.
9. New Electrical Service.
10. Easements/Rights of ways/Conservation easements
11. Environmental Assessment, Environmental Impact Report, Testing, and other Reports as needed.
12. Any design or engineering related to flood plans and, or FEMA high-hazard floodplains.
13. All work associated with SWPPPs and Site stabilization.
14. Engineering, installation and maintenance of permanent storm water facilities and features, including (but not limited to) riprap, basins, inlet structures alterations and installation, and swales required by the AHJ.
15. Specialized Environmental Insurance.
16. Relocation and/or removal of any existing utilities (active or abandoned), inclusive of but not limited to water, electric, communication, data, cable TV, security systems, irrigation, etc.
17. Hazardous material survey, testing, and/or monitoring.
18. Removal and/or disposal of any hazardous or contaminated materials.
19. Excavation, removal and/or disposal of unsuitable materials.
20. Rock excavation and drilling.
21. Soft soil stabilization.
22. Dewatering drilled foundations, sleaving foundations.
23. Removal/disposal of existing onsite trash and/or debris (inclusive of encountered underground trash or debris.)
24. Corrosion resistant materials (beyond standard galvanization.)
25. Arc Fault Hazard Assessment

Solar PV Software Interface

The solar PV software interface program shall provide the following:

The system will provide data on the generation of the solar pv system and the utilization of the batteries (charge and discharge). Local environmental conditions will be measured. The new monitoring system will be able to determine the total expected production of the solar PV system using the measured environmental conditions and the configuration of the as-built system. It will provide insight into the system's health by measuring the actual production compared to the expected production and will sound alarms and send notifications when there is a reasonable deviation between the two. This information will be updated every 2 hours. A URL will be provided that is intended to be public facing and can be embedded into any website, which will illustrate the total renewable energy produced.

7.0 – Building Envelope ECMs

ECM 7.1 – Building Envelope

General Intent

One hundred eight (108) doors have been identified to have missing or damaged door sweeps and seals. There are two (2) wall penetrations for pipes that are not properly caulked and sealed. These gaps allow for air, water and pest infiltration to the buildings. By repairing or replacing the door sweeps and seals of the exterior doors and caulking wall penetrations, the amount of infiltration will be reduced.

ECM Benefits

Reduced infiltration and conditioned air migration will reduce the amount of energy needed to condition the occupied spaces.

Impacted Equipment

- (2) pipe penetrations to be sealed
- (108) Doors to be weather stripped and sealed

SECTION 3 – PROJECT FINANCIALS

4.1 FIRM-FIXED PROJECT COST

The Firm-Fixed Project Cost for this project is \$5,087,969. Costs presented in this proposal are valid until May 30, 2022. If the Notice to Proceed is issued after May 30, 2022, SES reserves the right to re-evaluate the project and make necessary modifications to the Project Cost.

4.2 ITEMS INCLUDED IN PROJECT COST

Project costs include the following:

1. Engineering audit / Project Development.
2. Engineering design.
3. Construction/Project management and Site Supervision services.
4. Installation of SES equipment including the following as specified in the scope of work:
 - a. All costs paid by SES for the installation of the equipment. This includes costs paid to subcontractors or directly to SES personnel, when related to installation or system verification of equipment.
 - b. The portion of reasonable travel, lodging, and meal expenses of officers or employees incurred while traveling in discharge of duties connected with the Work.
 - c. Cost of all equipment, materials, supplies, and equipment incorporated in the Work, including costs of transportation thereof.
 - d. Cost or rental charges, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers.
 - e. Cost of premiums for all bonds and insurance, which SES is required to purchase and maintain.
 - f. Permit fees, royalties, and deposits lost for causes other than the SES negligence.
 - g. Losses and expenses not compensated by insurance or otherwise, sustained by SES in connection with the Work, provided they have resulted from causes other than the fault or neglect of SES. Such losses shall include settlements made with the written consent

and approval of the District. If, however such loss requires reconstruction and SES is placed in charge thereof, they shall be paid for their services a fee.

- h. Demolition cost and cost of removal of all debris.
 - i. Costs incurred due to an emergency affecting the safety of persons and property.
 - j. Other costs incurred in the performance of the Work if and to the extent approved in advance in writing by the District.
 - k. Cost of equipment startup, training, system verification and balancing performed by SES
- 5. Construction Bonds (including Performance & Payment and Retention bonds), Liability Insurance, and Builder's Risk Insurance.
 - 6. SES fee includes the remuneration for compensation of personnel, expenses, risks related to the project, overhead, and profit.
 - 7. SES shall provide a Schedule of Values. The schedule of values will include all costs related to the installation of the equipment and shall be presented and reviewed during first Construction Kickoff Meeting.

4.3 SES COMPENSATION

- 1. **Terms:** Net 30 days from the date of invoice, monthly billing as the job progresses.
- 2. **Payments:** At a minimum, payments will be made in the amount of 100%, less retention of five percent (5%) per the contract, at the completion and implementation of any individual Energy Conservation Measure (ECM) in the amount of that ECM as delineated in the contract. If more than one ECM is completed in a monthly period, all of those ECMs will be paid.
- 3. **Mobilization / Project Development / Engineering Fee** invoice will be presented upon mutual execution of the Contract and will be in the amount of 30% of the Project's total value.
- 4. **Finance Charges on Unpaid Balances:** Payments due and unpaid shall be subject to interest charges per contract terms and conditions.

4.4 TERMS AND CONDITIONS

4.4.1 TERMS OF AGREEMENT

The Contract shall be effective and binding upon the parties immediately upon its execution and the period from contract execution until the Commencement Date shall be known as the "Interim Period". All energy savings achieved during the interim period will be fully credited to District as mutually agreed to by the District and SES.

4.4.2 INSURANCE AND BONDING

SES shall provide a Payment and Performance bond, and Builder's Risk insurance

- 1. The bond amount consists of Labor and Materials and State Sales Tax.
- 2. This bond does not include any construction contingencies.
- 3. Certificates of General Liability Insurance will be provided prior to Contract Signing

SES shall provide a payment and performance bond in the amount of 100% of the construction cost. The amount shall include all authorized changes and state sales tax.

The Bond shall specifically exclude coverage for those portions of the Energy Services Agreement and/or Energy Services Agreement Addendum pertaining to design services, maintenance, utility incentives, and any other clauses which do not relate specifically to construction management and supervision of work for

Emery Unified School District
Energy Services Proposal

purchasing and installing of SES Equipment, or for work to be accomplished by the District. The Bond shall be with a Surety or Bonding Company that is registered with the State of California Insurance Commissioner's Office.

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Energy USD: Without Solar, After ("15%) Reduction from Energy Efficiency Measures

Annual Escalator	Year 1	6.0%	Year 2	6.0%	Year 3	6.0%	Year 4	4.0%	Year 5	4.0%	Year 6	4.0%	Year 7	4.0%	Year 8	4.0%	Year 9	4.0%	Year 10	4.0%	Year 11	4.0%	Year 12	4.0%	Year 13	4.0%	Year 14	4.0%	Year 15	4.0%	Year 16	4.0%	Year 17	4.0%	Year 18	4.0%	Year 19	4.0%	Year 20	4.0%	Year 21	4.0%	Year 22	4.0%	Year 23	4.0%	Year 24	4.0%	Year 25	4.0%																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																		
Estimated Electricity Cost	\$ 211,995	\$ 224,715	\$ 238,198	\$ 247,725	\$ 257,535	\$ 267,940	\$ 278,657	\$ 288,804	\$ 301,396	\$ 313,623	\$ 325,990	\$ 339,029	\$ 352,931	\$ 366,694	\$ 381,382	\$ 396,616	\$ 412,481	\$ 428,980	\$ 446,140	\$ 463,985	\$ 482,545	\$ 501,866	\$ 521,920	\$ 542,797	\$ 564,509	\$ 587,078	\$ 610,536	\$ 634,915	\$ 659,247	\$ 684,565	\$ 710,892	\$ 738,253	\$ 766,675	\$ 796,184	\$ 826,806	\$ 858,568	\$ 891,495	\$ 925,615	\$ 960,955	\$ 997,551	\$ 1,035,439	\$ 1,074,656	\$ 1,115,238	\$ 1,157,222	\$ 1,200,655	\$ 1,245,584	\$ 1,292,055	\$ 1,340,125	\$ 1,389,851	\$ 1,441,291	\$ 1,494,514	\$ 1,549,591	\$ 1,606,591	\$ 1,665,591	\$ 1,726,681	\$ 1,789,961	\$ 1,855,541	\$ 1,923,541	\$ 1,994,091	\$ 2,067,341	\$ 2,143,441	\$ 2,222,541	\$ 2,303,801	\$ 2,387,381	\$ 2,474,381	\$ 2,563,981	\$ 2,656,401	\$ 2,751,801	\$ 2,850,381	\$ 2,952,381	\$ 3,057,001	\$ 3,164,401	\$ 3,274,801	\$ 3,388,401	\$ 3,505,401	\$ 3,626,001	\$ 3,750,401	\$ 3,878,801	\$ 4,011,401	\$ 4,148,401	\$ 4,290,001	\$ 4,436,601	\$ 4,588,601	\$ 4,746,401	\$ 4,910,401	\$ 5,080,401	\$ 5,257,001	\$ 5,440,601	\$ 5,631,801	\$ 5,831,201	\$ 6,039,401	\$ 6,257,001	\$ 6,484,601	\$ 6,722,801	\$ 6,972,201	\$ 7,233,401	\$ 7,506,201	\$ 7,791,401	\$ 8,089,601	\$ 8,401,601	\$ 8,728,001	\$ 9,070,401	\$ 9,429,401	\$ 9,805,601	\$ 10,200,001	\$ 10,614,401	\$ 11,049,601	\$ 11,506,601	\$ 11,986,001	\$ 12,489,601	\$ 13,018,401	\$ 13,573,601	\$ 14,156,801	\$ 14,769,601	\$ 15,413,601	\$ 16,090,001	\$ 16,800,001	\$ 17,544,001	\$ 18,323,601	\$ 19,140,001	\$ 20,000,001	\$ 20,905,601	\$ 21,859,201	\$ 22,863,201	\$ 23,919,601	\$ 25,030,001	\$ 26,197,201	\$ 27,423,201	\$ 28,710,001	\$ 30,060,001	\$ 31,476,001	\$ 32,960,001	\$ 34,524,001	\$ 36,170,001	\$ 37,900,001	\$ 39,716,001	\$ 41,620,001	\$ 43,616,001	\$ 45,708,001	\$ 47,898,001	\$ 50,190,001	\$ 52,586,001	\$ 55,090,001	\$ 57,704,001	\$ 60,432,001	\$ 63,278,001	\$ 66,246,001	\$ 69,340,001	\$ 72,566,001	\$ 75,928,001	\$ 79,430,001	\$ 83,078,001	\$ 86,876,001	\$ 90,820,001	\$ 94,916,001	\$ 99,168,001	\$ 103,580,001	\$ 108,158,001	\$ 112,908,001	\$ 117,836,001	\$ 122,948,001	\$ 128,252,001	\$ 133,756,001	\$ 139,468,001	\$ 145,396,001	\$ 151,548,001	\$ 157,932,001	\$ 164,556,001	\$ 171,430,001	\$ 178,564,001	\$ 185,968,001	\$ 193,652,001	\$ 201,636,001	\$ 210,000,001	\$ 218,700,001	\$ 227,700,001	\$ 237,000,001	\$ 246,600,001	\$ 256,500,001	\$ 266,700,001	\$ 277,200,001	\$ 288,000,001	\$ 299,100,001	\$ 310,500,001	\$ 322,200,001	\$ 334,200,001	\$ 346,500,001	\$ 359,100,001	\$ 372,000,001	\$ 385,200,001	\$ 398,800,001	\$ 412,800,001	\$ 427,200,001	\$ 442,000,001	\$ 457,200,001	\$ 472,800,001	\$ 488,800,001	\$ 505,200,001	\$ 522,000,001	\$ 539,200,001	\$ 556,800,001	\$ 574,800,001	\$ 593,200,001	\$ 612,000,001	\$ 631,200,001	\$ 650,800,001	\$ 670,800,001	\$ 691,200,001	\$ 712,000,001	\$ 733,200,001	\$ 754,800,001	\$ 776,800,001	\$ 799,200,001	\$ 822,000,001	\$ 845,200,001	\$ 868,800,001	\$ 892,800,001	\$ 917,200,001	\$ 942,000,001	\$ 967,200,001	\$ 992,800,001	\$ 1,018,800,001	\$ 1,045,200,001	\$ 1,072,000,001	\$ 1,100,000,001	\$ 1,128,000,001	\$ 1,156,000,001	\$ 1,184,000,001	\$ 1,212,000,001	\$ 1,240,000,001	\$ 1,268,000,001	\$ 1,296,000,001	\$ 1,324,000,001	\$ 1,352,000,001	\$ 1,380,000,001	\$ 1,408,000,001	\$ 1,436,000,001	\$ 1,464,000,001	\$ 1,492,000,001	\$ 1,520,000,001	\$ 1,548,000,001	\$ 1,576,000,001	\$ 1,604,000,001	\$ 1,632,000,001	\$ 1,660,000,001	\$ 1,688,000,001	\$ 1,716,000,001	\$ 1,744,000,001	\$ 1,772,000,001	\$ 1,800,000,001	\$ 1,828,000,001	\$ 1,856,000,001	\$ 1,884,000,001	\$ 1,912,000,001	\$ 1,940,000,001	\$ 1,968,000,001	\$ 1,996,000,001	\$ 2,024,000,001	\$ 2,052,000,001	\$ 2,080,000,001	\$ 2,108,000,001	\$ 2,136,000,001	\$ 2,164,000,001	\$ 2,192,000,001	\$ 2,220,000,001	\$ 2,248,000,001	\$ 2,276,000,001	\$ 2,304,000,001	\$ 2,332,000,001	\$ 2,360,000,001	\$ 2,388,000,001	\$ 2,416,000,001	\$ 2,444,000,001	\$ 2,472,000,001	\$ 2,500,000,001	\$ 2,528,000,001	\$ 2,556,000,001	\$ 2,584,000,001	\$ 2,612,000,001	\$ 2,640,000,001	\$ 2,668,000,001	\$ 2,696,000,001	\$ 2,724,000,001	\$ 2,752,000,001	\$ 2,780,000,001	\$ 2,808,000,001	\$ 2,836,000,001	\$ 2,864,000,001	\$ 2,892,000,001	\$ 2,920,000,001	\$ 2,948,000,001	\$ 2,976,000,001	\$ 3,004,000,001	\$ 3,032,000,001	\$ 3,060,000,001	\$ 3,088,000,001	\$ 3,116,000,001	\$ 3,144,000,001	\$ 3,172,000,001	\$ 3,200,000,001	\$ 3,228,000,001	\$ 3,256,000,001	\$ 3,284,000,001	\$ 3,312,000,001	\$ 3,340,000,001	\$ 3,368,000,001	\$ 3,396,000,001	\$ 3,424,000,001	\$ 3,452,000,001	\$ 3,480,000,001	\$ 3,508,000,001	\$ 3,536,000,001	\$ 3,564,000,001	\$ 3,592,000,001	\$ 3,620,000,001	\$ 3,648,000,001	\$ 3,676,000,001	\$ 3,704,000,001	\$ 3,732,000,001	\$ 3,760,000,001	\$ 3,788,000,001	\$ 3,816,000,001	\$ 3,844,000,001	\$ 3,872,000,001	\$ 3,900,000,001	\$ 3,928,000,001	\$ 3,956,000,001	\$ 3,984,000,001	\$ 4,012,000,001	\$ 4,040,000,001	\$ 4,068,000,001	\$ 4,096,000,001	\$ 4,124,000,001	\$ 4,152,000,001	\$ 4,180,000,001	\$ 4,208,000,001	\$ 4,236,000,001	\$ 4,264,000,001	\$ 4,292,000,001	\$ 4,320,000,001	\$ 4,348,000,001	\$ 4,376,000,001	\$ 4,404,000,001	\$ 4,432,000,001	\$ 4,460,000,001	\$ 4,488,000,001	\$ 4,516,000,001	\$ 4,544,000,001	\$ 4,572,000,001	\$ 4,600,000,001	\$ 4,628,000,001	\$ 4,656,000,001	\$ 4,684,000,001	\$ 4,712,000,001	\$ 4,740,000,001	\$ 4,768,000,001	\$ 4,796,000,001	\$ 4,824,000,001	\$ 4,852,000,001	\$ 4,880,000,001	\$ 4,908,000,001	\$ 4,936,000,001	\$ 4,964,000,001	\$ 4,992,000,001	\$ 5,020,000,001	\$ 5,048,000,001	\$ 5,076,000,001	\$ 5,104,000,001	\$ 5,132,000,001	\$ 5,160,000,001	\$ 5,188,000,001	\$ 5,216,000,001	\$ 5,244,000,001	\$ 5,272,000,001	\$ 5,300,000,001	\$ 5,328,000,001	\$ 5,356,000,001	\$ 5,384,000,001	\$ 5,412,000,001	\$ 5,440,000,001	\$ 5,468,000,001	\$ 5,496,000,001	\$ 5,524,000,001	\$ 5,552,000,001	\$ 5,580,000,001	\$ 5,608,000,001	\$ 5,636,000,001	\$ 5,664,000,001	\$ 5,692,000,001	\$ 5,720,000,001	\$ 5,748,000,001	\$ 5,776,000,001	\$ 5,804,000,001	\$ 5,832,000,001	\$ 5,860,000,001	\$ 5,888,000,001	\$ 5,916,000,001	\$ 5,944,000,001	\$ 5,972,000,001	\$ 6,000,000,001	\$ 6,028,000,001	\$ 6,056,000,001	\$ 6,084,000,001	\$ 6,112,000,001	\$ 6,140,000,001	\$ 6,168,000,001	\$ 6,196,000,001	\$ 6,224,000,001	\$ 6,252,000,001	\$ 6,280,000,001	\$ 6,308,000,001	\$ 6,336,000,001	\$ 6,364,000,001	\$ 6,392,000,001	\$ 6,420,000,001	\$ 6,448,000,001	\$ 6,476,000,001	\$ 6,504,000,001	\$ 6,532,000,001	\$ 6,560,000,001	\$ 6,588,000,001	\$ 6,616,000,001	\$ 6,644,000,001	\$ 6,672,000,001	\$ 6,700,000,001	\$ 6,728,000,001	\$ 6,756,000,001	\$ 6,784,000,001	\$ 6,812,000,001	\$ 6,840,000,001	\$ 6,868,000,001	\$ 6,896,000,001	\$ 6,924,000,001	\$ 6,952,000,001	\$ 6,980,000,001	\$ 7,008,000,001	\$ 7,036,000,001	\$ 7,064,000,001	\$ 7,092,000,001	\$ 7,120,000,001	\$ 7,148,000,001	\$ 7,176,000,001	\$ 7,204,000,001	\$ 7,232,000,001	\$ 7,260,000,001	\$ 7,288,000,001	\$ 7,316,000,001	\$ 7,344,000,001	\$ 7,372,000,001	\$ 7,400,000,001	\$ 7,428,000,001	\$ 7,456,000,001	\$ 7,484,000,001	\$ 7,512,000,001	\$ 7,540,000,001	\$ 7,568,000,001	\$ 7,596,000,001	\$ 7,624,000,001	\$ 7,652,000,001	\$ 7,680,000,001	\$ 7,708,000,001	\$ 7,736,000,001	\$ 7,764,000,001	\$ 7,792,000,001	\$ 7,820,000,001	\$ 7,848,000,001	\$ 7,876,000,001	\$ 7,904,000,001	\$ 7,932,000,001	\$ 7,960,000,001	\$ 7,988,000,001	\$ 8,016,000,001	\$ 8,044,000,001	\$ 8,072,000,001	\$ 8,100,000,001	\$ 8,128,000,001	\$ 8,156,000,001	\$ 8,184,000,001	\$ 8,212,000,001	\$ 8,240,000,001	\$ 8,268,000,001	\$ 8,296,000,001	\$ 8,324,000,001	\$ 8,352,000,001	\$ 8,380,000,001	\$ 8,408,000,001	\$ 8,436,000,001	\$ 8,464,000,001	\$ 8,492,000,001	\$ 8,520,000,001	\$ 8,548,000,001	\$ 8,576,000,001	\$ 8,604,000,001	\$ 8,632,000,001	\$ 8,660,000,001	\$ 8,688,000,001	\$ 8,716,000,001	\$ 8,744,000,001	\$ 8,772,000,001	\$ 8,800,000,001	\$ 8,828,000,001	\$ 8,856,000,001	\$ 8,884,000,001	\$ 8,912,000,001	\$ 8,940,000,001	\$ 8,968,000,001	\$ 8,996,000,001	\$ 9,024,000,001	\$ 9,052,000,001	\$ 9,080,000,001	\$ 9,108,000,001	\$ 9,136,000,001	\$ 9,164,000,001	\$ 9,192,000,001	\$ 9,220,000,001	\$ 9,248,000,001	\$ 9,276,000,001	\$ 9,304,000,001	\$ 9,332,000,001	\$ 9,360,000,001	\$ 9,388,000,001	\$ 9,416,000,001	\$ 9,444,000,001	\$ 9,472,000,001	\$ 9,500,000,001	\$ 9,528,000,001	\$ 9,556,000,001	\$ 9,584,000,001	\$ 9,612,000,001	\$ 9,640,000,001	\$ 9,668,000,001	\$ 9,696,000,001	\$ 9,724,000,001	\$ 9,752,000,001	\$ 9,780,000,001	\$ 9,808,000,001	\$ 9,836,000,001	\$ 9,864,000,001	\$ 9,892,000,001	\$ 9,920,000,001	\$ 9,948,000,001	\$ 9,976,000,001	\$ 10,004,000,001	\$ 10,032,000,001	\$ 10,060,000,001	\$ 10,088,000,001	\$ 10,116,000,001	\$ 10,144,000,001	\$ 10,172,000,001	\$ 10,200,000,001	\$ 10,228,000,001	\$ 10,256,000,001	\$ 10,284,000,001	\$ 10,312,000,001	\$ 10,340,000,001	\$ 10,368,000,001	\$ 10,396,000,001	\$ 10,424,000,001	\$ 10,452,000,001	\$ 10,480,000,001	\$ 10,508,000,001	\$ 10,536,000,001	\$ 10,564,000,001	\$ 10,592,000,001	\$ 10,620,000,001	\$ 10,648,000,001	\$ 10,676,000,001	\$ 10,704,000,001	\$ 10,732,000,001	\$ 10,760,000,001	\$ 10,788,000,001	\$ 10,816,000,001	\$ 10,844,000,001	\$ 10,872,000,001	\$ 10,900,000,001	\$ 10,928,000,001	\$ 10,956,000,001	\$ 10,984,000,001	\$ 11,012,000,001	\$ 11,040,000,001	\$ 11,068,000,001	\$ 11,096,000,001	\$ 11,124,000,001	\$ 11,152,000,001	\$ 11,180,000,001	\$ 11,208,000,001	\$ 11,236,000,001	\$ 11,264,000,001	\$ 11,292,000,001	\$ 11,320,000,001	\$ 11,348,000,001	\$ 11,376,000,001	\$ 11,404,000,001	\$ 11,432,000,001	\$ 11,460,000,001	\$ 11,488,000,001	\$ 11,516,000,001	\$ 11,544,000,001	\$ 11,572,000,001	\$ 11,600,000,001	\$ 11,628,000,001	\$ 11,656,000,001	\$ 11,684,000,001	\$ 11,712,000,001	\$ 11,740,000,001	\$ 11,768,000,001	\$ 11,796,000,001	\$ 11,824,000,001	\$ 11,852,000,001	\$ 11,880,000,001	\$ 11,908,000,001	\$ 11,936,000,001	\$ 11,964,000,001	\$ 11,992,000,001	\$ 12,020,000,001	\$ 12,048,000,001	\$ 12,076,000,001	\$ 12,104,000,001	\$ 12,132,000,001	\$ 12,160,000,001	\$ 12,188,000,001	\$ 12,216,000,001	\$ 12,244,000,001	\$ 12,272,000,001	\$ 12,300,000,001	\$ 12,328,000,001	\$ 12,356,000,001	\$ 12,384,000,001	\$ 12,412,000,001	\$ 12,440,000,001	\$ 12,468,000,001	\$ 12,496,000,001	\$ 12,524,000,001	\$ 12,552,000,001	\$ 12,580,000,001	\$ 12,608,000,001	\$ 12,636,000,001	\$ 12,664,000,001	\$ 12,692,000,001	\$ 12,720,000,001	\$ 12,748,000,001	\$ 12,776,000,001	\$ 12,804,000,001	\$ 12,832,000,001	\$ 12,860,000,001	\$ 12,888,000,001	\$ 12,916,000,001	\$ 12,944,000,001	\$ 12,972,000,001	\$ 13,000,000,001	\$ 13,028,000,001	\$ 13,056,000,001	\$ 13,084,000,001	\$ 13,112,000,001	\$ 13,140,000,001	\$ 13,168,000,001	\$ 13,196,000,001	\$ 13,224,000,001	\$ 13,252,000,001	\$ 13

Emery USD: Without Solar, After (-15%) Reduction from Energy Efficiency Measures

Annual Escalator	Year 1	6.0%	Year 2	6.0%	Year 3	6.0%	Year 4	4.0%	Year 5	4.0%	Year 6	4.0%	Year 7	4.0%	Year 8	4.0%	Year 9	4.0%	Year 10	4.0%	Year 11	4.0%	Year 12	4.0%	Year 13	4.0%	Year 14	4.0%	Year 15	4.0%	Year 16	4.0%	Year 17	4.0%	Year 18	4.0%	Year 19	4.0%	Year 20	4.0%	Year 21	4.0%	Year 22	4.0%	Year 23	4.0%	Year 24	4.0%	Year 25	4.0%																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																															
Estimated Electricity Cost	\$ 211,995	\$ 224,715	\$ 235,198	\$ 247,725	\$ 257,635	\$ 267,640	\$ 274,657	\$ 278,864	\$ 281,065	\$ 282,463	\$ 283,090	\$ 283,823	\$ 284,566	\$ 285,311	\$ 286,056	\$ 286,801	\$ 287,546	\$ 288,291	\$ 289,036	\$ 289,781	\$ 290,526	\$ 291,271	\$ 292,016	\$ 292,761	\$ 293,506	\$ 294,251	\$ 295,000	\$ 295,745	\$ 296,490	\$ 297,235	\$ 297,980	\$ 298,725	\$ 299,470	\$ 300,215	\$ 300,960	\$ 301,705	\$ 302,450	\$ 303,195	\$ 303,940	\$ 304,685	\$ 305,430	\$ 306,175	\$ 306,920	\$ 307,665	\$ 308,410	\$ 309,155	\$ 309,900	\$ 310,645	\$ 311,390	\$ 312,135	\$ 312,880	\$ 313,625	\$ 314,370	\$ 315,115	\$ 315,860	\$ 316,605	\$ 317,350	\$ 318,095	\$ 318,840	\$ 319,585	\$ 320,330	\$ 321,075	\$ 321,820	\$ 322,565	\$ 323,310	\$ 324,055	\$ 324,800	\$ 325,545	\$ 326,290	\$ 327,035	\$ 327,780	\$ 328,525	\$ 329,270	\$ 330,015	\$ 330,760	\$ 331,505	\$ 332,250	\$ 332,995	\$ 333,740	\$ 334,485	\$ 335,230	\$ 335,975	\$ 336,720	\$ 337,465	\$ 338,210	\$ 338,955	\$ 339,700	\$ 340,445	\$ 341,190	\$ 341,935	\$ 342,680	\$ 343,425	\$ 344,170	\$ 344,915	\$ 345,660	\$ 346,405	\$ 347,150	\$ 347,895	\$ 348,640	\$ 349,385	\$ 350,130	\$ 350,875	\$ 351,620	\$ 352,365	\$ 353,110	\$ 353,855	\$ 354,600	\$ 355,345	\$ 356,090	\$ 356,835	\$ 357,580	\$ 358,325	\$ 359,070	\$ 359,815	\$ 360,560	\$ 361,305	\$ 362,050	\$ 362,795	\$ 363,540	\$ 364,285	\$ 365,030	\$ 365,775	\$ 366,520	\$ 367,265	\$ 368,010	\$ 368,755	\$ 369,500	\$ 370,245	\$ 370,990	\$ 371,735	\$ 372,480	\$ 373,225	\$ 373,970	\$ 374,715	\$ 375,460	\$ 376,205	\$ 376,950	\$ 377,695	\$ 378,440	\$ 379,185	\$ 379,930	\$ 380,675	\$ 381,420	\$ 382,165	\$ 382,910	\$ 383,655	\$ 384,400	\$ 385,145	\$ 385,890	\$ 386,635	\$ 387,380	\$ 388,125	\$ 388,870	\$ 389,615	\$ 390,360	\$ 391,105	\$ 391,850	\$ 392,595	\$ 393,340	\$ 394,085	\$ 394,830	\$ 395,575	\$ 396,320	\$ 397,065	\$ 397,810	\$ 398,555	\$ 399,300	\$ 400,045	\$ 400,790	\$ 401,535	\$ 402,280	\$ 403,025	\$ 403,770	\$ 404,515	\$ 405,260	\$ 406,005	\$ 406,750	\$ 407,495	\$ 408,240	\$ 408,985	\$ 409,730	\$ 410,475	\$ 411,220	\$ 411,965	\$ 412,710	\$ 413,455	\$ 414,200	\$ 414,945	\$ 415,690	\$ 416,435	\$ 417,180	\$ 417,925	\$ 418,670	\$ 419,415	\$ 420,160	\$ 420,905	\$ 421,650	\$ 422,395	\$ 423,140	\$ 423,885	\$ 424,630	\$ 425,375	\$ 426,120	\$ 426,865	\$ 427,610	\$ 428,355	\$ 429,100	\$ 429,845	\$ 430,590	\$ 431,335	\$ 432,080	\$ 432,825	\$ 433,570	\$ 434,315	\$ 435,060	\$ 435,805	\$ 436,550	\$ 437,295	\$ 438,040	\$ 438,785	\$ 439,530	\$ 440,275	\$ 441,020	\$ 441,765	\$ 442,510	\$ 443,255	\$ 444,000	\$ 444,745	\$ 445,490	\$ 446,235	\$ 446,980	\$ 447,725	\$ 448,470	\$ 449,215	\$ 449,960	\$ 450,705	\$ 451,450	\$ 452,195	\$ 452,940	\$ 453,685	\$ 454,430	\$ 455,175	\$ 455,920	\$ 456,665	\$ 457,410	\$ 458,155	\$ 458,900	\$ 459,645	\$ 460,390	\$ 461,135	\$ 461,880	\$ 462,625	\$ 463,370	\$ 464,115	\$ 464,860	\$ 465,605	\$ 466,350	\$ 467,095	\$ 467,840	\$ 468,585	\$ 469,330	\$ 470,075	\$ 470,820	\$ 471,565	\$ 472,310	\$ 473,055	\$ 473,800	\$ 474,545	\$ 475,290	\$ 476,035	\$ 476,780	\$ 477,525	\$ 478,270	\$ 479,015	\$ 479,760	\$ 480,505	\$ 481,250	\$ 481,995	\$ 482,740	\$ 483,485	\$ 484,230	\$ 484,975	\$ 485,720	\$ 486,465	\$ 487,210	\$ 487,955	\$ 488,700	\$ 489,445	\$ 490,190	\$ 490,935	\$ 491,680	\$ 492,425	\$ 493,170	\$ 493,915	\$ 494,660	\$ 495,405	\$ 496,150	\$ 496,895	\$ 497,640	\$ 498,385	\$ 499,130	\$ 499,875	\$ 500,620	\$ 501,365	\$ 502,110	\$ 502,855	\$ 503,600	\$ 504,345	\$ 505,090	\$ 505,835	\$ 506,580	\$ 507,325	\$ 508,070	\$ 508,815	\$ 509,560	\$ 510,305	\$ 511,050	\$ 511,795	\$ 512,540	\$ 513,285	\$ 514,030	\$ 514,775	\$ 515,520	\$ 516,265	\$ 517,010	\$ 517,755	\$ 518,500	\$ 519,245	\$ 520,000	\$ 520,745	\$ 521,490	\$ 522,235	\$ 522,980	\$ 523,725	\$ 524,470	\$ 525,215	\$ 525,960	\$ 526,705	\$ 527,450	\$ 528,195	\$ 528,940	\$ 529,685	\$ 530,430	\$ 531,175	\$ 531,920	\$ 532,665	\$ 533,410	\$ 534,155	\$ 534,900	\$ 535,645	\$ 536,390	\$ 537,135	\$ 537,880	\$ 538,625	\$ 539,370	\$ 540,115	\$ 540,860	\$ 541,605	\$ 542,350	\$ 543,095	\$ 543,840	\$ 544,585	\$ 545,330	\$ 546,075	\$ 546,820	\$ 547,565	\$ 548,310	\$ 549,055	\$ 549,800	\$ 550,545	\$ 551,290	\$ 552,035	\$ 552,780	\$ 553,525	\$ 554,270	\$ 555,015	\$ 555,760	\$ 556,505	\$ 557,250	\$ 557,995	\$ 558,740	\$ 559,485	\$ 560,230	\$ 560,975	\$ 561,720	\$ 562,465	\$ 563,210	\$ 563,955	\$ 564,700	\$ 565,445	\$ 566,190	\$ 566,935	\$ 567,680	\$ 568,425	\$ 569,170	\$ 569,915	\$ 570,660	\$ 571,405	\$ 572,150	\$ 572,895	\$ 573,640	\$ 574,385	\$ 575,130	\$ 575,875	\$ 576,620	\$ 577,365	\$ 578,110	\$ 578,855	\$ 579,600	\$ 580,345	\$ 581,090	\$ 581,835	\$ 582,580	\$ 583,325	\$ 584,070	\$ 584,815	\$ 585,560	\$ 586,305	\$ 587,050	\$ 587,795	\$ 588,540	\$ 589,285	\$ 590,030	\$ 590,775	\$ 591,520	\$ 592,265	\$ 593,010	\$ 593,755	\$ 594,500	\$ 595,245	\$ 595,990	\$ 596,735	\$ 597,480	\$ 598,225	\$ 598,970	\$ 599,715	\$ 600,460	\$ 601,205	\$ 601,950	\$ 602,695	\$ 603,440	\$ 604,185	\$ 604,930	\$ 605,675	\$ 606,420	\$ 607,165	\$ 607,910	\$ 608,655	\$ 609,400	\$ 610,145	\$ 610,890	\$ 611,635	\$ 612,380	\$ 613,125	\$ 613,870	\$ 614,615	\$ 615,360	\$ 616,105	\$ 616,850	\$ 617,595	\$ 618,340	\$ 619,085	\$ 619,830	\$ 620,575	\$ 621,320	\$ 622,065	\$ 622,810	\$ 623,555	\$ 624,300	\$ 625,045	\$ 625,790	\$ 626,535	\$ 627,280	\$ 628,025	\$ 628,770	\$ 629,515	\$ 630,260	\$ 631,005	\$ 631,750	\$ 632,495	\$ 633,240	\$ 633,985	\$ 634,730	\$ 635,475	\$ 636,220	\$ 636,965	\$ 637,710	\$ 638,455	\$ 639,200	\$ 639,945	\$ 640,690	\$ 641,435	\$ 642,180	\$ 642,925	\$ 643,670	\$ 644,415	\$ 645,160	\$ 645,905	\$ 646,650	\$ 647,395	\$ 648,140	\$ 648,885	\$ 649,630	\$ 650,375	\$ 651,120	\$ 651,865	\$ 652,610	\$ 653,355	\$ 654,100	\$ 654,845	\$ 655,590	\$ 656,335	\$ 657,080	\$ 657,825	\$ 658,570	\$ 659,315	\$ 660,060	\$ 660,805	\$ 661,550	\$ 662,295	\$ 663,040	\$ 663,785	\$ 664,530	\$ 665,275	\$ 666,020	\$ 666,765	\$ 667,510	\$ 668,255	\$ 669,000	\$ 669,745	\$ 670,490	\$ 671,235	\$ 671,980	\$ 672,725	\$ 673,470	\$ 674,215	\$ 674,960	\$ 675,705	\$ 676,450	\$ 677,195	\$ 677,940	\$ 678,685	\$ 679,430	\$ 680,175	\$ 680,920	\$ 681,665	\$ 682,410	\$ 683,155	\$ 683,900	\$ 684,645	\$ 685,390	\$ 686,135	\$ 686,880	\$ 687,625	\$ 688,370	\$ 689,115	\$ 689,860	\$ 690,605	\$ 691,350	\$ 692,095	\$ 692,840	\$ 693,585	\$ 694,330	\$ 695,075	\$ 695,820	\$ 696,565	\$ 697,310	\$ 698,055	\$ 698,800	\$ 699,545	\$ 700,290	\$ 701,035	\$ 701,780	\$ 702,525	\$ 703,270	\$ 704,015	\$ 704,760	\$ 705,505	\$ 706,250	\$ 706,995	\$ 707,740	\$ 708,485	\$ 709,230	\$ 709,975	\$ 710,720	\$ 711,465	\$ 712,210	\$ 712,955	\$ 713,700	\$ 714,445	\$ 715,190	\$ 715,935	\$ 716,680	\$ 717,425	\$ 718,170	\$ 718,915	\$ 719,660	\$ 720,405	\$ 721,150	\$ 721,895	\$ 722,640	\$ 723,385	\$ 724,130	\$ 724,875	\$ 725,620	\$ 726,365	\$ 727,110	\$ 727,855	\$ 728,600	\$ 729,345	\$ 730,090	\$ 730,835	\$ 731,580	\$ 732,325	\$ 733,070	\$ 733,815	\$ 734,560	\$ 735,305	\$ 736,050	\$ 736,795	\$ 737,540	\$ 738,285	\$ 739,030	\$ 739,775	\$ 740,520	\$ 741,265	\$ 742,010	\$ 742,755	\$ 743,500	\$ 744,245	\$ 744,990	\$ 745,735	\$ 746,480	\$ 747,225	\$ 747,970	\$ 748,715	\$ 749,460	\$ 750,205	\$ 750,950	\$ 751,695	\$ 752,440	\$ 753,185	\$ 753,930	\$ 754,675	\$ 755,420	\$ 756,165	\$ 756,910	\$ 757,655	\$ 758,400	\$ 759,145	\$ 759,890	\$ 760,635	\$ 761,380	\$ 762,125	\$ 762,870	\$ 763,615	\$ 764,360	\$ 765,105	\$ 765,850	\$ 766,595	\$ 767,340	\$ 768,085	\$ 768,830	\$ 769,575	\$ 770,320	\$ 771,065	\$ 771,810	\$ 772,555	\$ 773,300	\$ 774,045	\$ 774,790	\$ 775,535	\$ 776,280	\$ 777,025	\$ 777,770	\$ 778,515	\$ 779,260	\$ 780,005	\$ 780,750	\$ 781,495	\$ 782,240	\$ 782,985	\$ 783,730	\$ 784,475	\$ 785,220	\$ 785,965	\$ 786,710	\$ 787,455	\$ 788,200	\$ 788,945	\$ 789,690	\$ 790,435	\$ 791,180	\$ 791,925	\$ 792,670	\$ 793,415	\$ 794,160	\$ 794,905	\$ 795,650	\$ 796,395	\$ 797,140	\$ 797,885	\$ 798,630	\$ 799,375	\$ 800,120	\$ 800,865	\$ 801,610	\$ 802,355	\$ 803,100	\$ 803,845	\$ 804,590	\$ 805,335	\$ 806,080	\$ 806,825	\$ 807,570	\$ 808,315	\$ 809,060	\$ 809,805	\$ 810,550	\$ 811,295	\$ 812,040	\$ 812,785	\$ 813,530	\$ 814,275	\$ 815,020	\$ 815,765	\$ 816,510	\$ 817,255	\$ 818,000	\$ 818,745	\$ 819,490	\$ 820,235	\$ 820,980	\$ 821,725	\$ 822,470	\$ 823,215	\$ 823,960	\$ 824,705	\$ 825,450	\$ 826,195	\$ 826,940	\$ 827,685	\$ 828,430	\$ 829,175	\$ 829,920	\$ 830,665	\$ 831,410	\$ 832,155	\$ 832,900	\$ 833,645	\$ 834,390	\$ 835,135	\$ 835,880	\$ 836,625	\$ 837,370	\$ 838,115	\$ 838,860	\$ 839,605	\$ 840,350	\$ 841,095	\$ 841,840	\$ 842,585	\$ 843,330	\$ 844,075	\$ 844,820	\$ 845,565	\$ 846,310	\$ 847,055	\$ 847,800	\$ 848,545	\$ 849,290	\$ 850,035	\$ 850,780	\$ 851,525	\$ 852,270	\$ 853,015	\$ 853,760	\$ 854,505	\$ 855,250	\$ 855,995	\$ 856,740	\$ 857,485	\$ 858,230	\$ 858,975	\$ 859,720	\$ 860,465	\$ 861,210	\$ 861,955	\$ 862,700	\$ 863,445	\$ 864,190	\$ 864,935	\$ 865,680	\$ 866,425	\$ 867,170	\$ 867,915	\$ 868,660	\$ 869,405	\$ 870,150	\$ 870,895	\$ 871,640	\$ 872,385	\$ 873,130	\$ 873,875	\$ 874,620	\$ 875,365	\$ 876,110	\$ 876,855	\$ 877,600	\$ 878,345	\$ 879,090	\$ 879,835	\$ 880,580	\$ 881,325	\$ 882,070	\$ 882,815	\$ 883,560	\$ 884,305	\$ 885,050	\$ 885,795	\$ 886,540	\$ 887,285	\$ 888,030	\$ 888,775	\$ 889,520	\$ 890,265	\$ 891,010	\$ 891,755	\$ 892,500	\$ 893,245	\$ 893,990	\$ 894,735	\$ 895,480	\$ 896,225	\$ 896,970	\$ 897,715	\$ 898,460	\$ 899,205	\$ 899,950	\$ 900,695	\$ 901,440	\$ 902,185	\$ 902,930	\$ 903,675	\$ 904,420	\$ 905,165	\$ 905,910	\$ 906,655	\$ 907,400	\$ 908,145	\$ 908,890	\$ 909,635	\$ 910,380	\$ 911,125	\$ 911,870	\$ 912,615	\$ 913,360	\$ 914,105	\$ 914,850	\$ 915,595	\$ 916,340	\$ 917,085	\$ 917,830	\$ 918,575	\$ 919,320	\$ 920,065	\$ 920,810	\$ 921,555	\$ 922,300	\$ 923,045	\$ 923,790	\$ 924,535	\$ 925,280	\$ 926,025	\$ 926,770	\$ 927,515	\$ 928,260	\$ 929,005	\$ 929,750	\$ 930,495	\$ 931,240	\$ 931,985	\$ 932,730	\$ 933,475	\$ 934,220	\$ 934,965	\$ 935,710	\$ 936,455	\$ 937,200	\$ 937,945	\$ 938,690	\$ 939,435	\$ 940,180	\$ 940,925	\$ 941,670	\$ 942,415	\$ 943,160	\$ 943,905	\$ 944,650	\$ 945,395	\$ 946,140	\$ 946,885	\$ 947,630	\$ 948,375	\$ 949,120	\$ 949,865	\$ 950,610	\$ 951,355	\$ 952,100	\$ 952,845	\$ 953,590	\$ 954,335	\$ 955,080

AGREEMENT

This AGREEMENT ("**Agreement**") is entered into as of the date signed by the last Party below ("**Effective Date**"), by and between the City of Emeryville, a California municipal corporation ("**City**"), and the Emery Unified School District, a political subdivision of the State of California ("**District**"). City and District are sometimes referred to herein individually as a "**Party**," and collectively as the "**Parties**."

R E C I T A L S

A. In 2014, the District and City entered into a "Joint Occupancy Agreement" (hereinafter the "JOA") relating to the construction and use of the Emery Center of Community Life ("ECCL").

B. Pursuant to the terms of the JOA, a Governance Committee consisting of the City Council and District Board recommends an Annual Operations and Maintenance Budget. The City Council and District Board then each approve an Annual Operations and Maintenance Budget that includes estimates for all expenses associated with the operation and maintenance of the ECCL Project Facilities. The Parties then multiply their respective O&M Percentage Share by the Annual Operations and Maintenance Budget to determine the amount each owes for operations and maintenance expenses. (JOA Attachment F, § 6.1).

C. The JOA also requires the Parties to maintain a schedule for capital replacement projects, and provide contributions to a capital replacement reserve account to fund such projects. (JOA Attachment F, §§ 6.4, 6.5).

D. The JOA further provides that, with limited exceptions not applicable here, alterations to the ECCL Project Facilities shall require the advance written approval of the other Party. (JOA Attachment F, § 9).

E. The JOA further provides that consultant and contractor agreements are subject to approval by the City Council and District Board if they (1) contemplate payment in excess of \$25,000, (2) are related to use, operation, repair, or replacement, (3) are proposed to be included as Operations and Maintenance or Capital Replacement expenses, and (4) are to be paid proportionately by the Parties, (JOA Attachment F, § 10).

F. The District wishes to implement a project involving installation of CO2 sensors, HVAC assessment and improvement, installation of LED Lighting, Building Envelope Improvements, installation of refrigeration controls, and installation of a solar and battery storage system (the "Project"). The Project shall be installed and carried out under an agreement with Syserco (the "Syserco Agreement").

G. The Parties wish to acknowledge their agreement related to the Project as set forth herein.

A G R E E M E N T

NOW, THEREFORE, for good and valuable consideration, the Parties hereby agree as follows:

1. Term. The term of this Agreement shall commence on the date it is executed by each Party and shall end upon the earliest of the following: (1) the City's early termination of the ECCL Project Lease pursuant to Section 2.2 of the ECCL Project Lease; (2) the District's notification of its desire to terminate this Agreement; or (3) twenty-five years after the date of execution.

2. The City consents to the District's installation and construction of the Project and approves of the contract for the Project's installation as contemplated by Sections 9 and 10 in Attachment F (Operations, Maintenance and Shared Use Agreement) to the JOA. The City shall not be a party to, nor have any financial obligations under the Syserco Agreement. Further, the District shall pay all costs required for the installation of the Project under the Syserco Agreement.

3. The Parties agree that the Solar PV and battery storage system shall not be required to be placed on the Capital Replacement Schedule as discussed in Section 6.4 in Attachment F (Operations, Maintenance and Shared Use Agreement) to the JOA.

4. Solar PV and Battery Storage System.

a. The ongoing operational and maintenance costs for the useful life of the Solar PV and battery storage system ("Solar facilities"), estimated to total approximately \$10,000.00 annually (this amount will increase with inflation over the term of this Agreement) shall be incorporated into the Annual Operations and Maintenance Budget, and such costs shall be shared by the Parties according to their respective O&M Percentage Shares.

b. If the Solar PV and/or battery storage system requires repairs, the cost of contracts for such repairs shall be governed by Section 6.4 in Attachment F (Operations, Maintenance and Shared Use Agreement) to the JOA.

c. The ECCL will continue to use traditional utilities (PG&E, EBCE) for electricity needs that are not met by the Solar facilities. The Parties anticipate the system will cover 96% of electricity needs at the ECCL. The City and the District will include the remaining electricity costs (estimated at 4%) in the Annual Operations and Maintenance Budget, and shall share such costs according to their respective O&M Percentage Shares.

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d. After the solar portion of the Project becomes operational, the Parties shall calculate an annual offset to the District's contribution to the Annual Operations and Maintenance Budget (the "Solar Offset"). The Solar Offset shall be calculated as follows:

- i. A rate of \$0.25 per kWh will be applied (the "Rate").
- ii. The amount of electricity produced by the solar system over the course of the previous year (total kWh) will be determined based on a meter reading exclusive to the solar system. As stated above, this output is expected to meet approximately 96% of the ECCL's needs.
- iii. The Rate will be multiplied by the total kWh provided by the solar system in the prior year, and the resulting product will be multiplied by .29 to calculate the Solar Offset. For clarity and avoidance of doubt, the following simplified illustrations demonstrate the Parties' intent regarding the method of calculating the Solar Offset:

Solar Offset = (Total annual kWh produced by solar) x (\$0.25) x (City's 29% share of O&M)

Example Annual kWh Produced by System	x per kWh Rate	x City's Share (29%)	= City's Annual Contribution
881,584.47	0.25	0.29	\$ 63,914.87

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For clarity and avoidance of doubt, the following simplified illustration demonstrates the Parties' intent regarding the application of the Solar Offset to the O&M Budget and the Parties' respective payment obligations:

	Total O&M Expenses	
	\$ 1,000,000.00	
	District	City
O&M Expenses (assumes 71/29 split)	\$ 710,000.00	\$ 290,000.00
Solar Credit (assumes \$63,914.87 Solar Offset)	\$ (63,914.87)	\$ 63,914.87
Parties' Adjusted Payment Obligations	\$ 646,085.13	\$ 353,914.87

5. Events of Default. Failure by either Party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and expiration of the applicable cure period described below, shall constitute a "default" under this

Agreement. A Party claiming a default shall give written notice of default to the other Party specifying the default complained of. The other Party shall not be in default if (a) in the case of a monetary default, the defaulting Party cures the default within ten (10) days following receipt of the notice of default, or (b) in the case of a non-monetary default, the defaulting Party fully cures, corrects or remedies the default within thirty (30) days following receipt of such notice of default or, if the non-monetary default cannot be cured within 30 days, the defaulting Party commences to cure the default within such 30-day period and thereafter diligently and continuously prosecutes such cure to completion.

6. Non-Binding Mediation. If the Parties are unable to resolve any dispute arising in connection with this Agreement, the Parties agree to submit such dispute to a mutually acceptable professional mediator and to negotiate in good faith toward reaching a resolution of the dispute prior to taking legal action. Each Party shall pay an equal share of the mediator's fees and expenses. Each Party shall be responsible for any other fees or costs such Party incurs in connection with participation in the mediation. The time between a Party's written request for mediation and the mediation itself, not to exceed ninety (90) days, shall toll the running of any applicable period of limitations for filing a claim or action.

7. Remedies. If either Party is in default under this Agreement following notice and expiration of applicable cure periods, the non-defaulting Party, following completion of the non-binding mediation conducted in accordance with Section 6 above, shall be entitled to pursue all remedies provided herein or available at law or in equity. Any legal actions under this Agreement shall be instituted in the Superior Court of Alameda County, State of California. Any failure or delay by either Party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive either such Party of its rights to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies. The rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or any other default by the other Party. Notwithstanding any other provision hereof to the contrary, neither Party shall be entitled to recovery of, and each Party hereby waives are right to pursue, any consequential, special or punitive damages in the event of a default by the other Party.

8. No Waiver. waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any subsequent breach of the same or any other covenant or provision hereof. No waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving Party.

9. No Member Liability. No member, official or employee of either Party shall be personally liable to the other in the event of any default or breach by the defaulting Party or for any amount to which the non-defaulting Party may become due.

10. Entire Agreement; Amendment. This Agreement shall constitute the entire understanding and agreement of the Parties, and supersede all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. This Agreement may be amended only in writing signed by authorized representatives of City and District.

11. Notice. Any notice required or authorized under this Agreement shall be effective if, and only if, in writing and if, and only if, mailed, postage prepaid, by registered or certified mail or sent via overnight courier, to the Party in question at the then current primary business of such Party, or at such other address as that Party may later designate by notice. The current primary business addresses of the Parties are shown below:

District: Emery Unified School District
4727 San Pablo Avenue
Emeryville, CA 94608
Attention: Superintendent

with a copy to: Emery Unified School District
4727 San Pablo Avenue
Emeryville, CA 94608
Attention: District Counsel

City: City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517
Attention: City Manager

with a copy to: City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517
Attention: City Attorney

Notices shall be effective three business days after mailing if sent by registered or certified mail or one business day after mailing if sent via overnight courier.

12. Severability. Should any provision of this Agreement be found invalid by a court or other body of competent jurisdiction, said invalidity or ineffectiveness shall not affect the validity of the remaining provisions of such agreement which shall remain in force to the maximum extent possible.

13. Interpretation. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any document executed and delivered by either Party in connection with this

Agreement. The captions in this Agreement are for convenience of reference only and shall not be used to interpret this Agreement. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The words "approval," "consent" and "notice" shall be deemed to be preceded by the word "written."

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

15. No Conflicts of Interest. Each Party warrants to the other that no member of the governing body of the District or City and no other public official of such locality or localities during his/her tenure and for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with this Agreement.

16. Counterparts. This Agreement may be executed in any number of counterparts and by different Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

17. Further Assurances. From and after the date of each of Agreement, the Parties agree to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to timely complete the actions contemplated by such agreement.

18. Authorized Representatives. Except as otherwise expressly provided in this Agreement, whenever under the provisions of any of this Agreement the approval of the City or District is required, or the City or District is required to take some action at the request of the other, such approval or request shall be given for the District by the Superintendent or his or her designee, and for the City by the City Manager or his or her designee, and any Party hereto shall be authorized to rely upon and such approval or request.

19. No Assignment. Neither Party may assign its rights or obligations without the express written consent of the other Party which may be granted or denied in its sole discretion.

20. Authority. Each Party represents that the signatory has the authority to bind each respective entity, and assents to each and every term contained within this Agreement.

21. No Third Party Beneficiaries. It is the intention of the Parties that under no circumstances are any rights created for persons or entities who are not parties to this Agreement and the Parties owe no duty to any persons or entities not parties to this Agreement under a third party beneficiary theory or under any other theory of law.

22. Attorneys' Fees. If either Party commences any legal action against the other party arising out of this Agreement or the performance thereof, each Party in such action shall be responsible for its own litigation expenses, including but not limited to court costs, expert witness fees, discovery expenses and attorneys' fees.

23. No Joint Venture. It is expressly understood and agreed that neither Party shall become as a result of this Agreement a partner of the other or a joint venturer with the other Party in the conduct of such Party's business or otherwise. This Agreement is not intended, and shall not be construed, to create the relationship of principal and agent, partnership, joint venture, or association as between District and City.

24. Successors and Assigns. Subject to the restrictions on assignment set forth above, all of the terms, covenants and conditions of this Agreement shall be binding upon District and City and their respective permitted successors and assigns.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

CITY:

CITY OF EMERYVILLE, a municipal corporation

By: _____
Name: _____
Its: City Manager
Date: _____, 2022

DISTRICT:

EMERY UNIFIED SCHOOL DISTRICT,
a political subdivision of the State of California

By: _____
Name: _____
Its: Superintendent
Date: _____, 2022

Approved As To Form:

City Attorney

Approved As To Form:

District Counsel