REQUEST FOR QUALIFICATIONS AND PROPOSALS ("RFQ/P") FOR ENERGY EFFICIENCY DESIGN AND CONSTRUCTION SERVICES

The Orcutt Union School District ("District") is requesting submission of Statement of Qualifications and Proposal (together "Proposal(s)") from qualified firms, partnerships, corporations, associations, persons, or professional organizations ("Firm(s)") to perform energy-related design and construction of capital improvements that are in accordance with the District’s approved energy expenditure plan and funding from Proposition 39 (the "Project").

Proposition 39. The California Clean Energy Jobs Act was created by Proposition 39 and provides funding to local educational agencies to create projects for energy efficiency while creating energy jobs in California. The successful Firm shall complete the Project in accordance with the District’s approved energy expenditure plan funding and guidelines from Proposition 39. Information regarding Proposition 39 is available here: http://www.energy.ca.gov/efficiency/proposition39/

Firms that intend to submit a Statement of Qualifications and a Proposal must be an appropriately certified, licensed and insured.

Interested Firms are invited to submit a Proposal as described below, with one (1) original and five (5) copies of requested materials as well as a digital copy on a thumb drive, to:

Orcutt Union School District, 500 Dyer Street, Orcutt, CA 93455
ATTN: Walter J. Con, Assistant Superintendent of Business Services

Questions regarding this RFQ/P must be received in writing and directed to Walter J. Con at wcon@orcutt-schools.net on or before 12:00 PM on Wednesday, August 2, 2017. Firms are directed not to contact any other person with inquiries regarding this RFQ/P. The District may respond to questions presented via addenda to this RFQ/P.

All Proposals must be received on or before Tuesday, August 8, 2017, no later than 4:00 p.m.

Proposals are to be submitted only in sealed envelopes. Facsimile and electronic transmissions are not permitted. Late responses will not be accepted.

The District reserves the right to amend this RFQ/P as necessary. All materials submitted to the District in response to this RFQ/P shall remain the property of the District. The District shall not be responsible for the costs of preparing any qualification in response to the RFQ/P. The award of any contract to a Firm, if at all, is subject to approval by the Governing Board of the District.

Thank you for your interest in working with the Orcutt Union School District.
1. **General Information.**

1.1. **General.** The District invites qualified Firms to submit a Proposal related to its ability to provide the Services, as more fully indicated herein. Firms must have extensive experience with the Office of Public School Construction (“OPSC”), the International Building Code (“IBC”), Title 24 of the California Code of Regulations, and the Division of the State Architect (“DSA”). Firms must have extensive experience in the construction of public school facilities in addition to being a public school district representative, working with architects, contractors and other school facility related consultants, and establishing project scope, project budgets, and bidding procedures under both Public Contract Code and alternative construction delivery methods.

1.2. **Scope of Services.** The selected Firm shall perform the Services described in the form of Contract for Energy Design / Build Services (“Contract”) attached hereto as Exhibit 1. (“Service(s)”) The following is provided only for background and as an overview:

1.2.1. **Services.** The District is inviting Statements of Qualifications and Proposals from Firms to provide energy design and construction services for the Project in accordance with the California Energy Commission Proposition 39 Guidelines which include, without limitation:

1.2.1.1. Project consulting and planning
1.2.1.2. Amendment(s) to District’s Energy Expenditure Plan (EEP)
1.2.1.3. Engineering, design and project management, including development of specifications
1.2.1.4. Preparing DSA submittal and receiving DSA approval
1.2.1.5. Installation, modification and commissioning of all equipment
1.2.1.6. Training of District staff in the operation of new equipment
1.2.1.7. Measurement, verification, and post implementation Prop 39 documentation to California Energy Commission (CEC)
1.2.1.8. Warranty Support and close out documentation
1.2.1.9. Alternative financing, incentives, and grants (other than Proposition 39 funding, if applicable) for energy measures and energy programs

2. **Firms’ Proposals.** Firms’ Proposals must be consecutively numbered on each page and must include the following information, using the following outline structure, except as may be otherwise directed. Firms’ Proposals shall be no longer than fifty (50) pages, 8½” x 11” paper, inclusive of résumés, forms, and pictures, and tabbed according to the numbering system reflected below.

2.1. **Letter of Interest.** A dated Letter of Interest must be submitted, including the legal name of the Firm(s), address, telephone, and the name, title, and signature of the person(s) authorized to submit the Proposal on behalf of the Firm. The Letter of Interest should provide a brief statement of Firm’s experience indicating the unique background and qualities of the Firm, its personnel, and its subconsultants and subcontractors, and what will make the Firm a good fit for work in the District.

2.2. **Table of Contents.** A table of contents of the material contained in the Proposal should follow the letter of interest.

2.3. **Executive Summary.** The executive summary should contain an outline of Firm’s approach, along with a brief summary of Firm’s qualifications.

2.4. **Firm History.** Provide a brief history of Firm, and, if a joint venture, of each participating Firm. Identify legal form, ownership, and senior officials of company(ies). Describe number of years in business and types of business conducted.
2.5. **Proposed Personnel/Firm Team.** Include resumes of key personnel who would be performing Services for the District. Specifically, define the role of each person and outline his or her individual experience and responsibilities. Indicate personnel who will serve as primary contact(s) for the District. Indicate Firm’s and personnel’s availability to provide the Services.

2.6. **Statement of Services.** Provide a comprehensive narrative of the energy design and construction services offered by Firm, especially for school districts in regard to energy efficiency programs. Prepare a detailed Statement of Services for which Firm is submitting its Proposal, and briefly demonstrates Firm’s understanding of the Services and work required for the Project.

2.7. **Proposition 39.** Discuss the Firm’s experience and knowledge of the Proposition 39 program.

2.8. **Working Relationships.** Describe how Firm intends to work with the District’s administration officials to perform the Services, including assistant superintendents, facilities directors, teachers and site principals, to develop management and construction techniques and responses related to the unique challenges of District’s educational program requirements.

2.9. **Continuing Education.** Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the District in understanding Firm’s qualifications and expertise.

2.10. **Securing Incentives.** Describe the Firm’s experience in securing all available services, grants, incentives and financing available through Federal, State, local and Utility Company programs.

2.11. **Meeting Budgets & Schedules.** Describe how Firm intends to assist District in meeting established Project budgets and schedules and in prioritizing Project design and construction to meet budgets and schedules.

2.12. **Claims.** Provide a statement of ALL claim(s) filed against Firm in the past five (5) years. Briefly indicate the nature of the claim and the resolution, if any, of the claim(s).

2.13. **Prior Relevant Experience.** Identify ALL K-12 projects performed by Firm in the past five (5) years either as an architect, an engineer, a designer, a contractor, or a combination of these. Limit response to no more than the ten (10) MOST RECENT projects. Indicate if the Firm performed design and/or construction services. Include the following information for each project (or program, as applicable):

   2.13.1. Name of project and district,
   2.13.2. Name of project architect,
   2.13.3. Scope of projects, description of services provided,
   2.13.4. Contact person and telephone number at district,
   2.13.5. Firm person in charge of each project,
   2.13.6. Dollar value of each project,
   2.13.7. Original design budget, the construction budget and final construction cost, and
   2.13.8. All litigation arising from the project, if any. Provide information related to the issues in the litigation, the status of litigation, names of parties, and the outcome. This includes any litigation between a contractor and a school district and/or an architect in which Firm was or was not named.

2.14. **Additional Data.** Provide additional information about the Firm as it may relate to Firm’s Proposal. Indicate ongoing commitment to professional education of staff, total number of permanent employees, and any other data that may assist the District in understanding Firm’s qualifications and expertise.
2.15. **Firm’s Current Work Commitments.** Specify the current and projected workload of Firm and describe Firm’s ability to complete the Services as required herein.

2.16. **Conflicts of Interest.** Provide a statement of any recent, current, or anticipated contractual obligations that relate in any way to similar work, the Project, or the District that may have a potential to conflict with Firm’s ability to provide the Services described herein to the District.

2.17. **Compensation.**

2.17.1. **Design and Construction Services.** Provide detailed pricing information to perform the Services described in the Contract attached hereto as Exhibit 1, including, but not limited to the Firm’s specific proposal amounts for the following items:

- 2.17.1.1. Design costs,
- 2.17.1.2. Construction costs,
- 2.17.1.3. Equipment costs,
- 2.17.1.4. Mark-up on subconsultant and subcontractor prices,
- 2.17.1.5. General conditions, and
- 2.17.1.6. All other categories of costs, expenses, fees, or charges that Firm anticipates will be a part of its price to complete the Project.

2.17.2. **Fee Schedule.** Provide a current fee schedule for the types of service(s) that Firm offers. If referencing basic services costs, include typical staffing expectations and variations that the District could expect for specific types of projects, if applicable. Please also provide detailed information on Firm’s billing practices (i.e. lump sum, other), including reimbursable cost categories and hourly billing rates by position for additional services.

2.17.3. **Professional Fees.** Provide a current fee schedule for the types of service that Firm offers which will be used for performance of Extra Services. If referencing basic services costs, include typical staffing expectations, professional fee schedules, and variations that the District could expect for specific services, if applicable.

2.17.4. **Additional Costs.** Identify any additional fees, costs, expenses or reimbursable fees for which Firm would be seeking compensation.

3. **Form of Contract.** Attached as Exhibit 1 to this RFQ/P is Contract for Energy Design / Build Services ("Contract") including the indemnification provision that the District will include in that Contract. Please indicate in Firm’s Proposal if Firm has any comments or objections to the form of Contract. **PLEASE NOTE: The District will not consider any substantive changes to the form of Contract if they are not submitted at or before this time.**

4. **District’s Evaluation / Selection Process.** District intends to select the Firm(s) that best meet(s) the District’s needs to perform the services as described in this RFP. District may, at its discretion, interview some or all of those Firms that provide a Proposal. One or more Firms may be selected and recommended to the governing board of the District for approval.

4.1. **Selection Process.** The Firm(s) will be evaluated and selected based on qualifications and demonstrated competence that include relevant experience with public agencies, including local agencies, and a proven track record of success for these types of Services, including, without limitation, the following selection criteria:

- 4.1.1. Pricing;
- 4.1.2. Technical expertise;
4.1.3. Team experience;
4.1.4. Recent success with similar Services;
4.1.5. Proximity of offices and availability of qualified staff;
4.1.6. Prior experience with District staff and current consultants;
4.1.7. Approach in providing the Services;
4.1.8. Schedule; and
4.1.9. Other relevant criteria.

5. Terms and Conditions.

5.1. The District intends to select one of the Firms, if any—but reserves the right to select more than one Firm—that best meet(s) the District’s needs to perform the Services as described in this RFQ/P. The District reserves the right to contract with any Firm responding to this RFQ/P for all or portions of the above-described Services, to reject any Proposal as non-responsive, and not to contract with any Firm for the Services described herein. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever.

5.2. The District is not responsible for late delivery of a Proposal. It is the responsibility of the responding Firm to ensure that the Proposal is submitted on time to the District. Proposals that are received after the deadline may not be considered.

5.3. Responses to this RFQ/P will become the property of the District and subject to the California Public Records Act, Government Code sections 6250 et seq. Those elements in each response that are trade secrets as that term is defined in Civil Code section 3426.1(d) or otherwise exempt by law from disclosure and which are prominently marked as “TRADE SECRET,” “CONFIDENTIAL,” or “PROPRIETARY” may not be subject to disclosure. The District shall not be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court. A Firm that indiscriminately identifies all or most of its response as exempt from disclosure without justification may be deemed non-responsive. In the event the District is required to defend an action on a Public Records Act request for any of the contents of a response marked “Confidential,” “Proprietary,” or “Trade Secret,” the Firm agrees, by submission of its response for the District’s consideration, to defend and indemnify the District from all costs and expenses, including attorneys’ fees, in any action or liability arising under the Public Records Act.

5.4. Issuance of this RFQ/P does not commit the District to award a contract for Services or to pay any costs incurred with the preparation of a response. Firms should note that the execution of any contract pursuant to this RFQ/P is dependent upon successful negotiation of terms and fees as well as approval by the District’s Board of Education.

5.5. In the event Firm is asked to attend an interview, it is mandatory that the proposed primary Project contact and a principal of the Firm with the authority to enter into binding contracts with the District attend the interview. The District is not responsible for any costs the Firm may incur in the preparation of the Proposal, interview, or selection process.
Exhibit 1

Form of Contract for Energy Efficiency Design / Build Services
THIS CONTRACT is entered into and effective ______________, 2017 ("Contract"), by and between
________________________________________________________ ("Designer/Builder") and Orcutt Union School District ("District") (individually, a “Party”, and collectively, the “Parties”).

RECITALS

WHEREAS, District owns and/or operates certain public facilities specifically described as:

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(“Facilities” or “School Site(s)” or “Premises”) and District wants to reduce its Facilities' energy costs and improve the Facilities' energy quality/reliability by contracting to for the construction of certain new and upgraded energy systems; and

WHEREAS, on ______________, 2017, the District entered into an Independent Consultant Contract for Proposition 39 Energy Consulting Services with Climatec, LLC; and

WHEREAS, Climatec, LLC., performed all Proposition 39 program “energy planning activities” and related services, including the completion of an “energy expenditure plan” that was approved by the California Energy Commission on ______________, 2017 ("District’s Energy Expenditure Plan"); and

WHEREAS, the Board has authorized the District to enter into a design-build contract with a design-build entity that is able to provide appropriately licensed contracting, architectural, and engineering services to design and construct certain new and upgraded energy systems for the Facilities according to District’s Energy Expenditure Plan and based on detailed construction documents prepared by the successful design-build entity and approved by the Division of the State Architect and the District (“Project”); and

WHEREAS, Government Code § 4217.10 et seq., authorizes a public agency, including public school districts, to sole source or utilize an informal procurement process, such as a request for proposals, to contract for energy services if its governing body determines, at a regularly scheduled public hearing that the anticipated cost to the agency for alternative energy project will be less than the anticipated marginal cost to the agency of electrical energy that would have been consumed by the agency in the absence of the energy services contract; and

WHEREAS, pursuant to Government Code § 4217.10 et seq., the District has made the requisite findings that the anticipated cost of the Project will be less than the anticipated marginal cost to the District in the absence of the implementation of the Project; and

WHEREAS, District desires that Designer/Builder design and construct, and Designer/Builder desires to design and construct, the scope of work and provide the services as defined in Exhibit A, attached hereto ("Services" or “Work”); and

WHEREAS, Designer/Builder is a full-service energy services company with the technical capabilities to provide services to the District for energy conservation services as defined by Government Code § 4217.10 et seq., including, but not limited to, energy and energy system engineering, design, procurement, construction management, installation, construction, financing, training, monitoring and verification; and
WHEREAS, Designer/Builder is a an appropriately certified, licensed and insured full-service construction company with the technical capabilities to provide the Services to the District including, but not limited to, energy and energy system auditing, engineering, design, procurement, construction management, installation, construction and training; and

WHEREAS, District desires that Designer/Builder provide the Services in accordance with the Proposition 39 Guidelines, and District’s Energy Expenditure Plan attached hereto as Exhibit B, for the District; and

NOW, THEREFORE, the Parties agree as follows:

1. **Scope of Services.**

   1.1. Design/Builder shall provide the Services as further described in Exhibit A attached hereto and incorporated herein for the Project. The District reserves the right to change the Services of which the Parties agree may require the Design/Builder’s Fee and Scope as well as certain terms and conditions of this Contract to be adjusted by an amendment, in writing and signed by both Parties.

   1.2. In the performance of Design/Builder’s Services under this Contract, Design/Builder agrees that it will maintain such coordination with District personnel and/or its designated representatives as may be requested and desirable.

   1.3. Design/Builder shall act as the District’s agent to render the Services and furnish the work as described in Exhibit A, which shall only commence upon the receipt of a Notice to Proceed signed by the District representative.

2. **Fee and Method of Payment.**

   2.1. The Designer/Builder shall furnish the engineering, design, procurement, construction management, installation and construction of certain new and upgraded energy systems as further described in Exhibit A attached hereto and incorporated herein for a total amount equal $___________________ (“Contract Price”) for all services contracted for under this Contract and based on the Fee Schedule attached to Exhibit C.

   2.2. Design/Builder’s Contract Price set forth in this Contract shall be full compensation for all of Design/Builder’s Services incurred in the performance hereof as indicated in Exhibit C.

3. **Contract Time.** The Services shall be completed within the time specified in Exhibit D (“Contract Time”) from the date specified in the District’s Notice(s) to Proceed, as indicated in the Schedule in Exhibit D, attached hereto and incorporated herein by this reference. Time is of the essence and failure of Design/Builder to perform work on time as specified in this Contract is a material breach of this Contract.

4. **Liquidated Damages.** Designer/Builder agrees that if the Work is not completed within the Contract Time and/or pursuant to the Project schedule, construction schedule, or project milestones developed pursuant to provisions of the Contract, including the Schedule in Exhibit D, it is understood, acknowledged, and agreed that the District will suffer damage that is not capable of being calculated. Pursuant to Government Code section 53069.85, Designer/Builder shall forfeit to the District, as fixed and liquidated damages for these incalculable damages, the sum of One Thousand Dollars ($1,000) per day for each and every calendar day of delay beyond the “Date of Completion” as specified in Exhibit D for each Site.

5. **Schedule of Values.** Designer/Builder shall prepare a detailed schedule of values for all of the Work that must include quantities and prices of items by site aggregating the Contract Price and must subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. This schedule of values must be approved by the District prior to it being used as a basis for payment.

6. **Insurance and Bonds.** The Designer/Builder shall not commence the Work under this Contract until the Designer/Builder has submitted and the District has approved the endorsement(s) of insurance required under the Terms and Conditions and the District has issued a Notice(s) to Proceed. The Designer/Builder shall not commence the Work until it has provided to the District, a Payment (Labor and Material) Bond and a Performance Bond, in the forms
7. **Division of the State Architect.** Designer/Builder hereby acknowledges that the Division of the State Architect ("DSA") and the District’s DSA Project Inspector(s) ("Inspector" or "IOR") have authority to approve and/or stop Work if the Designer/Builder’s Work does not comply with the requirements of the Contract, Title 24 of the California Code of Regulations, and all applicable laws. The Designer/Builder shall be liable for any delay caused and extra work required by its non-compliant Work. Designer/Builder shall not be liable for delay caused solely by the District.

8. **Project Inspector.** Inspection and acceptance of the Work shall be performed by:

a. The District’s Project Inspector with whom the District will contract at or prior to the District issuing a Notice(s) to Proceed to Designer/Builder; and

b. The Assistant Superintendent of the District, and/or his/her designee.

9. **Construction Manager.** Designer/Builder recognizes that the District may obtain the services of a construction manager for this Project. The construction manager, if any, would be authorized to give Designer/Builder Services authorizations, and issue written approvals and Notices to Proceed on behalf of District. The District reserves the right to designate a different construction manager at any time. The District shall provide forty-eight (48) hours’ notice to Designer/Builder if District designates a different construction manager. Any task, including, but not limited to, reviews or approvals that the District may perform pursuant to this Contract may be performed by the construction manager, unless that task indicates it shall be performed by the governing board of the District.

10. **Labor and Materials.** Unless otherwise indicated herein for a longer period of time, the Designer/Builder shall guarantee all labor and material used in the performance of this Contract for a period of one year from the date of the District’s written approval of the Work.

11. **Proposition 39.** The District is seeking state funds and/or state bond authority to fund the Project and is performing its compliance with the California Clean Energy Jobs Act, Proposition 39 K-12 Program ("Proposition 39"). The Parties acknowledge that construction of the Project shall not commence until the District’s Board of Education has approved the Project as satisfying the requirements under Proposition 39. Therefore, the District reserves its right to suspend and/or terminate the Project as allowable herein if state funds and/or state bond authority do not equal or exceed the amounts that the District expects and/or the District’s Board of Education does not approve the Project under Proposition 39 and/or exempts the Project from Proposition 39. The District’s issuance of Notice(s) to Proceed shall be conditioned upon satisfaction of this aforementioned condition precedent. See Exhibit D for information regarding the Project’s Schedule and the intended timing of the District’s issuance of a Notice(s) to Proceed.

12. **CEQA.** The District and Designer/Builder recognize that the Project activities contemplated by this Contract are subject to environmental review under the California Environmental Quality Act ("CEQA"), and that the District, as a lead agency for the Project and its future use, must comply with the CEQA requirements as set forth in CEQA and in 14 California Code of Regulations sections 15000, et seq. ("CEQA Guidelines"). Pursuant to CEQA Guidelines Section 15004(b)(2)(A), the Parties acknowledge that (i) approval and execution of this Contract by the Parties does not constitute the District authorizing, approving, or awarding a “project” as defined by CEQA, and (ii) the construction phase of the Project shall not commence until the District’s governing board provides Designer/Builder with a specific notice to proceed authorizing construction activity. In the event District does not issue such a Notice to Proceed authorizing construction activity and instead issues a notice of suspension or notice of termination, District will pay for Designer/Builder’s undisputed and documented design and/or planning services rendered to the date of that notice.

13. **Terms and Conditions.** This Contract incorporates by this reference the Terms and Conditions attached hereto. The Designer/Builder, by executing this Contract, agrees to comply with all the Terms and Conditions.

14. **Contract Documents.** The Contract includes only the following documents ("Contract Documents"), as indicated:

- [X] Terms and Conditions to Contract
- [X] Noncollusion Declaration
15. By signing this Contract, Designer/Builder certifies, under penalty of perjury, that all the information provided in the Contract is true, complete, and correct, to the best of its knowledge.

16. Information regarding Designer/Builder:

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<tr>
<th>Type of Business Entity:</th>
<th>Fed. ID (FEIN) #:</th>
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<tbody>
<tr>
<td>____ Individual</td>
<td>Employer Identification and/or Social Security Number</td>
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<td>____ Sole Proprietorship</td>
<td>NOTE: United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of $600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.</td>
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ACCEPTED AND AGREED on the date indicated below:

Dated: _________________________, 20___
Orcutt Union School District

Signature: _______________________
Print Name: _______________________
Print Title: _______________________
Address: _________________________
Telephone: _______________________  E-Mail: _______________________
Cal. Contractor License No.: ____________ (REQUIRED)
Civil Engineer License: ______________ OR
Architect License: ________________ (AT LEAST ONE REQUIRED)
Notice. Any notice required or permitted to be given under this Contract shall be deemed to have been given, served, and received if given in writing and either personally delivered or sent by overnight delivery service addressed as follows:

**DISTRICT**
Orcutt Union School District
500 Dyer Street
Orcutt, CA 93455
ATTN: _____________________________

**DESIGNER/BUILDER**
______________________________
______________________________
______________________________
ATTN: ________________________

**With a copy to:**
Philip J. Henderson, Esq.
Orbach, Huff & Suarez, LLP
1901 Harrison Street, Suite 1630
Oakland, CA 94612

**With a copy to:**
______________________________
______________________________
______________________________
ATTN: _________________________

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service.
1. **NOTICE(S) TO PROCEED:** District shall provide Notice(s) to Proceed to Designer/Builder pursuant to the Contract at which time Designer/Builder shall proceed with the Work. The District reserves the right to issue multiple Notices to Proceed related to the Project, either by scope and/or by Site.

2. **SITE EXAMINATION:**
   
   2.1. The District has provided information available to it to the extent the information relates to Designer/Builder’s scope of work. This information included:
   
   2.1.1. Physical characteristics;
   
   2.1.2. Written legal description(s) of the Project site(s);
   
   2.1.3. Grades and lines of streets, alleys, pavements, and adjoining property and structures;
   
   2.1.4. Adjacent drainage;
   
   2.1.5. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);
   
   2.1.6. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;
   
   2.1.7. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;
   
   2.1.8. Surveys, reports, as-built drawings;
   
   2.1.9. Subsoil data, chemical data, and other data logs of borings;
   
   2.1.10. DSA Numbers for all buildings, as necessary to obtain DSA approval of plans to be submitted by Designer/Builder under the contracted scope of work.
   
   2.1.11. The location and physical characteristics of existing utility lines, telephone, water, sewage, storm drains and other lines on or around or relating to the Project.
   
   2.2. Designer/Builder has Visually Verified the existence of the conditions identified by this information to the extent determinable by the documents provided by the District (“Site Examination”). Designer/Builder has relied on its Site Examination in defining its scope of Work or Services.
   
   2.3. “Visually Verified” (or “Verify”) means confirmed by diligent physical inspection without any destructive or invasive action.
   
   2.4. If there are any variations to the scope of Work or Services resulting from conditions not determinable from such Visually Verified information, the Designer/Builder shall submit to the District a PCO based on those conditions.
   
   2.5. No claim for allowance of time or money will be allowed as to any other undiscovered condition on the Site that could and should have been discovered through these site examination activities. Notwithstanding the aforementioned, should the Designer/Builder discover any latent or unknown conditions, which will materially affect the performance of the Work hereunder, Designer/Builder shall immediately inform the District of such fact in writing and shall not proceed until written instructions are received from the District. This written notice may take the form of a PCO.

3. **EQUIPMENT AND LABOR:** The Designer/Builder shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the Services herein described, the Services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto.

4. **SUBCONTRACTORS:** Subcontractors, if any, engaged by the Designer/Builder for any Service or Work under this Contract shall be subject to the approval of the District, which shall not be unreasonably withheld. Designer/Builder agrees to bind every subcontractor by the terms of the Contract as far as such terms are applicable to subcontractor’s work, including, without limitation, all indemnification, insurance, bond, and warranty requirements. If
Designer/Builder shall subcontract any part of this Contract, Designer/Builder shall be fully responsible to the District for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in the Contract shall create any contractual relations between any subcontractor and the District.

5. **TERMINATION / SUSPENSION:**

5.1. If Designer/Builder fails to perform Designer/Builder’s material duties as required by this Contract, or if Designer/Builder fails to fulfill in a timely and professional manner Designer/Builder’s material obligations under this Contract, or if Designer/Builder shall violate any of the material terms or provisions of this Contract, and any such failure is not excused by the terms of this Contract, the District shall have the right to terminate this Contract, in whole or in part, unless either

5.1.1. Such failures and violations are caused by the District or

5.1.2. Such failures and violations are cured by Design/Builder to the District’s reasonable satisfaction within fourteen (14) days of written notice by the District thereof to the Designer/Builder; provided, that if a cure cannot be effected within such fourteen (14) days and Design-Builder has commenced a cure within such period of time and continues diligent pursuit of such cure, the Design/Builder shall have a reasonable period to complete such cure to the District’s reasonable satisfaction.

In the event of a termination pursuant to this subdivision, Designer/Builder may invoice District for all Services performed until the notice of termination, but District shall have the right to withhold payment and deduct any amounts equal to the District’s costs because of Designer/Builder’s actions, errors, or omissions that caused the District to terminate the Designer/Builder.

5.2. District shall have the right in its sole discretion to terminate the Contract, in whole or in part, for its own convenience. In the event of a termination for convenience, Designer/Builder may invoice District and District shall pay all undisputed invoice(s) for recoverable costs for Work performed until the date of termination, reasonable demobilization costs, and rental costs for equipment that Designer/Builder cannot mitigate with diligent efforts. In the event that District terminates this Contract as provided in this subsection and there are no known potential claims related to Designer/Builder’s Work, District shall, within fourteen (14) days after the date of termination, release the Performance and Payment Bonds, although the Surety on Performance and Payment Bonds shall remain liable as indicated herein for all Designer/Builder’s Work performed until the date of termination.

5.3. Except as indicated in this Article, termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.

5.4. The Designer/Builder has the right to terminate this Contract if the District does not fulfill its material obligations under this Contract unless either

5.5. Such failures and violations are caused by the Designer/Builder or

5.5.1. Such failures and violations are cured by District within fourteen (14) days of written notice by the Designer/Builder thereof to the District; provided, that if a cure cannot be effected within fourteen (14) days and District has commenced a cure within such period of time and continues diligent pursuit of such cure, the District shall have a reasonable period to complete such cure.

Designer/Builder may invoice District and District shall pay all undisputed invoice(s) for Services performed until the Designer/Builder’s notice of termination.

5.6. The District has the right to suspend, in whole or in part, the Project. If the District suspends the Project for more than one hundred and twenty (120) consecutive days, the Designer/Builder shall be compensated for Services performed prior to notice of that suspension. When the Project is resumed, the Project Schedule shall be adjusted and the Designer/Builder’s compensation shall be equitably adjusted to provide for expenses incurred associated with the suspension and in the resumption of the Designer/Builder’s Services. If the District suspends the Project for more than two (2) years, the Designer/Builder may terminate this Contract by giving written notice.

6. **SAFETY AND SECURITY:** Designer/Builder is responsible for maintaining safety in the performance of this Contract. Designer/Builder shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present. In the event that the aforementioned
rules conflict with the terms of this Contract, the terms of this Contract shall prevail.

7. **CHANGE IN SCOPE OF WORK:**

7.1. There shall be no change whatsoever in the Services or Work, or any architectural enhancements, without an executed Change Order or Construction Change Directive as herein provided. District shall not be liable for the cost of any extra work or any substitutions, changes, additions, omissions, or deviations from the Services or Work except pursuant to a Change Order or Construction Change Directive. Except as provided elsewhere in this Contract, no extension of time for performance of the Work shall be allowed hereunder unless duly adjusted in writing in the Change Order. The provisions of the Contract Documents shall apply to all such changes, additions, and omissions with the same effect as if originally embodied in the Work or Services.

7.2. Designer/Builder shall perform all Work that has been authorized by a fully executed Change Order in the timeframe set forth therein.

7.3. Should any Change Order result in an increase in the Contract Price, the cost of that Change Order shall be agreed to in the Change Order. Except as provided elsewhere in this Contract, if Designer/Builder proceeds with any change in Work without a Change Order, Designer/Builder waives any claim of additional compensation or time for that additional work.

7.4. Designer/Builder understands, acknowledges, and agrees that the reason for District authorization is so that District may have an opportunity to analyze the Work and decide whether the District shall proceed with the Change Order or alter the Project so that a change in Work becomes unnecessary.

7.5. **Change Orders.** A Change Order is a written instrument prepared and issued by the District and signed by the District (as authorized by the District’s governing board) and the Designer/Builder, and approved by the Project Inspector (if necessary) and DSA (if necessary), stating their agreement regarding all of the following:

7.5.1. A description of a change in the Work or Services;

7.5.2. The amount of the adjustment in the Contract Price, if any; and

7.5.3. The extent of the adjustment in the Contract Time, if any.

(“Change Order”)

7.6. **Price Request.** A Price Request (“PR”) is a written request prepared by the District requesting the Designer/Builder to submit to the District an estimate of the effect of a proposed change in the Work on the Contract Price and the Contract Time. A Price Request shall contain adequate information, including any necessary Work or Services, to enable Designer/Builder to provide the cost breakdowns required herein.

7.7. **Proposed Change Order.** A Proposed Change Order (“PCO”) is a written request prepared by the Designer/Builder requesting that the District issue a Change Order based upon a proposed change to the Work or Services. A PCO shall include breakdowns pursuant to the revisions herein to validate any change in Contract Price.

7.7.1. **Changes in Time.** A PCO shall also include any changes in time required to complete the Project. Any additional time requested shall not be the number of days to make the proposed change, but must be based upon the impact to the Project Schedule as defined in the Contract Documents. If Designer/Builder fails to request a time extension in a PCO, then the Designer/Builder is thereafter precluded from requesting time and/or claiming a delay, except as otherwise provided in this Contract.

7.7.2. **Unknown and/or Unforeseen Conditions.** If Designer/Builder submits a PCO requesting an increase in Contract Price and/or Contract Time that is based at least partially on Designer/Builder’s assertion that Designer/Builder has encountered condition(s) on the Project that it could not have discovered in performing its “Site Examination” duties herein, then Designer/Builder shall base the PCO on visually verifiable information that demonstrates that the hitherto unknown and/or unforeseen condition(s) actually exist. If not, the District may deny the PCO and the Designer/Builder shall complete the Project without any increase in Contract Price and/or Contract Time based on that PCO.

7.8. **Format for Proposed Change Order.** The following format shall be used as applicable by the District and the Designer/Builder (e.g. Change Orders, PCO’s) to communicate proposed additions and deductions to the...
Contract, supported by attached documentation.

<table>
<thead>
<tr>
<th><strong>SUBCONTRACTOR PERFORMED WORK</strong></th>
<th>ADD</th>
<th>DEDUCT</th>
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</thead>
<tbody>
<tr>
<td>(a) <strong>Material</strong> (attach itemized quantity and unit cost plus sales tax)</td>
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<td></td>
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<tr>
<td>(b) <strong>Add Labor</strong> (attach itemized hours and rates, fully encumbered)</td>
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<tr>
<td>(c) <strong>Add Equipment</strong> (attach suppliers’ invoice)</td>
<td></td>
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<tr>
<td>(d) <strong>SUBTOTAL</strong></td>
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<tr>
<td>(e) <strong>Add Subcontractor’s overhead and profit</strong>, not to exceed ten percent (10%) of item (d)</td>
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<td>(f) <strong>SUBTOTAL</strong></td>
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<tr>
<td>(g) <strong>Add Designer/Builder’s fee, overhead, profit &amp; general conditions</strong>, not to exceed ten percent (10%) of the sum of item (f)</td>
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<td>(h) <strong>SUBTOTAL</strong></td>
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<tr>
<td>(i) <strong>Add Bond and Insurance</strong>, not to exceed one and one half percent (1.5%) of Item (h)</td>
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<td>(j) <strong>TOTAL</strong></td>
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<td>(k) <strong>Time</strong></td>
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<tr>
<th><strong>DESIGNER/BUILDER PERFORMED WORK</strong></th>
<th>ADD</th>
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<tr>
<td>(a) <strong>Material</strong> (attach itemized quantity and unit cost plus sales tax)</td>
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<td>(k) <strong>Time</strong></td>
<td>_____ Days</td>
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</table>

7.9. **Change Order Certification.** All Change Orders and PCOs must include the following certification by the Designer/Builder: The undersigned Designer/Builder approves the foregoing as to the changes, if any, and the Contract Price specified for each item and as to the extension of time allowed, if any, for Project Completion, and agrees to furnish all labor, materials, and service, and perform all work necessary to complete any additional work specified for the consideration stated herein. Submission of sums which have no basis in fact or which Designer/Builder knows are false are at the sole risk of Designer/Builder and may be a violation of the False Claims Act set forth under Government Code section 12650 et seq. It is understood that the changes
herein to the Contract shall only be effective when approved by the governing board of the District or by District staff with delegated authority and thereafter ratified by the governing board of the District. It is expressly understood that the value of the extra Work or changes expressly includes any and all of the Designer/Builder’s costs and expenses, both direct and indirect, resulting from additional time required on the Project or resulting from delay to the Project. Any costs, expenses, damages, or time extensions not included are deemed waived.

7.10. **Determination of Change Order Cost.** The amount of the increase or decrease in the Contract Price from a Change Order, if any, shall be determined in one or more of the following ways as applicable to a specific situation and at the District’s discretion:

7.10.1. District acceptance of a PCO;

7.10.2. By amounts contained in Designer/Builder’s schedule of values, if applicable;

7.10.3. By agreement between District and Designer/Builder.

7.11. **Construction Change Directives / Unilateral Change Orders.** A Construction Change Directive (or Unilateral Change Order) is a written order prepared and issued by the District and signed by the District, directing a change in the Work. The District may as provided by law, by Construction Change Directive and without invalidating the Contract, order changes in the Work consisting of additions, deletions, or other revisions. The District may only issue a Construction Change Directive in the absence of agreement on the terms of a Change Order, and the Designer/Builder shall track its time and material costs that it may use as the basis for dispute or a claim pursuant to the “Disputes” provisions herein.

8. **TRENCH SHORING:** If this Contract is in excess of Twenty Five Thousand Dollars ($25,000) and is for the excavation of any trench deeper than five (5) feet, Designer/Builder must submit and obtain District acceptance and approval, in advance of excavation, of a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If the plan varies from the shoring system standards, the plan shall be prepared by a registered civil or structural engineer.

9. **EXCAVATIONS OVER FOUR FEET:** If this Contract includes excavations over four (4) feet, Designer/Builder shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any: (1) Material that the Designer/Builder believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (2) Subsurface or latent physical conditions at the site differing from those indicated; or (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract. The District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Designer/Builder’s cost of, and/or the time required for, performance of any part of the Work shall issue a change order under the procedures described in the Contract. In the event the dispute arises between the District and the Designer/Builder whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Designer/Builder’s cost of, or time required for, performance of any part of the work, the Designer/Builder shall not be excused from any scheduled completion date provided for by the contract, but shall proceed with all Work to be performed under the contract. The Designer/Builder shall retain any and all rights provided either by Contract or by law which pertain to the resolution of disputes and protests between the Parties.

10. **LEAD-BASED PAINT:** Pursuant to the Lead-Safe Schools Protection Act (Education Code Section 32240 et seq.) and other applicable law, no lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall be utilized on this Project, and only trained and state-certified contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Designer/Builder must execute the Lead-Based Paint Certification, if applicable.

11. **WORKERS:** Designer/Builder shall at all times enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Designer/Builder or a subcontractor whom the District may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the District.

12. **CORRECTION OF ERRORS:** Designer/Builder shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Designer/Builder’s failure
to comply with the Contract requirements and the standard of care required herein.

13. **SUBSTITUTIONS:** No substitutions of material from those specified in the approved final design shall be made without the prior written approval of the District, which the District shall complete as diligently as possible and which the District shall not reasonably withhold. Notwithstanding the above, all requests for substitution shall be deemed granted if not objected to within fourteen (14) calendar days.

14. **DESIGNER/BUILDER SUPERVISION:** Designer/Builder shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.

15. **CLEAN UP:** Debris shall be removed from the Premises by the Designer/Builder. The Site shall be in order at all times when work is not actually being performed and shall be maintained in a reasonably clean condition.

16. **ACCESS TO WORK:** District shall provide to Designer/Builder uninterrupted access to the Premises and to a reasonably sufficient staging area. District representatives shall at all times have access to the Work wherever it is in preparation or in progress. Designer/Builder shall provide safe and proper facilities for such access. Without diminishing the District’s obligation to provide access as required herein, the Parties acknowledge that Designer/Builder intends to install the Generating Facilities at the Sites in accordance with the Project Schedule and that the Contract Price and Contract Time are based on those parameters.

17. **PROTECTION OF WORK AND PROPERTY:** The Designer/Builder shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Designer/Builder, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.

18. **OTHER CONTRACTS/CONTRACTORS:** District reserves the right to let other contracts, and/or to perform work with its own forces, in connection with other work at the School Sites. Designer/Builder shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly coordinate and connect Designer/Builder’s Work with the work of other contractors. In addition to Designer/Builder’s obligation to protect its own Work, Designer/Builder shall protect the work of any other contractor that Designer/Builder encounters while working on the Project. Nothing herein contained shall be interpreted as granting to Designer/Builder exclusive occupancy of the Site, the Premises, or of the Project. Designer/Builder shall not cause any unnecessary hindrance or delay to the use and/or school operation(s) of the Premises and/or to District or any other contractor working on the Project. If simultaneous execution of any contract or school operation is likely to cause interference with performance of Designer/Builder’s Contract, Designer/Builder shall coordinate with those contractor(s), person(s), and/or entity(s) and shall submit to the District a PCO based on that coordination.

19. **ASSIGNMENT OF CONTRACT:** The Designer/Builder shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Contract without the prior written consent of the District. This provision shall not limit the Designer/Builder’s right to subcontract portions of its Work to other entities and assign this Contract and all related contracts without the consent of the District (i) to direct affiliate of Designer/Builder; (ii) to an entity that is controlled by, controls, or is under common control with Designer/Builder; or (iii) pursuant to a merger, consolidation, transfer of substantially all its assets, or by operation of law. This Contract will be binding on, enforceable by, and inure to the benefit of, the Parties and their respective successors and permitted assigns. Any assignment made in contravention of this clause shall be void and unenforceable.

20. **COMPLETION:**

20.1. **Walk-Through as Prerequisite to Determination of Completion.** When the Designer/Builder believes that the Work is complete except for minor corrective items, it shall so notify the District. Promptly thereafter, the District shall schedule a final walk-through of the Project by the Designer/Builder, the Inspector and the District to determine whether and to what extent the Work is complete. Any erroneous claims of completion by the Designer/Builder resulting in a premature walk-through shall be at the Designer/Builder’s sole cost and expense, and the District shall be entitled to reduce its payments to the Designer/Builder under the Contract by an amount equal to all costs incurred by the District due to the erroneous claims by the Designer/Builder that the Project is complete. Minor corrective (or “punch-list”) items shall be identified in the final walk-through of the Project. Notwithstanding the provisions listed prior, the District shall accept as complete the different scope of work as each is completed, at different dates, as opposed to waiting for the entire Work to be completed prior to issuance of its Acceptance of Work.
20.2. **District’s Acceptance of Work.** The District, in its sole discretion, may either (a) accept the Work as complete notwithstanding the need to complete minor corrective items (as distinguished from incomplete items), if the Work has otherwise been completed to the satisfaction of the District and the Inspector, or (b) refrain from accepting the Work as complete until the entire Work and all portions thereof, including all punch-list items, have been completed to the satisfaction of the District and the Inspector. The Work shall only be accepted as complete by an action of the District’s School Board (“Completion”).

20.3. **Notice of Completion.** Once the District has accepted the Work as indicated herein, the District shall thereafter cause a Notice of Completion to be recorded in the County Recorder’s Office.

20.4. **Designer/Builder’s Failure to Correct Punch-List Items.** If the Designer/Builder fails to complete the minor corrective items prior to the expiration of the thirty-five (35) day period immediately following recording of the Notice of Completion, the District shall withhold from the final payment owing to the Designer/Builder under the Contract an amount equal to 150% the estimated cost, as determined by the District, of each item until such time as the item is completed.

20.5. **Time Is of the Essence:** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Contract.

21. **BENEFICIAL USE:** District reserves the right to receive beneficial use of the Work before formal Contract completion and upon receipt of Permission to Operate Letter and/or Permission to Interconnect from the Utility. Beneficial use shall not constitute final acceptance or approval of any part of the Work covered by this Contract, nor shall beneficial use extend the date specified for Completion of the Work. The Parties may mutually agree that the date that the Generating Facilities begin producing power can be deemed the date of system start up for sake of the Performance Guarantee.

22. **FORCE MAJEURE CLAUSE:**

22.1. The term "Force Majeure" shall mean those events caused beyond the control of the affected Party and which by the exercise of due diligence such Party could not reasonably avoid and which it has been unable to overcome, including acts of God and public enemy; fire; epidemics, landslides, volcanic activity, terrorism, strike; loss or shortage of transportation facilities; lock-out; commandeering of materials, product, plant, or facilities by the government; relocation or construction of transmission facilities or the shutdown of such facilities for the purpose of necessary repairs; work by local utility directly impacting the Project; flood; earthquaketornado; severe storm; civil disobedience; sabotage; restraint by court order or public authority (whether valid or invalid); which is beyond the control of the affected Party and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which it has been unable to overcome.

22.2. Neither party shall be considered to be in default in the performance of any material obligation hereunder during the time and to the extent that it is prevented from obtaining delivery or performing by a Force Majeure event. Neither Party shall be relieved of its obligation to perform if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to remove or remedy with the exercise of diligent efforts within a reasonable time period. Either Party rendered unable to fulfill any of its obligations under this Contract by reason of an event of Force Majeure shall give prompt written notice of such fact to the other Party. Notwithstanding a Force Majeure event, the party claiming such an event must provide satisfactory evidence that the event caused the delay or lack of performance and was not due to the fault or neglect of the party claiming a Force Majeure event.

22.3. Designer/Builder is aware that governmental agencies and utilities, including, without limitation, the Division of the State Architect, the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies (“Review Agencies”) may have to approve Designer/Builder -prepared drawings or approve a proposed installation. Designer/Builder has included in the Project Schedule, time for possible review of its drawings and for reasonable delays and damages that may be caused by such agencies. Designer/Builder is entitled to additional time in the Project Schedule for review of Designer/Builder’s drawings or other approvals from the Division of the State Architect, the Department of General Services, gas companies, electrical utility companies, water districts, and other agencies, if all of the following conditions have been satisfied:

22.3.1. The time for this review is in excess of the time expressly allocated for this review in the Project
22.3.2. If Designer/Builder has diligently pursued approval from the Review Agencies;

22.3.3. Designer/Builder’s drawings and proposed installation are consistent with IR 16-8 as of the date of this Contract; and

22.3.4. Designer/Builder’s drawings and proposed installation are consistent with Designer/Builder’s pre-check( ed) (“PC”) design as of the date of this Contract, where applicable, except as modified at the District’s request.

23. INDEMNIFICATION / HOLD HARMLESS CLAUSE: To the fullest extent permitted by California law, Designer/Builder shall defend, indemnify, and hold harmless the District, its trustees, members, agents, representatives, officers, consultants, employees, and volunteers (the “indemnified parties”) from any and all demands, losses, liabilities, claims, suits, and actions (the “claims”) of any kind, nature, and description, including, but not limited to, attorneys’ fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Contract to the extent the claims are caused by the negligence, recklessness, or willful misconduct of Designer/Builder. The District shall have the right to accept or reject any legal representation that Designer/Builder proposes to defend the District. However, such acceptance shall not be unreasonably withheld. This indemnification, defense, and hold harmless obligation includes any failure or alleged failure by Designer/Builder to comply with any provision of law, any failure or alleged failure to timely and properly fulfill all of its obligations under the Contract in strict accordance with their terms, and without limitation, any stop notice actions or liens, including liens by the California Department of Labor Standards Enforcement.

24. PAYMENT:

24.1. On a monthly basis, Designer/Builder shall submit a draft (“pencil copy”) of an application for payment based upon the estimated value for materials delivered or Services performed under the Contract as of the date of submission (“Application for Payment”) and consistent with the information in Exhibit C, and invoiced separately for each School Site.

24.2. At a mutually-agreeable time and manner (e.g., in person, via phone, etc.), the Parties shall discuss that pencil copy Application for Payment and in good faith attempt to agree on the content of what can be in the formal Application for Payment. This discussion will occur within ten (10) days of the District’s receipt of that pencil copy Application for Payment.

24.3. After the Parties’ discussion of the pencil copy Application for Payment, Design/Builder may issue its formal Application for Payment. Within fourteen (14) days after receipt of Design/Builder’s Application for Payment, District shall notify Design/Builder in writing, if the District continues to dispute any portion of the Application for Payment. The District may deduct from any payment an amount necessary to protect the District from loss because of: (1) liquidated damages which have accrued as of the date of the application for payment; (2) any sums expended by the District in performing any of Designer/Builder’s obligations under the Contract which Designer/Builder has failed to perform or has performed inadequately; (3) defective Work not remedied; (4) stop notices as allowed by state law; (5) reasonable doubt that the Work can be completed for the unpaid balance of the Total Contract price or by the scheduled completion date; (6) unsatisfactory prosecution of the Work by Designer/Builder; (7) unauthorized deviations from the Contract; (8) failure of the Designer/Builder to maintain or submit on a timely basis proper and sufficient documentation as required by the Contract or by District during the prosecution of the Work; (9) erroneous or false estimates by the Designer/Builder of the value of the Work performed; (10) any sums representing expenses, losses, or damages, as determined by the District, incurred by the District for which Designer/Builder is liable under the Contract; and (11) any other sums which the District is entitled to recover from Designer/Builder under the terms of the Contract or pursuant to state law, including section 1727 of the California Labor Code. The failure by the District to deduct any of these sums from a progress payment shall not constitute a waiver of the District’s right to such sums. The District shall retain 5% from all amounts owing as retention. Retention shall be paid pursuant to Public Contract Code sections 7107 and 7200.

24.4. Within thirty (30) days after District’s receipt of the Application for Payment, Designer/Builder shall be paid a sum equal to ninety-five percent (95%) of the undisputed value of the Work performed (Assuming the value of the Work performed is verified by Inspector and certified by Designer/Builder) up to the last day of the previous month, less the aggregate of previous payments and amount to be withheld.
24.5. Payment for material stored on or off the School Sites is allowed at the sole discretion of the District. If allowed, proof of off-site material purchases (invoices and checks and/or bills of lading) and appropriate insurance coverage will be required. The Designer/Builder shall furnish to the District written consent from the Surety approving the advanced payment for materials stored off site. The maximum prepayment allowed by the District shall be one hundred (100%) percent of the actual value of the item being considered, less retention as indicated above. The District shall be the sole judges of fair market value. The Designer/Builder shall protect stored materials from damage. Damaged materials, even though paid for, shall not be incorporated into the Work.

24.6. For its Application for Payment to be due, owing and payable, the Designer/Builder must submit an updated Project Schedule with its Application for Payment.

24.7. **Allowances.** For any allowances identified herein, Designer/Builder shall be permitted to charge its time, materials, and other items in the identical structure as a Change Order. Designer/Builder shall invoice only for components of the Work encompassed by the allowance description. Any unused allowance or unused portion thereof shall be deducted from the Contract Price. However, if Designer/Builder’s costs exceed the allowance, the District shall reimburse Designer/Builder for such excess if approved in advance in a Change Order.

25. **PERMITS, APPROVALS, AND LICENSES:**

25.1. The Designer/Builder and all of its employees, agents, and subcontractors shall secure and maintain in force, at Designer/Builder’s sole cost and expense, all licenses and permits as are required by law, in connection with the furnishing of materials, supplies, or Services herein listed with the exception of any mitigation measures required to obtain or maintain CEQA compliance.

25.2. Designer/Builder is responsible for obtaining on behalf of the District and at Designer/Builder’s expense, all permits and approvals (including DSA approval), required for the building, installation, and start-up of the Work hereunder which are required to complete the Project.

25.3. District will cooperate fully with and assist Designer/Builder’s obtaining all permits and approvals required under this Contract.

25.4. The District shall be responsible for obtaining any CEQA related approvals and exemptions as applicable.

26. **INDEPENDENT CONTRACTOR STATUS:** While engaged in carrying out the Services of this Contract, the Designer/Builder is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District. Designer/Builder shall be solely responsible for its own Worker’s Compensation insurance, taxes, and other similar charges or obligations. Designer/Builder shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.

27. **DISABLED VETERAN BUSINESS ENTERPRISES:** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building (SFP Funds) to have a participation goal of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). Designer/Builder shall make reasonable efforts to solicit and utilize DVBEs during the performance of its Work, subject to the availability of DVBEs which meet Designer/Builder’s professional standards to perform the Work and Services within the Contract Time at a competitive price, and shall submit prior to beginning performance of the Work, appropriate documentation to the District identifying any steps Designer/Builder has taken to solicit DVBE participation in conjunction with this Contract.

28. **PAYMENT BOND AND PERFORMANCE BOND:** The Designer/Builder shall not commence the Work until it has provided to the District, in a form acceptable to the District, a Payment (Labor and Material) Bond and a Performance Bond, each in an amount equivalent to one hundred percent (100%) of the Contract Price issued by a surety admitted to issue bonds in the State of California and otherwise acceptable to the District. All performance bond liability will cease one year after the completion date of the work of this Contract. The balance of any warranty or guarantee beyond one year required by District shall continue to be guaranteed solely by Designer/Builder. The payment bond liability will cease at the termination of any time required by law. Notwithstanding anything to the contrary in the Contract, the Payment (Labor and Material) Bond and the Performance Bond are not applicable to the Performance Guarantee.

29. **DESIGNER/Builder’S INSURANCE:** Designer/Builder has in force, and during the term of this Contract shall maintain
in force with the minimum indicated limits, the following insurance. All policies shall contain waivers of subrogation against the District. All of Designer/Builder’s insurance shall be with admitted insurance companies with an A.M. Best rating of no less than A: VII.

29.1. **Commercial General Liability Insurance.** Coverage to be written on an occurrence form. Coverage to be at least as broad as ISO form CG 002 (07/98), without endorsements that limit the policy terms with respect to:
- (1) the definition of an Insured Contract,
- (2) provisions for severability of interest,
- (3) explosion, collapse, underground hazard:
  - $2,000,000 per occurrence for Bodily Injury and Property Damage
  - $4,000,000 General Aggregate - other than Products/Completed Operations
  - $4,000,000 Products/Completed Operations Aggregate
  - $1,000,000 Personal & Advertising Injury
  - $1,000,000 Fire Damage

29.2. **Automobile Liability.** Coverage to be written on an occurrence form. Coverage for any auto, including all owned, hired and non-owned vehicles: combined single limit of $1,000,000;

29.3. **Excess Liability Insurance.** Coverage to be written on an occurrence form. Coverage terms and limits to apply excess of the per occurrence and/or aggregate limits provided for Commercial General Liability, Auto Liability and Professional Liability. Coverage terms and limits to also apply in excess of those required for Employers Liability:
  - $10,000,000 each occurrence
  - $10,000,000 aggregate

29.4. **Professional Liability insurance.** Coverage to be written on an occurrence-made form:
  - $1,000,000 per occurrence
  - $2,000,000 aggregate

29.5. **Workers Compensation:** Statutory limits; and

29.6. **Employers’ Liability:** $1,000,000.
  - Bodily Injury by accident $1,000,000 each accident
  - Bodily Injury by disease $1,000,000 each employee
  - Bodily Injury by disease $1,000,000 policy limit

29.7. Commercial General Liability, Automobile Liability, Workers Compensation, and Employer’s Liability limits may be reached through a combination of primary and umbrella/excess policies. The Designer/Builder shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) days written notice to the District prior to cancellation. Except for worker’s compensation insurance and professional liability insurance, the District, shall be named as an additional insured on all policies. The Designer/Builder’s policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. The Designer/Builder shall not allow any subcontractor, employee, or agent to commence work on this Contract or any subcontract until the insurance required of the Designer/Builder of the subcontractor, or agent has been obtained.

29.8. **Builder’s Risk Insurance:** Builder’s Risk “All Risk” Insurance. Designer/Builder shall procure and maintain, during the life of this Contract, Builder’s Risk (Course of Construction), or similar first party property coverage acceptable to the District, issued on a replacement cost value basis. The cost shall be consistent with the total replacement cost of all insurable Work included within the Contract Documents. Coverage is to insure against all risks of accidental physical loss and shall include without limitation the perils of vandalism and/or malicious mischief (both without any limitation regarding vacancy or occupancy), sprinkler leakage, civil authority, theft, sonic disturbance, earthquake, flood, collapse, wind, fire, war, terrorism, lightning, smoke, and rioting.
Coverage shall include debris removal, demolition, increased costs due to enforcement of all applicable ordinances and/or laws in the repair and replacement of damaged and undamaged portions of the property, and reasonable costs for the design and engineering services and expenses required as a result of any insured loss upon the Work and Project, including completed Work and Work in progress, to the full insurable value thereof.

30. **WARRANTY/QUALITY:** Except for any longer warranty called for elsewhere in the Contract and except for the specific warranties that are made part of the Contract as Exhibit E, attached hereto and incorporated by this reference, Designer/Builder, manufacturer, or assigned agents shall guarantee the Work or Services performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from date of Completion of the Work or when District accepts Beneficial Use, whichever comes first. If the District accepts Beneficial Use, Designer/Builder shall prepare a list of exceptions for specific items or components for which the period of warranty shall not commence (“Exception List”). District shall approve the Exception List. The period of warranty for any item on the Exception List shall commence upon District’s acceptance of that item’s Beneficial Use or completion of that item, whichever comes first. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards. This warranty shall not apply to (a) equipment that has been repaired or altered by other than Designer/Builder so as to affect the same adversely, or (b) equipment that has been subject to negligence, accident or damage by circumstances beyond Designer/Builder’s control, or improper operation, maintenance or storage, or other than normal use and service. The Parties agree that any implied warranties of merchantability or fitness for a particular purpose shall also expire at the same time as the express warranties stated in this section.

31. **CONFIDENTIALITY:** To the extent permitted by applicable law, the Parties shall maintain the confidentiality of all information, documents, programs, procedures, and all other items that the Parties encounter during the Project and/or pursuant to the Contract. This requirement shall be ongoing and shall survive the expiration or termination of this Contract and specifically includes all student, parent, and disciplinary information.

32. **CONFLICT OF INTEREST:** Designer/Builder understands that its professional responsibility is solely to the District. Designer/Builder warrants that it and its employees and/or subcontractors presently have no interest and will not acquire any direct or indirect interest that would conflict with its performance under this Contract, including, without limitation, any direct and/or indirect interest with: (a) entity(ies) performing construction in the same discipline and in competition with any contractor on a District project; (b) entity(ies) connected or related to a trade union or joint labor management committee; (c) the District.

33. **COMPLIANCE WITH LAWS:** Designer/Builder shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Work as indicated or specified, including all “Interpretation(s) of Regulations” issued by DSA on or before the date of this Contract. If Designer/Builder observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Designer/Builder shall notify the District, in writing, and, at the sole option of the District, any necessary changes shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Designer/Builder’s receipt of a written termination notice from the District. If Designer/Builder performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Designer/Builder shall bear all costs arising therefrom.

34. **DISTRICT’S RIGHT TO AUDIT:** District retains the right to review and audit, and the reasonable right of access to Designer/Builder’s and any sub-consultant’s premises to review and audit the Designer/Builder’s compliance with the provisions of this Contract (“District’s Right”). The District’s Right includes the right to inspect, photocopy, and to retain copies, outside of the Designer/Builder’s premises, of any and all Project-related records and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District shall keep this information confidential, as allowed by applicable law.

34.1. The District’s Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the District determines are necessary to discover and verify that the Designer/Builder is in compliance with all requirements of this Contract.

34.2. If there is a claim for additional compensation or for extra Services, the District’s Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the District determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.
34.3. The Designer/Builder shall maintain complete and accurate records in accordance with generally accepted accounting practices in the industry. The Designer/Builder shall make available to the District for review and audit, all Project-related accounting records and documents, and any other financial data. Upon District’s request, the Designer/Builder shall submit exact duplicates of originals of all requested records to the District.

34.4. The Designer/Builder shall include audit provisions in any and all of its subcontracts, and shall ensure that these sections are binding upon all sub-consultants.

34.5. The Designer/Builder shall retain all Project-related records and other information with appropriate safeguards during the Term of this Contract and for a minimum of five (5) years thereafter.

35. Designer/Builder shall comply with these provisions within fifteen (15) days of the District’s written request to review and audit any or all of Designer/Builder’s Project-related records and information.

36. DISPUTES/CLAIMS:

36.1. **Claim.** The term “Claim” means a written demand by the Design/Builder sent by registered mail or certified mail with return receipt requested for:

36.1.1. An extension of the Contract Time, including relief from damages or penalties assessed by the District for delay;

36.1.2. Payment of money or damages arising from work done by, or on behalf of, the Design/Builder pursuant to the Contract and payment that is not otherwise expressly provided for in the Contract Documents or to which the Design/Builder is not otherwise entitled; or

36.1.3. Payment of an amount that is disputed by the District.

36.2. **Submission of Claim.** A Claim arises upon the District’s rejection of a request by the Design/Builder for a Change Order. The Design/Builder shall submit the Claim by registered mail or certified mail with return receipt requested to the District’s Director of construction and Modernization, with a copy to the Project Manager/Construction Manager. The Design/Builder shall submit its Claim in writing, together with all Supporting Documentation no later than the earlier of either: (1) thirty (30) days after the date the Claim arises; or (2) sixty (60) days after the date of Completion. It is the intent of the District to evaluate and resolve Claims with the Design/Builder as close to the events giving rise to such Claims as possible and to avoid stale or late Claims, including late notice and documenting of Claims, and to timely mitigate the issue, event, condition, circumstance and/or cause of the Claim and any adverse impacts or damages related thereto. Should the Design/Builder fail to submit a Claim by the deadline set forth in this Article, Design/Builder waives and releases such Claim, including all rights and remedies in connection therewith.

36.3. **Contents of Claim.** A Claim must include all Supporting Documentation and a statement identifying it as a Claim signed by an authorized agent or officer of the Design/Builder under penalty of perjury and including the following language immediately above or before the Design/Builder’s signature: “I declare under penalty of perjury under the laws of the State of California that the information provided and statements made in this Claim are true and correct, substantiated and of merit.” The Design/Builder recognizes and acknowledges that this requirement is not a mere formality but is intended to ensure that the Design/Builder only submits Claims that it believes are true and correct, substantiated and have merit. Should Design/Builder fail to submit the foregoing written statement signed under penalty of perjury, Design/Builder waives and releases its Claim, including all rights and remedies in connection therewith.

36.4. **Subcontractor Claims.** Pursuant to Public Contract Code § 9204(d)(5), a Subcontractor may request in writing, either on its own behalf or on behalf of a lower tier Subcontractor, that the Design/Builder submit to the District a claim for work which was performed by the Subcontractor or by a lower tier Subcontractor on behalf of the Subcontractor. The Subcontractor requesting that the claim be submitted to the District shall furnish reasonable documentation to support the claim. Regardless of whether or not the Design/Builder decides to submit the Subcontractor’s claim to the District, Design/Builder shall provide a copy of the Subcontractor’s written request, including all supporting documentation, to the Project Manager/Construction Manager within ten (10) days of Design/Builder’s receipt of the request. In the event the Design/Builder agrees to submit a Subcontractor’s claim to the District, the Design/Builder shall submit such claim as a request for a Change Order, unless such claim was previously submitted to the District as a request for a Change Order. Within forty-five (45) days of receipt of the Subcontractor’s written request, the Design/Builder shall notify the...
Subcontractor in writing as to whether the Design/Builder submitted the claim to the District and, if the Design/Builder did not submit the claim, the Design/Builder shall provide the Subcontractor with a written statement of the reasons for not having done so and shall concurrently provide a copy of such written statement to the Project Manager/Construction Manager. In the event the Design/Builder includes supporting documentation with such written statement, the Design/Builder shall concurrently provide a copy of such supporting documentation to the Project Manager/Construction Manager. If the Design/Builder submits a Claim on behalf of a Subcontractor, the Claim shall include a statement in writing and signed by an authorized agent or officer of the Design/Builder under penalty of perjury that includes the following language immediately above or before the Design/Builder’s signature: “I declare under penalty of perjury under the laws of the State of California that [insert name of Design/Builder] has thoroughly evaluated the claim of [insert name of Subcontractor] and determined that the information provided and statements made in the claim are true and correct, substantiated and of merit.”

36.5. **District Review of Claim.** Upon receipt of a Claim, the District shall review the Claim and, within a period not to exceed forty-five (45) days, shall provide Design/Builder a written statement identifying what portion of the Claim is disputed and what portion is undisputed. Upon receipt of a Claim, the District and the Design/Builder may, by mutual written agreement, extend the forty-five (45) day time period. The District shall process and make payment of any undisputed portion of a Claim within sixty (60) days after the District issues its written statement. Failure by the District to provide a written statement in response to a Claim from the Design/Builder within the forty-five (45) day time period, or within an agreed upon extended time period, shall result in the Claim being deemed rejected in its entirety. A Claim that is rejected by reason of the District’s failure to respond, or failure to timely respond, to the Claim shall not constitute an adverse finding regarding the merits of the Claim or the claimant’s responsibility or qualifications.

36.6. **Meet and Confer Meeting.** If the Design/Builder disputes the District’s written response, or if the District fails to respond within the time frame prescribed above, the Design/Builder, within fifteen (15) days of the District’s written response or, if the District fails to respond, within fifteen (15) days after the District’s response was due, may demand, in a writing sent to the District’s Superintendent by registered mail or certified mail, return receipt requested, with a copy to the District’s Director of Construction and Modernization, and Project Manager/Construction Manager, an informal conference to meet and confer for settlement of the issues in dispute. The District shall schedule a meet and confer conference within thirty (30) days of its receipt of the Design/Builder’s written demand.

36.7. **Mediation.** Within ten (10) business days following the conclusion of the meet and confer conference, if the Claim or any portion of the Claim remains in dispute, the District shall provide the Design/Builder a written statement identifying the portion of the Claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the Claim shall be processed and made within sixty (60) days after the District issues its written statement. Any disputed portion of the Claim, as identified by the Design/Builder in writing, shall be submitted to nonbinding mediation. The expenses and fees of the mediator and the administrative fees shall be divided among the parties equally. Each party shall pay its own legal fees, witness fees, and other expenses. The District and the Design/Builder shall mutually agree to a mediator within ten (10) business days after the disputed portion of the Claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. The foregoing notwithstanding, pursuant to Public Contract Code § 9204(f), the parties may mutually agree in writing to waive mediation.

36.8. Pending resolution of the dispute, Design/Builder agrees it will neither rescind the Contract nor stop the progress of the Work, but will allow determination by the court of the State of California, in the county in which the District’s administration office is located, having competent jurisdiction of the dispute.

36.9. Nothing in this Article shall prevent the Parties from resolving any disputes or claims pursuant to Public Contract Code section 20104, et seq., if applicable.

36.10. Nothing in this Contract, waives, modifies or tolls the Design/Builder’s obligation to present a timely claim under Government Code § 910, et seq. Therefore, in addition to complying with the contractual Claims procedures, the Design/Builder is required to present claims to the District pursuant to Government Code § 910, et seq.
37. LABOR, WAGE & HOUR, APPRENTICE AND RELATED PROVISIONS

37.1. Designer/Builder & Subcontractor Registration

37.1.1. Designer/Builder shall comply with the registration and compliance monitoring provisions of Labor Code section 1771.4, including furnishing its CPRs to the Labor Commissioner of California and complying with any applicable enforcement by the Department of Industrial Relations. Labor Code section 1771.1(a) states the following:

“A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

37.1.2. Designer/Builder acknowledges that, for purposes of Labor Code section 1725.5, all or some of the Work is a public work to which Labor Code section 1771 applies. Designer/Builder shall comply with Labor Code section 1725.5, including without limitation the registration requirements. Additionally, all Contractor’s Subcontractors shall comply with Labor Code section 1725.5 to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of the Contract. Designer/Builder represents that all of its Subcontractors are registered pursuant to Labor Code section 1725.5.

37.1.3. The Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Designer/Builder shall post job site notices, as prescribed by regulation. Designer/Builder shall comply with all requirements of Labor Code section 1771.4, except the requirements that are exempted by the Labor Commissioner for the Project.

37.2. Wage Rates, Travel and Subsistence

37.2.1. Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, division 2, of the Labor Code of California, the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification, or type of worker needed to execute this Contract are on file at the District’s principal office and copies will be made available to any interested party on request. Designer/Builder shall obtain and post a copy of these wage rates at the job site.

37.2.2. Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the above specified rate of per diem wages, unless otherwise specified. The holidays upon which those rates shall be paid need not be specified by the District, but shall be all holidays recognized in the applicable collective bargaining agreement. If the prevailing rate is not based on a collectively bargained rate, the holidays upon which the prevailing rate shall be paid shall be as provided in Section 6700 of the Government Code.

37.2.3. Designer/Builder shall pay and shall cause to be paid each worker engaged in Work on the Project not less than the general prevailing rate of per diem wages determined by the Director of the Department of Industrial Relations (“DIR”) (“Director”), regardless of any contractual relationship which may be alleged to exist between Designer/Builder or any Subcontractor and such workers.

37.2.4. If during the period this bid is required to remain open, the Director determines that there has been a change in any prevailing rate of per diem wages in the locality in which the Work under the Contract is to be performed, such change shall not alter the wage rates in the Notice to Bidders or the Contract subsequently awarded.

37.2.5. Pursuant to Labor Code section 1775, Designer/Builder shall, as a penalty to District, forfeit the statutory amount, (currently not to exceed two hundred dollars ($200) for each calendar day, or portion thereof), for each worker paid less than the prevailing rates, as determined by the District
and/or the Director, for the work or craft in which that worker is employed for any public work done under Contract by Designer/Builder or by any Subcontractor under it.

37.2.5.1. The amount of the penalty shall not be less than forty dollars ($40) for each calendar day, or portion thereof, unless the failure of Designer/Builder was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of Contractor.

37.2.5.2. The amount of the penalty shall not be less than eighty dollars ($80) for each calendar day or portion thereof, if Designer/Builder has been assessed penalties within the previous three (3) years for failing to meet Contractor’s prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

37.2.5.3. The amount of the penalty may not be less than one hundred twenty dollars ($120) for each calendar day, or portion thereof, if the Labor Commissioner determines the Designer/Builder willfully violated Labor Code section 1775.

37.2.5.4. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by Contractor.

37.2.6. Any worker employed to perform Work on the Project, which Work is not covered by any classification listed in the general prevailing wage rate of per diem wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to Work to be performed by him, and such minimum wage rate shall be retroactive to time of initial employment of such person in such classification.

37.2.7. Pursuant to Labor Code section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence pay, and apprenticeship or other training programs authorized by section 3093, and similar purposes.

37.2.8. Designer/Builder shall post at appropriate conspicuous points on the Site of Project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned. In addition, Designer/Builder shall post a sign-in log for all workers and visitors to the Site, a list of all subcontractors of any tier on the Site, and the required Equal Employment Opportunity poster(s).

37.3. Hours of Work

37.3.1. As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code, eight (8) hours of labor shall constitute a legal days work. The time of service of any worker employed at any time by Designer/Builder or by any Subcontractor on any subcontract under this Contract upon the Work or upon any part of the Work contemplated by this Contract shall be limited and restricted by Designer/Builder to eight (8) hours per day, and forty (40) hours during any one week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, Work performed by employees of Designer/Builder in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

37.3.2. Designer/Builder shall keep and shall cause each Subcontractor to keep an accurate record showing the name of and actual hours worked each calendar day and each calendar week by each worker employed by Designer/Builder in connection with the Work or any part of the Work contemplated by this Contract. The record shall be kept open at all reasonable hours to the inspection of District and to the Division of Labor Standards Enforcement of the DIR.

37.3.3. Pursuant to Labor Code section 1813, Designer/Builder shall as a penalty to the District forfeit the statutory amount (believed by the District to be currently twenty five dollars ($25)) for each worker employed in the execution of this Contract by Designer/Builder or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in
any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2, of the Labor Code.

37.3.4. Any Work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to the District.

37.4. Payroll Records

37.4.1. If requested by the District, Designer/Builder shall provide to the District and shall cause each Subcontractor performing any portion of the Work to provide the District and an accurate and certified payroll record ("CPR(s)"). showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Designer/Builder and/or each Subcontractor in connection with the Work.

37.4.1.1. In addition to any other requirements pursuant to Labor Code sections 1770, et seq., the CPRs enumerated hereunder shall be certified.

37.4.2. All CPRs shall be available for inspection at all reasonable hours at the principal office of Designer/Builder on the following basis:

37.4.2.1. A certified copy of an employee’s CPR shall be made available for inspection or furnished to the employee or his/her authorized representative on request.

37.4.2.2. CPRs shall be made available for inspection or furnished upon request to a representative of District, Division of Labor Standards Enforcement, Division of Apprenticeship Standards, and/or the Department of Industrial Relations.

37.4.2.3. CPRs 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 District, Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested CPRs have not been provided pursuant to the provisions herein, the requesting party shall, prior to being provided the records reimburse the costs of preparation by 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 Contractor.

37.4.3. The form of certification for the CPRs shall be as follows:

I, __________________ (Name-Print), the undersigned, am the ___________________________ (Position in business) with the authority to act for and on behalf of ___________________________ (Name of business and/or Designer/Builder), certify under penalty of perjury that the records or copies thereof submitted and consisting of ___________________________ (Description, number of pages) are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of actual disbursements by way of cash, check, or whatever form to the individual or individual named, and (b) we have complied with the requirements of sections 1771, 1811, and 1815 of the Labor Code for any work performed by our employees on the Project.

Date: ___________________________ Signature: ___________________________

(Section 16401 of Title 8 of the California Code of Regulations)

37.4.4. Designer/Builder and all Subcontractors shall file a certified copy of the CPRs with the entity that requested the records within ten (10) days after receipt of a written request.

37.4.5. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by District, Division of Apprenticeship Standards, or Division of Labor Standards Enforcement 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 Designer/Builder awarded Contract or performing Contract shall not be marked or obliterated.
37.4.6. Designer/Builder shall inform District of the location of the records enumerated hereunder, including the street address, city, and county, and shall, within five (5) working days, provide a notice of change of location and address.

37.4.7. In the event of noncompliance with the requirements of this section, Designer/Builder shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Designer/Builder must comply with this section. Should noncompliance still be evident after the ten (10) day period, Designer/Builder shall, as a penalty to District, forfeit one hundred dollars ($100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of Division of Apprenticeship Standards or Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due.

37.4.8. It shall be the responsibility of Designer/Builder to ensure compliance with the provisions of Labor Code section 1776.

37.5. **Apprentices**

37.5.1. Designer/Builder acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777.5, then this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of Designer/Builder to ensure compliance with this Article and with Labor Code section 1777.5 for all apprenticeship occupations.

37.5.2. Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly registered in full compliance with the provisions of the Labor Code.

37.5.3. Every such apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he/she is employed, and shall be employed only at the work of the craft or trade to which he/she is registered.

37.5.4. Only apprentices, as defined in section 3077 of the Labor Code, who are in training under apprenticeship standards and written apprentice agreements under chapter 4 (commencing at section 3070), division 3, of the Labor Code, are eligible to be employed. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he/she is training.

37.5.5. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Designer/Builder and any Subcontractors employing workers in any apprenticeable craft or trade in performing any Work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Designer/Builder or Subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the Work.

37.5.6. Pursuant to Labor Code section 1777.5, if that section applies to this Contract as indicated above, Designer/Builder and any Subcontractor may be required to make contributions to the apprenticeship program.

37.5.7. If Designer/Builder or Subcontractor willfully fails to comply with Labor Code section 1777.5, then, upon a determination of noncompliance by the Administrator of Apprenticeship, it shall:

37.5.7.1. Be denied the right to bid on any subsequent project for one (1) year from the date of such determination;

37.5.7.2. Forfeit as a penalty to District the full amount as stated in Labor Code section 1777.7.

Interpretation and enforcement of these provisions shall be in accordance with the rules and procedures of the California Apprenticeship Council and under the authority of the Chief of the Division of Apprenticeship Standards.

37.5.8. Designer/Builder and all Subcontractors shall comply with Labor Code section 1777.6, which section forbids certain discriminatory practices in the employment of apprentices.

37.5.9. Designer/Builder shall become fully acquainted with the law regarding apprentices prior to commencement of the Work. Special attention is directed to sections 1777.5, 1777.6, and 1777.7 of
37.5.10. Designer/Builder shall ensure compliance with all certification requirements for all workers on the Project including, without limitation, the requirements for electrician certification in Labor Code sections 108, et seq.

37.6. **Non-Discrimination**

37.6.1. It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, national origin, ancestry, religion, age, physical or mental disability, sex, or sexual orientation of such person, and therefore the Designer/Builder agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Designer/Builder agrees to require like compliance by all its subcontractor(s).

37.6.2. Special requirements for Federally Assisted Construction Contracts: During the performance of this Contract, Designer/Builder agrees to incorporate in all subcontracts the provisions set forth in Chapter 60-1.4(b) of Title 41 published in Volume 33 No. 104 of the Federal Register dated May 28, 1968.

37.7. **Labor First Aid**. Designer/Builder shall maintain emergency first aid treatment for Contractor’s workers on the Project which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.) the California Occupational Safety and Health Act of 1973, and all related regulations, including without limitation section 330 et seq. of Title 8 of the California Code of Regulations.

38. **ANTI-TRUST CLAIM**: Designer/Builder and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or a subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Designer/Builder, without further acknowledgment by the Parties.

39. **GOVERNING LAW**: This Contract shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a County in which the District administration office is located.

40. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED**: Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included therein.

41. **BINDING CONTRACT**: This Contract shall be binding upon the Parties and upon their successors and assigns, and shall inure to the benefit of said parties and their successors and assigns.

42. **DISTRICT WAIVER**: District’s waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.

43. **INVALID TERM**: If any provision of this Contract is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Contract.

44. **ENTIRE CONTRACT**: This Contract sets forth the entire Contract between the Parties and fully supersedes any and all prior agreements, understanding, written or oral, between the Parties pertaining to the subject matter thereof. This Contract may be modified only by a writing upon mutual consent.

45. **OWNERSHIP OF CERTAIN PROPRIETARY PROPERTY RIGHTS**: District shall not, by virtue of this Contract, acquire any interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or similar items of property which are or may be used in connection with the equipment. Designer/Builder shall grant to District a perpetual, irrevocable royalty-free license for any and all software or other
intellectual property rights necessary for District to continue to operate, maintain, and repair the equipment in a manner that will yield maximum energy production and/or energy consumption reductions.

46. **OWNERSHIP OF ANY EXISTING EQUIPMENT:** Ownership of any equipment and materials presently existing at the Facilities at the time of execution of this Contract shall remain the property of the District even if it is replaced or its operation made unnecessary by work performed by Designer/Builder pursuant to this Contract. If applicable, Designer/Builder shall advise District in writing of all equipment and materials that will be replaced at the Facilities and District shall, within five (5) business days of Designer/Builder’ notice, designate in writing to Designer/Builder which replaced equipment and materials that should not be disposed of off-site by Designer/Builder (the "Retained Items"). It is understood and agreed to by both Parties that District shall be responsible for and designate the location and storage for the Retained Items. Designer/Builder shall be responsible for the disposal of replaced equipment and materials, except for the Retained Items. Designer/Builder shall use commercially reasonable efforts to remove the Retained Items in such a manner as to avoid damage thereto, or if it is unreasonable to avoid damage altogether, to minimize the damage done.

47. **UTILITY WORK:** District expressly understands and agrees that the definition "Force Majeure" above also includes any Interconnection Facilities work that may need to be performed by the local Utility ("Utility") in order for Designer/Builder to fully implement the Project. "Interconnection Facilities" shall mean any distribution or transmission lines and other facilities that may be required to connect equipment supplied under this Contract to an electrical distribution/transmission system owned and maintained by the Utility. Any Interconnection Facilities work that may be required will be performed by the Utility under a separate contract between District and the Utility. Designer/Builder shall prepare all Interconnection Facilities documentation, and collect all Interconnection Facilities information in a time frame to ensure maximum benefit to the District and to comply with all requirements. Designer/Builder shall also cooperate and assist the District in facilitating the Interconnection Facilities work.

48. **REBATE PROGRAMS:** On behalf of the District, Designer/Builder shall prepare and submit to the applicable agencies all applications and documentation necessary for all available energy production and/or energy efficiency rebate(s), incentive(s), and/or loan program(s) ("Incentive Funds"). This shall include actions necessary to ensure compliance with the Utility’s net metering program and all interconnection agreements and related documents for the District’s participation and utilization of the benefits of that program. While Designer/Builder has extensive experience in assisting Districts with procuring Incentive Funds for school districts, Designer/Builder cannot guarantee that these Incentive Funds will be received by the District. Procurement, or lack thereof, of these Incentive Funds will not alter the Contract Amount of this Contract, or payment timeline associated with standard progress invoicing and payments.

49. **RESPONSIBILITIES OF THE DISTRICT**

49.1. The District shall examine the documents submitted by the Designer/Builder and shall render decisions so as to avoid unreasonable delay in the process of the Designer/Builder’s Services.

49.2. The District shall verbally or in writing advise the Designer/Builder if the District becomes aware of any fault or defect in the Project, including any errors, omissions or inconsistencies in the Designer/Builder’s documents. Failure to provide such notice shall not relieve Designer/Builder of its responsibility therefore, if any.

49.3. Unless the District and the Designer/Builder agree that a hazardous materials consultant shall be a consultant of the Designer/Builder, the District shall furnish the services of a hazardous material consultant or other consultants when such services are requested in writing by Designer/Builder and deemed necessary by the District or are requested by the District. These services shall include: asbestos and lead paint survey; abatement documentation; and specifications related to said matters which are to be incorporated into bid documents prepared by Designer/Builder. If the hazardous materials consultant is furnished by the District and not a consultant of the Designer/Builder, the specifications shall include a note to the effect that they are included in the Designer/Builder’s bid documents for the District’s convenience and have not been prepared or reviewed by the Designer/Builder. The note shall also direct questions about the specifications to its preparer.

49.4. District personnel and/or its designated representatives shall coordinate with Designer/Builder as may be requested and desirable for the coordination or management of work related to the Project.

49.5. The District shall provide to the Designer/Builder all relevant information it knows it possesses regarding the Project that the Designer/Builder needs to perform its Services. The District shall provide this information and its decisions required under this Contract in a timely manner and to avoid unreasonable delay in the Project.
49.6. The District will pay for all fees associated with any rebate programs for programs the District wishes to participate in.

50. LIABILITY OF DISTRICT

50.1. Other than as provided in this Contract, District’s financial obligations under this Contract shall be limited to the payment of the compensation provided in this Contract. Notwithstanding any other provision of this Contract, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Contract for the Services performed in connection with this Contract.

50.2. District shall not be responsible for any damage to persons or property as a result of the Designer/Builder’s use, misuse or failure of any equipment used by Designer/Builder, or by its employees, even though such equipment be furnished or loaned to Designer/Builder by District.
EXHIBIT A
(SCOPE OF SERVICES)

[THIS IS A SAMPLE ONLY. THE SCOPE OF SERVICES SHALL BE AGREED UPON BY THE DISTRICT AND DESIGN/BUILDER AND CAN BE REVISED IF REQUIRED.]

Article 1. Designer/Builder agrees to provide the services described below at the following school sites:

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<th>SCHOOL SITE NAME</th>
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Article 2. DESIGN SERVICES

2.1. During the Design and Construction Phases of the Project, Designer/Builder will meet with District to review equipment, scope of work, and installation plans that relate to the design and construction of the Project.

2.2. During the course of the Work, and at least weekly, Designer/Builder will provide reports to the District of the general status and progress of the Work.

2.3. Although the Parties acknowledge that the Designer/Builder’s Services are not completely severable between design, procurement, installation, construction, commissioning, and training, the following scope of services will be generally referred to as the Services that the Designer/Builder shall perform during the Design and Construction Phases of the Project, for the scope of work for which Designer/Builder is designing the Project, which shall be as indicated in the Construction Documents.

2.4. Scope, Responsibilities, and Services of Designer/Builder

2.4.1. Designer/Builder shall provide Services that shall comply with professional engineering standards, recognized industry standards professional skill and judgment, and applicable requirements of federal, state, and local law.

2.4.2. Designer/Builder acknowledges that all California school districts are now obligated to develop and implement storm water requirements.

2.4.3. Designer/Builder shall contract for or employ at Designer/Builder’s expense, consultant(s) to the extent deemed necessary for completion of its Services on the Project including, but not limited to, architects, mechanical, electrical, structural, civil engineers, landscape architects, low voltage, data, and telephone consultants as necessary, licensed as required by the State of California. Nothing in the foregoing procedure shall create any contractual relationship between the District and any consultant employed by the Designer/Builder under terms of the Contract.

2.4.4. The District shall provide to Designer/Builder information and documentation that the District currently has related to the Site including geotechnical reports, topographic surveys, and related items. If Designer/Builder believes that the information or documentation the District provides is insufficient for purposes of design or if the Designer/Builder believes it needs additional information, including a topographical survey; geotechnical report; structural, mechanical, and/or chemical tests; tests for air and/or water pollution; test borings; test pits; determinations of soil bearing values; determinations of the location of all subsurface utilities; percolation tests; ground corrosion tests; resistivity tests; tests for hazardous materials; tests for anticipating subsoil conditions; and/or other tests reasonably related to performance of the Project, the Designer/Builder shall inform the District of that fact and the Parties shall mutually agree on the items required and the process and responsibility to procure those items.

2.4.5. Designer/Builder shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the...
design, coordination, or management of other work on the Site.

2.4.6. Where applicable, Designer/Builder shall identify the regulatory agencies that have jurisdiction over essential building and design elements and coordinate with and implement the requirements of the regulatory agencies or their authorized agents, including, without limitation, California Department of Education (CDE), the Office of Public School Construction (OPSC), the Department of General Services (DGS), DSA Fire/Life Safety, DSA Access Compliance Section, DSA Structural Safety, State Fire Marshal, County and City Health Inspectors and any regulatory office or agency that has authority for review and supervision of school district construction projects.

2.4.7. As required, Designer/Builder shall provide Services required to obtain local agencies’ (e.g., City, County, etc.) approval for off-Site work related to the Project including review by regulatory agencies having jurisdiction over the Project, if applicable.

2.4.8. Designer/Builder shall coordinate with the District’s DSA Project Inspector(s).

2.4.9. Designer/Builder shall use its best efforts to provide pictures downloaded to computer files, updated as requested by the District, that the District may use on its website. Pictures shall be limited to Designer/Builder’s Project scope.

2.4.10. As part of the Services, Designer/Builder is NOT responsible for the following, however, it shall coordinate and integrate its Work with any of the following information and/or services provided by District:

2.4.10.1. Ground contamination or hazardous material analysis.

2.4.10.2. Any asbestos and/or lead testing, design or abatement.

2.4.10.3. Compliance with the California Environmental Quality Act (“CEQA”), except that Designer/Builder agrees to coordinate its Work with that of any CEQA consultants retained by the District, to provide any reasonably available information, such as current elevations and schematic drawings for use in CEQA compliance documents, and to incorporate any mitigation measures adopted by the District into the Project design at no additional cost to the District. If the District and/or its CEQA consultant do not provide mitigation measures to the Designer/Builder when reasonably required for incorporation into the Project design, the Designer/Builder may invoice the District for the work required to incorporate those mitigation measures as Extra Services.

2.4.10.4. Historical significance report.

2.5. Designer/Builder Staff

2.5.1. The Designer/Builder has been selected to perform the Services herein because of its skills and expertise.

2.5.2. The Designer/Builder shall not change any of the key personnel without prior written approval by District, unless said personnel cease to be employed by Designer/Builder. In either case, District shall be allowed to interview and approve replacement personnel. Such approval shall not be unreasonably withheld or delayed.

2.5.3. If any designated lead or key person fails to perform to the reasonable satisfaction of the District, then upon written notice the Designer/Builder shall have five (5) days to remove that person from the Project and replace that person with one reasonably acceptable to the District.

2.5.4. Designer/Builder shall comply with Education Code section 17302(a) and agrees that any plans and/or specifications included in the Services shall be prepared under the supervision of licensed personnel, and that licensed personnel shall be in “responsible charge” of persons who observe the construction.

2.6. Ownership of Data

2.6.1. Pursuant to Education Code section 17316, the Contract creates a non-exclusive and perpetual license for District to use, at its discretion, all plans, including, but not limited to, record drawings, specifications, and estimates that the Designer/Builder or its consultants, prepares or causes to be
prepared pursuant to this Contract, limited to this Work.

2.6.2. The Designer/Builder retains all rights to all copyrights, designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that the Designer/Builder or its consultants prepares or causes to be prepared pursuant to this Contract.

2.6.3. The Designer/Builder shall perform the Services and prepare design documents under the Contract with the assistance of Computer Aided Design Drafting (CADD) (e.g., AutoCAD) Technology. The Designer/Builder shall deliver to the District, on request “thumb” drive, and/or compact disc format and compatible with AutoCAD 2006 (.not-pdf). As to any drawings that Designer/Builder provides in a CADD file format, the District acknowledges that anomalies and errors may be introduced into data when it is transferred or used in a computer environment, and that the District should rely on hard copies of all documents.

2.6.4. In order to document exactly what CADD information was given to the District, Designer/Builder and District shall each sign a “hard” copy of reproducible documents that depict the information at the time Designer/Builder produces the CADD information. District agrees to release Designer/Builder from all liability, damages, and/or claims that arise due to any changes made to this information by anyone other than the Designer/Builder or Consultant(s) subsequent to it being given to the District.

2.6.5. Following the termination of the Contract, for any reason whatsoever, the Designer/Builder shall promptly deliver to the District upon written request the following items (hereinafter “Instruments of Service”) in electronic format (Microsoft Word), assuming the District has made all payments to Designer/Builder as required by the termination provisions in this Contract.

2.6.5.1. One set of the Contract, including the bidding requirements, specifications, and all existing cost estimates for the Project, in hard copy, reproducible format.

2.6.5.2. Where applicable, one set of fixed image CADD files in DXF format of the drawings that are part of the Contract.

2.6.5.3. Where applicable, one set of non-fixed image CADD drawing files in DXF and/or DWG format of the site plan, floor plans (architectural, plumbing, structural mechanical and electrical), roof plan, sections and exterior elevations of the Project.

2.6.5.4. All finished or unfinished documents, studies, reports, calculations, drawings, maps, models, photographs, and reports prepared by the Designer/Builder under the Contract.

2.6.6. In the event the District changes or uses any fully or partially completed documents without the Designer/Builder’s knowledge and participation, the District agrees to release Designer/Builder of responsibility for such changes, and shall indemnify, defend and hold the Designer/Builder harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys’ fees, on account of any damages or losses to property or persons, including injuries or death, or economic losses, arising out of that change or use except to the extent the Designer/Builder is found to be liable in a forum of competent jurisdiction. In the event District uses any fully or partially completed documents without the Designer/Builder’s full involvement, the District shall remove all title blocks and other information that might identify the Designer/Builder and the Designer/Builder’s consultants.

2.7. Certificate of Designer/Builder. Designer/Builder certifies that the Designer/Builder is properly licensed under the laws and regulations of the State of California to provide the professional Services that it has herein agreed to perform.

Article 3. DESIGN SERVICES BY PHASE

3.1. EARLY DESIGN PHASE(S). Design/Builder agrees to provide the services described below:

3.1.1. Design/Builder shall be responsible for the professional quality and technical accuracy of all studies, reports, projections, master plans, designs, drawings, specifications and other Services furnished by Design/Builder under the Contract, as well as coordination with all Master plans, studies, reports and other information provided by District. Design/Builder shall, without additional compensation, correct or revise any errors or omissions in its studies, reports, projections, master plans, design,
drawings, specifications and other Services.

3.1.2. The District shall provide all information available to it to the extent the information relates to Designer/Builder’s scope of work. This information shall include, if available,

3.1.2.1. Physical characteristics;

3.1.2.2. Legal limitations and utility locations for the Project site(s);

3.1.2.3. Written legal description(s) of the Project site(s);

3.1.2.4. Grades and lines of streets, alleys, pavements, and adjoining property and structures;

3.1.2.5. Adjacent drainage;

3.1.2.6. Rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, and boundaries and contours of the Project site(s);

3.1.2.7. Locations, dimensions and necessary data with respect to existing buildings, other improvements and trees;

3.1.2.8. Information concerning available utility services and lines, mechanical and other services, both public and private, above and below grade, including inverts and depths;

3.1.2.9. Surveys, reports, as-built drawings;

3.1.2.10. Subsoil data, chemical data, and other data logs of borings;

3.1.2.11. DSA Numbers for all buildings, as necessary to obtain DSA approval of plans to be submitted by Designer/Builder under the contracted scope of Work.

3.1.3. Designer/Builder shall Visually Verify this information and all existing utilities and systems related to the Project, including capacity, and document the location of existing utility lines, vents, telephone, water, sewage, storm drains and other lines on or around the Project to the extent determinable by the documents provided by the District. “Visually Verify” means to verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

3.1.4. Technology Backbone. Designer/Builder shall be responsible for the coordination of the design and the layout of the technology backbone system of the Work with the District’s Information Technology Department and/or the District’s technology consultant, and lay out any included technology backbone system. The coordination effort shall include location and routing of raceways, conduits and outlets and the required spaces to accommodate electrical, data and communication wiring. Designer/Builder and consultant(s) shall prepare and be responsible for documents prepared by the Designer/Builder based on the information provided by the District’s technology consultant as appropriate to the level of design completion.

3.2. SCHEMATIC DESIGN PHASE.

Upon District’s acceptance of Designer/Builder’s Work in the previous Phase and assuming District has not delayed or terminated the Contract, the Designer/Builder shall prepare for the District’s review a Schematic Design, containing the following items as applicable to the Project scope, as follows:

3.2.1. Prepare and review with District staff a scope of Work list and Work plan identifying specific tasks including, but not limited to: interviews, data collection, analysis, report preparation, planning, architectural programming, concepts and schematic design preparation and estimating that are part of the work of the Project. Also identified will be milestone activities or dates, specific task responsibilities of the Designer/Builder, required completion times necessary for the review and approval by the District and by pertinent regulatory agencies and additional definition of deliverables.

3.2.2. Review the developed Work plan with the District and its representatives to familiarize them with the proposed tasks and schedule and develop necessary modifications.

3.2.3. Architectural

3.2.3.1. Scaled floor plans showing overall dimensions, identifying the various major areas and their relationship. Include circulation and room-by-room tabulation of all net usable floor areas
and a summary of gross floor area. Also, provide typical layouts of major equipment or operational layout.

3.2.3.2. Preliminary building exterior elevations and sections in sufficient detail to demonstrate design concept indicating location and size of fenestration.

3.2.3.3. As applicable, identify proposed roof system, deck, insulation system, and drainage technique.

3.2.3.4. Identify minimum finish requirements, including ceiling, floors, walls, doors, windows, and types of hardware.

3.2.3.5. Identify code requirements, include occupancy classification(s) and type of construction.

3.2.4. **Structural**

3.2.4.1. Layout structural systems with dimensions and floor elevations. Identify structural systems (including pre-cast, structural steel with composite deck, structural steel bar joists); with preliminary sizing identified.

3.2.4.2. Identify foundation systems (including fill requirements, piles, caissons, spread footings); with preliminary sizing identified.

3.2.5. **Mechanical**

3.2.5.1. Calculate block heating, ventilation, and cooling loads including skin versus internal loading.

3.2.5.2. Select a minimum of two (2) HVAC systems that appear compatible with loading conditions for subsequent life cycle costing.

3.2.5.3. Show selected system on drawings as follows:

3.2.5.4. Single line drawing(s) of all mechanical equipment spaces, ductwork and pipe chases.

3.2.5.5. Location and preliminary sizing of all major equipment and duct work in allocated spaces.

3.2.5.6. Schematic piping.

3.2.5.7. Temperature control zoning.

3.2.5.8. Provide design criteria to include the intent base of design for the projects.

3.2.5.9. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

3.2.6. **Electrical**

3.2.6.1. Calculate overall approximate electrical loads.

3.2.6.2. Identify proposed electrical system for service, power, lighting, low voltage and communication loads, including proposed or planned additional buildings or other facilities on the Project site.

3.2.6.3. Show system(s) selected on drawings as follows:

3.2.6.4. Single line drawing(s) showing major distribution system.

3.2.6.5. Location and preliminary sizing of all major electrical systems and components including:

3.2.6.5.1. Load centers.

3.2.6.5.2. Main panels.

3.2.6.5.3. Switch gear.

3.2.6.6. Provide design criteria to include the intent base of design for the projects.
3.2.6.7. Evaluate and confirm the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

3.2.7. **Civil**

3.2.7.1. Develop on and off site utility systems such as sewer, water, storm drain, firewater lines, and fire hydrants.

3.2.7.2. Identify surface improvements including roadways, walkways, parking (with assumed wheel weights), preliminary finish grades, and drainage.

3.2.7.3. Coordinate finish floor elevations with architectural site plan.

3.2.8. **Landscape.** Develop and coordinate landscape design concepts entailing analysis of existing conditions, proposed components and how the occupants will use the facility. Include location and description of planting, ground improvements, and visual barriers.

3.2.9. **Specifications.** Prepare proposed revisions to the specifications of proposed architectural, structural, mechanical and electrical materials, systems and equipment and their criteria and quality standards. Designer/Builder is to use District’s standardized equipment/material list for new construction and modernization in development of the Project design and specifications.

3.2.10. **Meetings.** During this Phase, Designer/Builder shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below.

3.2.11. **Deliverables and Numbers of Copies.** Designer/Builder shall provide to the District one hard copy of the above noted items produced in this phase, together with one copy of each item in electronic format

3.2.11.1. Two copies of meeting Reports/Minutes;

3.2.11.2. Two copies of Schematic Design Package with alternatives;

3.2.11.3. Two copies of a statement indicating changes made to the Architectural Program and Schedule;

3.2.11.4. Two copies of DSA file, including all correspondence and meeting notes to date, or notification in writing that Designer/Builder has not met or corresponded with DSA.

3.2.12. **Presentation**

3.2.12.1. Designer/Builder shall present and review with the District the detailed Schematic Design.

3.2.12.2. The Schematic Design shall be revised within the accepted program parameters until a final concept within the accepted Construction Cost Budget has been accepted and approved by the District at no additional cost to the District.

3.3. **DESIGN DEVELOPMENT PHASE.**

Upon District’s acceptance of Designer/Builder’s Work in the previous Phase and assuming District has not delayed or terminated the Contract, the Designer/Builder shall prepare from the accepted deliverables from the Schematic Design Phase the Design Development Phase documents consisting of the following for each proposed system within Designer/Builder’s scope of Work:

3.3.1. **Architectural**

3.3.1.1. Scaled, dimensioned floor plans with final room locations including all openings.

3.3.1.2. 1/8” scale building sections showing dimensional relationships, materials, and component relationships.

3.3.1.3. Identification of all fixed equipment to be installed in contract.

3.3.1.4. Site plan completely drawn with beginning notes and dimensions including grading and paving.
3.3.1.5. Preliminary development of details and large scale blow-ups.

3.3.1.6. Legend showing all symbols used on drawings.

3.3.1.7. Floor plans identifying all fixed and major movable equipment and furniture.

3.3.1.8. Further refinement of Outline Specification for architectural, structural, mechanical, electrical, civil and landscape manuals, systems and equipment.

3.3.1.9. Typical reflected ceiling development including ceiling grid and heights for each ceiling to be used, showing:

3.3.1.10. Light fixtures.

3.3.1.11. Ceiling registers or diffusers.


3.3.2. Structural

3.3.2.1. Structural drawing with all major members located and sized.

3.3.2.2. Establish final building and floor elevations.

3.3.2.3. Preliminary specifications.

3.3.2.4. Identify foundation requirement (including fill requirement, piles) with associated soil pressure, water table and seismic center.

3.3.3. Mechanical

3.3.3.1. Heating and cooling load calculations as required and major duct or pipe runs sized to interface with structural.

3.3.3.2. Major mechanical equipment should be scheduled indicating size and capacity.

3.3.3.3. Ductwork and piping should be substantially located and sized.

3.3.3.4. Devices in ceiling should be located.

3.3.3.5. Legend showing all symbols used on drawings.

3.3.3.6. More developed Outline Specifications indicating quality level and manufacture.

3.3.3.7. Control Systems to be identified.

3.3.3.8. Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

3.3.4. Electrical

3.3.4.1. All lighting fixtures should be located and scheduled showing all types and quantities of fixtures to be used, including proposed lighting levels for each usable space.

3.3.4.2. All major electrical equipment should be scheduled indicating size and capacity.

3.3.4.3. Complete electrical distribution including a one line diagram indicating final location of switchboards, communications, controls (high and low voltage), motor control centers, panels, transformers, and emergency generators, if required. Low voltage system includes fire alarm system, security system, clock and public address system, voice data system, and telecom/technology system.

3.3.4.4. Legend showing all symbols used on drawings.

3.3.4.5. More developed and detailed Outline Specifications indicating quality level and manufacture.
3.3.4.6. Further evaluation and confirmation of the load requirements of all equipment and systems, the impact of those on existing facilities, and the requirements to increase these loads to accommodate the increase.

3.3.5. **Civil**

3.3.5.1. Further refinement of Schematic Design Phase development of on and off site utility systems for sewer, electrical, water, storm drain and fire water. Includes, without limitation, pipe sizes, materials, invert elevation location and installation details.

3.3.5.2. Further refinement of Schematic Design Phase roadways, walkways, parking and storm drainage improvements. Includes details and large scale drawings of curb and gutter, manhole, thrust blocks, paved parking and roadway sections.

3.3.6. **Landscape.** Further refinement of Schematic Design concepts. Includes coordination of hardscape, landscape planting, ground cover and irrigation main distribution lines.

3.3.7. **Deliverables and Numbers of Copies**

3.3.7.1. Two copies of Design Development drawing set from all professional disciplines necessary to deliver the Project;

3.3.7.2. Two copies of continued proposed revision to Specifications;

3.3.7.3. Two copies of DSA file, including all correspondence and meeting notes to date, or notification in writing that Designer/Builder has not met or corresponded with DSA.

3.3.7.4. The Design Development deliverables shall be revised within the accepted program parameters until a final concept within the accepted Construction Cost Budget.

3.3.8. **Meetings.** During this Phase, Designer/Builder shall attend, take part in, and, when indicated, conduct meetings, site visits, and workshops as indicated below.

**3.4. CONSTRUCTION DOCUMENTS PHASE**

Upon District’s acceptance of Designer/Builder’s Work in the previous Phase and assuming District has not delayed or terminated the Contract, Designer/Builder shall prepare a set of 90% complete construction documents for review by the District. Upon approval by District, said construction documents shall be completed and then submitted to, as required, local planning or inspection office, DSA, or other agency with approval jurisdiction over the Project. The Designer/Builder shall prepare from the accepted deliverables from the Design Development Phase the Construction Documents consisting of the following for each proposed system within Designer/Builder’s scope of Work:

3.4.1. **General.** Verify lead times and availability of all Project equipment, materials, supplies, and furnishings and ensure that all of these will be available to the contractor(s) in a timely fashion so as to not delay the Project and/or delay the District’s Beneficial Use of the Project. The Designer/Builder shall also provide other options to the District regarding other possible and more available equipment, materials, supplies, or furnishings.

3.4.2. **Architectural**

3.4.2.1. Completed site plan.

3.4.2.2. Completed floor plans, elevations, and sections.

3.4.2.3. Architectural details and large blow-ups completed.

3.4.2.4. Finish, door, and hardware schedules completed, including all details.

3.4.2.5. Fixed equipment details and identification completed.

3.4.2.6. Reflected ceiling plans completed.

3.4.3. **Structural**

3.4.3.1. Structural floor plans and sections with detailing completed.
3.4.3.2. Structural calculations completed.

3.4.3.3. Completed cover sheet with general notes, symbols and legends.

3.4.4. **Mechanical**

3.4.4.1. Large scale mechanical details complete.

3.4.4.2. Mechanical schedules for equipment completed.

3.4.4.3. Completed electrical schematic for environmental cooling and exhaust equipment.

3.4.4.4. Complete design of Emergency Management System (“EMS”).

3.4.4.5. Complete energy conservation calculations and report.

3.4.5. **Electrical**

3.4.5.1. Lighting and power plan showing all switching and controls. Fixture schedule and lighting details completed.

3.4.5.2. Distribution information on all power consuming equipment, including lighting, power, signal, and communication device(s) branch wiring completed.

3.4.5.3. All electrical equipment schedules completed.

3.4.5.4. Special system components plans completed.

3.4.5.5. Electrical load calculations completed.

3.4.5.6. Complete design of low voltage system. Low voltage system includes fire alarm system, security system, clock and public address system, voice data system, and telecom/technology system.

3.4.6. **Civil**. All site plans, site utilities, parking and roadway systems completed.

3.4.7. **Landscape**. All landscape, hardscape, and irrigation plans completed and reflecting updated revisions from Design Development Phase Documents.

3.4.8. **Specifications**

3.4.8.1. Complete proposed revisions to the technical specifications describing materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.

3.4.8.2. No part of the specifications shall call for a designated material, product, thing, or service by specific brand or trade name unless the District has given prior approval.

3.4.9. **Constructability Review**. The District and/or its designee shall conduct a construction review of the Construction Documents. A report shall be given to the Designer/Builder who shall make necessary changes along with providing written comments for each item listed in the report.

3.4.10. **Deliverables and Numbers of Copies**. Designer/Builder shall provide to the District a hard copy of the following items produced in this phase, together with one copy of each item in electronic format:

3.4.10.1. Two copies of reproducible copies of working drawings;

3.4.10.2. Two copies of proposed revisions to specifications;

3.4.10.3. Two copies of engineering calculations;

3.4.10.4. Two copies of statement of requirements for testing and inspection of service for compliance with Contract Documents and applicable codes;

3.4.10.5. Two copies of DSA file including all correspondence, meeting, back check comments, checklists to date;
3.4.10.6. Two copies of a statement indicating any authorized changes made to the design from the last Phase and the cost impact of each change. If no design changes occur but shifts of costs occur between disciplines, identify for District review.

3.4.11. **Construction Documents (CD) Final Back-Check Stage (where applicable)**

3.4.11.1. The Construction Documents final back-check stage shall be for the purpose of Designer/Builder incorporating all regulatory agencies' comments into the drawings, specifications, and schedules. All changes made by the Designer/Builder during this stage shall be at no additional cost to the District.

3.4.11.2. The final Construction Documents delivered to the District upon completion of the Designer/Builder’s Work shall be the final set and shall consist of the original drawings with designers’ and engineers’ State license stamp.

3.4.11.3. **Meetings.** Designer/Builder shall attend, take part in, and, conduct meetings and site visits as required for the Work and Services at no additional cost to the District.

3.5. **Record Drawings.** During construction, Designer/Builder shall incorporate all information on As-Builts, sketches, details, and clarifications, and prepare one set of final Record Drawings for the District. The Record Drawings shall incorporate onto one set of electronic drawings, changes from As-Builts, sketches, details, and clarifications. The Designer/Builder shall deliver the Record Drawings to the District at completion of the construction and it shall be a condition precedent to the District’s approval of the Designer/Builder’s final payment.

3.6. **O&M Manuals / Warranties.** Designer/Builder shall review equipment, operation and maintenance manuals, and a complete set of warranty documents for all equipment and installed systems, to ensure that they meet the requirements of the plans and specifications. The Designer/Builder shall deliver the O&M Manuals / Warranties to the District at completion of the construction and it shall be a condition precedent to the District’s approval of the Designer/Builder’s final payment.

**Article 4. DESCRIPTION OF CONSTRUCTION SERVICES WORK AND SERVICES BY SCOPE**

4.1. **General.**

4.1.1. Designer/Builder shall design, install, and construct the Work at the Site. The Work shall be installed and constructed to conform to Division of the State Architect (“DSA”) requirements and all applicable building codes. Designer/Builder’s Work shall include meetings and discussions as needed with DSA and others as needed to achieve project approval.

4.1.2. In addition to all other requirement herein, the Designer/Builder shall comply with all requirements of the Plans and Specifications referenced herein in **Exhibit E**.

4.2. **DSA Approvals & Permits**

4.2.1. Designer/Builder, its designers, contractors, and inspectors shall provide documentation required for all approvals by DSA.

4.2.2. Designer/Builder shall notify the District and the District’s Project Inspector(s) of required inspections and shall provide reasonable access and accommodations for inspections.

4.3. **Protection of Existing Structures and Utilities**

4.3.1. The Site has above-grade and below-grade structures, utility lines, and other installations that are known or believed to exist in the area of the Work. Designer/Builder shall locate these existing installations before proceeding with excavation and other operations that could damage same; maintain them in service, where appropriate; and repair damage to them caused by the performance of the Work. Should damage occur to these existing installations, then the costs of repair shall be at the Designer/Builder’s expense and made to the District’s satisfaction.

4.3.2. Designer/Builder shall be alert to the possibility of the existence of additional structures and utilities. If Designer/Builder encounters additional structures and utilities, Designer/Builder will immediately report to the District for disposition of same as indicated in the General Conditions.
4.3.3. Designer/Builder shall conduct an engineering evaluation to determine whether any undergrounding power lines will create the potential for electrolytic corrosion of any other underground utilities near such power lines. Were the potential for electrolytic corrosion exists, Designer/Builder shall also design and install a cathodic protection system to protect such utilities.

4.4. Specific measures include:

4.4.1. Written Designer/Builder Safety Plans, signs and temporary fencing as needed

4.4.2. Engineering and stamped drawings for District and DSA approval.

4.4.3. Layout drawings for Fire Department review

4.4.4. Single line and electrical drawings for Pacific Gas & Electric

4.5. Commissioning

4.5.1. Summary

4.5.1.1. Commissioning is a process for validating and documenting that the facility and its systems are constructed and perform in conformity with the Contract.

4.5.1.2. The objective of the commissioning process is to verify that the performance of the facility and its systems meet or exceed the design intent.

4.5.1.3. Commissioning includes special facility start-up processes used to bring the facility to a fully operational state, free of deficiencies in an efficient and timely manner.

4.5.1.4. Training on related systems and equipment operation and maintenance shall be scheduled to commence only after start-up is complete and systems are verified to be 100% complete and functional.

4.5.2. Description

4.5.2.1. Designer/Builder Startup: prior to District's acceptance of Work, Designer/Builder shall perform a program of activities including starting, testing, inspecting, adjusting balancing, correcting deficiencies and other similar activities.

4.5.2.1.1. The District and the DSA Project Inspector (IOR) shall be present to observe, inspect, and identify deficiencies in Building Systems Operations.

4.5.2.2. The completion of startup means the entire Project including startup and fine tuning has been performed to the requirements of the Contract and is verified in writing by the District and the IOR.

4.5.2.3. Fine Tuning: Fine tuning is the responsibility of Designer/Builder after District occupancy and ending one year after District occupancy. During this time the Designer/Builder is responsible for optimizing systems and correcting deficiencies arising under normal operating conditions.

4.5.2.3.1. Includes a period after occupancy where systems are optimized under "live" operating conditions and any outstanding construction deficiencies are corrected.

4.5.2.3.2. Fine Tuning shall extend from date of District occupancy to one year after occupancy.

4.5.3. Definition of Terms

4.5.3.1. Designer/Builder's Pre-Commissioning Checklists: Includes installation and start-up items as specified to be completed by the appropriate contractors prior to operational verification through the functional testing process.

4.5.3.2. Installation Verification Process: Includes the on-site inspection and review of related system components for conformance to the Contract. The Designer/Builder shall verify systems readiness for functional testing procedures prior to the start of functional testing.
Deficiencies will be documented by the District and the IOR for future resolution.

4.5.3.3. Functional Performance Testing Process: Includes the documented testing of system parameters, under actual or simulated operating conditions. Final performance commissioning of systems will begin only after the appropriate Designer/Builder certifies that systems are 100% complete and ready for functional testing. The contractors will be required to schedule, coordinate and perform device tests, calibration and functional performance test procedures.

4.5.3.4. Deficiencies and Resolutions List: Includes a list of noted deficiencies discovered as a result of the commissioning process. This list also includes the current disposition of issues, and the date of final resolution as confirmed by the District and the IOR. Deficiencies are defined as those issues where products execution or performance does not satisfy the Contract and/or the design intent.

4.5.4. Commissioning Duties and Responsibilities

4.5.4.1. Designer/Builder Duties and Responsibilities:

4.5.4.1.1. Assure the participation and cooperation of subcontractors and suppliers under their jurisdictions as required to complete the commissioning process.

4.5.4.1.2. Complete Commissioning Report Forms. Reports are to be completed in a neat easily readable condition.

4.5.4.1.3. Complete the respective start-up and check out procedures and insure readiness of equipment and systems prior to the start of the functional performance testing. Written confirmation of system readiness for performance testing is required.

4.5.4.1.4. Provide qualified representatives for the functional performance commissioning process.

4.5.4.2. Assure that all subcontractors and suppliers include in their respective contracts cost necessary to participate in and complete the commissioning process.

4.5.4.3. Duties and responsibilities of others for Commissioning: The commissioning process requires the active participation of the District and the IOR, and any other related Consultants on the project.

Article 5. PROJECT DESCRIPTION

[INSERT PROJECT DESCRIPTION, REQUIREMENTS, AND DIVISION SPECIFICATIONS AS APPLICABLE AND NECESSARY]

Article 6. ADDITIONAL CLARIFICATIONS TO THE SUMMARY OF WORK

[INSERT ADDITIONAL CLARIFICATIONS TO THE SUMMARY OF WORK, IF ANY, AS APPLICABLE AND NECESSARY]
EXHIBIT B
(DISTRICT’S ENERGY EXPENDITURE PLAN)
EXHIBIT C
(CONTRACT PRICE BREAKDOWN PAYMENT SCHEDULE)

1. Compensation

1.1. The payment of consideration to Design/Builder as provided herein shall be full compensation for all of Design/Builder’s Services incurred in the performance hereof, including, without limitation, all costs for personnel, travel within two hundred (200) miles of a Project location, offices, per diem expenses, printing and shipping of deliverables or any other direct or indirect expenses incident to providing the services. Except as expressly set forth in the Contract there shall be no payment for extra costs or expenses.

1.2. The total compensation to Design Builder shall be as stated in Section 2 of the Contract.

[PAYMENT SCHEDULE, STRUCTURE, AMOUNTS SUBJECT TO NEGOTIATION]

Estimated Work Payment Schedule

<table>
<thead>
<tr>
<th>Project Phase</th>
<th>Payments ($)</th>
<th>Payments (%)</th>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobilization and Development</td>
<td></td>
<td></td>
<td>Within 30 days of Contract Execution, based on documented expenses to date.</td>
</tr>
<tr>
<td>Progress Payments</td>
<td></td>
<td></td>
<td>Based on Percentage of Completion</td>
</tr>
<tr>
<td>PROJECT TOTAL:</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
EXHIBIT D
(SCHEDULE OF WORK)

1. Design/Builder shall prepare and submit for approval to the District a Schedule of Work showing the order in which Design/Builder proposes to carry out Design/Builder’s work (“Schedule of Work”) which shall be attached hereto and incorporated herein.

2. The Schedule of Work shall apply to the completion of all services listed hereunder within the times established by this Contract. The Schedule of Work shall be in the form of a progress chart clearly delineating all important increments and review dates. Design/Builder shall update the Schedule of Work on a monthly basis and deliver two (2) copies to the District along with the monthly billing.

3. Design/Builder shall complete all work and services required per the Schedule of Work after written authorization from the District to proceed.

4. The durations stated in the Schedule of Work shall include the review periods required by the District and all other regulatory agencies. All times to complete tasks set forth in this Exhibit are of the essence.
EXHIBIT E
(WARRANTIES)

Designer/Builder shall take all action reasonably necessary to secure all standard warranties from the manufacturers of all components of the Project. Designer/Builder assigns these third-party manufacturer warranties to the District without recourse and these warranties shall not, in any way, reduce or limit Designer/Builder’s warranty obligations under the Contract.

THE PARTIES AGREE THAT THESE WARRANTIES WILL BE ATTACHED HERETO AND MADE A PART OF THIS CONTRACT AT COMPLETION.
NONCOLLUSION DECLARATION
(Public Contract Code § 7106)

The undersigned declares:

I am the __________________________ [PRINT YOUR TITLE]
of ________________________________ [PRINT FIRM NAME],

the party making the foregoing Contract.

The Contract is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Contract is genuine and not collusive or sham. The Designer/Builder has not directly or indirectly induced or solicited any other entity to put in a false or sham bid or proposal. The Designer/Builder has not directly or indirectly colluded, conspired, connived, or agreed with any other designer/builder or anyone else to put in a sham bid or proposal, or to refrain from proposing. The Designer/Builder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Contract Price of the Designer/Builder or any other entity, or to fix any overhead, profit, or cost element of the Contract Price, or of that of any other entity. All statements contained in the Contract are true. The Designer/Builder has not, directly or indirectly, submitted his or her Contract Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid or proposal, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Designer/Builder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Designer/Builder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on the following date:

Date: _______________________________
Proper Name of Designer/Builder: __________________________________________
Signature: __________________________________________
Print Name: __________________________________________
Title: __________________________________________
PREVAILING WAGE CERTIFICATION

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project.

Date: ____________________________________________
Proper Name of Designer/Builder: ______________________________________________
Signature: ______________________________________________
Print Name: ______________________________________________
Title: ______________________________________________

WORKERS’ COMPENSATION CERTIFICATION

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.

b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: ____________________________________________
Proper Name of Designer/Builder: ______________________________________________
Signature: ______________________________________________
Print Name: ______________________________________________
Title: ______________________________________________

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)
FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

The undersigned does hereby certify to the governing board of the District that:

(1) He/she is a representative of the Designer/Builder,
(2) He/she is familiar with the facts herein certified,
(3) He/she is authorized and qualified to execute this certificate on behalf of Designer/Builder; and
(4) That the information in this Criminal Background Investigation / Fingerprinting Certification is true and correct.

1. **Education Code.** Designer/Builder has taken at least one of the following actions with respect to the Project (check all that apply):

   _____ The Designer/Builder has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Designer/Builder’s employees and all of its subcontractors’ employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice (“DOJ”) has determined (per the DOJ process for Applicant Agencies described more fully on its website, located at: http://oag.ca.gov/fingerprints/agencies) that none of those employees have been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Designer/Builder’s employees and of all of its subcontractors’ employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

   _____ Pursuant to Education Code section 45125.2, Designer/Builder has installed or will install, prior to commencement of work, a physical barrier at the Project site, that will limit contact between Designer/Builder’s employees and District pupils at all times; and/or

   _____ Pursuant to Education Code section 45125.2, Designer/Builder certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Designer/Builder who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Designer/Builder’s employees and its subcontractors’ employees is:

   Name:

   Title:

2. **Megan’s Law (Sex Offenders).** I have verified and will continue to verify that the employees of Designer/Builder that will be on the Project site and the employees of the Subcontractor(s) that will be on the Project site are not listed on California’s “Megan’s Law” Website (http://www.meganslaw.ca.gov/).

   Date: ____________________________________________

   Proper Name of Designer/Builder: ____________________________

   Signature: ____________________________________________

   Print Name: ____________________________________________

   Title: _________________________________________________
Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990, requires that every person or organization awarded a contract or grant for the procurement of any property or service from any state agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a state agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred. The District is not a "state agency" as defined in the applicable section(s) of the Government Code, but the District is a local agency and public school district under California law and requires all contractors on District projects to comply with the provisions and requirements of Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990. Contractor shall certify that it will provide a drug-free workplace by doing all of the following:

2  Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person’s or organization’s workplace and specifying actions which will be taken against employees for violations of the prohibition;

3  Establishing a drug-free awareness program to inform employees about all of the following:
   a.  The dangers of drug abuse in the workplace.
   b.  The person’s or organization’s policy of maintaining a drug-free workplace.
   c.  The availability of drug counseling, rehabilitation, and employee-assistance programs.
   d.  The penalties that may be imposed upon employees for drug abuse violations.

4  Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required above, and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the Contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

In addition, and pursuant to, without limitation, 20 U.S.C section 6083, Labor Code section 6400 et seq., Health & Safety Code section 104350 et seq. and District Board Policies, all District sites, including the Project site, are tobacco-free environments. Smoking and the use of tobacco products by all persons is prohibited on or in District property. District property includes school buildings, school grounds, school owned vehicles and vehicles owned by others while on District property. I acknowledge that I am aware of the District’s policy regarding tobacco-free environments and hereby certify that I will adhere to the requirements of that policy and not permit any of my firm’s employees, agents, subcontractors, or my firm’s subcontractors’ employees or agents to use tobacco and/or smoke on the Project site

Date: __________________________

Proper Name of Designer/Builder: __________________________

Signature: __________________________

Print Name: __________________________

Title: __________________________
ASBESTOS & OTHER HAZARDOUS MATERIALS CERTIFICATION

Designer/Builder hereby certifies that no Asbestos, or Asbestos-Containing Materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations “New Material Hazardous”, shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Designer/Builder's work on the Project for District.

Designer/Builder further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (.1%) asbestos shall be defined as asbestos-containing material.

Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District’s determination. The costs of any such tests shall be paid by Designer/Builder if the material is found to be New Hazardous Material.

All Work or materials found to be New Hazardous Material or Work or material installed with “New Hazardous Material” containing equipment will be immediately rejected and this Work will be removed at Designer/Builder's expense at no additional cost to the District.

Designer/Builder has read and understood the document Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

Date: ____________________________________________________
Proper Name of Designer/Builder: ______________________________
Signature: __________________________________________________
Print Name: _________________________________________________
Title: ________________________________________________________
LEAD-PRODUCT(S) CERTIFICATION

California Occupational Safety and Health Administration (CalOSHA), Environmental Protection Agency (EPA), California Department of Health Services (DHS), California Department of Education (CDE), and the Consumer Product Safety Commission (CPSC) regulate lead-containing paint and lead products.

Because the Designer/Builder and its employees will be providing services for the District, and because the Designer/Builder’s work may disturb lead-containing building materials, **DESIGNER/BUILDER IS HEREBY NOTIFIED** of the potential presence of lead-containing materials located within certain buildings utilized by the District. All school buildings built prior to 1993 are presumed to contain some lead-based paint until sampling proves otherwise.

The CDE mandates that school districts utilize DHS lead-certified personnel when a lead-based hazard is identified. Examples of lead-certified personnel include: project designers, inspectors, and abatement workers. Furthermore, since it is assumed by the district that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Designer/Builder, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (Including Title 8, California Code of Regulations, Section 1532.1). Any and all Work which may result in the disturbance of lead-containing building materials must be coordinated through the District.

The California Education Code also prohibits the use or import of lead-containing paint, lead plumbing and solders, or other potential sources of lead contamination in the construction of any new school facility or in the modernization or renovation of any existing school facility. The Designer/Builder shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Designer/Builder. If failure to comply with these laws, rules, and regulations results in a site or worker contamination, the Designer/Builder will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom. If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses and training shall conduct this Work.

It shall be the responsibility of the Designer/Builder to properly dispose of any and all waste products, including but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Designer/Builder to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

THE UNDERSIGNED HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER’S PROPERTY, AS WELL AS THE EXISTENCE OF APPLICABLE LAWS, RULES AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL OF, SUCH MATERIALS WITH WHICH IT MUST COMPLY. THE UNDERSIGNED ALSO WARRANTS THAT HE OR SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE DESIGNER/BUILDER.

Date: ____________________________
Proper Name of Designer/Builder: ____________________________
Signature: ____________________________
Print Name: ____________________________
Title: ____________________________
IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code § 2204)

Pursuant to Public Contract Code (PCC) section 2204, an Iran Contracting Act certification is required for solicitations of goods or services of one million dollars ($1,000,000) or more.

Designer/Builder shall complete ONLY ONE of the following two paragraphs:

☐ 1. Designer/Builder’s Proposal is less than one million dollars ($1,000,000).

☐ 2. Designer/Builder’s Proposal is one million dollars ($1,000,000) or more, but Designer/Builder is not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services ("DGS") pursuant to Public Contract Code § 2203(b), and Designer/Builder is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

☐ 3. Designer/Builder’s Proposal is one million dollars ($1,000,000) or more, but the District has given prior written permission to Designer/Builder to submit a proposal pursuant to PCC 2203(c) or (d). A copy of the written permission from the District is included with this Contract.

I certify that I am duly authorized to legally bind the Designer/Builder to this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Date: ________________________________
Proper Name of Designer/Builder: ________________________________
Signature: ________________________________
Print Name: ________________________________
Title: ________________________________

END OF DOCUMENT
PERFORMANCE BOND
(100% of Contract Price)

(Note: Designer/Builder must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board ("Board") of Orcutt Union School District ("District") and __________________ ("Principal") have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to perform the following project:

__________________________________________ (Project Name)

("Project" or "Contract")

which Contract dated _______________________, 20___, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

WHEREAS, said Principal is required under the terms of the Contract to furnish a bond for the faithful performance of the Contract;

NOW, THEREFORE, the Principal and __________________ ("Surety") are held and firmly bound unto the Board of the District in the penal sum of ______________________ DOLLARS ($__________), lawful money of the United States, for the payment of which sum well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents, to:

- Perform all the work required to complete the Project; and

- Pay to the District all damages the District incurs as a result of the Principal’s failure to perform all the Work required to complete the Project.

The condition of the obligation is such that, if the above bounden Principal, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions, and agreements in the Contract and any alteration thereof made as therein provided, on his or its part to be kept and performed at the time and in the intent and meaning, including all contractual guarantees and warranties of materials and workmanship for one (1) year from the completion date of the work of this Contract, and shall indemnify and save harmless the District, its trustees, officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise it shall be and remain in full force and virtue.

As a condition precedent to the satisfactory completion of the Contract, the above obligation shall hold good for one (1) year from the completion date of the work of this Contract, during which time Surety’s obligation shall continue if Designer/Builder shall fail to make full, complete, and satisfactory repair, replace and totally protect the District from loss or damage resulting from or caused by defective materials or faulty workmanship. Nothing herein shall limit the District’s rights or the Designer/Builder’s or Surety’s obligations under the Contract, law or equity, including, but not limited to, California Code of Civil Procedure section 337.15 during the bond term.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract or to the work or to the specifications.
Any claims under this bond may be addressed to the Surety at the following address. This cannot be the Designer/Builder’s broker for this bond, but must be an employee of the Surety or the Surety’s legal counsel:

________________________________________

________________________________________

Attention: ________________________________

Telephone No.: (____) _____-___________

Fax No.: (____) _____-___________

E-mail Address: ___________________________

IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the ________ day of ____________________________, 20____.

(Affix Corporate Seal)

__________________________, Inc.

Principal

________________________________________

By

________________________________________

Surety

________________________________________

By

________________________________________

Name of California Agent of Surety

________________________________________

Address of California Agent of Surety

________________________________________

Telephone Number of California Agent of Surety

Designer/Builder must attach a Notarial Acknowledgment for all Surety’s signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.
PAYMENT BOND
Contractor’s Labor & Material Bond
(100% of Contract Price)

(Note: Designer/Builder must use this form, NOT a surety company form.)

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the governing board (“Board”) of Orcutt Union School District (“District”) and ______________________ (“Principal”) have entered into a contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to

__________________________________________ (Project Name)

which Contract dated ______________________, 20___, and all of the Contract Documents attached to or forming a part of the Contract, are hereby referred to and made a part hereof, and

WHEREAS, pursuant to law and the Contract, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by which the Contract is awarded in an amount equal to 100 percent (100%) of the Contract price, to secure the claims to which reference is made in sections 3179 through 3214 and 3247 through 3252 of the Civil Code of California, and division 2, part 7, of the Labor Code of California.

NOW, THEREFORE, the Principal and ______________________________, (“Surety”) are held and firmly bound unto all laborers, material men, and other persons referred to in said statutes in the sum of ___________________________ Dollars ($__________), lawful money of the United States, being a sum not less than the total amount payable by the terms of Contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the Principal or any of his or its subcontractors, of the heirs, executors, administrators, successors, or assigns of any, all, or either of them shall fail to pay for any labor, materials, provisions, provender, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that the Surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay a reasonable attorney’s fee to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under sections 3179 through 3214 and 3247 through 3252 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and affect.

And the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of Contract or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.
IN WITNESS WHEREOF, two (2) identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the ______ day of ________________, 20____.

(Affix Corporate Seal)

________________________, Inc. __________________________
Principal

__________________________ __________________________
By

__________________________ __________________________
Surety

__________________________ __________________________
By

__________________________ __________________________
Name of California Agent of Surety

__________________________ __________________________
Address of California Agent of Surety

__________________________ __________________________
Telephone Number of California Agent of Surety

Designer/Builder must attach a Notarial Acknowledgment for all Surety’s signatures and a Power of Attorney and Certificate of Authority for Surety. The California Department of Insurance must authorize the Surety to be an admitted surety insurer.
**Prop. 39 Energy Expenditure Plan System**

**Energy Expenditure Plan Report**

STATE OF CALIFORNIA

CALIFORNIA ENERGY COMMISSION

June 6, 2017

APPRECIATION

1 of 3

<table>
<thead>
<tr>
<th>Submission Tier:</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditure Plans this Fiscal Year:</td>
<td>2016-17</td>
</tr>
<tr>
<td>Grant Amount Requested:</td>
<td>$265,363.00</td>
</tr>
<tr>
<td>Expenditure Plans this Fiscal Year:</td>
<td>2016-17</td>
</tr>
<tr>
<td>Grant Balance Available:</td>
<td>$238,860.14</td>
</tr>
</tbody>
</table>

**Application**

**Applicant Information**

Local Education Agency Name: Orcutt Academy Charter

LEA CDS Code: 42692600116434

Mailing Address: 500 Dyer Street

City: Orcutt

Zip Code: 93455-5300

**LEA Authorized Representative**

Name: Walter Con

Title: Assistant Superintendent of Business Services

Phone: 8059388916

Email: wcon@orcutt-schools.net

**Project Manager**

Name: Rohan Kumar

Title: Project Development Engineer

Phone: 4805480559

Email: rkumar@climatec.com

**Energy Planning Reservation Information**

<table>
<thead>
<tr>
<th>Did you request Energy Planning Funds?</th>
<th>Yes</th>
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</thead>
<tbody>
<tr>
<td>Budget for Screening and Energy Audits:</td>
<td>$26,274.86</td>
</tr>
<tr>
<td>Amount Spent for Screening and Audits:</td>
<td>$26,274.86</td>
</tr>
</tbody>
</table>

| Expenditure Plans this Fiscal Year: | 2016-17 |
| Grant Amount Requested: | $265,363.00 |
| Expenditure Plans this Fiscal Year: | 2016-17 |
| Grant Balance Available: | $238,860.14 |

**Energy Manager and Training**

Are you hiring an Energy Manager with Funds Requested in this Expenditure Plan? | No |

Amount Requesting for Energy Manager: | |

Are you using Proposition 39 funds for energy related training costs? | No |

Amount Requesting for Training: | |

### Summary of Schools/Sites

<table>
<thead>
<tr>
<th>Name</th>
<th>Rohan Kumar</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Project Cost</td>
<td>$265,363.00</td>
</tr>
<tr>
<td>Proposition 39 Share</td>
<td>$265,363.00</td>
</tr>
</tbody>
</table>

Summation is for 2 Schools

<table>
<thead>
<tr>
<th>Type of Project</th>
<th>Budget</th>
<th>Estimated Direct Job-Years Created</th>
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</thead>
<tbody>
<tr>
<td>Energy Efficiency</td>
<td>$265,363.00</td>
<td>1.49</td>
</tr>
<tr>
<td>Renewable Generation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Distributed Energy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1.49</td>
</tr>
</tbody>
</table>

### Apprenticeship Information

| Estimated Apprenticeship Job-Years Created |  |

Will this project be subject to a community benefits agreement, community workforce agreement, or other mechanism that defines project co-

### Self-Certifications

- Yes The LEA followed the Proposition 39 Guidelines regarding Eligible Energy Project Prioritization Considerations.
- Yes The LEA followed the guidelines regarding Sequencing of Facility Improvements.
- Yes The LEA commits to use the funds for the eligible energy project(s) approved in its energy expenditure plan.
- Yes The LEA commits that the information included in the application is true and correct based to the best of the LEA's knowledge.
- Yes The LEA commits that all California Environmental Quality Act (CEQA) requirements are completed.
- Yes The LEA will obtain DSA project approval as applicable pursuant to California Code Regulations, Title 14.
- Yes The LEA acknowledges that the expenditures are subject to financial audit requirements.
- Yes The LEA commits to complying with all reporting requirements.
- Yes The LEA commits to following all contracting requirements in the Proposition 39 Guidelines, including not using a sole source process to award funds and providing a clear and accurate description of the eligible energy project in all contracts.

Authorized Representative: Walter Con

Date: 6/5/2017

Bundled SIR: 1.48

Version 6
**State of California**

**California Energy Commission**

**School Information**

- **Project Start Date**: 8/1/2017
- **Completion Date**: 8/1/2018
- **Local Education Agency**: Orcutt Academy Charter
- **School/Site CDS Code**: 42692600116434
- **School/Site Name**: Orcutt Academy Charter
- **School/Site Mailing Address**: 480 Centennial Street, Los Alamos, CA 93440
- **Zip Code**: 93440

**Site Information**

- **Square Footage of School/Site**: 39,470
- **Average Peak Demand (kW)**: 82
- **Total Annual Electric Use (kWh)**: 183,478
- **Total Annual Gas Use (therms)**: 440,074.00

**Energy Efficiency Project Summary**

- **School/Site CDS Code**: 42692600116434
- **Electric Utility Account #**: 3314271998
- **Gas Utility Account #**: Demand
- **Energy Bill Fiscal Year**: 2015-16
- **Electric Utility**: PG&E
- **Gas Utility**: Annual

**Measure Savings Source**: Energy audit/feasibility study

**Proposition 39 Share to be used for Measure Implementation ($)**: $21,851.00

**Energy Efficiency Measure**

- **Lighting - Exterior Fixture Retrofit**
  - **Location**: Orcutt Academy Charter - 7 Exterior Lighting
  - **Savings (kW)**: 948
  - **Energy Cost Savings ($)**: $1,576.00
  - **Rebates ($)**: $2,108.00
  - **Funds ($)**: $10.89
  - **Savings - to - Investment Ratio (SIR)**: 5.53

- **Lighting - Interior Fixture Retrofit**
  - **Location**: Orcutt Academy Charter - 74 Interior Lighting
  - **Savings (kW)**: 11,102
  - **Energy Cost Savings ($)**: $6,180.00
  - **Rebates ($)**: $15,801.00
  - **Funds ($)**: 5.88
  - **Savings - to - Investment Ratio (SIR)**: 1.27

**Energy Efficiency Narrative Description**

- **Retrofit Exterior Lighting**
  - Replace existing exterior building mounted high-intensity discharge (HID) and/or compact fluorescent (CFL) lighting systems with high efficiency LED lighting systems that provide energy savings, long life, and instant start capability. Please refer to the Lighting Room by Room Inventory in the Technical Appendix for detailed information on lighting quantities, locations, and specifications.

- **Retrofit Interior Lighting**
  - Retrofit existing interior high bay mounted high-intensity discharge (HID) and/or compact fluorescent (CFL) lighting systems with high efficiency LED lighting systems that provide energy savings, long life, and instant start capability. Please refer to the Lighting Room by Room Inventory in the Technical Appendix for detailed information on lighting quantities, locations, and specifications.

**Site Project Summary**

- **Total Demand Savings**: 13,042
- **Total Annual Electric Savings**: $8,291.00
- **Total Project Cost**: $21,851.00
- **Total Rebates**: Savings - to - Investment Ratio (SIR) = 5.53

**Overall Total Leveraged Funding ($)**: $21,851.00

**Energy Use Intensity Calculator**

- **Electricity**: 2.08 W/SF, Natural Gas: 4.65 kW/Th, Other Fuels: $1.02 Cost/SF, $1.02 Energy Use(Kbtu)/SF/Year: 49.81

**Reminder**: If the School/Site includes leased facilities, please include Building Owner Certification in backup documentation.

**Proposition 39 Energy Expenditure Plan System Energy Expenditure Plan Report**

**June 6, 2017**

**Page 2 of 3**
**Lighting Scope**

Lighting will be designed to be compliant with Title 24. Please see the Lighting Room by Room Inventory in the Technical Appendix for detailed information on lighting quantities, locations, and specifications.

**Lighting Controls**

Retrofit existing interior high bay mounted high intensity discharge (HID) and/or compact fluorescent (CFL) lighting systems with high efficiency LED lighting systems that provide energy savings, long life, and instant start capability. Please refer to the Lighting Room by Room Inventory in the Technical Appendix for detailed information on lighting quantities, locations, and specifications.

**Lighting Replacement Inventory**

- Replace (4) 3-ton gas and electric package units with new high efficiency unit of similar size and capacity. The scope will include installation of the new units, electrical connections, and start-up/testing. Refer to the HVAC Replacement Inventory for details on existing unit locations, capacity, age, and proposed models. LIGHTING Retrofit Exterior Lighting/Replace existing exterior building mounted high-intensity discharge (HID) and/or compact fluorescent (CFL) lighting systems with high efficiency LED lighting systems that provide energy savings, long life, and instant start capability. Please refer to the Lighting Room by Room Inventory in the Technical Appendix for detailed information on lighting quantities, locations, and specifications.

**Energy Efficiency Project Summary**

<table>
<thead>
<tr>
<th>Measure Implementation ($)</th>
<th>243,512.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Energy Efficiency Measure</td>
<td>6</td>
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<tr>
<td>Total Savings Source</td>
<td>243,512.00</td>
</tr>
<tr>
<td>Proposition 39 Share to be used for</td>
<td>243,512.00</td>
</tr>
<tr>
<td>Measure Implementation ($)</td>
<td>243,512.00</td>
</tr>
</tbody>
</table>

**Lighting Replacement Details**

- **Lighting Room**
  - 4 HVAC Replacement
  - 61 Exterior Lighting Retrofit
  - 570 Interior Lighting Retrofit
  - 48 Occupancy Sensors

**Energy Efficiency Narrative Description**

- LIGHTING Retrofit Exterior Lighting/Replace existing exterior building mounted high-intensity discharge (HID) and/or compact fluorescent (CFL) lighting systems with high efficiency LED lighting systems that provide energy savings, long life, and instant start capability. Please refer to the Lighting Room by Room Inventory in the Technical Appendix for detailed information on lighting quantities, locations, and specifications.

**Site Project Summary**

- **Total Demand Savings**
  - 63,836

- **Total Annual Fuel Oil Savings**
  - 13,916.00

- **Total Annual Natural Gas Savings**
  - 243,512.00

- **Total Annual Propane Savings**
  - 243,512.00

- **Total Project Cost**
  - 1.11

**Energy Use Intensity Calculator**

- **Electricity**
  - .68 W/SF

- **Natural Gas**
  - .04 Therms/SF

- **Other Fuels**
  - 3.14 k/kWh/ SF

**Overall Total Leveraged Funding ($)**

- 243,512.00

Reminder: If the School/Site includes leased facilities, please include Building Owner Certification in backup documentation.