
File ID: 2024-01677

10/8/2024

Consent Item 4.

Johnston Community Center Electrification (C13001917)

File ID: 2024-01677

Location: 231 Eleanor Avenue, District 2, Represented by Councilmember Thao

Recommendation: Adopt a **Resolution:** 1) authorizing the City Manager or the City Manager’s designee to execute an “Agreement As to Termination of Gas Service” with Pacific Gas and Electric in the amount of \$339,118 for the Johnston Community Center located at 231 Eleanor Ave. Sacramento Ca. 95815; 2) authorizing the City Manager or the City Manager’s designee to increase the revenue and expenditure budgets in the C13001900 Energy Reinvestment Program by \$339,118; 3) authorizing the City Manager or City Manager’s designee to accept \$339,118 from Pacific Gas and Electric for terminating natural gas service; 4) awarding a construction contract to ACCO Engineered Systems, Inc. in an amount not to exceed \$263,066 for the Johnston Community Center Electrification Project; and 5) authorizing the City Manager or the City Manager’s designee to execute the contracts specified above.

Contact: Elizabeth Weeks, Senior Engineer, (916) 808-2330, eweeks@cityofsacramento.org; Mark Brown, Supervising Engineer, (916) 808-7118, mcbrown@cityofsacramento.org; James Christensen, Facilities Manager, (916) 808-5863, jchristensen@cityofsacramento.org; Department of Public Works

Presenter: None

Attachments:

- 1-Description/Analysis
- 2-Resolution
- 3-Agreement as to Termination of Gas Service
- 4-Contract - ACCO Engineered Systems, Inc.

Description/Analysis

Issue Detail: The City of Sacramento was approached by Pacific Gas and Electric (PG&E) with an offer to fund a building electrification project at the Johnson Community Center in exchange for agreeing to terminate the site’s natural gas service. Due to staffing limitations, City staff engaged the Sacramento Municipal Utilities District (SMUD)’s Complete Energy Solution (CES) program team to audit the building and provide a scope and estimate to deliver the project. The audit results were

provided to the City, including the proposed scope of work from a SMUD CES program contractor, ACCO Engineered Systems, Inc.

The proposed project will replace all-natural gas fueled appliances at the Johnston Community Center with all-electric equivalents, allowing PG&E to terminate the building's natural gas service. The proposed appliance replacements include HVAC system, water heater, kitchen make up air unit, and commercial kitchen range. The anticipated upgrades aim to yield annual savings of approximately \$5,600. The removal of natural gas appliances is expected to reduce the City's Greenhouse Gas emissions by approximately 5 metric tons per year. To accommodate the increased electrical loads placed on the building with all-electric appliances, a SMUD transformer upgrade is included in the project.

On June 25, 2024, staff received City Council approval to waive competitive bidding and participate in SMUD's CES program to perform cost-saving energy retrofits to City facilities (Motion Number 2024-0195).

The recommended authorization will allow the City to accept PG&E's funding for the project and award a contract to ACCO Engineering Systems, Inc., a SMUD CES program contractor.

Policy Considerations: The recommendation in this report is in accordance with City Code Section 3.56 which requires City Council approval for contracts over \$250,000 or more.

Economic Impacts: The recommended contract is expected to create 1.06 jobs (0.61 direct jobs and 0.45 jobs through indirect and induced activities) and create \$162,426 total economic output (\$102,378 of direct output and another \$60,048 of output in indirect and induced activities).

The indicated economic impacts are estimates calculated using a calculation tool developed by the Center for Strategic Economic Research (CSER). CSER utilized the IMPLAN input-output model (2009 coefficients) to quantify the economic impacts of a hypothetical \$1 million of spending in various construction categories within the City of Sacramento in an average one-year period. Actual impacts could differ significantly from the estimates and neither the City of Sacramento nor CSER shall be held responsible for consequences resulting from such differences

Environmental Considerations:

California Environmental Quality Act (CEQA): The action is exempt from review under CEQA pursuant to CEQA Guidelines section 15301, as it involves the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, or mechanical equipment, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The exemption covers interior or exterior alterations involving such things as interior partitions, plumbing, and

electrical conveyances; and similar facilities; restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood. No environmental review is necessary.

Sustainability: As part of the City's Climate Action and Adaptation plan adopted by City Council on February 27, 2024 (Resolution No. 2024-0057), the City committed to reducing municipal greenhouse gas emissions. Municipal Measure #1 (MM-1) reduces natural gas consumption in municipal buildings and facilities through a commitment to electrification, energy efficiency, and on-site renewable energy. The measure targets reducing natural gas consumption 50% below 2016 levels by 2030 and 100% by 2045.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: On June 25, 2024, City Council passed Motion No. 2024-0195 suspending competitive bidding, authorizing the City's participation in the SMUD CES program administered by TRC Companies, Inc. and for contracts that exceed City Code 3.60.080 threshold be brought back to City Council for approval.

Staff received the results of an audit/CES Program proposal for the City facility located at 231 Eleanor Avenue. Staff reviewed the proposal and support awarding the Johnston Community Center Electrification Project construction contract to ACCO Engineered Systems, Inc. for an amount not to exceed \$263,066. ACCO Engineered Systems, Inc. is a program contractor using the fixed program pricing as described in the SMUD CES proposal for Johnston Community Center.

Financial Considerations: The estimated cost to complete the construction project is \$339,118. Once the agreement with PG&E is executed and the \$339,118 is received from PG&E and deposited in C13001900 Energy Reinvestment Program (CIP Reimbursable Fund 3702) the project will have sufficient funds available to complete the project.

Local Business Enterprise (LBE): ACCO Engineered Systems, Inc. is an LBE.

RESOLUTION NO. 2024-XXXX

Adopted by the Sacramento City Council

AGREEMENT: JOHNSTON COMMUNITY CENTER ELECTRIFICATION (C13001917)

BACKGROUND

- A. Located in Johnston Park, the Johnston Community Center is a one-room activity building that includes a kitchen. The facility is available to rent through the Youth, Parks, and Community Enrichment Department. The facility includes appliances that utilize electricity and natural gas.
- B. The City of Sacramento was approached by Pacific Gas and Electric (PG&E) about funding an electrification of Johnston Community Center in exchange for terminating the facility's natural gas service. The Johnston Community Center electrification project will replace the existing Heating Ventilation, and Air Conditioning (HVAC) system, hot water heater, and stove/oven with all electric alternatives.
- C. Staff received City Council approval to use the Sacramento Municipal Utilities District (SMUD) Complete Energy Solution (CES) program to perform energy efficiency projects on City facilities with Motion 2024-0195 in lieu of utilizing City Chapter 3.60 bidding procedures.
- D. ACCO Engineered Systems, Inc. is the SMUD CES program contractor selected by SMUD program administrators for the Johnston Community Center Electrification.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1: The City Manager or the City Manager's designee is authorized to execute the Agreement As to Termination of Gas Service with Pacific Gas and Electric (PG&E) for the Johnston Community Center Electrification Project (C13001917).
- Section 2: The City Manager or the City Manager's designee is authorized to increase the revenue and expenditure budgets in the C13001900 Energy Reinvestment Program by \$339,118.
- Section 3: The City Manager or the City Manager's designee is authorized to accept \$339,118 from PG&E for terminating natural gas service.

Section 4: The construction contract is awarded to ACCO Engineered Systems, Inc. in an amount not to exceed \$263,066.

Section 5: The City Manager or the City Manager's designee is authorized to execute the contract with ACCO Engineered Systems, Inc.

AGREEMENT AS TO TERMINATION OF GAS SERVICE

This AGREEMENT AS TO TERMINATION OF GAS SERVICE ("Contract") is between PACIFIC GAS AND ELECTRIC COMPANY, a California corporation ("PG&E"), and the owner or owners (the "City") of the property (the "Property") indicated on the Information and Signature Form, which is the last two pages of this Contract (the "Information Form").

1. Election. The City has agreed that in consideration of a one-time lump sum payment by PG&E to the City in the amount of \$339,118.00 in connection with the loss of access, service, and appurtenant equipment (the "Payment"), PG&E is allowed to permanently terminate and disconnect PG&E's natural gas service at the Property.
2. Payment by PG&E.
 - (a) PG&E will compensate the City the amount listed in Section 1. The Payment is for the City's use to complete its electrification work. In the event that the City's electrification work is more than the lump sum payment, PG&E will not provide additional compensation.
 - (b) PG&E will make the Payment by check issued to the City sent by certified U.S. Mail to the City's Mailing address indicated on the Information Form, within two weeks after (i) PG&E receives this Contract signed by the City, with the Information Form fully completed.
3. Permanent Termination and Disconnection of Natural Gas Service.
 - (a) The City authorizes PG&E, at any time after the certified letter enclosing the Payment is signed for by the City (the "Payment Date") and without further consent of the City, to (i) permanently terminate and disconnect natural gas service at the Property and remove all gas meters, and (ii) deactivate and abandon in place gas service lines at the Property (together, the "Disconnection").
 - (b) The City is advised to not sign and return this Contract unless it is satisfied that upon Disconnection, the Property will have substitute service, or no substitute service, as the City thinks appropriate.
 - (c) Any future request for natural gas service to the Property to be provided by PG&E must be made pursuant to PG&E's rules for new gas service (PG&E Gas Rules 15 and 16).
4. City Representations, Acknowledgments and Agreements.
 - (a) The City represents and warrants to PG&E that (i) it is an owner of the Property and that the City is the only owner of the Property, (ii) the City has reviewed and agrees with the terms of this Contract, (iii) the information provided on the Information Form is complete and accurate, and (iv) the Property is not under contract to be sold.
 - (b) The City acknowledges that:
 - (i) PG&E has not been and will not be involved in (A) the decision as to what type of replacement service, if any, will be supplied at the Property; (B) selection of a

contractor for any replacement service, or monitoring of any contractor's work;
(C) selection of appliances, or any decision to convert a natural gas appliance to propane; or (D) any other matter related to the termination and disconnection of natural gas service at the Property which is not expressly addressed in this Contract.

(ii) If the Information Form indicates that a tenant who is a PG&E customer occupies some or all of the Property, (A) PG&E may and will separately communicate with the tenant and obtain any consents or other agreement of the tenant as PG&E deems advisable, (B) there will be no separate monetary or other compensation to tenants from PG&E, and (C) the City may be subject to landlord-tenant or other laws which could be implicated by the Disconnection.

(c) Prior to the Disconnection, the City will not sell or contract to sell the Property, or arrange for a new tenancy of part or all of the Property, without fully informing the new or potentially new owner or tenant in writing that the Disconnection will occur.

5. Notices.

(a) Any notices to PG&E shall be sent by electronic mail to:

Kim Rafter, kimberly.rafter@pge.com

(b) The City authorizes PG&E to send any notices to the City at the address on the Information Form.

6. Return of and Effectiveness of Contract.

(a) PG&E's signature on this Contract constitutes PG&E's agreement to the terms and conditions set forth herein, provided that in the case where the PG&E customer on the Property is a tenant of the City, PG&E's agreement is only effective after the tenant returns to PG&E of the consent form mailed to the tenant by PG&E.

(b) If the terms of this Contract are acceptable to the City, please sign Contract, on the Information Form. Keep one copy for your records and return the copy to PG&E by either mailing it to the address shown in Section 5(a) or by hand-delivering it to the PG&E representative with whom you have been communicating.

PACIFIC GAS AND ELECTRIC COMPANY

By: _____

Kimberly Rafter
Manager, Gas Investments for the Future

INFORMATION AND SIGNATURE FORM

The "Property" is the real property at the following address, including any buildings and improvement:

Name: Johnston Community Center
Address: 231 Eleanor Avenue
City, State, Zip: Sacramento, CA, 95815

City of Sacramento Mailing Address: 5730 24th Street, Sacramento, CA 95822

The PG&E Account Number for natural gas service at the Property is: N/A. The PG&E account has been closed due to PG&E's decision to previously disconnect service at the meter.

The PG&E customer for the Account Number above is. The customer is either the tenant named above (if any); or the City.

Choose one only:

- There is no tenant of any sort on the Property
- There are one or more tenants on the Property who are not PG&E natural gas customers at the Property (i.e., named on the account);
- The following tenant occupies part or all of the Property and is also the PG&E customer:

APPROVED AS TO FORM:

Signature: _____
Title: Contract and Compliance Specialist, Facilities

Signature: _____
Title: Senior Deputy City Attorney

Approved By:

Signature: _____
Title: Assistant City Manager

Attest:

Signature: _____

Title: City Clerk

AGREEMENT
(Construction Contract Over \$25,000)

THIS AGREEMENT, dated for identification _____, 2024, is made and entered into between the CITY OF SACRAMENTO, a municipal corporation ("City"), and **ACCO Engineered Systems, 9290 Beatty Drive, Sacramento, CA 95826**, ("Contractor") in the amount not to exceed **TWO HUNDRED SIXTY-THREE THOUSAND SIXTY-SIX DOLLARS AND ZERO CENTS (\$263,066.00)**

The City and Contractor hereby mutually agree as follows:

1. **CONTRACT DOCUMENTS**

The Contract Documents, sometimes also referred to as the "Contract," consist of the following items, which are hereby incorporated by reference as if set forth in full in this Agreement:

- Notice to Contractors
- Proposal Form submitted by the Contractor
- Instructions to Bidders
- Subcontractor and Local Business Enterprise Participation Form
- Drug-Free Workplace Policy and Affidavit
- Construction and Demolition (C&D) Debris Recycling Requirements
- Workers' Compensation Insurance Certification
- Federal or State funding requirements (if applicable)
- Local Business Enterprise (LBE) Requirements
- Requirements of the Non-Discrimination in Employee Benefits Code
- Ban-The-Box Requirements
- Addenda, if any
- This Agreement
- Standard Specifications
- Special Provisions
- Plans and Technical Specifications
- The drawings and other data and all developments thereof prepared by City pursuant to the Contract
- Any modifications of any of the foregoing made or approved by City, including but not limited to duly authorized change orders

Unless specifically noted otherwise, references to the "Standard Specifications" shall mean and refer to the Standard Specifications for Public Construction of the City of Sacramento approved by the Sacramento City Council on November 10, 2020 (Resolution No. 2020-0354), and any subsequent amendments thereto approved by the Sacramento City Council or the Sacramento City Manager. Work called for in any one Contract Document and not mentioned in another is to be performed and executed as if mentioned in all Contract Documents. The table of contents, titles and headings contained in the Contract Documents are provided solely to facilitate reference to various provisions of the Contract Documents and in no way affect or limit the interpretation of the provisions to which they refer.

2. DEFINITIONS

Unless otherwise specifically provided herein, all words and phrases defined in the Standard Specifications shall have the same meaning and intent in this Agreement.

3. AGREEMENT CONTROLS

In the event of a conflict between any of the terms and conditions set forth in this Agreement and the terms and conditions set forth in other Contract Documents, the terms and conditions set forth in this Agreement shall prevail, except that the provisions of any duly authorized change order shall prevail over any conflicting provisions of this Agreement.

4. SCOPE OF CONTRACT

Contractor agrees to furnish all tools, equipment, apparatus, facilities, labor, material, and transportation necessary to perform and complete in a good and workmanlike manner to the satisfaction of City, all the Work called for in the Contract Documents entitled:

**JOHNSTON COMMUNITY CENTER ELECTRIFICATION
(PN: C13001917)**

Including the Work called for in the following alternative bid items described in the Proposal Form:

Contractor agrees to perform such Work in the manner designated in and in strict conformity with the Contract Documents.

5. CONTRACT AMOUNT AND PAYMENTS

City agrees to pay, and Contractor agrees to accept, as complete payment for the above Work, in accordance with the schedule and procedures set forth in the Contract Documents and subject to deductions, withholdings and additions as specified in the Contract Documents, a total sum that shall not exceed the total bid amount set forth in Contractor's Proposal Form. In addition, subject to deductions, withholdings, and additions as specified in the Contract Documents, payment for individual items of the Work shall be computed as follows:

- A. For items of the Work for which a lump sum price is specified in Contractor's Proposal Form, Contractor shall be paid the lump sum price(s) specified in Contractor's Proposal Form; and
- B. For items of the Work for which a unit price is specified in Contractor's Proposal Form, Contractor shall be paid the sum computed at such unit price, or computed at a different price if such different price is determined by City in accordance with the Standard Specifications, based on the actual amount of each such item performed and/or furnished and incorporated in the Work; provided that in no

event shall the total sum for a unit price item exceed the total bid amount set forth for such item in the Contractor's Proposal Form, unless authorized by Change Order.

6. PROGRESS PAYMENTS

Subject to the terms and conditions of the Contract, City shall cause payments to be made upon demand of Contractor as follows:

- A. On or about the first of the month, the Engineer shall present to the Contractor a statement showing the amount of labor and materials incorporated in the Work through the twentieth (20) calendar day of the preceding month. After both Contractor and Engineer approve the statement in writing, and the City's labor compliance officer provides written approval, the City shall issue a certificate for ninety-five (95) percent of the amount it shall find to be due, subject to any deductions or withholdings authorized or required under the Contract or any applicable Laws or Regulations.
- B. No inaccuracy or error in said monthly estimates shall operate to release Contractor from damages arising from such Work or from enforcement of each and every provision of the Contract Documents, and City shall have the right subsequently to correct any error made in any estimate for payment.
- C. Contractor shall not be paid for any defective or improper Work.
- D. The remaining five (5) percent of the value of the Work performed under the Contract, if unencumbered and subject to any deductions or withholdings authorized or required under the Contract or any applicable Laws or Regulations, shall be released not later than sixty (60) days after completion and final acceptance of the Work by City. Acceptance by Contractor of the final payment shall constitute a waiver of all claims against the City arising under the Contract Documents, except for disputed claims in stated amounts that the Contractor specifically reserves in writing, but only to the extent that the Contractor has complied with all procedures and requirements applicable to the presentation and processing of such claim(s) under the Contract Documents. Contractor shall be entitled to substitute securities for retention or to direct that payments of retention be made into escrow, as provided in Public Contract Code Section 22300, upon execution of the City's Escrow Agreement for Security Deposits in Lieu of Retention.
- E. The parties agree that, for purposes of the timely progress payment requirements specified in Public Contract Code Section 20104.50, the date that the City receives a statement jointly approved by the Contractor and the Engineer as provided above shall be deemed to constitute the date that City receives an undisputed and properly submitted payment request from the Contractor. Progress payments not made within 30 days after this date may be subject to payment of interest as provided in Public Contract Code Section 20104.50.

F. This Contract is subject to compliance monitoring and enforcement by the California Department of Industrial Relations, as specified in California Labor Code section 1771.4.

7. RETENTION OF SUMS CHARGED AGAINST CONTRACTOR

When, under the provisions of this Contract or any applicable Laws or Regulations, City is authorized or required to withhold, deduct, or charge any sum of money against Contractor, City may deduct and retain the amount of such charge from the amount of the next succeeding progress estimate(s), or from any other moneys due or that may become due Contractor from City. If, on completion or termination of the Contract, sums due Contractor are insufficient to pay City's charges, City shall have the right to recover the balance from Contractor or its Sureties.

8. COMMENCEMENT AND PROSECUTION OF WORK

Contractor shall commence the Work not later than fifteen (15) working days after the date of the written Notice to Proceed from City to Contractor and shall diligently prosecute the Work to final completion. The phrase "commence the Work" means to engage in a continuous program on-site including, but not limited to, site clearance, grading, dredging, land filling and the fabrications, erection, or installation of the Work. The Notice to Proceed shall be issued within fifteen (15) calendar days following execution of the Agreement by the City and the filing by Contractor of the required Bonds and proof of insurance, provided that the Engineer may delay issuance of the Notice to Proceed if the Engineer determines in the Engineer's sole discretion that conditions on the site of the Work are unsuitable for commencement of the Work. After the Notice to Proceed is issued, the continuous prosecution of Work by Contractor shall be subject only to Excusable Delays as defined in this Agreement.

9. TIME OF COMPLETION

The entire Work shall be brought to completion in the manner provided for in the Contract Documents on or before **ONE HUNDRED EIGHTY (180) CALENDAR** days from the date of the Notice to Proceed (hereinafter called the "Completion Date") unless extensions of time are granted in accordance with the Contract Documents.

Failure to complete the entire Work by the Completion Date and in the manner provided for in the Contract Documents shall subject Contractor to liquidated damages as provided in this Agreement. Time is and shall be of the essence in the performance of the Contract and the Work.

10. PAYMENTS DO NOT IMPLY ACCEPTANCE OF WORK

The payment of any progress payment, or the acceptance thereof by Contractor, shall not constitute acceptance of the Work or any portion thereof and shall in no way reduce the liability of Contractor to replace unsatisfactory work or material, whether or not the unsatisfactory character of such work or material was apparent or detected at the time such payment was made.

11. ACCEPTANCE NOT RELEASE

Contractor shall correct immediately any defective or imperfect work or materials that may be discovered before final acceptance of the entire Work, whether or not such defect or imperfection was previously noticed or identified by the City. The inspection of the Work, or any part thereof, shall not relieve Contractor of any of its obligations to perform satisfactory work as herein specified.

Failure or neglect on the part of City or any of its officers, employees or authorized agents to discover, identify, condemn or reject defective or imperfect work or materials shall not be construed to imply an acceptance of such work or materials, if such defect or imperfection becomes evident at any time prior to final acceptance of the entire Work, nor shall such failure or neglect be construed as barring City from enforcing Contractor's warranty(ies) or otherwise recovering damages or such a sum of money as may be required to repair or rebuild the defective or imperfect work or materials whenever City may discover the same, subject only to any statutes of limitation that may apply to any such claim.

12. CITY'S RIGHT TO TAKE POSSESSION OF THE WORK IN WHOLE OR IN PART

The City shall have the right at any time to enter upon the Work and perform work not covered by this Contract, or to occupy and use a portion of the Work, prior to the date of the final acceptance of the Work as a whole, without in any way relieving Contractor of any obligations under this Contract.

13. NO WAIVER OF REMEDIES

Neither the inspection by City, its officers, employees or agents, nor any certificate or other approval for the payment of money, nor any payment for, nor acceptance of the whole or any part of the Work by City, nor any extensions of time, nor any position taken by City, its officers, employees or its agents shall operate as a waiver of any provision of the Contract Documents nor of any power herein reserved to City or any right to damages herein provided, nor shall any waiver of any breach of this Agreement be held to be a waiver of any other or subsequent breach. All remedies provided in the Contract Documents shall be taken and construed as cumulative; in addition to each and every other remedy herein provided, the City shall have any and all equitable and legal remedies that it would in any case have.

14. WARRANTY

Except as otherwise expressly provided in the Contract Documents, and excepting only items of routine maintenance, ordinary wear and tear and unusual abuse or neglect by City, Contractor warrants and guarantees all Work executed and all supplies, materials and devices of whatsoever nature incorporated in or attached to the Work, or otherwise provided as a part of the Work pursuant to the Contract, to be absolutely free of all defects of workmanship and materials for a period of one year after final acceptance of the entire Work by the City. Contractor shall repair or replace all work or material, together with any other work or material that may be displaced or damaged in so doing, that may prove

defective in workmanship or material within this one-year warranty period without expense or charge of any nature whatsoever to City.

In the event that Contractor shall fail to comply with the conditions of the foregoing warranty within ten (10) days after being notified of the defect in writing, City shall have the right, but shall not be obligated, to repair, or obtain the repair of, the defect and Contractor shall pay to City on demand all costs and expense of such repair. Notwithstanding anything herein to the contrary, in the event that any defect in workmanship or material covered by the foregoing warranty results in a condition that constitutes an immediate hazard to public health or safety, or any property interest, or any person, City shall have the right to immediately repair, or cause to be repaired, such defect, and Contractor shall pay to City on demand all costs and expense of such repair. The foregoing statement relating to hazards to health, safety or property shall be deemed to include both temporary and permanent repairs that may be required as determined in the sole discretion and judgment of City.

In addition to the above, the Contractor shall make a written assignment of all manufacturers and other product warranties to the City, prior to completion and final acceptance of the Work by City.

The Contractor's Performance Bond shall secure the performance of the Contractor's obligations under this Section 14, and the Contractor and its Surety shall be jointly and severally liable for these obligations.

15. LIQUIDATED DAMAGES IF WORK NOT COMPLETED ON TIME

A. The actual fact of the occurrence of damages and the actual amount of the damages that City would suffer if the entire Work, and/or any specified portion thereof, were not completed within the time(s) specified herein are dependent upon many circumstances and conditions that could prevail in various combinations, and for this reason, it is impracticable and extremely difficult to fix the actual damages. Damages that City would suffer in the event of such delay include: loss of the use of the project; expenses of prolonged assignment to the project of an architectural and/or engineering staff; prolonged costs of administration, inspection, and supervision; increased operational expenses and/or impaired operation of other facilities dependent upon completion of the project; and the loss and inconvenience suffered by the public within the City of Sacramento by reason of the delay in the completion of the project or portion thereof. Accordingly, the parties agree, and by execution of this Agreement, Contractor acknowledges that it understands and agrees, that the amount(s) set forth herein as liquidated damages reflect the parties' best efforts at the time of entering into the Contract to estimate the damages that may be incurred by City and the public due to the Contractor's delay in completion of the Work and/or any specified portion thereof, and shall be presumed to be the amount of damages sustained by the failure of Contractor to complete the entire Work and/or any specified portion thereof within the time(s) specified herein.

- B. Contractor shall pay liquidated damages to City for failure to complete the entire Work by the Completion Date (as extended in accordance with the Contract Documents, if applicable) in the amount of **\$ 1000.00** a day for each calendar day after the Completion Date (as extended in accordance with the Contract Documents, if applicable), continuing to the time at which the entire Work is completed. Such amount is the actual cash value agreed upon by the City and Contractor as the loss to City and the public resulting from Contractor's default.

The parties agree, and by execution of this Agreement, Contractor acknowledges that it understands and agrees, that the foregoing provisions provide for the imposition of liquidated damages from the Completion Date (as extended in accordance with the Contract Documents, if applicable) until the date of completion of the entire Work as determined by the Engineer in accordance with Section 8-4 of the Standard Specifications, whether or not the Work or any portion thereof is claimed or determined to be substantially complete prior to such date of completion.

- C. In the event Contractor shall become liable for liquidated damages, City, in addition to all other remedies provided by law, shall have the right to withhold any and all payments that otherwise would be or become due Contractor until the liability of Contractor under this section is finally determined. City shall have the right to use and apply such payments, in whole or in part, to reimburse City for all liquidated damages due or to become due to City. Any remaining balance of such payments shall be paid to Contractor only after discharge in full of all liability incurred by Contractor under this section or otherwise under any provision of the Contract Documents or any applicable Law or Regulation. If the sum so retained by City is not sufficient to discharge all such liabilities of Contractor, Contractor shall continue to remain liable to City until all such liabilities are satisfied in full. No failure by City to withhold any payment as specified above shall in any manner be construed to constitute a release of any such liabilities nor a waiver of the City's right to withhold payment for such liabilities.

16. INDEMNITY AND HOLD HARMLESS

- A. Contractor shall defend, hold harmless and indemnify the City, its officers, employees, and agents, and each and every one of them, from and against any and all actions, damages, costs, liabilities, claims, demands, losses, judgments, penalties, costs and expenses of every type and description, whether arising on or off the site of the Work, including, but not limited to, any fees and/or costs reasonably incurred by City's staff attorneys or outside attorneys and any fees and expenses incurred in enforcing this provision (hereafter collectively referred to as "Liabilities"), including but not limited to Liabilities arising from personal injury or death, damage to personal, real or intellectual property or the environment, contractual or other economic damages, or regulatory penalties, arising out of or in any way connected with performance of or failure to perform the Work by the Contractor, any subcontractor or agent, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether or not (i) such Liabilities are

caused in part by a party indemnified hereunder, or (ii) such Liabilities are litigated, settled or reduced to judgment; provided that the foregoing indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense to the extent arising from (i) the sole negligence or willful misconduct of, or defects in design furnished by, City, its agents, servants, or independent contractors who are directly responsible to City, or (ii) the active negligence of City.

- B. The existence or acceptance by City of any of the insurance policies or coverages described in this Agreement shall not affect or limit any of City's rights under this Section 16, nor shall the limits of such insurance limit the liability of Contractor hereunder. The provisions of this Section 16 shall survive any expiration or termination of the Contract.

17. CONTRACTOR SHALL ASSUME RISKS

Until the completion and final acceptance by City of all Work under this Contract, the Work shall be under Contractor's responsible care and charge, and Contractor, at no cost to City, shall rebuild, repair, restore and make good all injuries, damages, re-erections, and repairs occasioned or rendered necessary by accidental causes of any nature, to all or any portions of the Work.

18. GENERAL LIABILITY OF CONTRACTOR

Except as otherwise herein expressly stipulated, Contractor shall perform all the Work and furnish all the labor, materials, tools, equipment, apparatus, facilities, transportation, power and light, and appliances, necessary or proper for performing and completing the Work herein required in the manner and within the time herein specified. The mention of any specific duty or liability of Contractor shall not be construed as a limitation or restriction of any general liability or duty of Contractor, and any reference to any specific duty or liability shall be construed to be solely for the purpose of explanation.

19. INSURANCE

During the entire term of the Contract, Contractor shall maintain the insurance coverage described in this Section 19.

Full compensation for all premiums that Contractor is required to pay for the insurance coverage described herein shall be included in the compensation specified for the Work performed by Contractor under this Contract. No additional compensation will be provided for Contractor's insurance premiums. Any available insurance proceeds in excess of the specified minimum limits and coverages shall be available to the City.

It is understood and agreed by the Contractor that its liability to the City shall not in any way be limited to or affected by the amount of insurance coverage required or carried by the Contractor in connection with this Contract.

A. Minimum Scope & Limits of Insurance Coverage

- (1) Commercial General Liability Insurance providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one or more persons, property damage, and personal injury, arising out of activities performed by or on behalf of Contractor and its subcontractors, products and completed operations of Contractor and its subcontractors, and premises owned, leased, or used by Contractor and its subcontractors, with limits of not less than two million dollars (\$2,000,000) per occurrence. The policy shall provide contractual liability and products and completed operations coverage for the term of the policy.
- (2) Automobile Liability Insurance providing coverage at least as broad as ISO Form CA 00 01 for bodily injury, including death, of one or more persons, property damage, and personal injury, with limits of not less than one million dollars (\$1,000,000) per accident. The policy shall provide coverage for owned, non-owned, and/or hired autos as appropriate to the operations of the Contractor.

No automobile liability insurance shall be required if Contractor completes the following certification:

“I certify that a motor vehicle will not be used in the performance of any work or services under this agreement.”
_____ (Contractor initials)

- (3) Excess Insurance: The minimum limits of insurance required above may be satisfied by a combination of primary and umbrella or excess insurance coverage; provided that any umbrella or excess insurance shall contain, or be endorsed to contain, a provision that it shall apply on a primary basis for the benefit of the CITY, and any insurance or self-insurance maintained by CITY, its officials, employees, or volunteers shall be in excess of such umbrella or excess coverage and shall not contribute with it.
- (4) Workers’ Compensation Insurance with statutory limits, and Employers’ Liability Insurance with limits of not less than one million dollars (\$1,000,000). The Workers’ Compensation policy shall include a waiver of subrogation in favor of the City.

No Workers’ Compensation insurance shall be required if Contractor completes the following certification:

“I certify that my business has no employees, and that I do not employ anyone. I am exempt from the legal requirements to provide Workers' Compensation insurance.” _____
(Contractor initials)

B. Additional Insured Coverage

- (1) Commercial General Liability Insurance: The City, its officials, employees, and volunteers shall be covered by policy terms or endorsement as additional insureds as respects general liability arising out of: activities performed by or on behalf of Contractor and its subcontractors; products and completed operations of Contractor and its subcontractors; and premises owned, leased, or used by Contractor and its subcontractors.
- (2) Automobile Liability Insurance: The City, its officials, employees, and volunteers shall be covered by policy terms or endorsement as additional insureds as respects auto liability.

C. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

- (1) Contractor's insurance coverage, including excess insurance, shall be primary insurance as respects City, its officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
- (2) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officials, employees, or volunteers.
- (3) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) City will be provided with thirty (30) days written notice of cancellation or material change in the policy language or terms.

D. Acceptability of Insurance

Insurance shall be placed with insurers with a Bests' rating of not less than A:VI. Self-insured retentions, policy terms or other variations that do not comply with the requirements of this Section 3 must be declared to and approved by the City in writing prior to execution of this Contract.

E. Verification of Coverage

- (1) Contractor shall furnish City with certificates and required endorsements evidencing the insurance required. Copies of policies shall be delivered to the City on demand. Certificates of insurance shall be signed by an authorized representative of the insurance carrier.
- (2) For all insurance policy renewals during the term of this Contract, Contractor shall send insurance certificates reflecting the policy renewals directly to:

City of Sacramento
c/o EXIGIS LLC
P.O. Box 947
Murrieta, CA 92564

Insurance certificates also may be faxed to (888) 355-3599, or e-mailed to:

certificates-sacramento@riskworks.com

- (3) The City may withdraw its offer of contract or cancel this Contract if the certificates of insurance and endorsements required have not been provided prior to execution of this Contract. The City may withhold payments to Contractor or cancel the Contract if the insurance is canceled or Contractor otherwise ceases to be insured as required herein.

F. Subcontractors

Contractors shall require and verify that all subcontractors maintain insurance coverage that meets the minimum scope and limits of insurance coverage specified in subsection A, above.

20. FAILURE TO MAINTAIN BONDS OR INSURANCE

If, at any time during the performance of this Contract, Contractor fails to maintain any item of the bonds and/or insurance required under the Contract in full force and effect, Contractor shall immediately suspend all work under the Contract and notify City in writing of such failure. After such notice is provided, or if City discovers such failure and notifies Contractor, the City thereafter may withhold all Contract payments due or that become due until notice is received by City that such bonds and/or insurance have been restored in full force and effect and that the premiums therefor have been paid for a period satisfactory to the Division of Risk Management. Contractor shall not resume work until notified by City to do so, and the City shall have no responsibility or liability for any costs incurred by Contractor as a result of such suspension of Work.

In addition to the foregoing, any failure to maintain any item of the required bonds and/or insurance at any time during the performance of this Contract will be sufficient cause for termination of the Contract by City.

The Contractor shall be solely responsible for, and shall defend, indemnify, and hold harmless the City, its officers, employees and agents against and from, any and all damages, claims, losses, actions, costs or other expenses of any kind incurred by any party as a direct or indirect result of any suspension of Work or termination of the Contract under the provisions of this Section.

21. EXCUSABLE DELAYS

For the purpose of these Contract Documents, the term "Excusable Delay" shall mean, and is limited to, delay caused directly by: acts of God; acts of a public enemy; fires; inclement weather as determined by the Engineer; riots; insurrections; epidemics; quarantine restrictions; strikes; lockouts; sitdowns; acts of a governmental agency; priorities or privileges established for the manufacture, assemble, or allotment of materials necessary in the Work by order, decree or otherwise of the United States or by any department, bureau, commission, committee, agent, or administrator of any legally constituted public authority; changes in the Work ordered by City insofar as they necessarily require additional time in which to complete the Work; the prevention of Contractor from commencing or prosecuting the Work because of the acts of others, excepting Contractor's subcontractors or suppliers; or the prevention of Contractor from commencing or prosecuting the Work because of a Citywide failure of public utility service.

The term "Excusable Delay" shall specifically not include: (i) any delay that could have been avoided by the exercise of care, prudence, foresight and diligence on the part of Contractor; (ii) any delay in the prosecution of any part of the Work that does not constitute a Controlling Operation, whether or not such delay is unavoidable; (iii) any reasonable delay resulting from time required by City for review of any Contractor submittals and for the making of surveys, measurements and inspection; and, (iv) any delay arising from an interruption in the prosecution of the Work on account of reasonable interference by other Contractors employed by City that does not necessarily prevent the completion of the entire Work within the time specified. Excusable Delays, if any, shall operate only to extend the Completion Date (not in excess of the period of such delay as determined by City) and shall not under any circumstances increase the amount City is required to pay Contractor except as otherwise provided in these Contract Documents.

22. CONTRACTOR TO SERVE NOTICE OF DELAYS

Whenever Contractor foresees any delay in the prosecution of the Work, and in any event as soon as possible (not to exceed a period of ten (10) calendar days) after the initial occurrence of any delay that Contractor regards as or may later claim to be an Excusable Delay, the Contractor shall notify the Engineer in writing of such delay and its cause, in order that the Engineer: (i) may take immediate steps to prevent if possible the occurrence or continuance of the delay; or (ii) if this cannot be done, may determine whether the delay is to be considered excusable, how long it continues, and to what extent the prosecution and completion of the Work are delayed thereby. Said written notice shall constitute an application for an extension of time only if the notice requests

such an extension and sets forth the Contractor's estimate of the additional time required together with a full description of the cause of the delay relied upon.

After the completion of any part or whole of the Work, the Engineer, in estimating the amount due Contractor, will assume that any and all delays that may have occurred in its prosecution and completion were not Excusable Delays, except for such delays for which the Contractor has provided timely written notice as required herein, and that the Engineer has found to be excusable. Contractor shall not be entitled to claim Excusable Delay for any delay for which the Contractor failed to provide such timely written notice.

23. EXTENSION OF TIME

If the Contractor complies with Section 22, above, and the Engineer finds a delay claimed by the Contractor to be an Excusable Delay, the Contractor shall be allowed an extension of time to complete the Work that is proportional to the period of Excusable Delay determined by the Engineer, subject to the approval by City of a change order granting such time extension. During a duly authorized extension for an Excusable Delay, City shall not charge liquidated damages against the Contractor for such delay.

If the City extends the time to complete the Work as provided herein, such extension shall in no way release any warranty or guarantee given by Contractor pursuant to the provisions of the Contract Documents, nor shall such extension of time relieve or release the sureties of the Bonds provided pursuant to the Contract Documents. By executing such Bonds, the Sureties shall be deemed to have expressly agreed to any such extension of time. The granting of any extension of time as provided herein shall in no way operate as a waiver on the part of City of its rights under this Contract, excepting only extension of the Completion Date for such period of Excusable Delay as may be determined by the Engineer and approved by a duly authorized change order.

24. NO PAYMENT FOR DELAYS

No damages or compensation of any kind shall be paid to Contractor or any subcontractor because of delays in the progress of the Work whether or not such delays qualify for extension of time under this Agreement; except that this provision shall not preclude the recovery of damages for a delay caused by the City that is unreasonable under the circumstances and that is not within the contemplation of the parties, provided that the Contractor timely submits all such written notice(s) and fully complies with such other procedures as may be specified in the Contract Documents or any Laws or Regulations for Contractor to claim damages for such delay.

25. CHANGES IN THE WORK

Changes in the Work authorized or directed in accordance with the Contract Documents and extensions of time of completion made necessary by reason thereof shall not in any way release any warranty or guarantee given by Contractor pursuant to the provisions of the Contract Documents, nor shall such changes in the Work relieve or release the Sureties on Bonds provided pursuant to the Contract Documents. By executing such Bonds, the Sureties shall be deemed to have expressly agreed to any such change in Work and to any extension of time made by reason thereof.

26. TERMINATION AFTER COMPLETION DATE

In addition to any other rights City may have, if any services or work required under the Contract (including but not limited to punch list items) are not completed as of the Completion Date (as adjusted by any extensions of time for Excusable Delays granted pursuant to the Contract Documents), City may terminate the Contract at any time after the Completion Date (as adjusted by any extensions of time for Excusable Delays granted pursuant to the Contract Documents), by providing a written notice to Contractor specifying the date of termination. Such notice also may specify conditions or requirements that Contractor must meet to avoid termination of the Contract on such date. If Contractor fails to fulfill all such conditions and requirements by such termination date, or, if no such conditions or requirements are specified, Contractor shall cease rendering services and performing work on such termination date and shall not be entitled to receive any compensation for services rendered or work performed after such termination date. In the event of such termination, Contractor shall remain liable to City for liquidated damages incurred for any period of time prior to the termination date.

In addition to any other charges, withholdings or deductions authorized under the Contract or any Laws or Regulations, if City terminates the Contract pursuant to this section, City may withhold and deduct from any payment and/or retention funds otherwise due Contractor any sum necessary to pay the City's cost of completing or correcting, or contracting for the completion or correction of, any services or work under the Contract that are not completed to the satisfaction of the City or that otherwise are deficient or require correction as of such termination date, including but not limited to incomplete punch list items. Such costs shall include all of the City's direct and indirect costs incurred to complete or correct such services or work, including the City's administrative and overhead costs. If the amount of payment(s) and/or retention funds otherwise due the Contractor are insufficient to pay such costs, City shall have the right to recover the balance of such costs from the Contractor and/or its Surety(ies).

27. TERMINATION FOR CONVENIENCE

Upon written notice to the Contractor, the City may at any time, without cause and without prejudice to any other right or remedy of the City, elect to terminate the Contract for the convenience of City. In such case, the Contractor shall be paid (without duplication of any items, and after deduction and/or withholding of any amounts authorized to be deducted or withheld by the Contract Documents or any Laws or Regulations):

- A. For Work executed in accordance with the Contract Documents prior to the effective date of termination and determined to be acceptable by the Engineer, including fair and reasonable sums for overhead and profit on such Work;
- B. For reasonable claims, costs, losses, and damages incurred in settlement of terminated contracts with subcontractors, suppliers, and others; and
- C. For reasonable expenses directly attributable to termination.

Contractor shall not be paid for any loss of anticipated profits or revenue for any Work not performed prior to termination, nor for any economic loss arising out of or resulting from such termination, except for the payments listed in this section. Contractor's warranty under Section 14 of this Agreement shall apply, and Contractor shall remain responsible for all obligations related to such warranty, with respect to all portions of the Work performed prior to the effective date of the termination for convenience pursuant to this section. The City shall be entitled to have any or all remaining Work performed by other contractors or by any other means at any time after the effective date of a termination for convenience pursuant to this section.

28. TERMINATION FOR BREACH OF CONTRACT

If Contractor abandons the Work under this Contract, or if the Contract or any portion of the Contract is sublet or assigned without the consent of the City, or if the Engineer determines in the Engineer's sole discretion that the conditions of the Contract in respect to the rate of progress of the Work are not being fulfilled or any part thereof is unnecessarily delayed, or if Contractor violates or breaches, or fails to execute in good faith, any of the terms or conditions of the Contract, or if Contractor refuses or fails to supply enough properly skilled labor or materials or refuses or fails to make prompt payment to subcontractors for material or labor, or if Contractor disregards any Laws or Regulations or proper instruction or orders of the Engineer, then, notwithstanding any provision to the contrary herein, the City may give Contractor and its Sureties written notification to immediately correct the situation or the Contract shall be terminated.

In the event that such notice is given, and, in the event such situation is not corrected, or arrangements for correction satisfactory to the City are not made, within ten (10) calendar days from the date of such notice or within such other period of time as may be specified by the City in the notice, the Contract shall upon the expiration of said period cease and terminate. In the event of any such termination, City may take over the Work and prosecute the Work to completion, or otherwise, and the Contractor and its Sureties shall be liable to City for any cost occasioned City thereby, as hereinafter set forth.

In the event City completes the Work, or causes the Work to be completed, no payment of any kind shall be made to Contractor until the Work is complete. The cost of completing the Work, including but not limited to, extra costs of project administration and management incurred by City, both direct or indirect, shall be deducted from any sum then due, or that becomes due, to Contractor from City. If sums due to Contractor from City are less than the cost of completing the Work, Contractor and its Sureties shall pay City a sum equal to this difference on demand. In the event City completes the Work, and there is a sum remaining due to Contractor after City deducts the costs of completing the Work, then City shall pay such sum to Contractor. The Contractor and Contractor's Sureties shall be jointly and severally liable for all obligations imposed on Contractor hereunder.

No act by City before the Work is finally accepted, including, but not limited to, exercise of other rights under the Contract, actions at law or in equity, extensions of time, payments, assessments of liquidated damages, occupation or acceptance of any part of the Work, waiver of any prior breach of the Contract or failure to take action pursuant to

this section upon the happening of any prior default or breach of Contractor, shall be construed to be a waiver or estoppel of the City's right to act pursuant to this Section upon any subsequent event, occurrence or failure by Contractor to fulfill the terms and conditions of the Contract. The rights of City to terminate the Contract pursuant to this Section and pursuant to Sections 26 and 27 are cumulative and are in addition to all other rights of City pursuant to the Contract and at law or in equity.

29. CONTRACTOR BANKRUPT

If Contractor should commence any bankruptcy proceeding, or if Contractor is adjudged a bankrupt, or if Contractor makes any assignment for the benefit of creditors, or if a receiver is appointed on account of Contractor's insolvency, then the City may, without prejudice to any other right or remedy, terminate the Contract and complete the work by giving notice as provided in Section 28 above.

30. SURETIES' OBLIGATIONS UPON TERMINATION

If the City terminates the Contract pursuant to Section 28 or Section 29 above:

- A. The Surety under Contractor's performance bond shall be fully responsible for all of the Contractor's remaining obligations of performance under the Contract as if the Surety were a party to the Contract, including without limitation Contractor's obligations, as provided in the Contract Documents, to complete and provide a one-year warranty of the entire Work, pay liquidated damages and indemnify, defend and hold harmless City, up to the full amount of the performance bond.
- B. The Surety under Contractor's payment bond shall be fully responsible for the performance of all of the Contractor's remaining payment obligations for work, services, equipment, or materials performed or provided in connection with the Work or any portion thereof, up to the full amount of the payment bond.

31. ACCOUNTING RECORDS OF CONTRACTOR

During performance of the Contract and for a period of three (3) years after completing the entire Work, Contractor shall maintain all accounting and financial records related to the Contract and performance of the Work in accordance with generally accepted accounting practices and shall keep and make such records available for inspection and audit by representatives of the City upon reasonable written notice.

32. USE TAX REQUIREMENTS

During the performance of this Agreement, CONTRACTOR, for itself, its assignees, and successors in interest, agrees as follows:

- A. Use Tax Direct Payment Permit: For all leases and purchases of materials, equipment, supplies, or other tangible personal property used to perform the Agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit from the California State Board of Equalization (“SBE”) in accordance with the applicable SBE criteria and requirements.
- B. Sellers Permit: For any construction contract and any construction subcontract in the amount of \$5,000,000 or more, Contractor and the subcontractor(s) shall obtain sellers permits from the SBE and shall register the jobsite as the place of business for the purpose of allocating local sales and use tax to the City. Contractor and its subcontractors shall remit the self-accrued use tax to the SBE, and shall provide a copy of each remittance to the City.
- C. The above provisions shall apply in all instances unless prohibited by the funding source for the Agreement.

33. NON-DISCRIMINATION IN EMPLOYEE BENEFITS

This Agreement may be subject to the requirements of Sacramento City Code Chapter 3.54, Non-Discrimination in Employee Benefits by City Contractors. The Contract Documents include a summary of the requirements of Sacramento City Code Chapter 3.54, entitled “Requirements of the Non-Discrimination in Employee Benefits Code.” By signing this Agreement, Contractor acknowledges and represents that Contractor has read and understands these requirements and agrees to fully comply with all applicable requirements of Sacramento City Code Chapter 3.54. If requested by City, Contractor agrees to promptly provide such documents and information as may be required by City to verify Contractor’s compliance. Any violation by Contractor of Sacramento City Code Chapter 3.54 constitutes a material breach of this Agreement, for which the City may terminate the Agreement and pursue all available legal and equitable remedies.

34. CONSIDERING CRIMINAL CONVICTION INFORMATION IN THE EMPLOYMENT APPLICATION PROCESS

This Agreement may be subject to the requirements of Sacramento City Code Chapter 3.62, Procedures for Considering Criminal Conviction Information in the Employment Application Process. The Contract Documents include a summary of the requirements of Sacramento City Code Chapter 3.62, entitled “Ban-The-Box Requirements.” By signing this Agreement, Contractor acknowledges and represents

that Contractor has read and understands these requirements and agrees to fully comply with all applicable requirements of Sacramento City Code Chapter 3.62. If requested by City, Contractor agrees to promptly provide such documents and information as may be required by City to verify Contractor's compliance. Any violation by Contractor of Sacramento City Code Chapter 3.62 constitutes a material breach of this Agreement, for which the City may terminate the Agreement and pursue all available legal and equitable remedies. Contractor agrees to require its subcontractors to fully comply with all applicable requirements of Sacramento City Code Chapter 3.62 and include these requirements in all subcontracts covered by Sacramento City Code Chapter 3.62.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the date set for opposite their names.

CONTRACTOR

Under penalty of perjury, I certify that the taxpayer identification number and all other information provided here are correct.

DATE _____

BY _____

Print Name

Title

BY _____

Print Name

Title

DIR Registration #

Federal ID#

State ID#

City of Sacramento Business Operation Tax Certificate No. (City will not award contract until Certificate Number is obtained)

Type of Business Entity (*check one*):

- ___ Individual/Sole Proprietor
- ___ Partnership
- ___ Corporation
- ___ Limited Liability Company
- ___ Other (*please specify:*_____)

CITY OF SACRAMENTO
a municipal corporation

DATE _____

BY _____

For: Howard Chan, City Manager

Original Approved As To Form:

Attest:

City Attorney

City Clerk



Attachment 3

BID CONTRACT

Job # **Pending**

Sacramento Office: 9290 Beatty Drive, Sacramento CA. 95826
Phone # (510) 346-4300 24 Hour Service # (800) 598-2226

Corporate Office: 6265 San Fernando Road, Glendale, CA 91201
Principle Offices: San Leandro Sacramento Orange County San Diego Seattle, WA

QUOTATION TO:

City of Sacramento, Department of Public Works
5730 24th Street
Sacramento CA. 95822
ATTN: Anthony Contaxis

JOB SITE/ADDRESS:

Johnston Community Center
231 Eleanor Ave.
Sacramento, CA 95815
Electrification Project

THE CONDITIONS PRINTED EITHER ON THE REVERSE SIDE OR ATTACHED ARE PART HEREOF.

This work or price quotation does not include detection, abatement, encapsulation or removal of asbestos or products, materials, or equipment containing asbestos.

Scope of Work:

ACCO is pleased to submit a proposal to provide labor and material for removing and replacing the following pieces of equipment at the above aforementioned location.

- (1) Carrier Roof Top Gas Pack Unit to be replaced with a new 12.5 Ton Day & Night Heat Pump (Electric)
- (1) Reznor Make Up Air Unit to be replaced with a new Reznor Make Up Air Unit with EVAP Cooling (Electric)
- (1) Gas Fired Water Heater to be replaced with a new 100 Gallon Water Heater (Electric)

Work to Include:

- Engineered mechanical plans in CAD format along with the required Title-24 documentation (architectural background plans in CAD format are to be provided by the Architect)
- MEP safe-off of unit and prepare for haul off
- Remove all existing gas line on the roof top and cap at the roof jack
- Mobilize crane in the front parking lot for equipment pick
- Rig existing units off the roof
- Haul out and dispose of existing units per EPA standards
- Rig and install new curb adapter
- Coordinate with Madsen roofing to open and repair roof following the new adaptor curb install
- Connect to existing electrical and controls
- Perform startup and verify operations
- Cap kitchen gas line at interior wall
- Clean up and demobilize

Schetter Electric Scope of Work:

- Safe off and demo existing conduit and wire to the existing AC and Reznor unit
- Provide and install new 80amp circuit, breaker and N3R disconnect for Reznor unit
- Provide and install new 60amp circuit, breaker and N3R disconnect for Carrier unit
- Provide and install new 250amp circuit, breaker and N3R disconnect for 100gal hot water heater
- Provide and install new 90amp circuit and disconnect to new electric oven and range using existing 90 amp breaker in the MSB that used to feed the existing AC unit being replaced
- Terminate and test.

ACCO CLARIFICATIONS

- All new equipment to be 100% electric per owner request
- Equipment is reviewed and approved by the owner. ACCO did not perform load calculations
- Equipment to be replaced on two separate crane picks
- Packaged unit roofing to be modified to fit new unit
- Roof load calculations are not included. All equipment are lighter or within 5% of existing unit weight
- Permit fees and inspections are not included in our base bid. ACCO will pay the fees and invoice the customer for the direct costs. Please hold an allowance for mechanical permit fees
- Work to be performed on straight time
- The work associated with this proposal is based upon a consistent and even flow of work, without multiple

SEE TERMS AND CONDITIONS TO BID CONTRACT

mobilizations, once a schedule has been set

- *Concealed conditions requiring upgrades are not included and will be priced upon discovery*
- *Building will make arrangements for contractor and tier-subcontractors to have unlimited and unescorted site access to and from the work area, including exit and entry into the mechanical and storage space*
It is assumed that an adequate storage area for materials, tools and dumpsters will be provided at no cost to ACCO

ACCO EXCLUSIONS

*The following work may be necessary for a complete and operating system but is **not included in this scope**:*

- *Any work not identified in the above scope*
- *Wall repairs, patching and painting*
- *ACCO assumes all electrical is up to California Code and this will be a like for like change out*
- *Fire sprinklers, Fire override control, Smoke Detector monitoring or Fire Life safety*
- *Controls, Smoke and Fire Dampers*
- *Electrical permit drawings and fire life safety permits*
- *Special inspections*
- *Expedited shipping*
- *Leakage testing of ductwork is excluded*
- *Sound testing*
- *Structural steel*
- *Seismic bracing on existing pipes and ductwork*
- *Abatement of all hazardous materials, including but not limited to asbestos and lead-based paint*
- *Electrical, and/or structural engineering, design, drawings, and/or modifications of existing base building infrastructure*
- *Smoke, fire and combination dampers*
- *Painting of ductwork*
- *Cutting, framing, patching or repair of walls, decks, floors, shafts, chases or ceilings*
- *Modifications of existing floor drains*
- *Bid or performance bonds*

ACCO PRICING

Base pricing for the above HVAC Equipment will be..... **\$245,898.00**

- Project is to be completed in a single mobilization and treated as a single project. Pricing breakout is only to be used as an approximation

Pricing Breakout

Task #1 - Replace existing 12.5 Ton Carrier gas package unit with new 12.5 Ton Day & Night Heat Pump (Heat Pump Heating)

Materials: \$23,665
Labor: \$16,266
Sub (electrical, crane, roofing) - \$51,012

\$4,690 added to labor (electrical pre-design) and 6% bonding added to pricing material and labor

Task #2 - Replace existing Reznor Make Up Air Unit with a new Reznor Make Up Air Unit with EVAP Cooling (Electric)

Materials: \$43,585
Labor: \$11,015
Sub (electrical, crane) - \$32,672

6% bonding added to pricing

Task #3 - Replace existing 100 gal Bradford White gas water heating unit with a new AO Smith 100 gal commercial heat pump water heater

Materials: \$16,248
Labor: \$11,306
Sub (electrical) - \$29,301

6% bonding added to pricing

Task #4 - Provide and install new 90amp circuit and disconnect to new electric oven and range using existing 90 amp breaker in the MSB that used to feed the existing AC unit being replaced

Sub (electrical) - \$10,828

\$2,000 for haul away and 6% bonding added to pricing

PERMIT ALLOWANCE

Permit fees and inspections are not included in our base bid. ACCO will pay the fees and invoice the customer for the **direct costs**. Please hold an allowance for mechanical permit fees

ACCO Engineered Systems

By: 
Lawrence Duong, Project Manager; 415-610-9096

ACCEPTED for BUYER

By: _____
(Authorized Signature)

Electrification Specification

SCOPE

This project involves the procurement and installation of appliances necessary to remove the natural gas service from the Johnston Community Center. Scoped equipment includes: HVAC Equipment, kitchen make-up air unit, water heater and stove replacements.

The purpose of this solicitation is to procure and install the appliances to reduce energy consumption and remove the need for natural gas at the property. All work shall be carried out meeting state and local code/standards.

All equipment must qualify for SMUD rebates as defined in Attachment 1.

A breakdown of costs by appliance is included in Attachment 2.

ACCO Engineered System's proposal has been included in this document as Attachment 3.

PRICING SCHEDULE

The SMUD CES Program uses pre-approved pricing for materials and labor and provides a calculated rebate based on energy saved. Attachment 1 contains the results of the site energy audit for the Johnston Community Center, including the proposed alterations and associated rebates. The results of the audit and proposed project costs are noted below.

Project Subtotal: \$296,615.68

SMUD Rebates: \$33,550.00

Total City Contract Cost: \$263,065.68

Estimated Annual Metric tons of CO2 Saved: 5.31

Attachment 2

Johnston Community Center Electrification HVAC/WATER HEATING/KITCHEN

		Pre-existing light fixtures				Replacement measure description					
Space Description	Space end use type	Qty	Description	Meas Qty	Measure Lamp Description	Materials Cost incl tax and 6% Bonding	Labor/Sub Cost	6% Bonding (Labor)	Incentive Amount		
Roof Top Package	Exterior	1	Carrier Package	1	Night and Day Package Heat Pump RHS 12.5	\$ 25,084.90	\$ 71,968.00	\$ 4,318.08	\$ 20,750.00		
Roof Top Make-up Air	Exterior	1	Reznor	1	Reznor H20-EC18 EVAP	\$ 46,200.10	\$ 43,687.00	\$ 2,621.22	\$ -		
Hot Water Heater	Electrical Room	1	AO Smith CHP-120	1	AO Smith Commercial 100G	\$ 17,222.88	\$ 40,607.00	\$ 2,436.42	\$ 7,000.00		
Stove	Kitchen	1	6 burner standing gas range w/oven	1	6 hob induction range	\$ 28,872.40	\$ 12,828.00	\$ 769.68	\$ 5,800.00		
6% Bond cost included in each line item						\$ 117,380.28	\$ 169,090.00	\$ 10,145.40	\$ 33,550.00		
SUB TOTAL						\$ 117,380.28	\$ 169,090.00	\$ 10,145.40	\$ 33,550.00		
PROJECT VALUE						\$ 296,615.68					
CES INCENTIVE						\$ 33,550.00					
CUSTOMER CO-PAY						\$ 263,065.68					



SMUD Complete Energy Solutions Proposal

**City of Sacramento - Johnston Community Center
July 8, 2024**

Prepared for:

City of Sacramento - Johnston Community Center

231 Eleanor Ave

Sacramento, CA 95815

This program is brought to you by SMUD and delivered by TRC and Brighton Energy.





Elizabeth Weeks
231 Eleanor Ave
Sacramento, CA 95815

Hello Elizabeth Weeks,

Welcome to the Complete Energy Solutions (CES) program. We know how important it is to manage the energy costs for your business. By participating in this program, you can complete comprehensive energy retrofits and upgrades to ensure long-term energy and carbon reduction savings. Our goal is to help you offset some of the up-front costs, so you can improve your energy systems without adding financial stress.

As your energy advisor, I'm here to guide you through the entire process and will help you review the assessment proposal, navigate the installation process, confirm upgrades are completed and ensure you receive your incentive in a timely manner. If financing is needed, I can provide options through the National Energy Improvement Fund's (NEIF) online financing portal, which matches customer energy efficiency and gas-to-electric conversion projects with available financing options.

We're here for you. We will support you beyond project completion to make sure your business can take advantage of other SMUD solutions.

Sincerely,

Jeff Krisa

jeff@brightonenergy.net

Proposal Overview: Savings and Costs

This overview section outlines all the available measures for your business. The following sections will provide more detail on each measure category. After you have reviewed, please initial below next to each work order you approve.

Your proposed Go-Electric measures

Project Scope	Annual Therms Being Avoided	kWh-e Saved from Avoided Therms	Added kWh Load	Electricity Saved (annual kWh-e)	Annual Metric tons of CO2 Saved
Go Electric Space Heating	296.48	8,686.77	(6,903.53)	15,590.30	2.91
Go Electric Water Heating	322.62	9,452.71	1845.53	7,607.18	1.42
Go Electric Cooking	272.42	7,982.01	3104.12	4,877.90	0.97
Total	891.52			28,075.38	5.31

Project Impact

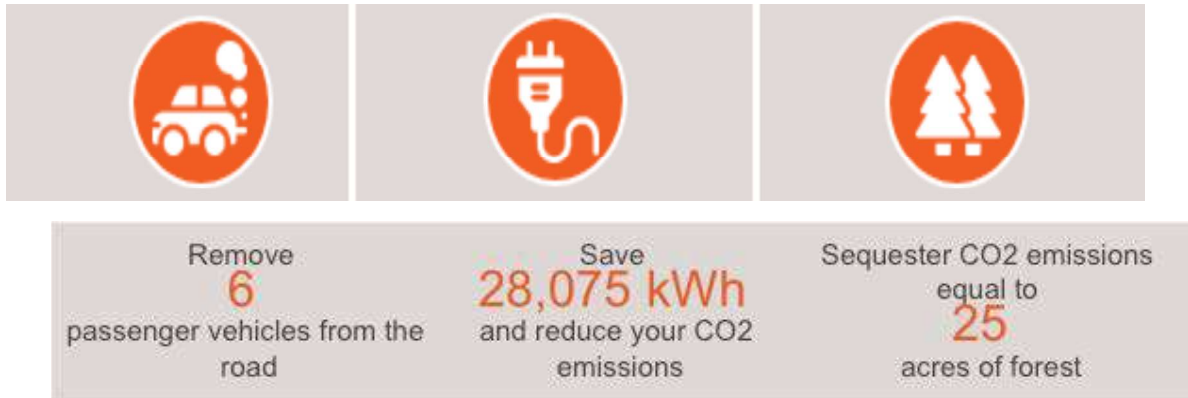
Project Scope	Change to Monthly Energy Costs (\$)	Change to Annual Energy Costs (\$)
Go Electric Space Heating (removing gas equipment)	\$-46.94	\$-563.31
Go Electric Water Heating (removing gas equipment)	\$-51.08	\$-612.97
Go Electric Cooking (removing gas equipment)	\$-517.60	\$-6,211.26

The energy efficiency, electric vehicle, and Go-Electric measures described in the Report represent an estimate of expected energy savings and/or bill impacts. Complete Energy Solutions does not guarantee a specific level of cost savings from the implementation of the proposed energy efficiency measures.

Project impact

Environmental benefits

By implementing the energy efficiency measures outlined in this proposal, your first year project impact will be:



Proposal Overview – Project Costs Summary

Project Scope	Material Cost (\$)	Labor Cost (\$)	SMUD Incentive (\$)	Customer Cost (\$)
Go Electric Space Heating	\$71,285.00	\$122,594.30	\$20,750	\$173,129.30
Go Electric Water Heating	\$17,222.88	\$43,043.42	\$7,000	\$53,266.30
Go Electric Cooking	\$28,872.40	\$13,597.68	\$5,800	\$36,670.08
Total	\$117,380.28	\$179,235.40	\$33,550*	\$263,065.68

* An additional SMUD CES incentive of \$5,000 will be applied to cover the application / engineering fee related to required transformer upgrade (not reflected in measure incentives). Total SMUD incentive applied to the project is \$38,550.

Initial to approve work order(s):

Go Electric Space Heating _____

Go Electric Water Heating _____

Go Electric Cooking _____

Go Electric

Your Go Electric Business measures

Work order	Electricity Saved (annual kWh)	Material Cost (\$)	Labor Cost (\$)	SMUD Incentive (\$)	Customer Cost (\$)
Go Electric Space Heating	15,590.30	\$71,285.00	\$122,594.30	\$20,750	\$173,129.30
Go Electric Water Heating	7,607.18	\$17,222.88	\$43,043.42	\$7,000	\$53,266.30
Go Electric Cooking	4,877.90	\$28,872.40	\$13,597.68	\$5,800	\$36,670.08

Electrification projects can substantially change a load profile. The CES team can assist with the future load impacts and help to determine if the existing infrastructure is adequately sized via the submittal of a SMUD Infrastructure Capacity Evaluation (ICE).

Benefits

California's buildings represent about 25% of the state's total greenhouse gas emissions. Making the switch to electric and removing fossil fuels, is an important part of a comprehensive energy strategy contributing to greenhouse gas reductions. Consider these benefits:

- **Greenhouse gas reduction:** Eliminating natural gas for cooking, space heating and water heating within your commercial property reduces greenhouse gas emissions by 25 to 46 percent.
- **Maintenance costs:** Eliminates routine checks, maintenance and repair of natural gas infrastructure.
- **Heat pumps for space heating and water heating:** Replacing your gas-fired heating equipment with electric heat pumps is a step towards a more efficient, healthier community. While a gas-fired unit works by burning natural gas to create heat, a heat pump works by moving heat. Heat is moved from the surrounding air to heat your building or water. Because a heat pump is moving energy as opposed to creating it, a heat pump can be greater than three times more efficient than a gas-fired unit.
- **Induction cooking:** Induction cooktops are not only safe and energy efficient, but they also improve your kitchen's air quality compared to a gas-fired stovetop. Induction cooktops produce zero kitchen pollution while natural gas stoves can release carbon monoxide, formaldehyde and other harmful pollutants into the air. Because the cooktop's heat is focused on the pan and nowhere else, less heat is wasted, leading to a cooler kitchen and reducing the risk of burns and accidental fires.
- **Contribution to SMUD's 2030 Zero Carbon Plan:** By switching from gas to electric equipment, you are reducing your carbon impact and positively impacting the environment. SMUD's ambitious goal of reaching zero carbon emissions in the power supply by 2030 cannot be done without customers or community partners, and your participation will help in reaching the goal.

Go-Electric Space Heating Project Scope

		Existing Equipment			Recommended Upgrade:			
Location	Qty	Existing Unit Description	Existing Unit Capacity (Btu/hr)	Existing Unit Efficiency	Qty	Proposed Unit Description	Proposed Unit Capacity (Btu/hr)	Proposed Unit Efficiency
Roof Top Package	1	Carrier Package 48TCDD14A2A5A0A0A0	150,000	0.8	1	HP Unit- 12to17 Tons (135-239 kBtuh)-11.5 EER 3.2 COP	150,000	10.9
Roof Top Make-up Air	1	Reznor model #HCRGB75-SMVJ	75,000	0.78	1		67,970	

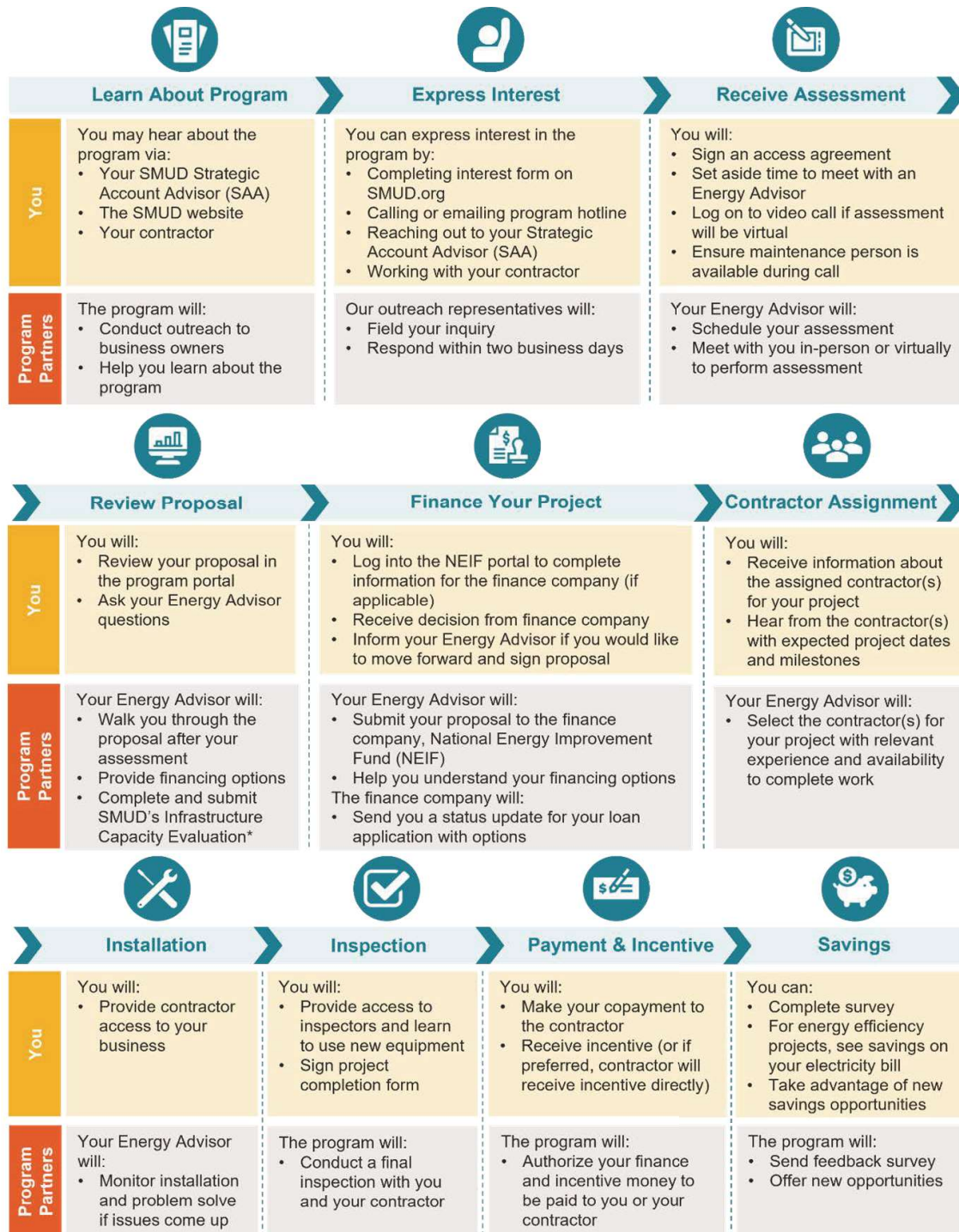
Go-Electric Water Heating Project Scope

Location	Existing Equipment				Recommended Upgrade:		
	Qty	Existing Unit Description	Existing Unit Efficiency	Qty	Proposed Unit Description	Proposed Unit Capacity (Gallons)	Proposed Unit Efficiency
Electrical Room	1	Gas	0.82	1	AO Smith CHP-120	118	4.2

Go-Electric Cooking Project Scope

Existing Equipment				Recommended Upgrade:		
Location	Qty	Existing Unit Description	Existing Unit Efficiency	Qty	Proposed Unit Description	Proposed Unit Efficiency
Kitchen	1	6 burner standing gas range w/ oven	0.35	1	6 hob induction range	0.9

Customer journey



*Mandatory submittal for all EV and Go Electric projects that could add load to a site

Customer participation agreement

City of Sacramento - Johnston Community Center

231 Eleanor Ave

Sacramento, CA 95815

By signing this Customer Participation Agreement (“Agreement”), Customer (the business entity listed above) agrees to the following Terms and Conditions:

Measures and Incentives:

I have reviewed the Energy Efficiency Upgrade Summary and Report (“Report”) provided by the Complete Energy Solutions Program (“Complete Energy Solutions”, “CES” or “Program”), a copy of which is attached to this Agreement. I agree that to the best of my knowledge the schedule of operations contained in the Report accurately describes the hours of operation at the facility listed above. I understand that the energy efficiency, electric vehicle, and Go-Electric measures described in the Report represent an estimate of expected energy savings and/or bill impacts, and that Complete Energy Solutions does not guarantee a specific level of cost savings from the implementation of the proposed energy efficiency measures (collectively, the “Project”). Complete Energy Solutions is administering the Project on the Customer’s behalf. Customer agrees to participate in SMUD’s Complete Energy Solutions Program provided in partnership with TRC Companies. Incentives for energy savings are calculated using the appropriate baseline to exceed California Title 20 and Title 24 standards. New products ordered, purchased, or installed prior to 4/1/20 or after 12/31/24 do not qualify for an incentive.

Resale products, products leased, rebuilt, rented, received from warranty of insurance claims, exchanged, won as a prize, or new parts installed in existing products do not qualify for incentives. SMUD is not responsible for the economic and technical feasibility, operational capability, and reliability of the Project.

Program Dates:

To be eligible for incentives, all projects must be installed and completed before December 31, 2024. Funding of incentives is distributed on a first-come first-served basis.

Project Commitment and Installation Completion Process:

I understand that I must have a signed Site Access Agreement on file to confirm Program eligibility, as well as this signed Customer Participation Agreement to initiate installation. For each work order, I agree to have Complete Energy Solutions contact (a) participating contractor(s) (“Contractor”) who will perform a walk-through inspection, review the scope of the Projects outlined in the Report, and schedule the Project installation at a time that is mutually agreeable to all parties. I understand that the total installed costs for the components of the Project are described in the attached listing of individual work orders. Costs for correcting electrical code violations are not included in the costs quoted above and are not covered by the Program. Any electrical code violations found during the Contractors’ inspections or during installation will be cause for the Contractor to stop work on the affected item(s) until such violations are corrected. I understand that the contractor walk-through may result in a Change Order due to specification or electrical code violations and that I will be notified and approve of any cost adjustments before additional work is completed.

Contractors are responsible for all on-site permitting and being properly equipped to conduct work on Program projects.

I will sign an agreement with each Contractor, which shall be solely between the Contractor and Customer, for the out-of-pocket portion of the Project costs. I understand that Complete Energy Solutions will provide an



incentive, detailed in the work order listing, to offset the cost of the Project installations, and the incentive can be paid directly to the Contractors. I understand that I am responsible for paying the balance of the agreed-to contract price after incentive payment and that payment is due to the Contractor upon completion of the individual work order. By enrolling in the Program, I agree not to seek reimbursement from any other energy efficiency program for the same measures incentivized under other programs. I understand that I am responsible for reimbursing the Program should I receive other incentive payments for the same measures. At the completion of the Project, I agree to sign the Customer Acceptance/Project Completion Form presented by the Contractor on TRC Companies' behalf.

The value of incentives and direct installations is taxable, excluding energy efficiency related items. Program will report incentives and direct installations greater than \$600 to the IRS unless you are exempt. Please consult your tax advisor concerning the taxability of incentives. The Customer, not the Program, is responsible for any taxes imposed as a result of your receipt of incentives from this Program. Form 1099 will be issued for the Customer, regardless of who the payee is, because the Customer receives the benefits of the incentives.

For projects involving added load to a customer site, a SMUD Infrastructure Capacity Evaluation (ICE) must be submitted and returned to analyze the available existing transformer capacity. The CES team will help to fill out the form and submit it to SMUD. Additional load may require a Rule 16 application which requires a deposit, payable to SMUD, along with other associated infrastructure costs or fees. If a customer moves forward on a project in which the added load may exceed the existing infrastructure capacity, the CES team will work to identify all added costs or liabilities associated before the project commences.

I hereby authorize SMUD to share my business contact information with the Business Environmental Resource Center (BERC) of Sacramento County, for the purpose of qualifying my business for BERC programs, including BERC's Sacramento Area Sustainable Business program, following completion of project. This authorization will remain valid until revoked by me in writing. I may revoke this authorization at any time by providing written notice to SMUD. I hereby indemnify and forever hold SMUD harmless from any and all actions and causes of actions, suits, claims, attorney's fees, or demands against SMUD, which I or my heirs may have resulting from SMUD sharing my business contact information with BERC.

Customers receiving the SMUD Business Electricity Reports may see a change in the energy efficiency recommendations in future reports due to TRC Companies updating your business profile. Updating your business profile helps SMUD provide more relevant information in future reports.

Customer approval

I have read and understood the Terms and Conditions of this Agreement. I certify that the information I have provided is true and correct.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

- I agree to assign my incentive to the Contractor. I understand that whether I assign the incentive to the Contractor or not, I remain the beneficiary of the incentive(s) and may receive a Form 1099 for which I am responsible.

- Check this box if you do not agree to release the Project name, photos and other relevant Project information to SMUD Complete Energy Solutions, TRC (implementor), and their agents for use in reports, case studies and other materials for this Program.

- The Electric Vehicle Service Equipment (EVSE) incentives are handled and processed through a collaboration with SMUD and/or through the CALeVIP Program. I will follow SMUD's Electric Vehicle or CALeVIP guidelines if pursuing incentives.

As shown in the proposed items cost section, customer Out of Pocket Cost is \$263,065.68.

Customer
Customer Representative: Elizabeth Weeks
City of Sacramento - Johnston Community Center
231 Eleanor Ave
Sacramento, CA 95815
Phone: (916) 808-2330
Email: eweeks@cityofsacramento.org

SMUD Complete Energy Solutions
Energy Advisor: Jeff Krisa
Brighton Energy
2701 Cottage Way, Suite 11
Sacramento, CA 95825
Phone: (916) 804 2762
Email: jeff@brightonenergy.net

Customer Representative's Title

Customer Representative's Printed Name

Customer Representative's Signature

Date