



## **YOLO COUNTY BOARD OF EDUCATION REGULAR MEETING**

**04/09/2024 06:00 PM**

Yolo County Office of Education | 1280 Santa Anita Court, Suite 120, Woodland, CA  
95776

Davis Conference Room  
Open Session - 6:00 PM

## AGENDA

*The Yolo County Office of Education's vision is to be a model of excellence in educational service, innovation, and impact.*



Scan the above QR code with your phone to view this meeting agenda on your phone.

### **BOARD MEMBERS**

Shelton Yip, President  
Armando Salud-Ambriz, Vice President  
Elizabeth Esquivel  
Melissa Moreno  
Tico Zendejas

**All meetings of the Yolo County Board of Education will be held in person at the Yolo County Office of Education, 1280 Santa Anita Court, Suite 120, Woodland, CA. The meeting will be available for live stream viewing via Zoom:**

<https://ycoe.zoom.us/j/97637728971>

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US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099

**Webinar ID: 976 3772 8971**




*For those individuals who wish to make a public comment, please do so in the following manner:*

- Before the meeting by google form:

[http://bit.ly/Board\\_Comments](http://bit.ly/Board_Comments)









*Please submit your Google form by the Board meeting date. A moderator for the meeting will read your comments for the record.*

- In person at the Yolo County Office of Education, 1280 Santa Anita Court, Suite 120, Woodland, CA 95776.
  - To address the Board concerning an item on the agenda, please complete the form provided at the door.
  - The Board President will invite each speaker to the podium to make verbal comments that may not exceed three (3) minutes.


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- a. March 12, 2024 Regular Board Meeting Minutes
- b. March 2024 Temporary County Certificates (TCC's)

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Month - May 2024.

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 For information.
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**AGENDA PACKETS ARE AVAILABLE FOR REVIEW AT THE FOLLOWING LOCATIONS:**

- Four calendar days prior to the meeting, a full Board packet is available for review at the office of the Yolo County Office of Education Reception Desk, 1280 Santa Anita Court, Suite #100, Woodland (8:00 a.m. - 5 p.m., Monday through Friday - excluding County Office of Education holidays).
- Agenda documents distributed to the Board less than 72 hours before the meeting will be made available at the office of the Yolo County Office of Education Reception Desk, 1280 Santa Anita Court, Suite #100, Woodland (8:00 a.m. - 5:00 p.m., Monday through Friday - excluding County Office of Education holidays). [Government Code section 54957.5]
- Board Agendas are posted outside the YCOE Administrative Office building at 1280 Santa Anita Court, Suite #100 and #120, in weather-protected glass cases.
- Four (4) calendar days prior to the meeting, a full Board packet is available for review on the Yolo County Office of Education website: [www.ycoe.org](http://www.ycoe.org)
- The Yolo County Office of Education does not discriminate against persons with disabilities and is an accessible facility. Persons with disabilities who wish to attend this meeting and require assistance in order to participate should contact the Executive Assistant to the Superintendent at (530) 668-3702 at least 24 hours in advance of the meeting to make reasonable arrangements to ensure accessibility. Language translation services and American Sign Language (ASL) interpreters will be provided with a minimum notice of three (3) business days prior to the meeting.



**1. OPENING PROCEDURES**

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**1. 1. Call to Order and Roll Call**

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**1. 2. Consider Approval of Virtual Participation of the Yolo County Board of Education Regular Meeting by Vice President Armando Salud-Ambriz and Trustee Elizabeth Esquivel due to Just Cause (AB 2449)**

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**Description**

Motion to approve Virtual Participation of the Yolo County Board of Education Regular Meeting by Vice President Armando Salud-Ambriz and Trustee Elizabeth Esquivel due to Just Cause (AB 2449).

Just Cause (AB 2449) - Travel while on official business of the legislative body or another state or local agency.



### **1. 3. Indigenous Land Acknowledgement Statement**

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#### **Description**

#### **Indigenous Land Acknowledgement**

We should take a moment to acknowledge the land on which we are gathered. For thousands of years, this land has been the home of Patwin people. Today, there are three federally recognized Patwin tribes: Cachil Dehe Band of Wintun Indians of the Colusa Indian Community, Kletsel Dehe Band of Wintun Indians, and Yocha Dehe Wintun Nation.

The Patwin people have remained committed to the stewardship of this land over many centuries. It has been cherished and protected, as elders have instructed the young through generations. We are honored and grateful to be here today on their traditional lands.

**Approved by Yocha Dehe Tribal Council (July 23, 2019)**

**1. 4. Pledge of Allegiance**

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**1. 5. Approval of Agenda**


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**Recommendation**

Motion to approve Agenda.

**2. RECOGNITION OF GUESTS AND PRESENTATIONS**

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**2. 1. YCOE Employee of the Month - April 2024** 

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**Description**

**YCOE Employee of the Month - April 2024**

Alejandra Lopez, Program Specialist I at Cesar Chavez Community Schools

April's topic: YCOE's Strategic Plan - "*Strategic Plan Goal 3: Engage YCOE students in model education programs in order to ensure they are college and career-ready*"

**Recommendation**

For information.

**Supporting Documents**



April 2024\_Alejandra Lopez

**Contact Person**

Cindy Nguyen, Interim Executive Director, Human Resources Department will present this item.



Human Resources Department

**YCOE Employee of the Month—April 2024**  
**Alejandra Lopez - Program Specialist I**  
**Cesar Chavez Community Day School**

**April's Topic:** Strategic Plan Goal 3: Engage YCOE students in model education programs in order to ensure they are college and career-ready

Alejandra was nominated by a manager within our organization who observed her work aligning with our Strategic Plan. Alejandra has been pivotal in helping Cesar Chavez students enroll concurrently with Woodland Community College. This semester, there are 9 students between Dan Jacobs and Cesar Chavez, who are concurrently enrolled with Woodland Community College. This is an unprecedented success in this area.

This is an incredible opportunity for our students, which would not have been possible without Alejandra's dedication and support. Moreover, this participation of our students in concurrent enrollment is a key metric in the graduate profile we are trying to create for Cesar Chavez students in becoming college and career ready.

Please join us in celebrating and recognizing Alejandra at our next Yolo County Board of Education Meeting.

**Yolo County Board of Education**  
**1280 Santa Anita Ct, Conference Rooms**  
**Woodland, CA 95776**

**Tuesday, April 9, 2024**  
**6:00 p.m.**



### 3. PUBLIC COMMENT

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#### Description

This item is placed on the agenda for the purpose of providing visitors the opportunity to address the Board on any item(s) of business that does not appear on the formal agenda.

Visitors may also request recognition from the chairperson, to address the Board concerning an item on the agenda by completing the form provided at the door or following the public comment instructions below:

*The Board reserves the right to establish a time limit on these discussions, or to refer them to the next regular meeting for further deliberation.*

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**4. REPORTS**

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**4. 1. Board Member(s)/Superintendent/Superintendent's Advisory Team (SAT)/Committee(s)** 

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**Quick Summary / Abstract**

- a. Board Reports
- b. Superintendent
- c. Superintendent's Advisory Team (SAT)
  - i. Administrative Services Report
  - ii. Educational Services Report
- d. Committees

**Supporting Documents**

-  Admin Services update 4.2024
-  \_Educational Services Board Update March 12 draft 2.docx

## **ADMINISTRATIVE SERVICES APRIL 2024 UPDATES**

Veronica Moreno - Associate Superintendent, Administrative Services

### **External Business Services**

Director, Lorelle Mudd

- EBS Director is currently reviewing district second interim reports.
- EBS is hosting a Retirement and Payroll Advisory (RPA) meeting on May 29<sup>th</sup> for district staff. Representatives from CalPERS will be offering three classes: Rules, Reporting and Retirees.

### **Internal Fiscal Services**

Director, Gustavo Aguilera

- Auditor interim visit by James Marta & Co. on May 20 & 21
- Meeting with Program Managers on 2024-2025 Budget Development
- Working with Program Managers on budget adjustments for 2023-2024
- Allocating budget to recently received funds (GAN's)
- Processing final Purchase Orders for the 2023-24 fiscal year
- Discussions will start on the 2023-2024 year-end closing process

### **Information & Technology Services**

Director, Carl Fahle

- **CHECK PRINTING ENHANCEMENTS:** An improved warrant design is in the final stages of validation and approval by the agency's trust company, U.S. Bank. The new design includes enhanced security features, updated district logos, and full integration with our QCC FIS system.
- **SIS/CALPADS:** Staff managing the Aeries Student Information System have enabled a feature that now provides staff at Winters Joint Unified School District the ability to upload (attach) supplemental documents to student records. Examples of documents that can be attached include Intervention Support, medical documents, attendance notes, and more. These documents include secure management and permissions-based access.
- **UPDATED PC "GOLDEN IMAGE":** Technology hardware and user support specialists are now installing an updated base image on all new and refreshed employee computers. The new profile includes easy access to common A.I. tools, VPN access for select remote workers, and numerous feature and security updates.
- **SPECIAL EDUCATION IOS APP PURCHASES:** I.T. members continue collaborating with Special Education staff to review the iPad and iOS applications inventory and device assignments, including future hardware/software acquisitions. Leveraging the Apple Volume Purchasing System, programs are able to purchase iOS application licenses in quantity at 50% off the retail price. This also enables staff to reclaim and redeploy applications to other users and devices as needs change. Currently, there are 211 managed iPads across the organization.

### **Support Operations Services**

Director, Matt Juchniewicz

- Greengate Structural Project: Construction slated to begin May 6<sup>th</sup>.
- CCCS Outdoor/ECE Expansion Project: Demolition starting the week of April 1<sup>st</sup>.

- Montgomery Playground: Installation started March 25<sup>th</sup>.
- Suite 100 Mezzanine: Planning phase to install lift to utilize area.
- Energy Conservation Project: Project being presented at the April board meeting for final approvals.
- Santa Anita Condensate Repair Project: Working with insurance on project complexities.
- YCOE Emergency and Safety Project: Finishing up site assessment reports to construct our Emergency Operations Plan.
- Future Greengate Modernization Project: Submitted documentation to determine eligibility.
- Future ECE campus expansion: We will be exploring new utility pull into the new campus once the CCCS/ ECE and Outdoor Renovation project is completed.
- Data Center Fire suppression Project: Project on hold until we free up time allocation from current projects.
- January 2023 New Year storms damages: We have finished our required documentation and are awaiting clearance to finish category Z funding. We have submitted for roughly a \$265,000 hazard mitigation project for an emergency generator to feed our Data Center in Suite 120. We are working on complexities surrounding the grant requirements.

## EDUCATIONAL SERVICES DIVISION

April 9, 2024

### BOARD REPORT

#### **Early Childhood Education**

*Shannon McClarin, Director*

- We presented our updated Head Start/Early Head Start grant goals, year one updates and budget to our Policy Council and Board and received approval. We now await approval from the Office of Head Start.
- Program staff attended the SEAL Early Learning Leadership convening and received information and support around utilizing SEAL strategies to support Dual Language Learners through a developmentally appropriate approach.
- Our Head Start Education and Disabilities/Mental Health managers attended the second round of the Community of Practice to Support the School Readiness Success of Young African American Boys at the end of March.
- Our program distributed parent surveys and will use this information for our program self evaluation report.

#### **Equity & Support Services**

*Stan Mojsich, Assistant Superintendent*

- On March 20, YCOE hosted the Yolo County Youth Commission board meeting and formed ad hoc groups with YCOE Civic Engagement, Martin Luther King Freedom Center, and Yolo County Board of Supervisors,
- The Ed Services teams have continued working and collaborating regularly with our school districts to establish communities of practices that will help our educators better support students across Yolo County. Combined our team has directly dedicated over two hundred hours to systems of support for our school districts.
- YCOE team members took part in the 13th annual UC Davis Equity Summit gathering with educators and many others to collect resources and be inspired by social justice awards winners.
- YCOE team members began anti-bias training which will help our team better support educators to develop skill and competency to eliminate bias and activate changes to structures and practices that have marginalized outcomes for students.

### **Special Projects: Student Services**

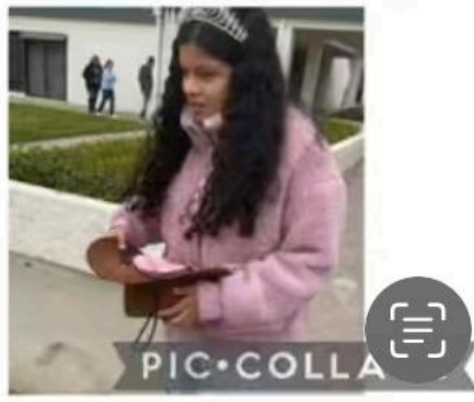
*Gayelynn Gerhart, Director*

- Continue to support the work embedded in the Roadmap To The Future
- Continue to provide technical assistance and support for the districts implementing community schools such as the following:
  - Office hours for community school support
  - Held our Yolo County Community Schools community of practice (COP)
  - Attendance at the County Offices of Education Network Meeting for Community Schools
  - Attended the County of Education Network Meeting for Community Schools at the Sacramento County Office of Education
- Hosted the Childcare Connection Network Meeting
- Presented at the CSBA Conference with Board President Yip and Deputy Superintendent Arvizu-Espinoza regarding Court and Community Schools
- Submitted the Annual Federal Stimulus Report for one-time ESSER and GEER funding
- Continuing to work with the Educational Services team in preparing the new 2024 LCAP

### **Special Education**

*Marty Remmers, Director*

- Our Deaf and Hard of Hearing program is nearly complete in its efforts to update the program's website and written materials to more accurately inform districts, parents, and the community about what our program is all about.
- On 3/12/24 and 3/13/24, Director Remmers, Principal Portugal, and Cyndi Hale, mental health clinician, attended the California State University at Dominguez Hills, education career fair. The team was able to meet many candidates and spread the word about how great it is to work for YCOE.
- On 3/29/24, Greengate held its annual student Easter Egg Hunt and its annual Staff Easter Egg Hunt. See the pictures below.



PIC•COLLA



### **College and Career Readiness**

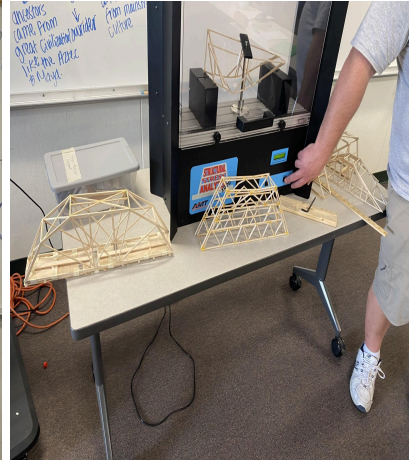
- Karen Swan, Coordinator*
- An Ta, Program Specialist III/Administrator*
- Edwin Ortega Beltran, Program Specialist*

- In preparation for the March 29th Youth and Young Adult Job and Resource Fair, four (4) transition age youth between the ages of 16-24 and eight (8) adults 25 years and older utilized the free co-navigation and coaching services provided Wednesdays throughout the month of March from 2pm-5pm by the College and Career Readiness team.
- The services provided include interview preparation, resume and cover letter building, application support, headshot portrait photography for LinkedIn profiles, and career exploration and planning. There were a total of 21 hours of support services provided by four (4) team members during the Wednesday sessions.
- On March 29th 2024, Yolo County Office of Education co-hosted another successful Transition Age Youth focused Job and Resource Fair alongside YoloWorks and the City of Woodland (Community Services Department). Over 35 community partners, vendors and businesses shared opportunities and resources with over 60 participants.

### **Alternative Education**

*Jared Coughlan, Principal*

- We presented the MOU for Expelled Youth with the Directors of our five partner districts. The next step will be a meeting to finalize the language and get Board approval from the five districts before presenting it to the YCOE Board.
- Our amazing students wrapped up quarter three and several students have moved up a grade level.
- Ms. Monica supported our students in an art Show at Tana.
- Mr. Willis and his scientists wrapped up their engineering project by stress-testing the bridges they built.
- Mr. Willis gifted E.V. a pair of clippers for his birthday and was his first customer.
- The Chavez/Greengate upgrade project has begun, and we are looking forward to our brand-new basketball court and outdoor wellness area.
- Graduation will be on June 6th at 5:30 in the conference center, we look forward to seeing you all there.
- The students continue to enjoy Coach Al and his crew from the Mindset Academy as they present their growth mindset lessons.





### **Prevention and Wellness**

Dr. Sonia Quiñones Rambo, Director

- The Prevention and Wellness Department has continued to prepare for the All Payer Fee Schedule, which is the state's sustainability plan to fund mental health services on school campuses
- We are surveying staff for wellness activities and materials as part of the CalHOPE Mindfulness and Wellbeing grant. The grant provides for adult wellness areas and materials so that staff feel grounded, encouraged, and ready to care for the needs of students and colleagues in the organization
- Our team delivered a presentation at the Napa Valley Wellness Conference, March 14-15 where we co-presented with Mary Yung and Jennifer Edwards from Yolo County Health and Human Services. [Photo: [Wellness Conference.jpg](#)]
- Our department is working across departments with Teaching and Learning and Equity and Support Services to prepare for the Whole Child Equity Summit on April 23 at YCOE
- We completed a grant application for the Certified Wellness Coaches to receive funding to upskill some of our current YCOE staff and prepare for the All Payer Fee Schedule, which will allow Wellness Coaches to bill for services.

### **Teaching & Learning**

*Catherine Irwin, Program Coordinator; Multi-Tiered Systems of Support - Heather Schlaman, Program Coordinator; Language and Literacy*

- The Teaching and Learning Department continues to meet monthly with instructional coaches from schools and districts throughout Yolo County to provide opportunities for networking, collaborative problem-solving, and continued professional learning.
- Multiple professional development sessions were held to support the continued implementation of PBIS across Yolo County. One highlight included a day-long collaboration with teams from Washington Unified.
- The Teaching and Learning department provided ongoing technical assistance and coaching in multiple areas including the implementation of the Multi-Tiered System of Supports, quality instruction for students designated as English Learners, and the implementation of the Ethnic Studies Curriculum.
- Teachers from around Yolo County in partnership with UC Davis and YCOE Teaching & Learning as part of the Yolo County Youth Civics Initiative (YCYCI) met at YCOE to discuss piloted curriculum related to civics engagement.



**4. 2. Associations (This Item provides an opportunity for YEA/CSEA/AFSCME representatives to address the Board and Public**

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## 5. CONSENT AGENDA

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### Quick Summary / Abstract

These items are expected to be routine and non-controversial. They will be acted upon by the Board at one time without discussion unless a Trustee or citizen requests that an item(s) be removed for discussion and separate consideration. In that case the designated item(s) will be considered following approval of the remaining items:

- a. March 12, 2024 Regular Board Meeting Minutes
- b. March 2024 Temporary County Certificates (TCC's)

### Supporting Documents



3-12-24 Minutes



TCC's March 2024 4 totals

**YOLO COUNTY BOARD OF EDUCATION**  
**Regular Meeting: March 12, 2024**  
**MINUTES**

**1.0 OPENING PROCEDURES**

1.1 Call to Order and Roll Call. The Yolo County Board of Education met on March 12, 2024, at 3:31 p.m. at a Regular Board meeting session in person. Board Members present were Tico Zendejas, Shelton Yip, Armando Salud-Ambriz, Melissa Moreno and Elizabeth Esquivel. President Yip presided. Superintendent Garth Lewis was present. (Roll Call held).

1.2 Indigenous Land Acknowledgement Statement. The land acknowledgement statement was conducted.

1.3 Pledge of Allegiance. The pledge of allegiance was conducted.

1.4 Approval of Agenda.  
Motion to Approve agenda. President Yip stated that the Board will be flexible on time with Item 5 - Recognition to Honor Cecil Aldana, Cesar Chavez Community School student who received the 2023-24 Every Student Succeeding Award - ACSA Region 3, since the student/family is traveling from school and work.

**MOTION:** Zendejas **SECOND:** Salud-Ambriz **AYES:** Zendejas,  
Salud-Ambriz, Esquivel, Moreno, Yip **NOES:** None **ABSENT:**  
None

**2.0 RECOGNITION OF GUESTS AND PRESENTATIONS**

2.1 YCOE Employee of the Month – March 2024  
Patti Robles, Assistant Director, Human Resources introduced Lisette Pereida, Paraeducator in the Visually Impaired program was recognized as the March 2024 Employee of the Month. The Board and Superintendent commented on her support of students and Yolo COE staff.

2.2 Introduction of New Staff  
Gustavo Aguilera, Director of Internal Fiscal Services was introduced to the Board. He has ten (10) years of experience in education.

**3.0 Public Comment**

None.

**4.0 REPORTS**

4.1 Board Reports

Trustee Zendejas

- No report.

- Appreciates everyone who voted on election day.

Trustee Moreno

- Hosted the *Yolo Empower Her* Conference.
  - 120 students attended at UC Davis
  - Inspired by one-day program which allowed for ideas for future gatherings.
- Continued organizing the California Latino School Boards Association's (CLSBA) upcoming Unity Conference.
- Attended the UC Davis College of Letters and Science gathering in Woodland.
  - Trustee Salud-Ambriz also attended.
- Commented on San Joaquin COE's development of ethnic studies for their teachers.
- Thanked Yolo COE and their support of teachers and staff.

Trustee Esquivel

- Commented on International Women's month.
- Discussed Policy platform with Yolo County School Boards Association group and the Excellence in Education event scheduled in September 2024.
- Attended the California School Boards Association (CSBA) legislative action week to discuss legislative priorities with Assemblymember Aguiar-Curry and Senator Dodd.
- Plan to attend Annual conference for CASBO in April 2024.
  - Will provide professional development for members.

Vice President Salud-Ambriz

- Welcomed new president, Dr. Lizette Navarette, of Woodland Community College (WCC). Incredible to have her in the community and to be represented by her.
- Discussed Breaking Barriers event.
- Will not be present in person at the next Board meeting. He will be attending CSBA Coast to Coast event and will have to participate virtually.

President Yip

- Attended the County Board Governance Workshop.
  - Sessions included boardroom diplomacy, shared governance, charter schools, Yolo County community schools, etc.
  - Thank you to Maria Arvizu-Espinoza, Deputy Superintendent, Alejandra Lopez, Youth Development Program Specialist, Cesar Chavez Community School and Gayelynn Gerhart, Director, Special Projects who gave up their Saturday to share what our community is doing along with student Cecil Aldana who shared his story at the event.
- Reminder to trustees to turn in Form 700 by April 2, 2024.
- Discussed the new Hate Free website – Anthony Volkar, PIO shared

information on the initiative to combat hate in community. More events and information to come.

- Attended the CSBA Legislative Advocacy event this week.
  - Met with Senator Dodd and Assemblymember Aguiar-Curry.
- Reminded trustees to sign up for the Yolo County Elected Leaders event at YCOE on Monday.
- Stated that the Equity Summit is on April 23.
- Currently working on CCBE conference in September. Please let him know if there are any ideas for presentations which include the Annual conference this year also.

### Superintendent

Items discussed included:

- Participated in open office hours at Alyce Norman Educational Center and Cesar Chavez Community school.
  - Participated in problem solving and connected with staff.
- Participated in needs assessment advisory committee for the Roadmap to the Future.
  - Very supportive and energetic group with diverse areas of expertise. Will submit recommendations on investment of American Rescue Plans (ARP) funds to the Board of Supervisors on June 30.
- Commented on the March 18 elected officials' event at YCOE that is upcoming.
  - Congressman Mike Thompson will attend.
- Updated trustees on the Women's History month event in March at YCOE.
  - Dr. Nancy Dome will focus on compassionate conversations.
- Thanked team from YCOE for work.
  - Acknowledged team for digging in and continuing to be energetic with current workload across all divisions.
- Maria Arvizu-Espinoza, Deputy Superintendent, is not here this afternoon but she sends regards.

### SAT

#### Educational Services

Maria Arvizu-Espinoza, Deputy Superintendent, Educational Services is not in attendance today.

#### Administrative Services

Veronica Moreno, Associate Superintendent, Administrative Services

Items discussed included:

- Busy with facilities and energy conservation projects at YCOE.
  - Will discuss the Greengate structural project in more detail

later in the meeting.

- Cesar Chavez Community Schools outdoor expansion project bids accepted/rejected. Project award information is upcoming.
  - Trustee Moreno asked about the construction company that was accepted and if their approach fits into the environmental resolution we approved. Matt Juchniewicz, Director, SOS stated that yes, they fit all the legal requirements. Trustee Moreno is asking about the environmental aspect? Superintendent Garth Lewis stated that it does to the greatest extent possible.

Committees

- Facilities met recently and their presentation is part of today's meeting.
- Trustee Esquivel commented on legislation recently introduced. The Policy committee will look at this and discuss. Plan is to provide resolutions to support in the future.

2.2 Associations  
None.

**5.0** RECOGNITION TO HONOR CECIL ALDANA, CESAR CHAVEZ STUDENT WHO RECEIVED THE 2023-24 EVERY STUDENT SUCCEEDING AWARD - ACSA REGION 3

Shelton Yip, President described the award program and discussed the recent presentation at County Governance meeting where trustees were very impressed by Mr. Aldana.

Principal Coughlan presented a certificate to Mr. Aldana. He also discussed his journey as a student.

Trustee Moreno congratulated him and appreciated his leadership. Vice President Salud-Ambriz congratulated him also. Trustee Esquivel congratulated his resilience for transitioning in high school and how it shows much maturity and dedication to his future. Trustee Zendejas congratulated the student.

**6.0** CONSENT AGENDA

Motion to Approve Consent Agenda.

**MOTION:** Esquivel **SECOND:** Zendejas **AYES:** Esquivel, Zendejas, Moreno, Yip, Salud-Ambriz **NOES:** None **ABSENT:** None

**7.0** ACTION ITEMS

ACTION ITEMS



- 7.1 RESOLUTION #23-24/34 Child Abuse Prevention Month – April 2024  
President Yip presented resolution. Doni DeBolt, Executive Director, Court Appointed Special Advocates (CASA) & Cecilia Lopez, Executive Director for the Yolo County District Attorney’s Office- Multi-Disciplinary Interview Center (Children’s Advocacy Center). They commented on prioritizing the well-being of children and families. Ms. Lopez also discussed the CAPSES event that will be on April 26 where they will host a pinwheel garden and are requesting sponsorships. She also commented on visiting the website yolo.org for more information. Trustee Moreno stated she has much gratitude for this organization which addresses oppression.

**Trustee Esquivel left at 4:14 and returned at 4:16 pm**

Motion to approve RESOLUTION #23-24/34 Child Abuse Prevention Month – April 2024

**MOTION:** Moreno **SECOND:** Zendejas **AYES:** Moreno, Zendejas, Esquivel, Salud-Ambriz, Yip **NOES:** None **ABSENT:** None

- 7.2 RESOLUTION #23-24/35 In Support of High School Voter Weeks, April 15-30, 2024

Vice President Salud-Ambriz presented resolution to Karen Urbano, League of Women Voters. He appreciates her support to get students to register to vote.

Trustee Esquivel recalls the opportunity given to her as a high school student to see a polling location and how it really impacted her to make sure she votes in every election. Thanked her for work that is greatly needed.

President Yip thanked the elections office and Vice President Salud-Ambriz for their work with voter’s accessibility committee making sure community members who speak different languages have all the equipment needed, interpreter and access to voting.

Motion to approve RESOLUTION #23-24/35 In Support of High School Voter Weeks, April 15-30, 2024.

**MOTION:** Salud-Ambriz **SECOND:** Zendejas **AYES:** Salud-Ambriz, Zendejas, Esquivel, Moreno, Yip **NOES:** None **ABSENT:** None

- 7.3 Proposed Dan Jacobs School Calendar

Motion to approve Dan Jacobs School Calendar.

**MOTION:** Zendejas **SECOND** Moreno **AYES:** Zendejas, Moreno, Esquivel, Salud-Ambriz, Yip **NOES:** None **ABSENT:** None

- 7.4 National External Diploma Program (NEDP)  
Motion to approve the National External Diploma Program (NEDP).

**MOTION:** Moreno **SECOND** Salud-Ambriz **AYES:** Moreno, Salud-Ambriz, Esquivel, Yip, Zendejas **NOES:** None **ABSENT:** None

- 7.5 Yolo County Office of Education Budget Revision and Second Interim Report  
Veronica Coronado, Associate Superintendent, Administrative Services presented the PowerPoint. Trustee Esquivel appreciates the work of staff to put this item together. She also has a question on assumptions and what is the difference between estimated Annual Cost-of-Living Adjustments (COLAs) and state COLA? What does it mean at local level based on Average Daily Attendance (ADA) and varying with districts? Is there a timeframe to try and best estimate budget? Ms. Coronado described the COLA impact per pupil rates and enrollment which is based on local population figures for programs, for example Local Control Funding Formula (LCFF) funding applies to rates statewide and is based on local data. Funding generating is an estimate and Ms. Coronado stated that each period they are grabbing the most current information pulled from CALPADS, enrollment supplemental concentration rates and P-1 attendance.

Trustee Moreno thanked staff for their work. She asked about ADA at Greengate, Cesar Chavez Community School and Dan Jacobs School and how do they compare to other continuation programs in the district? Ms. Coronado stated that the ADA for COE funding is different than school districts. She described the funding formula for countywide enrollment. Trustee Moreno commented on Davis JUSD and ADA. She asked if YCOE is stable or increasing? Staff stated that it varies and that Special Education ADA reports on behalf of school districts. ADA generates revenue for school districts. Trustee Moreno asked if those amounts are estimates? Ms. Coronado stated that yes, it is estimated, and it can also be affected by world events, etc.

Motion to approve the Yolo County Office of Education Budget Revision and Second Interim Report

**MOTION:** Zendejas **SECOND** Salud-Ambriz **AYES:** Zendejas, Salud-Ambriz, Esquivel, Moreno, Yip **NOES:** None **ABSENT:** None

8.0 **INFORMATION ITEMS**

- 8.1 Head Start/Early Head Start Reports  
Shannon McClarin, Director, Early Childhood Education presented this item.

Items discussed:

- Attended Conference: Success of Young African-American Boys.

Commented on conference where staff attended training on cultural responsiveness and health. Program managers will continue to attend training.

- Discussed virtual focus area one (1) review in April. Vice President Salud-Ambriz asked about the number of countywide students in Head Start. Is there a breakdown of race of students? Ms. McClarin stated that they have not been pulling information for race specific to African American boys. Trustee Moreno commented on K12 Sacramento consortium grant offering funds for improving college rates of boys of color but unfortunately does not include Head Start.

8.2 Cesar Chavez Attendance Report for March 2024  
Principal Coughlan presented this item.

Items discussed included:

- Vacancy in program at Cesar Chavez Community School (CCCS).
  - Hoping numbers will increase in the program.
  - Trustee Moreno asked about Cesar Chavez (CS) and decreased numbers for attendance and why it is different from the previous month. Staff stated that there has been a decrease. Trustee Moreno asked why? Staff stated that they are making phone calls and making visits to get numbers up. Staff, Principal, and Youth Development Specialist all make calls.

8.3 California Community Schools Partnership Program (CCSPP) Implementation Grant to the California Department of Education

Alejandra Lopez presented this PowerPoint. Committed to becoming a full-service community school regardless if they receive grant. Services discussed becoming a full-service community school. Plan to tap into family's engagement which includes student, parent and staff voices. Will provide after-school or out of school activities. Discussed the Antibias Grant and practices. If received will receive funds for 5 years.

Vice President Salud-Ambriz asked about what unduplicated pupils is. Ms. Coronado stated that it is English learners, foster homeless youth, etc. Trustee Moreno believes Ms. Lopez is the best person to lead this work and commends her for this work. The implementation phase will take about five (5) years. Planning phase discussed. Principal Coughlan discussed attendance and the plan for staff to visit homes, use the phone system and the community outreach to boost attendance.

Trustee Esquivel stated that she couldn't agree more to having Ms. Lopez lead. Her passion to serve students and the community is amazing and we are fortunate to have her here. She wanted more clarification on the timeframe and additional funding. Is the funding per year the anticipated amount or is there a maximum?

She admires the dedication of the county office to continue the work even though we may not receive the grant. Ms. Lopez stated that the grant application is a specific amount based on student population. President Yip stated that he hopes YCOE receives the grant.

**Trustee Esquivel left at 5:22 and returned at 5:25 pm**

8.4 Energy Conservation Project Overview

Matt Juchniewicz, Director, SOS presented this PowerPoint.

This energy conservation project is not just planning for today but for the future. It affects cost and student wellbeing along with community sustainability.

Vice President Salud-Ambriz commented that staff did an amazing job compiling information. Trustee Moreno thanked staff for emphasizing alignment to resolutions and earth. She stated that she knows there was a concern on safety and security around Santa Anita and a discussion of security cameras, hiring security, and fencing. Has that been addressed? Superintendent Lewis stated that since the gate has been added to Santa Anita those instances have decreased. Staff discussed conversation with the Yolo County Climate Action Commission and Environmental Health Division and the Board of Supervisors on feedback of plan.

Discussion on air filters has been ongoing. Mr. Juchniewicz commented on the investment in fencing, which has helped, and security cameras have been installed along with other projects. Fencing has blocked access to railroad tracks to help with traffic.

HVAC discussed included bipolarization and control over these installations. CO2 in the rooms will now close outside air dampers which will help with smoke inside and better air quality indoors. Affordability on this project in terms of duct work was discussed. Trustee Moreno stated that this project seems so unique and includes the County Board of Supervisors goal of reducing carbon in the county.

Trustee Esquivel commented that this presentation is very well put together and should be a possible proposal at conferences. This is very cutting-edge information that should be shared with other schools. She would like a better understanding of eligibility for programs with the state and appreciates putting environmental issues in the front of priorities along with students learning. Along with PG & E raising costs and schools budget considerations can be very frustrating.

Trustee Moreno asked if this similar technology and approach was happening at Cesar Chavez Community School and Greengate? Staff stated the document includes which technologies will be at which campuses. President Yip thanked staff for their innovation and sustainability. Thank you for your leadership.

8.5 Energy Conservation Project Financial Analysis

Rich Malone, Chief Operating Officer, Government Financial Services Joint

Powers Authority (GFSJPA), presented a PowerPoint. Stated that on April 17 financing closes. He discussed the next steps to facilitate this project.

Ms. Coronado thanked Mr. Malone and staff (including Jonathan Edwards) for working on this project. Other items discussed included the investment tax credit if approved.

Trustee Moreno asked about savings and does it take account repairs for facilities in 30 years or so. She also asked about Bank of America and why it was identified as the best bank to loan money to cover equipment and cover costs in whole construction and equipment. How do we know it has the lowest rates? Does YCOE usually go with Bank of America on projects? Do we take bids for the project. Staff stated that the County office is not a school district, and we work directly with them on the interest rate, which is better. Staff also stated that the short answer to the question about savings is yes and that is accounted for along with the annual cost of maintenance.

- 8.6 Energy Services Agreement with Syserco Energy Solutions  
Veronica Coronado, Associate Superintendent, Administrative Services presented this item. She discussed the design project scope. There will be public notice and public hearing on this agreement. The team has reviewed and will bring forward a finalized agreement for adoption.

**President Yip left at 6:11 and returned at 6:13**

- 8.7 First Reading of BP 3470 – Debt Issuance and Management  
Veronica Coronado, Associate Superintendent, Administrative Services reviewed the policy managing YCOE’s debt. She commented on YCOE’s commitment to financial health. This will come back to the Board next month for Action.
- 8.8 First Reading of BP 6185.1 Chavez Extension Program (CEP)  
Veronica Coronado, Associate Superintendent, Administrative Services presented this item. Auditors recommend policy on student eligibility as a best business practice. She thanked Gayelynn Gerhart, Director of Special Projects for constructing this policy. This will come back to the Board next month for Action.
- 8.9 Monthly Board Financial Report  
Veronica Coronado, Associate Superintendent, Administrative Services presented this item. No questions.
- 8.10 Discuss Yolo County Board of Education’s Retreat Goals for April 12, 2024  
President stated that the agenda has been finalized. If there are any changes, please let staff know. President Yip asked if trustees could bring their handbook to review. Trustee Zendejas will also work on Strength Finders’ question.

Suggested future agenda items.

- EL RISE – Future meeting.

- Status of Juvenile Hall – Cost and how many students (requested by Trustee Moreno at Board Retreat)

9.0 ADJOURNMENT. Adjourned at 6:20 PM

**MOTION:** Salud-Ambriz **SECOND:** Zendejas **AYES:** Salud-Ambriz, Zendejas, Esquivel, Moreno, Yip **NOES:** None  
**ABSENT:** None

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Garth Lewis, Superintendent

YOLO COUNTY OFFICE OF EDUCATION  
 TEMPORARY COUNTY CERTIFICATES  
 FOR DISTRICTS

March 2024

Davis Joint Unified School District

Applicant Name	Type of Credential/Permit/Certificate

Esparto Unified School District

Applicant Name	Type of Credential/Permit/Certificate
Moyra Barsotti	School Nurse Credential
Tiffany Casson	30-Day Substitute Permit

Washington Unified School District

Applicant Name	Type of Credential/Permit/Certificate

Winters Joint Unified School District

Applicant Name	Type of Credential/Permit/Certificate

Woodland Joint Unified School District

Applicant Name	Type of Credential/Permit/Certificate

Yolo County Office of Education

Applicant Name	Type of Credential/Permit/Certificate
Ivonne Garcia Garcia	CD Associate Teacher Permit

Total TCC's for the Month of March 2024: 3

**6. ACTION ITEM**

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**6. 1. Second Reading of BP 3470 - Debt Issuance and Management** 

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**Description**

BP 3470 - Debt Issuance and Management

**Recommendation**

Staff recommends adopting BP - 3470 Debt Issuance and Management Policy.

**Supporting Documents**



BP 3470 Debt Issuance and Management

**Contact Person**

Veronica Coronado, Associate Superintendent, Administrative Services will present this item.

## YOLO COUNTY BOARD OF EDUCATION

### BUSINESS AND NONINSTRUCTIONAL OPERATIONS

#### DEBT ISSUANCE AND MANAGEMENT

The Yolo County Office of Education (YCOE) is committed to long-term capital and financial planning and recognizes that the issuance of debt can be a source for funding the improvement and maintenance of YCOE facilities and managing cash flow. Any debt issued by the YCOE shall be consistent with law and this policy.

The purpose of this policy is to improve the quality of decisions, articulate policy goals, provide guidelines for the structure of debt issuance, and demonstrate a commitment to long-term capital and financial planning.

When the Yolo County Superintendent of Schools (County Superintendent) or designee determines it is in the best interest of the YCOE, the County Superintendent or designee may recommend to the Yolo County Board of Education (County Board) that debt be issued. The County Superintendent or designee will make recommendations to the County Board regarding appropriate financing methods for capital projects or other projects that are authorized purposes for debt issuance.

This debt policy sets forth comprehensive guidelines for financing capital expenditures, as well as for addressing short-term cash flow needs. The objectives of this policy are that:

1. The YCOE obtain financing only when necessary.
2. The YCOE use any type of debt financing allowed by California law (certificates of participation, lease-purchase financings, tax and revenue anticipation notes, temporary transfers from the county treasury or county superintendent of schools), so long as the financing meets the standards for appropriateness and efficiency described below.
3. The YCOE use a process for identifying the most appropriate and efficient timing, amount and structure of debt.

Factors to consider when determining the appropriateness of debt are to include the following:

- Why debt rather than cash expenditure is appropriate.
- Annual debt service and debt administration costs.
- The YCOE's financial condition.
- Repayment source, including the amount available and its reliability.
- Legal constraints resulting from the debt (e.g., prepayment terms, reporting requirements).

- Additional future capital needs.
- Type of debt instrument.

Factors to consider when determining efficiency are to include the following:

- Cost of Issuance and residual long-term costs.
  - Future flexibility.
  - Rate and structure of debt service.
4. The YCOE operate with extreme caution, and thoroughly investigate all possible conflicts of interest.
  5. The YCOE will ensure that any required initial and periodic reporting to investors, credit rating agencies, trustees, federal and state agencies is timely and accurate.
  6. The YCOE will review this policy at least annually and update it as needed. Such a review will include a review of the then-current Government Finance Officers Association's (GFOA's) best practices on debt management policy.

#### **Authorized Purposes for the Issuance of Debt**

The YCOE may issue debt for any of the following purposes:

1. To pay for the cost of capital improvements, including acquiring, constructing, reconstructing, rehabilitating, replacing, improving, extending, enlarging, and/or equipping YCOE facilities.
2. To refund existing debt.
3. To provide for cash flow.

Pursuant to Government Code (GC) 53854, general operating costs, including, but not limited to, items normally funded in the YCOE's annual operating budget, shall not be financed from debt payable later than fifteen (15) months from the date of issuance. The YCOE may deem it desirable to finance cash flow requirements under certain conditions so that available resources better match expenditures within a given fiscal year. To satisfy both State constitutional and statutory constraints, such cash flow borrowing shall be payable from taxes, income, revenue, cash receipts, and other moneys attributable to the fiscal year in which the debt is issued.

## Authorized Types of Debt

The County Superintendent or designee should recommend to the County Board potential financing method(s) that result in the highest benefit to the YCOE, with the cost of staff and consultants considered. Potential financing sources may include:

1. Short-Term Debt
  - a. Short-term debt, such as tax and revenue anticipation notes (TRANS), when necessary to allow the YCOE to meet its cash flow requirements. [GC 53850-53858]
2. Lease financing, including certificates of participation (COPs)
  - a. Lease financing to fund the highest priority capital equipment purchases when pay- as-you-go financing is not feasible. [EC 17450-17453.1]
3. COPs, TRANS, revenue bonds, or any other non-voter approved debt instrument shall not be issued by the YCOE in any fiscal year in which the YCOE has a qualified or negative certification, unless the Superintendent of Public Instruction (SPI) determines, pursuant to criteria established by the SPI, that the YCOE's repayment of that indebtedness is probable. [EC 42133]

## Relationship of Debt to YCOE's Facilities Program and Budget

Decisions regarding the issuance of debt for the purpose of financing capital improvement shall be aligned with current needs for acquisition, development, and/or improvement of YCOE property and facilities as identified in the YCOE's facilities master plan or other applicable needs assessment, the projected costs of those needs, schedules for the projects, and the expected resources.

## Structure of Debt Issues

The YCOE shall consider the overall impact of the current and future debt burden of the financing when determining the duration of the debt issue.

The YCOE shall design the financing schedule and repayment of debt so as to take best advantage of market conditions, ensure cost effectiveness, provide flexibility, and, as practical, recapture or maximize its debt capacity for future use. Principal amortization will be structured to meet debt repayment, tax rate, and flexibility goals.

## **Method of Sale**

For the sale of any County Board-issued debt, the County Superintendent or designee should recommend the method of sale with the potential to achieve the lowest financing cost and/or to generate other benefits to the YCOE. Potential methods of sale include:

1. A competitive bidding process through which the award is based on, among other factors, the lowest offered true interest cost.
2. Negotiated sale, subject to approval by the County Board to ensure that interest costs are in accordance with comparable market interest rates.
3. Private placement sale, when the financing can or must be structured for a single or limited number of purchasers or where the terms of the private placement are more beneficial to the YCOE than either a negotiated or competitive sale.

## **Investment of Proceeds**

The County Superintendent is obligated to actively manage the proceeds of debt issued for public purposes in a manner that is consistent with state law governing the investment of public funds and with the permitted securities covenants of related financing documents executed by the County Board.

The management of public funds shall enable the YCOE to respond to changes in markets or changes in payment or construction schedules so as to ensure liquidity and minimize risk.

## **Refunding/Restructuring**

The YCOE may consider refunding or restructuring outstanding debt if it will be financially advantageous or beneficial for debt repayment and/or structuring flexibility. When doing so, the YCOE shall consider the maximization of the YCOE's expected net savings over the life of the debt issuance.

## **Internal Controls**

The County Superintendent or designee should establish internal control procedures to ensure that the proceeds of any debt issuance are directed to the intended use. Such procedures shall assist the YCOE in maintaining the effectiveness and efficiency of operations, properly expending funds, reliably reporting debt incurred by the YCOE and the use of the proceeds, complying with all laws and regulations, preventing fraud, and avoiding conflict of interest.

The YCOE shall be vigilant in using debt proceeds in accordance with the stated purposes at the time such debt was incurred.

When feasible, the YCOE shall issue debt with a defined revenue source in order to preserve the use of the general fund for general operating purposes.

The YCOE shall annually conduct a due diligence review to ensure its compliance with all ongoing obligations applicable to issuers of debt. Such a review may be conducted by general legal counsel or bond counsel. Any YCOE personnel involved in conducting such reviews shall receive periodic training regarding their responsibilities.

In addition, the County Superintendent or designee should ensure that the YCOE completes, as applicable, all performance and financial audits that may be required for any debt issued by the YCOE, including disclosure requirements applicable to a particular transaction.

### **Records/Reports**

At least thirty (30) days prior to the sale of any debt issue, the County Superintendent or designee is required by law to submit a report of the proposed issuance to the California Debt and Investment Advisory Commission (CDIAC). Such report shall include a self-certification that the County Board has adopted a policy concerning the use of debt that complies with the law and that the contemplated debt issuance is consistent with that policy. [GC 8855]

On or before January 31 of each year, the County Superintendent or designee is to submit a report to the CDIAC regarding the debt authorized, the debt outstanding, and the use of proceeds of the issued debt for the period from July 1 to June 30. [GC 8855]

The County Superintendent or designee should maintain transaction records of decisions made in connection with each debt issuance, including the selection of members of the financing team, the structuring of the financing, selection of credit enhancement products and providers, and selection of investment products. Each transaction file shall include the official transcript for the financing, interest rates and cost of issuance on the day when the debt was sold ("final number runs"), and a post-pricing summary of the debt issue.

In addition, documentation evidencing the expenditure of proceeds, the use of debt-financed property by public and private entities, all sources of payment or security for the debt, and investment of proceeds shall be kept for as long as the debt is outstanding, plus the period ending three years after the financial payment date of the debt or the final payment date of any obligations.

The County Superintendent or designee is requested to annually report to the County Board regarding debts issued by the YCOE.

Policy adopted: 4-9-24

**7. PUBLIC HEARING PURSUANT TO GOVERNMENT CODE SECTIONS 4217.12 and 4217.13  
CONCERNING AN ENERGY SERVICES CONTRACT AND RELATED EQUIPMENT LEASE/PURCHASE  
FINANCING**

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**8. ACTION ITEMS**

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## **8. 1. Adoption of Resolution 23-24/39 - Equipment Lease-Purchase Agreement for Energy Conservation Project**

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### **Description**

Yolo County Office of Education (YCOE) administration intends to commence with a project that involves a combination of energy conservation measures at three (3) sites, and HVAC and air quality improvements at eligible sites. This project is expected to result in improved facility conditions, air quality, learning and teaching conditions, as well as avoided utility and operational costs. Additionally, it will provide the infrastructure for added stability during power outage events to eliminate/reduce interruptions for YCOE and/or district operations.

At the March board meeting, informational items were presented to provide an overview of the project and related financial analysis. In order to accomplish the financing for the project, the attached resolution will authorize YCOE to enter into an equipment lease-purchase agreement with Banc of America Public Capital Corp and an escrow and account control agreement with Wilmington Trust, N.A., pursuant to Government Codes 4217.12 and 4217.13. Refer to the attached cover memo for a brief summary of the purpose and contents of the authorizing resolution and related legal documents.


### **Recommendation**


For action to approve Resolution 23-24/39.

### **Supporting Documents**

 Lease-BoardDocumentsCoverMemo-Final YoloCOE-2024

 Yolo County BOE Resolution Authorizing Lease Purchase Solar 2024(190118.3) (1)

 ELPA (Yolo) 4880-2740-8300 v7 (1)

 Escrow Agreement (Yolo) 4868-7109-1116 v8 (2)

### **Contact Person**

Veronica Coronado, Associate Superintendent, Administrative Services, will present this item.

## MEMORANDUM

To: Veronica Coronado  
From: Rich Malone *REM*  
Date: April 2, 2024  
Re: Documents Associated with the 2024 Lease Financing

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Veronica, as you know, on April 9th the Yolo County Board of Education will be asked to consider a resolution authorizing the 2024 Lease Financing to pay for the Syserco energy equipment project. In preparation for the Board of Education's consideration of this item, we have prepared this memorandum to briefly review the purpose and contents of the authorizing resolution and related legal documents.

### Resolution

In addition to authorizing the execution of the Equipment Lease/Purchase Agreement (the "Lease Agreement") underlying the financing, the Resolution also:

- authorizes and directs certain Board of Education members along with certain YCOE officials—the Superintendent of Schools and the Associate Superintendent, Administrative Services—to execute the final versions of documents necessary to complete the 2024 Lease Financing,
- approves the form of the Lease Agreement as well as the Escrow and Account Control Agreement (both briefly summarized below),
- sets the maximum amount of the 2024 Lease Financing (\$4,782,587) and maximum interest rate (4.6%),
- identifies in Exhibit A the good faith estimates associated with the 2024 Lease Financing based on Banc of America Public Capital Corp's proposal, including the principal amount (\$4,782,587), issuance costs (\$50,000), net proceeds for projects (\$4,732,587), total debt service (\$7,397,269) and true interest cost (4.594%).

### Form of the Tax-Exempt Lease/Purchase Agreement

The Lease Agreement documents Yolo COE's grant of a security interest in the energy equipment to Banc of America Public Capital Corp for a lump sum (i.e., the principal amount of the financing), and Banc of America Public Capital Corp's lease of the solar equipment back to Yolo COE in exchange for "rental payments" (i.e., the debt service payments). Basic terms of the Lease Agreement include, among other items:

- the duration of the lease (20 years) and the amount and timing of lease payments,
- provisions regarding prepayment of the lease,
- the responsibility of Yolo COE to pay all taxes, insurance premiums, maintenance and repair, and other costs associated with operating the equipment,
- provisions stating the required minimum levels of insurance for the equipment, and



- events of default (which include failing to include lease payments in Yolo COE's annual budget) and actions available to the Banc of America Public Capital Corp upon default (which do not include acceleration of any remaining lease payments).

The Lease Agreement also contains various forms of closing documents as exhibits.

#### **Form of the Escrow and Account Control Agreement**

The Escrow and Account Control Agreement defines the responsibilities of the Escrow Agent, Wilmington Trust, N.A., to maintain an escrow fund to hold and invest the proceeds of the 2024 Lease Financing as well as to process requisitions prepared by Yolo COE and approved by Banc of America Public Capital Corp to pay the costs of the energy equipment project.

The above descriptions of the Lease Agreement and Escrow and Account Control Agreement are meant as a brief overview only, and you and the Board of Education members should read each document in its entirety for a complete understanding of the financing provisions.

Veronica, I hope that you have found this memorandum helpful. As always, please let us know if you have any questions.

REM: rem

Enclosures

**RESOLUTION NO. 23-24/39**

**RESOLUTION OF THE YOLO COUNTY BOARD OF EDUCATION  
APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND  
DELIVERY OF AN EQUIPMENT LEASE-PURCHASE AGREEMENT, AND  
AUTHORIZING CERTAIN ADDITIONAL ACTIONS**

**WHEREAS**, the Yolo County Board of Education (the “Board of Education”) is a county board of education duly organized and existing as a political subdivision under and pursuant to the Constitution and the laws of the State of California, and acting through the Yolo County Office of Education (the “COE”);

**WHEREAS**; California Government Code sections 4217.10 through 4217.18 authorize public agencies to develop energy conservation supply sources;

**WHEREAS**, consistent with California Government Code section 4217.12 (“Section 4217.12”), the Board of Education gave notice of its intent to conduct a public hearing and take public comment upon a proposed agreement for energy services prior to a regularly scheduled public meeting at which the Board of Education held a public hearing and took public comment;

**WHEREAS**, the Board of Education made the findings required by Section 4217.12 and approved an energy services contract with Syserco Energy Solutions, Inc. (the “Syserco Contract”) for implementing an energy conservation project consisting of the acquisition and installation of solar panels and other related improvements at COE sites (the “Project”), pursuant to a separate resolution of the Board of Education, adopted on April 9, 2024;

**WHEREAS**, a portion of the Project will be installed on real property that is the subject of the Board of Education’s 2015 Certificates of Participation (the “2015 Certificates”) pursuant to the terms and conditions set forth in a Facilities Lease dated as of April 1, 2015 (the “2015 Lease”) by and between the Board of Education and the Yolo County Board of Education Financing Corporation (the “Corporation”) and a Trust Agreement dated as of April 1, 2015 (the “2015 Trust Agreement”) by and among the Board of Education, the Corporation, and The Bank of New York Mellon Trust Company, N.A.;

**WHEREAS**, on behalf of the Board of Education, the COE desires to engage in an equipment lease/purchase financing (the “Financing”), the proceeds of which will be utilized to finance the Project;

**WHEREAS**, in order to accomplish the Financing for the Project, the COE proposes to enter into an Equipment Lease-Purchase Agreement with Banc of America Public Capital Corp (the “Lessor”), the form of which has been presented to the Board of Education at this meeting (the “Lease-Purchase Agreement”), and an Escrow and Account Control Agreement among the COE, the Lessor, and Wilmington Trust, National Association, a national banking association organized under the laws of the United States of America (the “Escrow Agent”), the form of which has been presented to the Board at this meeting (the “Escrow Agreement,” and together with the Lease-Purchase Agreement and other documents as may be necessary to effect the Financing, the “Financing Agreements”);

**WHEREAS**, consistent with California Government Code section 4217.13 (“Section 4217.13”), the Board of Education gave notice of its intent to conduct a public hearing and take public comment upon the proposed Financing and Financing Agreements prior to a regularly scheduled public meeting at which the Board of Education held a public hearing and took public comment;

**WHEREAS**, Section 4217.13 authorizes a public agency to enter into a facility financing contract on terms that its governing body determines are in the best interest of the public agency and if the governing body finds that funds for the repayment of the financing or the cost of design, construction, and operation of the energy conservation facility, or both, as required by the contract, are projected to be available from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the public agency in the absence of the energy conservation facility financed by proceeds available through the facility financing contracts;

**WHEREAS**, based upon the public hearing pursuant to Section 4217.13 and the reports and analysis prepared by Syserco Energy Solutions, Inc. and Government Financial Services Joint Powers Authority (the “Public Finance Consultant”), funds for the repayment of the Financing or the cost of design, construction, and operation of the Project, as required by the Financing Agreements, are projected to be available from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the COE in the absence of the Project, and a copy of such analysis, prepared by the Public Finance Consultant, is attached hereto as Exhibit A and incorporated herein;

**WHEREAS**, the Board of Education deems it for the benefit of the Board of Education and for the efficient and effective administration thereof for the COE to enter into the Financing Agreements and the documentation related to the Financing of the Project on the terms and conditions set forth therein; and

**WHEREAS**, it appears to the Board of Education that the authorization, approval, execution, and delivery of the Financing Agreements and the documentation related thereto described above or contemplated thereby or incidental thereto are desirable and in the best interests of the Board of Education.

**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Board of Education as follows:

**Section 1. Recitals.** The Board of Education finds and determines that all of the above recitals are true and correct.

**Section 2. Approval of Documents; Authorization to Execute and Deliver Documents.** The Board of Education hereby approves the terms and provisions of the Financing Agreements in substantially the forms presented at this meeting, and authorizes and directs the President, Vice President, and the Secretary of the Board of Education, and the County Superintendent of Schools and the Associate Superintendent, Administrative Services, and their designees (the “Designated Officers”), and each of them individually, for and in the name of and on behalf of the COE, to execute and deliver the Financing Agreements, along with any other necessary documents, in such forms with such changes, insertions, revisions, corrections, or

amendments as shall be approved by the officer executing them; provided that the aggregate principal amount of the Financing shall not exceed \$4,782,587, and that the initial stated rate at which the interest components of the rental payments are calculated (excluding adjustments to the rate upon a default or loss of tax-exemption) shall not exceed 4.600% per annum or such lower rate as needed to comply with Government Code section 4217.13. The execution of the foregoing by a Designated Officer shall constitute conclusive evidence of such officer's and the Board of Education's approval of any such changes, insertions, revisions, corrections, or amendments to the respective forms of the agreements presented to this meeting.

**Section 3. Government Code Section 4217.12.** In compliance with Section 4217.12, on April 9, 2024, the Board of Education conducted a duly noticed public hearing, and took public comment related to the Project. Based upon all available information, including, but not limited to, reports and analysis prepared by Syserco Energy Solutions, Inc., and reviewed by the Board of Education and the COE in connection herewith, and pursuant to Government Code section 4217.12, the Board of Education hereby determines that, (A) the anticipated cost of the Syserco Contract to the COE for the thermal or electrical energy or conservation services provided thereunder is less than the anticipated marginal cost to the COE of thermal, electrical, or other energy that would have been consumed by the COE in the absence of the Syserco Contract, and (B) that it is otherwise in the best interest of the COE to approve and enter into the Syserco Contract. The Board of Education hereby confirms its compliance with the provisions of Government Code sections 4217.10 through 4217.18 and the findings made in connection therewith.

**Section 4. Government Code Section 4217.13.** In compliance with Section 4217.13, on April 9, 2024, the Board of Education conducted a duly noticed public hearing, and took public comment related to the Project. Based upon all available information, including, but not limited to, reports and analysis prepared by Syserco Energy Solutions, Inc. and the Public Finance Consultant, and reviewed by the Board of Education and the COE in connection herewith, and pursuant to Government Code section 4217.13, the Board of Education hereby determines that, (A) it is in the best interest of the Board of Education for the COE to enter into the Financing Agreements, and (B) funds for the repayment of the Financing, or the cost of design, construction, and operation of the Project, as required by the Financing Agreements, are projected to be available from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the COE in the absence of the Project. The Board of Education hereby confirms its compliance with the provisions of Government Code sections 4217.10 through 4217.18 and the findings made in connection therewith.

**Section 5. 2015 Certificates.** The Board of Education hereby authorizes the installation and construction of the Project on the real property leased pursuant to the 2015 Lease and the 2015 Trust Agreement in connection with the 2015 Certificates.

**Section 6. Good Faith Estimates.** In compliance with the requirements of Section 5852.1 of the California Government Code, applicable to bonds with a term greater than thirteen months, the Public Finance Consultant has prepared and provided the required good faith estimates related to this Financing. Such estimates are disclosed and set forth in Exhibit B, attached hereto.

**Section 7. Debt Policy.** The Board of Education hereby represents that it has adopted a debt policy as required by Section 8855 of the California Government Code, the Financing is in compliance with such debt policy, and the Board of Education will comply with post-issuance requirements set forth in Section 8855. The debt policy is on file with the Secretary of the Board of Education.

**Section 8. Other Actions Authorized.** The Designated Officers and other officers of the COE, and each of them individually, are hereby authorized and directed, for and in the name of and on behalf of the Board of Education, to execute and deliver any and all documents, to do any and all things and take any and all actions that may be necessary or advisable, in their discretion, in order to complete the Financing and to affect the purposes of this Resolution, including the execution and delivery of the Syserco Contract and the Financing Agreements, and execution and delivery of any and all memorandums of agreement or understanding, assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, deem necessary or advisable in order to consummate the transactions and requirements as described herein. All actions heretofore taken by officers, employees, and agents of the Board of Education and the COE that are in conformity with the purposes and intent of this Resolution are hereby approved, confirmed, and ratified.

**Section 9. No General Liability.** Nothing contained in this Resolution, the Financing Agreements, nor any other instrument shall be construed as incurring a monetary or other financial liability or charge upon the general credit of the Board of Education or the COE, nor shall the breach of any agreement contained in this Resolution, the Financing Agreements, or any other instrument or document executed in connection therewith impose any monetary or other financial liability upon the Board of Education or the COE or any charge upon its general credit, except to the extent that the rental payments payable under the Lease-Purchase Agreement are limited obligations of the Board of Education and the COE, subject to annual appropriation by the Board of Education, as provided in the Lease-Purchase Agreement.

**Section 10. Appointment of Authorized Representatives.** The County Superintendent of Schools and the Associate Superintendent, Administrative Services are each hereby designated to act as authorized representatives of the COE for purposes of the Financing Agreements until such time as the Board of Education shall designate any other or different authorized representative for purposes of said Financing Agreements.

**Section 11. Identification and Approval of Special Counsel and Public Finance Consultant.** The Board of Education hereby designates the firm of Parker & Covert LLP to serve as special counsel, consistent with the terms and conditions of the legal services agreement, on file with the Board of Education, which terms and conditions are hereby approved. The Board of Education also hereby designates Government Financial Services Joint Powers Authority to serve as Public Finance Consultant in connection with the execution and delivery of the Financing Agreements.

**Section 12. Severability.** If any provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Resolution.

**Section 13. Effective Date.** This Resolution shall be effective immediately upon its approval and adoption.

**APPROVED, PASSED, AND ADOPTED** by the Yolo County Board of Education this \_\_\_ day of April 2024.

AYES \_\_\_\_\_

NOES \_\_\_\_\_

ABSENT \_\_\_\_\_

ABSTAIN \_\_\_\_\_

**YOLO COUNTY BOARD OF EDUCATION**

\_\_\_\_\_  
Shelton Yip  
President of the Board of Education

**ATTEST:**

\_\_\_\_\_  
Garth Lewis  
Secretary of the Board of Education



**EXHIBIT A**

**FINANCIAL ANALYSIS  
(California Government Code section 4217.13)**

		Supplied by Syserco Energy Solutions, Inc.							Supplied by Public Finance Consultant			
		Project Savings			Project Costs				Gross Project Savings	Estimated Financing Costs	Net Project Savings	Cumulative Net Project Savings
FY		Arc Approved Energy Savings	Incentives	Projected O&M Savings	Total Program Savings	PV O&M	Total Program Costs					
7/1/24	6/30/25	\$253,184							\$219,999	-\$219,999	-\$219,999	
7/1/25	6/30/26	\$270,465	\$1,005,639	\$23,260	\$1,299,365	\$7,507	\$7,507	\$1,291,858	\$226,145	\$1,065,713	\$845,714	
7/1/26	6/30/27	\$281,454	\$0	\$23,958	\$305,412	\$7,732	\$7,732	\$297,680	\$1,233,606	-\$935,926	-\$90,212	
7/1/27	6/30/28	\$292,892	\$0	\$24,677	\$317,569	\$7,964	\$7,964	\$309,606	\$244,896	\$64,709	-\$25,503	
7/1/28	6/30/29	\$304,798	\$0	\$25,417	\$330,215	\$8,203	\$8,203	\$322,013	\$254,852	\$67,161	\$41,659	
7/1/29	6/30/30	\$317,191	\$0	\$26,180	\$343,371	\$8,449	\$8,449	\$334,922	\$265,214	\$69,708	\$111,366	
7/1/30	6/30/31	\$330,090	\$0	\$26,965	\$357,056	\$8,702	\$8,702	\$348,353	\$275,999	\$72,355	\$183,721	
7/1/31	6/30/32	\$343,518	\$0	\$27,774	\$371,292	\$8,963	\$8,963	\$362,328	\$287,226	\$75,102	\$258,823	
7/1/32	6/30/33	\$357,494	\$0	\$28,607	\$386,101	\$9,232	\$9,232	\$376,869	\$298,912	\$77,957	\$336,780	
7/1/33	6/30/34	\$372,042	\$0	\$29,465	\$401,508	\$9,509	\$9,509	\$391,999	\$311,076	\$80,922	\$417,703	
7/1/34	6/30/35	\$387,186	\$0	\$30,349	\$417,535	\$9,794	\$9,794	\$407,741	\$323,739	\$84,002	\$501,705	
7/1/35	6/30/36	\$402,950	\$0	\$31,260	\$434,210	\$10,088	\$10,088	\$424,121	\$336,920	\$87,201	\$588,906	
7/1/36	6/30/37	\$419,358	\$0	\$32,198	\$451,556	\$10,391	\$10,391	\$441,165	\$350,639	\$90,527	\$679,433	
7/1/37	6/30/38	\$436,439	\$0	\$33,164	\$469,603	\$10,703	\$10,703	\$458,900	\$364,920	\$93,980	\$773,413	
7/1/38	6/30/39	\$454,220	\$0	\$34,159	\$488,378	\$11,024	\$11,024	\$477,355	\$379,788	\$97,566	\$870,979	
7/1/39	6/30/40	\$472,728	\$0	\$35,183	\$507,912	\$44,954	\$44,954	\$462,957	\$395,264	\$67,694	\$938,673	
7/1/40	6/30/41	\$457,794	\$0	\$0	\$457,794	\$11,695	\$11,695	\$446,099	\$382,776	\$63,323	\$1,001,996	
7/1/41	6/30/42	\$476,601	\$0	\$0	\$476,601	\$12,046	\$12,046	\$464,555	\$398,501	\$66,054	\$1,068,050	
7/1/42	6/30/43	\$496,183	\$0	\$0	\$496,183	\$12,407	\$12,407	\$483,776	\$414,874	\$68,901	\$1,136,951	
7/1/43	6/30/44	\$516,571	\$0	\$0	\$516,571	\$12,779	\$12,779	\$503,791	\$431,922	\$71,870	\$1,208,821	
7/1/44	6/30/45	\$537,799	\$0	\$0	\$537,799	\$13,163	\$13,163	\$524,636		\$524,636	\$1,733,457	
7/1/45	6/30/46	\$266,812	\$0	\$0	\$266,812	\$13,558	\$13,558	\$253,254		\$253,254	\$1,986,711	
7/1/46	6/30/47	\$277,839	\$0	\$0	\$277,839	\$13,964	\$13,964	\$263,875		\$263,875	\$2,250,586	
7/1/47	6/30/48	\$289,323	\$0	\$0	\$289,323	\$14,383	\$14,383	\$274,939		\$274,939	\$2,525,526	
7/1/48	6/30/49	\$301,282	\$0	\$0	\$301,282	\$14,815	\$14,815	\$286,467		\$286,467	\$2,811,992	
7/1/49	6/30/50	\$313,735	\$0	\$0	\$313,735	\$15,259	\$15,259	\$298,476		\$298,476	\$3,110,468	
7/1/50	6/30/51	\$326,704	\$0	\$0	\$326,704	\$15,717	\$15,717	\$310,987		\$310,987	\$3,421,455	
7/1/51	6/30/52	\$340,210	\$0	\$0	\$340,210	\$16,189	\$16,189	\$324,021		\$324,021	\$3,745,477	
7/1/52	6/30/53	\$354,274	\$0	\$0	\$354,274	\$16,674	\$16,674	\$337,600		\$337,600	\$4,083,077	
7/1/53	6/30/54	\$368,921	\$0	\$0	\$368,921	\$17,174	\$17,174	\$351,747		\$351,747	\$4,434,824	
7/1/54	6/30/55	\$384,174	\$0	\$0	\$384,174	\$17,690	\$17,690	\$366,484		\$366,484	\$4,801,308	
		<b>\$11,151,049</b>	<b>\$1,005,639</b>	<b>\$432,617</b>	<b>\$12,589,305</b>	<b>\$390,728</b>	<b>\$390,728</b>	<b>\$12,198,577</b>	<b>\$7,397,269</b>	<b>\$4,801,308</b>		

## **EXHIBIT B**

### **GOOD FAITH ESTIMATES (California Government Code section 5852.1)**

#### **Yolo County Board of Education 2024 Lease-Purchase Financing**

Supplemental to the terms and conditions of the Financing set forth in this Resolution, the good faith estimates set forth in this Exhibit A are provided with respect to the Financing in compliance with California Government Code section 5852.1. Such good faith estimates have been provided to the Board of Education by Government Financial Services Joint Powers Authority, the Board of Education's Public Finance Consultant (as identified in the Recitals and Section 9 of this Resolution), acting as the Board of Education's financial advisor under Education Code section 15146(b)(1)(C).

*True Interest Cost of the Financing.* The Public Finance Consultant has informed the Board of Education that, assuming the estimated principal amount of \$4,782,587 is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the true interest cost of the Financing, which means the rate necessary to discount the amounts payable on the respective principal and interest payment dates to the purchase price received for the Financing, is 4.594%.

*Finance Charge of the Financing.* The Public Finance Consultant has informed the Board of Education that, assuming the estimated principal amount of \$4,782,587 is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the finance charge for the Financing, which means the sum of all fees and charges paid to third parties (or costs associated with the Financing), is \$50,000.00.

*Amount of Proceeds to Be Received.* The Public Finance Consultant has informed the Board of Education that, assuming the estimated principal amount of \$4,782,587 is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the amount of proceeds expected to be received by the Board of Education for sale of the Financing, less the finance charge of the Financing, as estimated above, and any reserves or capitalized interest paid or funded with proceeds of the Financing, is \$4,732,587.00.

*Total Payment Amount.* The Public Finance Consultant has informed the Board of Education that, assuming the estimated principal amount of \$4,782,587 is sold, and based on market interest rates prevailing at the time of preparation of such estimate, its good faith estimate of the total payment amount, which means the sum total of all payments the Board of Education will make to pay rental payments on the Financing, plus the finance charges for the Financing, as described above, not paid with proceeds of the Financing, calculated to the final maturity of the Financing, is \$7,397,269.28.

The foregoing estimates constitute good faith estimates only. The actual principal amount of the Financing issued and sold, the true interest cost thereof, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ

from such good faith estimates due to (a) the actual date of the sale of the Financing being different than the date assumed for purposes of such estimates, (b) the actual principal amount of Financing sold being different from the estimated principal amount of \$4,782,587, (c) the actual amortization of the Financing being different than the amortization assumed for purposes of such estimates, (d) the actual interest rates of the Financing being different than those estimated for purposes of such estimates, (e) other market conditions, or (f) alterations in the Board of Education's financing plan, or a combination of such factors.

**SECRETARY'S CERTIFICATE**

I, Garth Lewis, on behalf of the Yolo County Board of Education, hereby certify that the foregoing is a full, true and correct copy of a resolution adopted at a regular meeting place thereof on the \_\_\_\_ day of April 2024, of which meeting all of the members of said Board of Education had due notice and at which a majority thereof were present, and that at said meeting said resolution was adopted by the following vote:

AYES \_\_\_\_\_

NOES \_\_\_\_\_

ABSENT \_\_\_\_\_

ABSTAIN \_\_\_\_\_

An agenda of said meeting was posted at least 72 hours before said meeting at the Board of Education Conference Room, located at 1280 Santa Anita Ct #100, Woodland, CA 95776 a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

I further certify that I have carefully compared the same with the original minutes of said meeting on file and of record in my office; that the foregoing resolution is a full, true and correct copy of the original resolution adopted at said Board meeting and entered in said minutes; and that said resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: \_\_\_\_\_, 2024

\_\_\_\_\_  
Garth Lewis  
Secretary of the Yolo County Board of Education

**EQUIPMENT LEASE/PURCHASE AGREEMENT  
(ESCROW ACCOUNT)**

This Equipment Lease/Purchase Agreement (this “*Agreement*”) dated as of April 17, 2024, and entered into by and between Banc of America Public Capital Corp, a Kansas corporation (together with its successors, assigns and transferees, and as more particularly defined herein, “*Lessor*”), and Yolo County Office of Education, a county office of education existing under the laws of the State of California (“*Lessee*”).

**WITNESSETH:**

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment (as such term is defined herein), subject to the terms and conditions hereof; and,

WHEREAS, Lessee is authorized under the constitution and laws of the State (as such term is defined herein) to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

**ARTICLE I**

*Section 1.01. Definitions.* The following terms will have the meanings indicated below unless the context clearly requires otherwise:

“*2015 Certificates*” means the Yolo County Board of Education 2015 Refunding Certificates of Participation, which are insured by Assured Guaranty Municipal Corp. (the “*2015 Certificate Insurer*”).

“*2015 Lease*” means that certain Lease Agreement dated as of April 1, 2015, by and between the Yolo County Board of Education (the “*Board*”) and the Yolo County Board of Education Financing Corporation (the “*Corporation*”), as supplemented and amended.

“*2015 Trust Agreement*” means that certain Trust Agreement dated as of April 1, 2015, among the Board, the Corporation and The Bank of New York Mellon Trust Company, N.A. (the “*2015 Trustee*”), pursuant to which the 2015 Certificates were issued, as supplemented and amended.

“*Acquisition Amount*” means \$4,782,587.00. The Acquisition Amount is the amount represented by Lessee to be sufficient, together with other funds of Lessee (if any) that are legally available for the purpose of acquiring and installing the Equipment.

“*Acquisition Period*” means the period ending five (5) business days prior to October 17, 2025.

“*Agreement*” means this Equipment Lease/Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to this Agreement pursuant to Section 13.04.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the relevant United States Treasury Regulations proposed or in effect thereunder.

“*Collateral*” has the meaning set forth in Section 6.02.

“*Commencement Date*” means the date when Lessee’s obligation to pay rent commences hereunder, which shall be the date on which the Acquisition Amount is deposited with the Escrow Agent.

“*Contract Rate*” means the rate identified as such in the Payment Schedule.

“*Disbursement Request*” means the disbursement request attached to the Escrow Agreement as Schedule 1 and made a part thereof.

“*Equipment*” means the equipment, fixtures and other goods and property listed in the Equipment Schedule and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Article V or Section 8.01. Whenever reference is made in this Agreement to Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

“*Equipment Costs*” means the total cost of the Equipment, including related soft costs such as freight, installation and taxes and other capitalizable costs, and other costs incurred in connection with the acquisition, installation and/or financing of the Equipment.

“*Equipment Schedule*” means the Equipment Schedule attached hereto as *Exhibit A* and made a part hereof (including any duly authorized and executed amendments thereto).

“*Escrow Account*” means the account established and held by the Escrow Agent pursuant to the Escrow Agreement.

“*Escrow Agent*” means the Escrow Agent identified in the Escrow Agreement, and its successors and assigns.

“*Escrow Agreement*” means the Escrow and Account Control Agreement in form and substance acceptable to and executed by Lessee, Lessor and the Escrow Agent, pursuant to which the Escrow Account is established and administered.

“*Event of Default*” means an Event of Default described in Section 12.01.

“*Event of Non-appropriation*” means the failure of Lessee’s Board to appropriate or otherwise make available funds to pay Rental Payments under this Agreement following the

Original Term or then current Renewal Term sufficient for the continued performance of this Agreement by Lessee.

*“Lease Term”* means the Original Term and all Renewal Terms.

*“Lessee”* means the entity referred to as Lessee in the first paragraph of this Agreement.

*“Lessor”* means (a) the entity referred to as Lessor in the first paragraph of this Agreement and its successors or (b) any assignee or transferee of any right, title or interest of Lessor in and to this Agreement pursuant to Section 11.01 hereof, including the right, title and interest of Lessor in and to the Equipment, the Rental Payments and other amounts due hereunder, the Escrow Agreement and Escrow Account and other Collateral, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder.

*“Lien”* means any lien (statutory or otherwise), security interest, mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, encumbrance, preference, priority or other security or preferential arrangement of any kind or nature whatsoever (including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing and the filing of any financing statement under the Uniform Commercial Code or comparable law of any jurisdiction).

*“Material Adverse Change”* means any change in Lessee’s creditworthiness that could have a material adverse effect on (i) the financial condition or operations of Lessee, or (ii) Lessee’s ability to perform its obligations under this Agreement.

*“Original Term”* means the period from the Commencement Date until the end of the fiscal year of Lessee in effect at such Commencement Date.

*“Outstanding Balance”* means the amount that is shown for each Rental Payment Date under the column titled “Outstanding Balance” on the Payment Schedule.

*“Payment Schedule”* means the Payment Schedule attached hereto as *Exhibit B* and made a part hereof.

*“Permitted Encumbrances”* means, as of any time, with respect to the real estate in, on or to which any Equipment is or will be located: (a) this Agreement and Lessor’s security interest in the Collateral; and (b) the leasehold interests represented by the 2015 Lease and the 2015 Trust securing the 2015 Certificates as relates to the COPs Location Equipment.

*“Prepayment Price”* means the amount that is shown for each Rental Payment Date under the column titled “Prepayment Price” on the Payment Schedule.

*“Principal Portion”* means the amount that is shown for each Rental Payment Date under the column titled “Principal Portion” on the Payment Schedule.

“*Related Documents*” means this Agreement and the Escrow Agreement, each as may be amended and supplemented.

“*Renewal Terms*” means the consecutive renewal terms of this Agreement, the first of which commences immediately after the end of the Original Term and each having a duration and a term coextensive with each successive fiscal year of Lessee; *provided* that the final such Renewal Term shall commence on the first day of the last such fiscal year and end on the first business day after the last scheduled Rental Payment Date.

“*Rental Payment Date*” means each date on which Lessee is required to make a Rental Payment under this Agreement as specified in the Payment Schedule.

“*Rental Payments*” means the basic rental payments payable by Lessee on the Rental Payment Dates and in the amounts as specified in the Payment Schedule, consisting of a principal component and an interest component, and in all cases sufficient to repay such principal component and interest thereon at the applicable Contract Rate (or Taxable Rate if then in effect).

“*Scheduled Term*” means the Original Term and all scheduled Renewal Terms, with a final Renewal Term ending on April 17, 2044, as set forth in *Exhibit B* attached hereto.

“*SEC*” means the U.S. Securities and Exchange Commission.

“*Special Counsel*” means Parker and Covert LLP.

“*State*” means the State of California.

“*Syserco Contract*” means certain Design-Build Energy Services Agreement dated as of \_\_\_\_\_, 2024, between Lessee and Syserco, as supplemented, amended or restated pursuant to the terms thereof and hereof.

“*Taxable Rate*” means, for each day that the interest component of Rental Payments is taxable for Federal income tax purposes, an interest rate equal to the Contract Rate plus a rate sufficient such that the total interest to be paid on any Rental Payment Date would, after such interest was reduced by the amount of any Federal, state or local income tax (including any interest, penalties or additions to tax) actually imposed thereon, equal the amount of interest otherwise due to Lessor.

“*Vendor*” means the manufacturer, installer or supplier of the Equipment or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom Lessee arranged Lessee’s acquisition, installation, maintenance and/or servicing of the Equipment, and includes, without limitation, Syserco Energy Solutions, Inc. (“*Syserco*”).

“*Vendor Agreement*” means any contract entered into by Lessee and any Vendor for the acquisition, installation, maintenance and/or servicing of the Equipment, and includes, without limitation, the Syserco Contract.



## ARTICLE II

*Section 2.01. Representations and Covenants of Lessee.* Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(a) Lessee is a political subdivision of the State within the meaning of Section 103(c) of the Code, duly organized and existing under the constitution and laws of the State, with full power and authority to enter into the Related Documents and the transactions contemplated thereby and to perform all of its obligations thereunder.

(b) Lessee has duly authorized the execution and delivery of the Related Documents by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the Related Documents.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to this Agreement.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a county office of education of the State.

(e) Lessee has complied with such procurement and public bidding requirements as may be applicable to the Related Documents and the acquisition and installation by Lessee of the Equipment.

(f) During the Lease Term, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee's authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last Rental Payment (including all Renewal Terms) scheduled to be paid hereunder.

(g) Lessee has kept, and throughout the Lease Term shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lessor, or alternatively post to the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within nine (9) months and fifteen (15) days after the end of its fiscal year, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) upon Lessor's request, its annual budget for any prior or current fiscal year or for the following fiscal year when approved but not later than thirty (30) days prior to the end of its current fiscal year. The financial statements described in this subsection (g)(i) shall be accompanied by an unqualified opinion of Lessee's independent auditor. Credit information relating to Lessee

may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has an immediate need for the Equipment and expects to make immediate use of the Equipment. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the Scheduled Term.

(i) The payment of the Rental Payments or any portion thereof is not (under the terms of this Agreement or any underlying arrangement) directly or indirectly (x) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local governmental unit or payments in respect of such property; or (y) on a present value basis, derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local governmental unit. No portion of the Acquisition Amount will be used, directly or indirectly, to make or finance loans to any person other than Lessee. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment.

(j) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations under the Related Documents. Lessee will, at its expense, maintain its legal existence and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's first priority security interest in the Equipment and the Escrow Account and Lessor's rights and benefits under the Related Documents.

(k) The Board is the fee owner of the real estate where the Equipment is and will be located (the "*Real Property*") and has good and marketable title thereto, and there exists no mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such Real Property other than Permitted Encumbrances. The Board has duly authorized the Lessee to install the Equipment in and on the Real Property and authorized the Lessee to enter, and allow designees of Lessee to enter, onto the Real Property to maintain, repair, replace, operate and/or remove the Equipment. Nothing prevents the Lessee from entering into this Agreement and granting Lessor a first priority security interest in the Equipment or prevents title to the Equipment from vesting directly in Lessee and remaining the sole property of the Lessee during the Lease Term, subject only to Lessor's first priority security interest therein. Upon payment therefor under the Vendor Agreement, title to the Equipment shall vest directly in Lessee and remain the sole property of the Lessee, subject only to Lessor's first priority security interest therein, and otherwise shall be controlled by the terms of this Agreement, and the Board shall not have any interest in the Equipment. Notwithstanding anything to the contrary in any agreement or instrument, and notwithstanding the means by which the Equipment may be attached or affixed to the Real Property, the Equipment shall be and remain equipment or other personal property and shall not be considered a fixture, a part

of or affixed to the Real Property. The Equipment may be inspected, removed, repaired or modified by the Lessee at any time (solely in accordance with the terms of this Agreement) and Lessee shall ensure that none of the Equipment shall be removed, encumbered, impaired, transferred or otherwise disposed of in any way that would adversely affect Lessor's first priority security interest in the Equipment or Lessor's rights, title or interest under this Agreement with respect to the Equipment. The Lessee shall cause the Board to (i) permit Lessor to inspect the Equipment upon the request of Lessor, (ii) obtain waiver or waivers of interest in the Equipment from any mortgagee or any other party having an interest in the real estate on which the Equipment is or will be located and/or landlord of the real estate on which the Equipment is or will be located, upon the request of Lessor and (iii) upon the occurrence of an Event of Default or an Event of Non-appropriation, upon Lessor's request, Lessee shall enter or shall cause the Board to enter onto said Real Property, physically detach, remove and return the Equipment to Lessor. In the event any lien, encumbrance, restriction, asserted encumbrance, claim, dispute or other issue exists or arises with respect to the Lessee's legal title to or valid and marketable, beneficial use and enjoyment of the Real Property or impairs or adversely impacts Lessor's right, title or interest in the Equipment or any of Lessor's rights or remedies under this Agreement with respect to the Equipment (each of the foregoing referred to as a "*Real Property Issue*"), Lessee will take all steps necessary to promptly quiet, resolve and/or eliminate (and/or cause the Board to promptly quiet, resolve and/or eliminate) such Real Property Issue to the satisfaction of Lessor and ensure that Lessee and Lessor have adequate access to and use of (including beneficial use and enjoyment of) the Real Property for all purposes of the Equipment contemplated herein and Lessee shall ensure (and cause the Board to ensure) that the Board's fee interest in the Real Property and Lessor's right, title or interest in the Equipment and rights or remedies under this Agreement with respect to the Equipment remain free and clear of Real Property Issues.

(l) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

(m) Lessee represents to Lessor that it has adopted a debt policy in compliance with SB 1029 and Section 8855 of the Government Code of California *et seq.* and covenants that it shall comply with Section 8855 of the Government Code of California *et seq.* as amended (the "*CDIAC Act*") throughout the Lease Term, including (i) preparing, submitting and filing the report of the proposed debt issuance relating to this Agreement by the method required by the California Debt and Investment Advisory Commission ("*CDIAC*"), (ii) preparing, submitting and filing the report of final sale (and accompanying documents) relating to this Agreement by the method required by CDIAC, (iii) submitting an annual report relating to the report of final sale for this Agreement by the method required by CDIAC, and (iv) paying all fees charged by CDIAC or the CDIAC Act relating to this Agreement, including, but not limited to the fee in an amount equal to one-fortieth of one percent of the Acquisition Amount or as otherwise prescribed by the CDIAC Act.

(n) As of the date of execution and delivery of this Agreement, Lessee has not granted any Lien on the Collateral that would be senior in priority to, or *pari passu* with, the first priority Lien on the Collateral granted to Lessor under Section 6.02 of this Agreement.

(o) The street addresses and legal descriptions affixed to the UCC-1 financing statements and fixture filings filed and recorded pursuant to Section 3.04(vi), Section 6.01 and/or Section 6.02 hereof are true, accurate and complete street addresses and legal descriptions of all the properties on which the Equipment is located or to be installed. In the event any street address, legal description, other information, UCC-1 financing statement or fixture filing (or continuations or amendments thereof) filed or recorded with respect to the Lessor's interests in the Equipment or any of the real property on which the Equipment is located or to be installed reflects any incorrect or incomplete real property legal description, equipment description or other information, Lessee shall take all steps necessary at its expense (with the Lessor's prior written approval) to promptly correct any errors or deficiencies with respect to such legal descriptions, street address, other information, UCC-1 financing statements and/or fixture filings and to protect Lessor's interests in the Equipment.

(p) Lessee will pay all Equipment Costs and costs of issuance in excess of the Acquisition Amount available therefor out of its own funds. Lessor shall not have any responsibility to pay amounts for any Equipment Costs or costs of issuance with respect to the Related Documents or the Equipment that individually or collectively exceed the Acquisition Amount.

(q) Lessee has complied with California Government Code Section 4217.10 *et seq.* and other applicable law pertaining to the authorization of this Agreement and the financing and acquisition by the Lessee of the Equipment.

(r) To the extent applicable, as determined by Lessee in its sole discretion, Lessee has complied with the requirements of California Government Code Section 5852.1 *et seq.* in connection with this Agreement and the Equipment.

(s) In connection with the Lessee's compliance with any continuing disclosure undertakings (each, a "*Continuing Disclosure Agreement*") entered into by the Lessee pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "*Rule*"), the Lessee may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor ("*EMMA*"), notice of its incurrence of its obligations under the Related Documents and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with the Related Documents, in each case including posting a full copy thereof or a description of the material terms thereof (each such posting, an "*EMMA Posting*"). Except to the extent required by applicable law, including the Rule, the Lessee shall not file or submit or permit the filing or submission of any EMMA Posting that includes the following unredacted confidential information about the Lessor or its affiliates and the Escrow Agent in any

portion of such EMMA Posting: address, account information and logos of the Lessor or its affiliates and the Escrow Agent; e-mail addresses, telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lessor or its affiliates and the Escrow Agent; and the form of Disbursement Request that is attached to the Escrow Agreement.

The Lessee acknowledges and agrees that the Lessor and its affiliates are not responsible for the Lessee's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with the Rule, any Continuing Disclosure Agreement or any applicable securities or other laws, including but not limited to those relating to the Rule.

(t) The Lessee represents, warranties and covenants that (A) the Board is the fee owner of the real estate that is subject to the leasehold interest of the Corporation under the 2015 Lease (the "*2015 Leased Property*"); (B) Section 3.7 of the 2015 Lease permits the Board, in its sole discretion and at its own expense, at any time to install or permit to be installed the Equipment in and on the 2015 Leased Property; (C) the Board has duly authorized the Lessee to install the Equipment in and on the 2015 Leased Property (the "*COPs Location Equipment*"); (D) nothing in the 2015 Lease or the 2015 Trust Agreement prevents the Lessee from entering into this Agreement and granting Lessor a first priority security interest in the COPs Location Equipment; (E) nothing in the 2015 Lease or 2015 Trust Agreement prevents title to the COPs Location Equipment from vesting directly in Lessee and remaining the sole property of the Lessee during the Lease Term, subject only to Lessor's first priority security interest therein; (F) upon payment therefor under the Vendor Agreement, title to the COPs Location Equipment shall vest directly in Lessee and remain the sole property of the Lessee, subject only to Lessor's first priority security interest therein, and otherwise shall be controlled by the terms of this Agreement, and none of the Board, the Corporation, the 2015 Trustee or the 2015 Certificate Insurer shall have any interest in the COPs Location Equipment; (G) notwithstanding anything to the contrary in any agreement or instrument, and notwithstanding the means by which the COPs Location Equipment may be attached or affixed to the 2015 Leased Property, the COPs Location Equipment shall be and remain equipment or other personal property and shall not be considered a fixture, a part of or affixed to the 2015 Leased Property; (H) the COPs Location Equipment may be inspected, removed, repaired or modified by the Lessee at any time (solely in accordance with the terms of this Agreement) and Lessee shall ensure that none of the COPs Location Equipment shall be removed, encumbered, impaired, transferred or otherwise disposed of in any way that would adversely affect Lessor's first priority security interest in the COPs Location Equipment or Lessor's rights, title or interest under this Agreement with respect to the COPs Location Equipment; (I) Lessee shall maintain, repair and operate, or cause to be maintained, repaired and operated, the COPs Location Equipment in accordance with the terms of this Agreement; (J) the Lessee shall cause the Board to (i) permit Lessor to inspect the COPs Location Equipment upon the request of Lessor, (ii) obtain waiver or waivers of interest in the COPs Location Equipment from any mortgagee or any other party having an interest in the real estate on which the COPs Location Equipment is or will be located and/or landlord of the real estate on which the COPs Location Equipment is or will be located, upon the request of Lessor and (iii)

promptly notify Lessor of any default or event of default under the 2015 Lease or the 2015 Trust Agreement; (K) upon the occurrence of an Event of Default or an Event of Non-appropriation, upon Lessor's request, Lessee shall or shall cause the Board to enter onto said 2015 Leased Property, physically detach, remove and return the Equipment to Lessor; and (L) the 2015 Lease and the 2015 Trust Agreement only encumber the \_\_\_\_\_ Building and \_\_\_\_\_ Building and Exhibit A to the 2015 Lease contains only the legal descriptions to the \_\_\_\_\_ Building and \_\_\_\_\_ Building.

### ARTICLE III

*Section 3.01. Lease of Equipment.* Subject to the terms and conditions of this Agreement, Lessor agrees to provide the Acquisition Amount to acquire the Equipment. Lessor hereby demises, leases and transfers to Lessee, and Lessee hereby acquires, rents and leases from Lessor, the Equipment. The Lease Term may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Scheduled Term as set forth in the Payment Schedule. At the end of the Original Term and at the end of each Renewal Term until the maximum Scheduled Term has been completed, Lessee shall be deemed to have exercised its option to continue this Agreement for the next Renewal Term unless Lessee shall have terminated this Agreement pursuant to Section 3.03 or Section 10.01 of this Agreement. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the Payment Schedule.

*Section 3.02. Continuation of Lease Term.* Lessee intends, subject to Section 3.03 hereof, to continue the Lease Term through the Original Term and all Renewal Terms and to pay the Rental Payments due hereunder. Lessee affirms that sufficient funds are legally available to pay all Rental Payments when due during the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments during the entire Scheduled Term can be obtained from legally available funds of Lessee. Lessee further intends to do all things lawfully within its power to obtain and maintain funds sufficient and available to discharge its obligation to make Rental Payments due hereunder, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable provisions of law. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds or to extend the Lease Term for any Renewal Term is within the sole discretion of Lessee's Board.

*Section 3.03. Non-appropriation.* Lessee is obligated only to pay such Rental Payments as may lawfully be made during Lessee's then current fiscal year from funds budgeted and appropriated for that purpose. Lessor shall provide Lessee with an invoice for the Rental Payment due prior to each Rental Payment Date; provided that the failure to do so shall not change, reduce, impair or alleviate Lessee's obligation to make timely payment. Invoices initially shall be e-mailed to Lessee at its e-mail address set forth on the signature page and mailed to Associate Superintendent, Administrative Services, 1280 Santa Anita Court, Suite 100, Woodland, CA 95776, or such other e-mail and/or address as otherwise directed by an authorized representative of the Lessee. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments following the then current Original Term or Renewal Term, this Agreement shall

be deemed terminated at the end of the then current Original Term or Renewal Term. Lessee agrees to deliver notice to Lessor of such termination promptly after any decision to non-appropriate is made, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If this Agreement is terminated in accordance with this Section 3.03, Lessee agrees to cease use of the Equipment and peaceably remove and deliver to Lessor, at Lessee's sole expense (from legally available funds), the Equipment to Lessor at the location(s) to be specified by Lessor.

*Section 3.04. Conditions to Lessor's Performance.* (a) As a prerequisite to the performance by Lessor of any of its obligations under this Agreement, Lessee shall deliver to Lessor, in form and substance satisfactory to Lessor, the following:

(i) An Escrow Agreement substantially in the form attached hereto as *Exhibit I*, satisfactory to Lessor and executed by Lessee and the Escrow Agent and a Vendor Agreement satisfactory to Lessor and executed by Lessee and the Vendor;

(ii) A certified copy of a resolution, ordinance or other official action of Lessee's Board, substantially in the form attached hereto as *Exhibit C-1*, authorizing the execution and delivery of this Agreement and the Escrow Agreement and performance by Lessee of its obligations under this Agreement and the Escrow Agreement;

(iii) A Certificate completed and executed by the Clerk or Secretary or other comparable officer of Lessee, substantially in the form attached hereto as *Exhibit C-2*, completed to the satisfaction of Lessor;

(iv) Opinions of Special Counsel and general counsel to Lessee, which in the aggregate opine on the matters set forth in the form attached hereto as *Exhibit D* and which are otherwise satisfactory to Lessor;

(v) Evidence of insurance as required by Section 7.02 hereof;

(vi) All documents, including financing statements, affidavits, notices and similar instruments which Lessor deems necessary or appropriate at that time pursuant to Section 6.02 hereof;

(vii) A waiver or waivers of interest in the Equipment from any mortgagee or any other party having an interest in the real estate on which the Equipment will be located and/or landlord of the real estate on which the Equipment will be located and amendments and agreements releasing liens and encumbrances, if any, on the real property where the Equipment is and will be located;

(viii) Reserved;

(ix) A copy of the Form 8038-G, fully completed by Special Counsel as paid preparer and executed by Lessee;

(x) In the event that Lessee is to be reimbursed for expenditures that it has paid more than sixty (60) days prior to the Commencement Date, evidence of the adoption of a reimbursement resolution or other official action covering the reimbursement from tax-exempt proceeds of expenditures incurred not more than sixty (60) days prior to the date of such resolution;

(xi) Copies of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to Equipment has passed to Lessee), to the extent required by Section 5.01(b) hereof;

(xii) Wire instructions for payments to be made to Vendors and Form W-9 from each such Vendor;

(xiii) A certified copy of any Surety Bond satisfying the conditions set forth in Section 7.04 hereof, or, at Lessor's sole discretion, such Surety Bonds may be provided after the Commencement Date, *provided, however*, that no "Disbursement Request" pursuant to the Escrow Agreement (other than for costs of issuance) shall be authorized by Lessor until such Surety Bonds satisfying the conditions set forth in Section 7.04 have been delivered to Lessor; and

(xiv) Such other items reasonably required by Lessor.

(b) In addition to satisfaction of the conditions set forth in subsection (a) of this Section 3.04, the performance by Lessor of any of its obligations under the Related Documents shall be subject to: (i) no Material Adverse Change having occurred since the date of this Agreement, (ii) no Event of Default having occurred and then be continuing and (iii) no Event of Non-appropriation having occurred or being threatened with respect to this Agreement.

(c) Subject to satisfaction of the foregoing, Lessor will deposit the Acquisition Amount with the Escrow Agent to be held and disbursed pursuant to the Escrow Agreement.

*Section 3.05. Evidence of Filing Form 8038-G.* As soon as it is available, Lessee shall provide to Lessor evidence that it, or its paid preparer, has filed the Form 8038-G for this Agreement with the Internal Revenue Service by delivering to Lessor proof of mailing such Form 8038-G. Notwithstanding anything to the contrary in this Agreement, it shall not be an Event of Default hereunder if Lessee does not provide to Lessor evidence that it (or its paid preparer) filed the Form 8038-G for this Agreement with the Internal Revenue Service.

#### ARTICLE IV

*Section 4.01. Rental Payments.* Subject to Section 3.03 of this Agreement, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the Rental Payment Dates and in such amounts as provided in the Payment Schedule. If any Rental Payment or other amount payable hereunder is not paid within ten (10) days of its due date, Lessee shall pay an administrative late charge of five percent (5%) of the amount not timely paid or the maximum amount permitted by law, whichever is less. Lessee shall not permit the Federal



Government to guarantee any Rental Payments under this Agreement. Rental Payments consist of principal and interest components as more fully detailed on the Payment Schedule, the interest on which begins to accrue as of the Commencement Date.

*Section 4.02. Interest and Principal Components.* A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal as more fully detailed on the Payment Schedule.

*Section 4.03. Rental Payments to Constitute a Current Expense of Lessee.* Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

*Section 4.04. Rental Payments to be Unconditional.* Except as provided in Section 3.03 of this Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, disputes with the Lessor or the Vendor of any Equipment, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances, or failure of any Vendor to deliver any Equipment or otherwise perform any of its obligations for whatever reason, including bankruptcy, insolvency, reorganization or any similar event with respect to any Vendor or under any Vendor Agreement, or the failure or inability (for whatever reason) of Lessee to receive (or delay in receipt of) all or any portion of any refundable tax credit under Section 6417 of the Internal Revenue Code of 1986, as amended by the Inflation Reduction Act of 2022 (Pub. L. No. 117-169), or any substantially similar provision of federal, state, local or foreign tax law (including regulations or other guidance from any taxing authority).

*Section 4.05. Tax Covenants.* Lessee agrees that it will not take any action that would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for Federal income tax purposes, nor will it omit to take or cause to be taken, in a timely manner, any action, which omission would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for Federal income tax purposes. In connection with the foregoing, Lessee hereby agrees that (a) so long as any Rental Payments remain unpaid, moneys on deposit in the Escrow Account shall not be used in a manner that will cause this Agreement to be classified as an “arbitrage bond” within the meaning of Section 148(a) of the Code; and (b) Lessee shall rebate, from funds legally available for the purpose, an amount equal to excess earnings on the Escrow Account to the Federal Government if required by, and in accordance with, Section 148(f) of the Code, and make the determinations and maintain the records required by the Code.

*Section 4.06. Event of Taxability.* Upon the occurrence of an Event of Taxability, the interest component of Rental Payments and any charge on Rental Payments or other amounts

payable based on the Contract Rate shall have accrued and be payable at the Taxable Rate retroactive to the date as of which the interest component is determined by the Internal Revenue Service to be includable in the gross income of the owner or owners thereof for Federal income tax purposes (which retroactive date shall be the earliest date as of which the interest component of any Rental Payment is deemed includable in the gross income of the owner or owners thereof for Federal income tax purposes, which may be earlier than the date of delivery of such determination by the Internal Revenue Service), and Lessee will pay such additional amount as will result in the owner receiving the interest component at the Taxable Rate.

For purposes of this Section, “*Event of Taxability*” means the circumstance of the interest component of any Rental Payment paid or payable pursuant to this Agreement becoming includable for Federal income tax purposes in an owner’s gross income as a consequence of any act, omission or event whatsoever, including but not limited to the matters described in the immediately succeeding sentence, and regardless of whether the same was within or beyond the control of Lessee. An Event of Taxability shall be presumed to have occurred upon (a) the receipt by Lessor or Lessee of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence which legally holds that the interest component of any Rental Payment is includable in the gross income of the owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest component of any Rental Payment is includable in the gross income of the owner thereof; or (c) receipt by Lessor or Lessee of a written opinion of a nationally recognized firm of attorneys experienced in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, selected by Lessor and acceptable to Lessee, to the effect that the interest component of any Rental Payment has become includable in the gross income of the owner thereof for Federal income tax purposes. For all purposes of this definition, an Event of Taxability shall be deemed to occur on the date as of which the interest component of any Rental Payment is deemed includable in the gross income of the owner thereof for Federal income tax purposes.

*Section 4.07. Mandatory Prepayment.* (a) Any funds not applied to Equipment Costs and remaining in the Escrow Account on the earliest of (i) the expiration of the Acquisition Period, (ii) the date on which Lessee delivers to the Lessor the executed Disbursement Request to effect the final disbursement to pay (or reimburse) Equipment Costs from the Escrow Account or (iii) a termination of the Escrow Account as provided in the Escrow Agreement shall be applied by Lessor on each successive Rental Payment Date thereafter to pay all or a portion of the Rental Payment due and owing in the succeeding twelve (12) months and any remaining amounts shall be applied by Lessor as prepayment to the applicable unpaid Principal Portion of Rental Payments owing hereunder in the inverse order of the Rental Payment Dates at a price of 100% of such prepaid Principal Portion plus accrued interest thereon to the prepayment date.

(b) In connection with any partial prepayment of Rental Payments, Lessor shall prepare a new Payment Schedule and deliver the same to the Lessee, which shall be binding, absent manifest error.

## ARTICLE V

*Section 5.01. Acquisition, Delivery, Installation and Acceptance of Equipment.* (a) Lessee shall order the Equipment to be acquired and financed hereunder, cause the Equipment to be delivered and installed at the location specified in the Equipment Schedule and pay any and all delivery and installation costs and other Equipment Costs in connection therewith. Lessee shall conduct such inspection and testing of the Equipment as it deems necessary and appropriate in order to determine the Equipment's capability and functionality in order to accept such Equipment. When the Equipment has been delivered and installed, Lessee shall promptly accept such Equipment and evidence said acceptance by executing and delivering Disbursement Requests to the Lessor pursuant to the Escrow Agreement for the purpose of effecting disbursements from the Escrow Account to pay (or reimburse) Equipment Costs for the Equipment so acquired and installed. In connection with the execution and delivery by Lessee to Lessor of the final Disbursement Request, Lessee shall deliver to Lessor a "Final Acceptance Certificate" in the form attached hereto as *Exhibit E*.

(b) Lessee shall deliver to Lessor together with each Disbursement Request copies of invoices (and proof of payment of such invoices if Lessee seeks reimbursement for prior expenditures) and bills of sale or other evidence of title transfer to Lessee relating to each item of Equipment accepted by Lessee as evidenced by such Disbursement Request. Once approved, Lessor shall deliver such Disbursement Request to the Escrow Agent for disbursement from the Escrow Account in accordance with the Escrow Agreement.

*Section 5.02. Quiet Enjoyment of Equipment.* So long as no Event of Default and no Event of Non-appropriation exists hereunder, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee's quiet use and enjoyment of the Equipment during the Lease Term.

*Section 5.03. Location; Inspection.* Once installed, no item of the Equipment will be moved or relocated from the location specified for it in the Equipment Schedule without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours, upon prior notice to Lessee and in accordance with applicable rules, laws and regulations concerning visitors to Lessee's sites, to enter into and upon the property where the Equipment is located for the purpose of inspecting the Equipment.

*Section 5.04. Use and Maintenance of the Equipment.* Lessee shall not install, use, operate or maintain the Equipment (or cause the Equipment to be installed, used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated hereby. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative, or judicial body, including, without limitation, all anti-money laundering laws and regulations; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights hereunder.

Lessee agrees that it shall (a) maintain, preserve, and keep the Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer; (b) proceed promptly, at its expense, to protect its rights and exercise its remedies under any warranty then in effect with respect to the Equipment; and (c) replace or rebuild any component of the Equipment that becomes permanently unfit for normal use or inoperable during the Lease Term (herein, the “*Inoperable Component*”) in order to keep the Equipment as a whole in good repair and working order during the Lease Term. Lessee shall promptly notify Lessor in writing when any component of the Equipment is reasonably expected within forty-five (45) days to become an Inoperable Component. Lessee shall promptly replace or rebuild the Inoperable Component with a similar component of comparable or improved make and model that has at least the equivalent value and utility of the Inoperable Component, a remaining useful life of no less than the remaining Scheduled Term and such replacement or rebuilt component shall be in good operating condition. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. In all cases, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Equipment as eligible for manufacturer’s maintenance upon the return of the Equipment to Lessor as provided for in Sections 3.03 and 12.02(b) of this Agreement.

Lessee shall not alter any item of Equipment or install any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor.

## ARTICLE VI

*Section 6.01. Title to the Equipment.* During the Lease Term, so long as Lessee is not in default under Article XII hereof and an Event of Non-appropriation has not occurred, all right, title and interest in and to each item of the Equipment shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions hereof. Lessee shall at all times protect and defend, at its own cost and expense, its title, and Lessor’s first priority security interest, in and to the Equipment (and Lessor’s other Collateral as defined in Section 6.02 hereof) from and against all claims, Liens and legal processes of its creditors, and keep all Equipment (and such other Collateral) free and clear of all such claims, Liens and processes. Lessee will, at its expense, do any further act and execute, acknowledge, deliver, file, register and record any further documents the Lessor may reasonably request in order to protect Lessor’s first priority security interest in the Collateral. Upon the occurrence of an Event of Default or upon termination of this Agreement pursuant to Section 3.03 hereof, full and unencumbered legal title to the Equipment shall, at Lessor’s option, pass to Lessor, and Lessee shall have no further interest therein. In addition, upon the occurrence of such an Event of Default or such termination, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of such legal title to Lessor and the termination of Lessee’s interest therein, and upon request by Lessor shall deliver possession of the Equipment to Lessor in accordance with Section 3.03 or 12.02 of this Agreement, as applicable. Upon payment of all amounts due and owing hereunder by Lessee in accordance with Section 10.01 hereof, Lessor’s security interest or other interest in the Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the termination of Lessor’s security interest in the Equipment.

*Section 6.02. Security Interest.* As additional security for the payment and performance of all of Lessee's obligations hereunder, Lessee hereby grants to Lessor a first priority security interest constituting a first Lien on (a) the Equipment, together with all replacements, repairs, restorations, modifications and improvements thereof or thereto and all accessories, equipment, parts and appurtenances appertaining or attached to any of the Equipment, and all substitutions, renewals, or replacements of and additions, improvements, accessions and accumulations to any and all of such Equipment, together with all the rents, issues, income, profits, proceeds and avails therefrom, (b) moneys and investments held from time to time in the Escrow Account, (c) all accounts, chattel paper, deposit accounts, documents, instruments, general intangibles and investment property (including any securities accounts and security entitlements relating thereto) evidenced by or arising out of or otherwise relating to the foregoing collateral described in clauses (a) and (b) above, as such terms are defined in Article 9 of the California Commercial Code, and (d) any and all proceeds of any and all of the foregoing, including, without limitation, insurance proceeds (collectively, the "*Collateral*"). Lessee authorizes Lessor to file (and Lessee agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Collateral, including, without limitation, such financing statements with respect to personal property and fixtures under Article 9 of the California Commercial Code and treating such Article 9 as applicable to entities such as Lessee.

*Section 6.03. Personal Property, No Encumbrances.* Lessee agrees that the Equipment is deemed to be and will remain personal property, and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, Lien, security interest, charge or other encumbrance of any nature whatsoever except for Permitted Encumbrances on any of the real estate where the Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; *provided*, that if Lessor or its assigns is furnished with a waiver of interest in the Equipment acceptable to Lessor or its assigns in their respective discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

## ARTICLE VII

*Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges.* Lessee shall keep the Equipment free of all levies, Liens, and encumbrances except those created by this Agreement and the Permitted Encumbrances. The parties to this Agreement contemplate that the Equipment will be used for a governmental or proprietary purpose of Lessee and that the Equipment will therefore be exempt from all property taxes. If the lease, sale, purchase, operation, use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all sales and other taxes, special assessments, governmental and other charges of any kind that are at any time lawfully assessed or levied against or with respect to the Equipment, the Rental Payments or any part of either thereof, or which become due during the Lease Term, whether assessed against Lessee or Lessor. Lessee shall pay all utility and other charges incurred in the operation, use and maintenance of the Equipment. Lessee shall pay such

taxes, assessments or charges as the same may become due; *provided* that, with respect to any such taxes, assessments or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term. Lessor will not claim ownership of the Equipment under this Agreement for the purposes of any tax credits, benefits or deductions with respect to such Equipment. Lessee shall pay the fee charged by the California Debt and Investment Advisory Commission with respect to this Agreement pursuant to Section 8856 (or any successor provision) of the California Government Code.

*Section 7.02. Insurance.* Lessee shall during the Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the greater of (i) the then applicable Prepayment Price of the Equipment or (ii) the replacement cost of the Equipment; (b) liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability with limits of at least \$5,000,000 per occurrence for bodily injury and property damage coverage (such liability insurance coverage may be in a combination of primary general liability and/or excess liability umbrella coverage), and in all events under clauses (a) and (b) above issued in form and amount satisfactory to Lessor and by an insurance company that is authorized to do business in the State and having a financial strength rating by A.M. Best Company of “A-” or better; and (c) worker’s compensation coverage as required by the laws of the State. Notwithstanding the foregoing, Lessee may self-insure against the risks described in clauses (a) and/or (b) through a government pooling arrangement, self-funded loss reserves, risk retention program or other self-insurance program, in each case with Lessor’s prior written consent (which Lessor may grant, withhold or deny in its sole discretion) and *provided* that Lessee has delivered to Lessor such information as Lessor may request with respect to the adequacy of such self-insurance to cover the risks proposed to be self-insured and otherwise in form and substance acceptable to Lessor. In the event Lessee is permitted, at Lessor’s sole discretion, to self-insure as provided in this Section 7.02, Lessee shall provide to Lessor a self-insurance letter in substantially the form attached hereto as *Exhibit F*. Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout the Lease Term. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least thirty (30) days in advance of such cancellation or modification.

*Section 7.03. Risk of Loss.* Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Agreement. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the fullest extent permitted by applicable law, but only from legally available funds) for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership use, operation, condition, purchase, delivery,

acceptance, rejection, storage or return of any item of the Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this Agreement or any material misrepresentation provided by Lessee under or in connection with this Agreement. The provisions of this Section 7.03 shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

*Section 7.04. Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties.* Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Equipment, a payment and performance bond (“*Surety Bond*”) executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of “A-” or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Equipment and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied in accordance with such Surety Bond to the payment and performance of the Vendor’s obligations in accordance with the related Vendor Agreement and, if for whatever reason such proceeds are not so applied, first to amounts due Lessor under this Agreement, and any remaining amounts shall be payable to Lessee.

In the event of a material default by any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Equipment or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to the Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee in respect of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee’s obligations hereunder.

*Section 7.05. Advances.* In the event Lessee shall fail to keep the Equipment in good repair and working order or shall fail to maintain any insurance required by Section 7.02 hereof, Lessor may, but shall be under no obligation to, maintain and repair the Equipment or obtain and maintain any such insurance coverages, as the case may be, and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the then current Original Term or Renewal Term and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the due date until paid at a rate equal to the Contract Rate (or the Taxable Rate if then in effect) *plus* five percent (5%) per annum or the maximum amount permitted by law, whichever is less.

## ARTICLE VIII

*Section 8.01. Damage, Destruction and Condemnation.* If, prior to the termination of the Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment or such part thereof and any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to prepay the obligations hereunder in accordance with Section 10.01(a)(ii) hereof.

If Lessee elects to replace any item of the Equipment (the “*Replaced Equipment*”) pursuant to this Section 8.01, the replacement equipment (the “*Replacement Equipment*”) shall be new or of a quality, type, utility and condition at least as good as the Replaced Equipment, shall be of equal or greater value than the Replaced Equipment and shall provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation and shall have an expected remaining useful life at least through the Scheduled Term. Lessee shall grant to Lessor a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, Liens, security interests and encumbrances, excepting only those Liens created by or through Lessor, and the Permitted Encumbrances, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor’s security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute “Equipment” for purposes of this Agreement. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment Date after the occurrence of a casualty event, or be required to exercise its option to prepay the obligations hereunder with respect to the damaged Equipment in accordance with Section 10.01(a)(ii) hereof.

For purposes of this Article VIII, the term “*Net Proceeds*” shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys’ fees, incurred in the collection thereof.

*Section 8.02. Insufficiency of Net Proceeds.* If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Prepayment Price *plus* all other amounts then owing hereunder, and, upon such payment, the Lease Term shall terminate and Lessor’s security interest in the Equipment shall terminate as provided in Section 6.01 hereof. The



amount of the Net Proceeds remaining, if any, after completing such repair, restoration, modification or improvement or after paying such Prepayment Price *plus* all other amounts then owing hereunder shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section 8.02, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

## ARTICLE IX

*Section 9.01. Disclaimer of Warranties.* Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of any of the Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Equipment shall be on an "as is" basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Agreement.

*Section 9.02. Vendor Agreements; Warranties.* Lessee covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement without the prior written consent of Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default under this Agreement and so long as no Event of Non-appropriation has occurred, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against a Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendor of the Equipment, and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor under this Agreement, including the right to receive full and timely Rental Payments and other payments hereunder. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to any of the Equipment.

## ARTICLE X

### *Section 10.01. Prepayment; Payment in Full.*

(a) *Prepayment.* Lessee shall have the option to prepay or satisfy all, but not less than all, of its obligations hereunder, at the following times and upon the following terms:

(i) *Optional Prepayment.* From and after the date specified (if any) in the Payment Schedule (the "*Prepayment Option Commencement Date*"), on the Rental Payment Dates specified in the Payment Schedule, upon not less than forty-five (45) days prior written notice, and upon payment in full of the sum of all Rental Payments then due *plus* the then applicable Prepayment Price, which shall include a prepayment premium on the unpaid Outstanding Balance as set forth in the Payment Schedule *plus* all other amounts then owing hereunder; or

(ii) *Casualty or Condemnation Prepayment.* In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment, on the day specified in Lessee's notice to Lessor of its exercise of the prepayment option (which shall be the earlier of the next Rental Payment Date or sixty (60) days after the casualty event) upon payment in full to Lessor of (A) in the event such prepayment occurs on a Rental Payment Date, the sum of (i) all Rental Payments then due *plus* (ii) the then applicable Prepayment Price *plus* (iii) all other amounts then owing hereunder OR, (B) in the event such prepayment occurs on a date other than a Rental Payment Date, the sum of (i) the applicable Prepayment Price shown on the Payment Schedule for the Rental Payment Date immediately preceding the applicable date of such prepayment (or if the date of such prepayment occurs prior to the first Rental Payment Date, the earliest Prepayment Price shown on the Payment Schedule) *plus* (ii) accrued interest at the Contract Rate (or the Taxable Rate if then in effect) on the Outstanding Balance as of the Rental Payment Date immediately preceding the applicable date of such prepayment from such Rental Payment Date (or if the date of such prepayment occurs prior to the first Rental Payment Date, the Commencement Date) to the date of such prepayment *plus* (iii) all other amounts then owing hereunder.

(b) *Payment in Full.* Lessor's security interests in and to the Equipment will be terminated and Lessee will own such Equipment free and clear of Lessor's security interest in such Equipment, after either (i) payment of the applicable Prepayment Price and all other amounts then owing hereunder in accordance with either Section 10.01(a)(i) or Section 10.01(a)(ii) of this Agreement or (ii) upon the expiration of the Scheduled Term and payment in full of all Rental Payments then due and all other amounts then owing hereunder in accordance with this Agreement.

## ARTICLE XI

*Section 11.01. Assignment by Lessor.* (a) Lessor's right, title and interest in and to this Agreement, the Rental Payments and any other amounts payable by Lessee hereunder, the Escrow Agreement, its security interest in the Collateral (collectively, the "*Assigned Rights*"), may be assigned and reassigned by Lessor at any time, in whole or in part, to one or more assignees or sub-assignees without the necessity of obtaining the consent of Lessee; *provided*, that any such assignment, transfer or conveyance (i) shall be made only to investors each of whom Lessor reasonably believes is a "*qualified institutional buyer*" as defined in Rule 144A(a)(1) promulgated under the Securities Act of 1933, as amended, or an "*accredited investor*" as defined in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended, and in either case is purchasing the Assigned Rights (or any interest therein) for its own account with no present intention to resell or distribute such Assigned Rights (or interest therein), subject to each investor's right at any time to dispose of the Assigned Rights (or any interest therein) as it determines to be in its best interests, (ii) shall not result in more than 35 owners of the Assigned Rights or the creation of any interest in the Assigned Rights in an aggregate principal component that is less than \$100,000 and (iii) shall not require Lessee to make Rental Payments, to send notices or otherwise to deal with respect to matters arising hereunder or under the Escrow Agreement with or to more than one Lease Servicer (as such term is defined below), and any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in the Assigned Rights are created shall provide the method by which

the owners of such interests shall establish the rights and duties of a single entity, trustee, owner, servicer or other fiduciary or agent acting on behalf of all of the assignees (herein referred to as the “*Lease Servicer*”) to act on their behalf with respect to the Assigned Rights, including with respect to the exercise of rights and remedies of Lessor on behalf of such owners upon the occurrence of an Event of Default or an Event of Non-appropriation under this Agreement. Lessor and Lessee hereby acknowledge and agree that the restrictions and limitations on transfer as provided in this Section 11.01 shall apply to the first and subsequent assignees and sub-assignees of any of the Assigned Rights (or any interest therein).

(b) Unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective as against Lessee until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, participation interests, trust certificates or partnership interests with respect to the Rental Payments payable under this Agreement, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank, trust company or other entity that acts as the Lease Servicer. Notices of assignment provided pursuant to this Section 11.01(b) shall contain a confirmation of compliance with the transfer requirements imposed by Section 11.01(a) hereof. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees or Lease Servicer last designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. Assignments in part may include without limitation assignment of all of Lessor’s security interest in and to the Equipment and all rights in, to and under this Agreement related to such Equipment, and all of Lessor’s security interest in and to the Collateral, or all rights in, to and under the Escrow Agreement.

(c) If Lessor notifies Lessee of its intent to assign this Agreement, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment substantially in the form of *Exhibit H* attached hereto within five (5) business days after its receipt of such request.

***Section 11.02. Assignment and Subleasing by Lessee. None of Lessee’s right, title, and interest in, to and under this Agreement or any portion of the Equipment, the Escrow Agreement, the Escrow Account or any of the other Collateral may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor’s prior written consent shall be null and void.***

## ARTICLE XII

*Section 12.01. Events of Default Defined.* Any of the following events shall constitute an “Event of Default” under this Agreement:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under this Agreement within ten (10) days after the date when due as specified herein, (ii) maintain insurance as required herein, or (iii) observe and perform any covenant, condition or agreement on its part to be observed or performed under Section 2.01(k), 2.01(t), 6.01 or 6.02 hereof;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement contained in this Agreement on its part to be observed or performed, other than as referred to in subsection (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; *provided that*, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor, or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregated amount in excess of \$100,000.00;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable Federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, liquidation, readjustment, reorganization, moratorium or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its

application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days.

*Section 12.02. Remedies on Default.* Whenever any Event of Default exists, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:

(a) By written notice to Lessee, Lessor may declare all Rental Payments payable by Lessee and other amounts payable by Lessee hereunder to the end of the then current Original Term or Renewal Term to be immediately due and payable;

(b) With or without terminating the Lease Term, Lessor may enter the premises where the Equipment is located and retake possession of such Equipment or require Lessee at Lessee's expense to promptly return any or all of such Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee and other amounts hereunder that are payable by Lessee to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies hereunder, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03 of this Agreement. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities hereunder or with respect to the Equipment;

(c) Lessor may terminate the Escrow Agreement and apply any proceeds in the Escrow Account to the Rental Payments scheduled to be paid hereunder; and/or

(d) Lessor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under this Agreement or the Escrow Agreement or as a secured party in any or all of the Equipment or the Escrow Account.

*Section 12.03. No Remedy Exclusive.* No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article XII it shall not be necessary to give any notice other than such notice as may be required in this Article XII.

### ARTICLE XIII

*Section 13.01. Notices.* All notices, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

*Section 13.02. Binding Effect.* This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

*Section 13.03. Severability.* In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

*Section 13.04. Amendments, Changes and Modifications.* This Agreement may only be amended by Lessor and Lessee in writing.

*Section 13.05. Execution in Counterparts.* This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; *provided*, that only Counterpart No. 1 of this Agreement shall constitute chattel paper for purposes of the applicable Uniform Commercial Code.

*Section 13.06. Applicable Law; Venue; Waiver of Jury Trial.* This Agreement shall be governed by and construed in accordance with the laws of the State. The parties hereto consent and submit to the jurisdiction of the State and venue in any state or Federal court of such State for the purposes of any suit, action or other proceeding arising in connection with this Agreement, and each party expressly waives any objections that it may have to the venue of such courts. The parties hereto expressly waive any right to trial by jury in any action brought on or with respect to this Agreement. If the waiver of jury trial contained herein is unenforceable for any reason, then the parties hereto agree that the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision.

*Section 13.07. Captions.* The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

*Section 13.08. No Advisory or Fiduciary Relationship.* In connection with all aspects of each transaction contemplated by this Agreement (including in connection with any amendment, waiver or other modification hereof or of any other related document), the Lessee acknowledges and agrees that: (a) (i) the transactions regarding this Agreement provided by the Lessor and any affiliate thereof are arm's-length commercial transactions between the Lessee, on the one hand,

and the Lessor and its affiliates, on the other hand, (ii) the Lessee has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Lessee is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement and by the other related documents; (b) (i) the Lessor and its affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Lessee, or any other person and (ii) neither the Lessor nor any of its affiliates has any obligation to the Lessee with respect to the transactions contemplated by this Agreement except those obligations expressly set forth herein and in the other related documents; and (c) the Lessor and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Lessee, and neither the Lessor nor any of its affiliates has any obligation to disclose any of such interests to the Lessee. To the fullest extent permitted by law, the Lessee, hereby waives and releases any claims that it may have against the Lessor or any of its affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated by this Agreement.

*Section 13.09. Entire Agreement.* The parties agree that this Agreement constitutes the final and entire agreement between the parties superseding all conflicting terms or provisions of any prior proposals, term sheets, solicitation documents, requests for proposals, award notices, approval letters or any other agreements or understandings between the parties.

*Section 13.10. Electronic Signatures.* The Related Documents may be executed and delivered by facsimile signature or other electronic or digital means (including, without limitation, Adobe's Portable Document Format ("PDF")). Any such signature shall be of the same force and effect as an original signature, it being the express intent of the parties to create a valid and legally enforceable contract between them. The exchange and delivery of the Related Documents and the related signature pages via facsimile or as an attachment to electronic mail (including in PDF) shall constitute effective execution and delivery by the parties and may be used by the parties for all purposes. Notwithstanding the foregoing, at the request of either party, the parties hereto agree to exchange inked original replacement signature pages as soon thereafter as reasonably practicable.

*[Remainder of Page Intentionally Left Blank]*

*[Signature Page Follows]*

IN WITNESS WHEREOF, Lessor and Lessee have caused this Equipment Lease/Purchase Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:

LESSEE:

BANC OF AMERICA PUBLIC CAPITAL CORP

YOLO COUNTY OFFICE OF EDUCATION

11333 McCormick Road  
Hunt Valley II  
M/C MD5-031-06-05  
Hunt Valley, MD 21031  
Attention: Contract Administration  
Fax No.: (443) 541-3057

1280 Santa Anita Court, Suite 100  
Woodland, CA 95776  
Attention: Associate Superintendent,  
Administrative Services  
Telephone: (530) 668-3772  
Fax No.: (530) 668-3848  
E-mail: Veronica.Coronado@ycoe.org

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Veronica Coronado  
Title: Associate Superintendent,  
Administrative Services

ATTEST:

By: \_\_\_\_\_  
Name: Maria Arvizu-Espinoza  
Title: Deputy Superintendent

Counterpart No. \_\_\_\_\_ of \_\_\_\_\_ manually executed and serially numbered counterparts. To the extent that this Agreement constitutes chattel paper (as defined in the applicable Uniform Commercial Code), no security interest or ownership herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.



## LIST OF EXHIBITS

EXHIBIT A	—	Form of Equipment Schedule
EXHIBIT B	—	Form of Payment Schedule
EXHIBIT C-1	—	Form of Authorizing Resolution
EXHIBIT C-2	—	Form of Incumbency and Authorization Certificate
EXHIBIT D	—	Form of Opinion of Lessee's Counsel
EXHIBIT E	—	Form of Final Acceptance Certificate
EXHIBIT F	—	Form of Self-Insurance Certificate
EXHIBIT G	—	Reserved
EXHIBIT H	—	Form of Notice and Acknowledgement of Assignment
EXHIBIT I	—	Form of Escrow and Account Control Agreement

**EXHIBIT A**

**EQUIPMENT SCHEDULE**

Location of Equipment:

Equipment Description (Scope of Work):

**EXHIBIT B**

**PAYMENT SCHEDULE**

RENTAL PAYMENT DATE	RENTAL PAYMENT AMOUNT	INTEREST PORTION	PRINCIPAL PORTION	OUTSTANDING BALANCE	PREPAYMENT PRICE (including prepayment premium, if applicable)
4/17/24				\$4,782,587.00	
4/17/25	\$ 219,999.00	\$ 219,999.00	\$ 0.00	4,782,587.00	\$4,878,238.74
4/17/26	226,145.00	219,999.00	6,146.00	4,776,441.00	4,871,969.82
4/17/27	1,233,606.29	219,716.29	1,013,890.00	3,762,551.00	3,837,802.02
4/17/28	244,896.35	173,077.35	71,819.00	3,690,732.00	3,764,546.64
4/17/29	254,851.67	169,773.67	85,078.00	3,605,654.00	3,677,767.08
4/17/30	265,214.08	165,860.08	99,354.00	3,506,300.00	3,576,426.00
4/17/31	275,998.80	161,289.80	114,709.00	3,391,591.00	3,459,422.82
4/17/32	287,226.19	156,013.19	131,213.00	3,260,378.00	3,325,585.56
4/17/33	298,912.39	149,977.39	148,935.00	3,111,443.00	3,173,671.86
4/17/34	311,076.38	143,126.38	167,950.00	2,943,493.00	3,002,362.86
4/17/35	323,738.68	135,400.68	188,338.00	2,755,155.00	2,810,258.10
4/17/36	336,920.13	126,737.13	210,183.00	2,544,972.00	2,595,871.44
4/17/37	350,638.71	117,068.71	233,570.00	2,311,402.00	2,357,630.04
4/17/38	364,920.49	106,324.49	258,596.00	2,052,806.00	2,093,862.12
4/17/39	379,788.08	94,429.08	285,359.00	1,767,447.00	1,802,795.94
4/17/40	395,263.56	81,302.56	313,961.00	1,453,486.00	1,482,555.72
4/17/41	382,776.36	66,860.36	315,916.00	1,137,570.00	1,160,321.40
4/17/42	398,501.22	52,328.22	346,173.00	791,397.00	807,224.94
4/17/43	414,874.26	36,404.26	378,470.00	412,927.00	421,185.54
4/17/44	<u>431,921.64</u>	<u>18,994.64</u>	<u>412,927.00</u>	-	-
<b>TOTAL</b>	<u><b>\$7,397,269.28</b></u>	<u><b>\$2,614,682.28</b></u>	<u><b>\$4,782,587.00</b></u>		

*Contract Rate.* The Contract Rate is 4.600% per annum.

*Prepayment Option Commencement Date.* For purposes of Section 10.01 of the Agreement, the Prepayment Option Commencement Date is April 17, 2025.

LESSOR:

LESSEE:

BANC OF AMERICA PUBLIC CAPITAL CORP

YOLO COUNTY OFFICE OF EDUCATION

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: Veronica Coronado

Title: \_\_\_\_\_

Title: Associate Superintendent,  
Administrative Services

**EXHIBIT C-1**

**See Item #3(a) in Transcript**

**EXHIBIT C-2**

**FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE**

The undersigned, a duly elected or appointed and acting Deputy Superintendent of the Yolo County Office of Education (“*Lessee*”) certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the “*Officials*”) in the capacity set forth opposite their respective names below and the facsimile signatures below are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute, in writing or electronically, and deliver the Equipment Lease/Purchase Agreement dated as of April 17, 2024 by and between Lessee and Banc of America Public Capital Corp (“*Lessor*”), the Escrow and Account Control Agreement dated as of April 17, 2024 by and among Lessor, Lessee and Wilmington Trust, National Association, as Escrow Agent, all documents related thereto and delivered in connection therewith, and any future modification(s) or amendments thereof (collectively, the “*Operative Agreements*”), and the Operative Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

NAME OF OFFICIAL	TITLE	SIGNATURE
Garth Lewis	Superintendent of Schools	_____
Veronica Coronado	Associate Superintendent, Administrative Services	_____
_____	_____	_____

Dated: April 17, 2024

By: \_\_\_\_\_  
Name: Maria Arvizu-Espinoza  
Title: Deputy Superintendent

(The signer of this Certificate cannot be listed above as authorized to execute the Operative Agreements.)

**EXHIBIT D**

**FORM OF OPINION OF COUNSEL TO LESSEE  
(TO BE TYPED ON LETTERHEAD OF COUNSEL)**

**[Closing Date]**

Banc of America Public Capital Corp  
11333 McCormick Road  
Mail Code: MD5-031-06-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement,  
dated as of April 17, 2024,  
by and between  
Banc of America Public Capital Corp, as Lessor,  
and the Yolo County Office of Education, as Lessee

---

Ladies and Gentlemen:

As legal counsel to the Yolo County Office of Education ("*Lessee*"), I have examined (a) an executed counterpart of that certain Equipment Lease/Purchase Agreement, dated as of April 17, 2024, and Exhibits thereto by and between Banc of America Public Capital Corp ("*Lessor*") and Lessee (the "*Agreement*"), which, among other things, provides for the lease of certain property (the "*Equipment*") and a certain Escrow and Account Control Agreement dated as of April 17, 2024 by and among Lessor, Lessee, and Wilmington Trust, National Association as Escrow Agent (the "*Escrow Agreement*"), (b) an executed counterpart of the ordinances or resolutions of Lessee with respect to authorization of the transaction contemplated by the Agreement, the Escrow Agreement and documents related thereto and (c) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. The Agreement, the Escrow Agreement, and the documents relating thereto are herein collectively referred to as the "*Transaction Documents*".

Based on the foregoing, I am of the following opinions:

1. Lessee is a county office of education, duly organized and existing under the laws of the State, and is a political subdivision of the State within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "*Code*") and the obligations of Lessee under the Agreement will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code.

2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Transaction Documents.

3. The Transaction Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents are legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with their respective terms, except to the extent limited by state and federal law affecting creditor's remedies and by bankruptcy, reorganization, moratorium or other laws of general application relating to or affecting the enforcement of creditors' rights.

4. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, procurement and public bidding laws and all other applicable State or Federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Equipment, the Escrow Account or other Collateral thereunder.

6. The portion of Rental Payments designated as interest is excluded from gross income for Federal income tax purposes under Section 103 of the Code and is exempt from State of California personal income taxes; and such interest is not a specific item of tax preference for purposes of the federal alternative minimum tax.

All capitalized terms herein shall have the same meanings as in the Transaction Documents unless otherwise provided herein. Lessor and its successors and assigns are entitled to rely on this opinion.

Sincerely,



**EXHIBIT E**

**FORM OF FINAL ACCEPTANCE CERTIFICATE**

Banc of America Public Capital Corp  
11333 McCormick Road  
Mail Code: MD5-031-06-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Re: Equipment Lease/Purchase Agreement,  
dated as of April 17, 2024,  
by and between  
Banc of America Public Capital Corp, as Lessor, and  
the Yolo County Office of Education, as Lessee

---

Ladies and Gentlemen:

In accordance with the above-referenced Equipment Lease/Purchase Agreement (the "*Agreement*"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted for all purposes by Lessee and title thereto has transferred to Lessee and any security interest of Vendor therein has been released.
2. Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate in order to determine the Equipment's capability and functionality in order to accept such Equipment and hereby acknowledges that it accepts the Equipment for all purposes.
3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.
4. Lessee hereby reaffirms that the representations, warranties and covenants contained in the Agreement are true and correct as of the date hereof.
5. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default exists at the date hereof.
6. No Material Adverse Change has occurred since the date of the execution and delivery of the Agreement.

7. No Event of Non-appropriation has occurred or been threatened.

Capitalized terms used, but not defined, in this Final Acceptance Certificate shall have the same meanings as when such terms are used in the Agreement.

Date: \_\_\_\_\_-

LESSEE:

YOLO COUNTY OFFICE OF EDUCATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(SEAL)

**EXHIBIT F**

**FORM OF SELF INSURANCE CERTIFICATE**

Banc of America Public Capital Corp  
11333 McCormick Road  
Mail Code: MD5-031-06-05  
Hunt Valley, MD 21031  
Attn: Contract Administration

Re:                                Equipment Lease/Purchase Agreement,  
                                      dated as of April 17, 2024, (the “*Agreement*”)  
                                      by and between  
                                      Banc of America Public Capital Corp, as Lessor,  
                                      and the Yolo County Office of Education, as Lessee

---

In connection with the above-referenced Agreement, the Yolo County Office of Education (the “*Lessee*”) hereby warrants and represents to Banc of America Public Capital Corp the following information. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

1. The Lessee is self-insured for damage or destruction to the Equipment. The dollar amount limit for property damage to the Equipment under such self-insurance program is \$\_\_\_\_\_. **[The Lessee maintains an umbrella insurance policy for claims in excess of Lessee’s self-insurance limits for property damage to the Equipment which policy has a dollar limit for property damage to the Equipment under such policy of \$\_\_\_\_\_.]**

2. The Lessee is self-insured for liability for injury or death of any person or damage or loss of property arising out of or relating to the condition or operation of the Equipment. The dollar limit for such liability claims under the Lessee’s self-insurance program is \$\_\_\_\_\_. **[The Lessee maintains an umbrella insurance policy for claims in excess of Lessee’s self-insurance limits for liability which policy has a dollar limit for liabilities for injury and death to persons as well as damage or loss of property arising out of or relating to the condition or operation of the Equipment in the amount of \$\_\_\_\_\_.]**

**[3].** The Lessee maintains a self-insurance fund. Monies in the self-insurance fund [are/are not] subject to annual appropriation. The total amount maintained in the self-insurance fund to cover Lessee’s self-insurance liabilities is \$\_\_\_\_\_. **[Amounts paid from the Lessee’s self-insurance fund are subject to a dollar per claim of \$\_\_\_\_\_.]**

**[3].** The Lessee does not maintain a self-insurance fund. The Lessee obtains funds to pay claims for which it has self-insured from the following sources:

\_\_\_\_\_. Amounts payable for claims from such sources are limited as follows: \_\_\_\_\_

4. Attached hereto are copies of certificates of insurance with respect to policies maintained by Lessee.

LESSEE:

YOLO COUNTY OFFICE OF EDUCATION

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT G**

**RESERVED**

**EXHIBIT H**

**FORM OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT**

Dated \_\_\_\_\_

Banc of America Public Capital Corp (“*Assignor*”) hereby gives notice that it has assigned and sold to \_\_\_\_\_ (“*Assignee*”) all of Assignor’s right, title and interest in, to and under the Equipment Lease/Purchase Agreement dated as of April 17, 2024 (the “*Agreement*”), by and between Assignor and the Yolo County Office of Education (“*Lessee*”), together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Agreement, all of Assignor’s right, title and interest in the Equipment (as defined in the Agreement), and all of Assignor’s right, title and interest in, to and under the Escrow and Account Control Agreement dated as of April 17, 2024 (the “*Escrow Agreement*”) by and among Lessee, Assignor and Wilmington Trust, National Association, as Escrow Agent, together with the Escrow Account and other Collateral (collectively, the “*Assigned Property*”). Each capitalized term used but not defined herein has the meaning set forth in the Agreement.

1. Lessee hereby acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignee all Rental Payments and other amounts coming due under the Agreement in accordance with the terms thereof on and after the date of this Acknowledgment.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Agreement and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the Equipment in accordance with the terms of the Agreement, to declare a default and to exercise all rights and remedies thereunder in connection with the occurrence of an Event of Non-appropriation or an Event of Default; and (ii) **[except as provided in Section 3.03 of the Agreement,]** the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Notice and Acknowledgment of Assignment (this “*Acknowledgement*”), the following information about the Agreement is true, accurate and complete:

Number of Rental Payments Remaining	_____
Amount of Each Rental Payment	\$ _____
Total Amount of Rental Payments Remaining	\$ _____
Frequency of Rental Payments	_____
Next Rental Payment Due	_____
Funds Remaining in Escrow Account	\$ _____

4. The Agreement remains in full force and effect, has not been amended, no Event of Default (or event which with the passage of time or the giving of notice or both would constitute an Event of Default) has occurred thereunder and no Event of Non-appropriation has occurred or is threatened with respect thereto.

5. Assignor hereby acknowledges the transfer restrictions imposed by Section 11.01 of the Agreement and confirms that the assignment to Assignee has been made in accordance with the provisions of that Section.

6. Any inquiries of Lessee related to the Agreement and any requests for disbursements from the Escrow Account, if applicable, and all Rental Payments and other amounts coming due pursuant to the Agreement on and after the date of this Acknowledgment should be remitted to Assignee at the following address (or such other address as provided to Lessee in writing from time to time by Assignee):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ACKNOWLEDGED AND AGREED:

LESSEE: YOLO COUNTY OFFICE OF EDUCATION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ASSIGNOR: BANC OF AMERICA PUBLIC CAPITAL CORP

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT I**

**ESCROW AND ACCOUNT CONTROL AGREEMENT**

See Item #4 in Transcript



## ESCROW AND ACCOUNT CONTROL AGREEMENT

This Escrow and Account Control Agreement (this “*Agreement*”), dated as of April 17, 2024, by and among Banc of America Public Capital Corp, a Kansas corporation (together with its successors and assigns, hereinafter referred to as “*Lessor*”), Yolo County Office of Education, a county office of education existing under the laws of the State of California (hereinafter referred to as “*Lessee*”) and Wilmington Trust, National Association, a national banking association organized under the laws of the United States of America (hereinafter referred to as “*Escrow Agent*”).

Reference is made to that certain Equipment Lease/Purchase Agreement dated as of April 17, 2024 between Lessor and Lessee (hereinafter referred to as the “*Lease*”), covering the acquisition and lease of certain Equipment described therein (the “*Equipment*”). It is a requirement of the Lease that the Acquisition Amount (\$4,782,587.00) be deposited into a segregated escrow account under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

*Section 1. Creation of Escrow Account.* (a) There is hereby created an escrow fund to be known as the “Yolo County Office of Education Escrow Account” (the “*Escrow Account*”) to be held by the Escrow Agent for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) Lessee may, from time to time, provide written instructions for Escrow Agent to use any available cash in the Escrow Account to purchase any money market fund or liquid deposit investment vehicle that Escrow Agent from time to time makes available to the parties hereto. Such written instructions shall be provided via delivery to Escrow Agent of a signed and completed Escrow Account Investment Selection Form (such form available from Escrow Agent upon request). All funds invested by Escrow Agent at the direction of Lessee in such short-term investments (as more particularly described in Escrow Agent’s Escrow Account Investment Selection Form) shall be deemed to be part of the Escrow Account and subject to all the terms and conditions of this Agreement. The Escrow Agent is hereby authorized and directed to sell or redeem any such investments as it deems necessary to make any payments or distributions required under this Agreement. The Lessee acknowledges that neither the Escrow Agent nor the Lessor is providing investment supervision, recommendations, or advice. If any cash is received for the Escrow Account after the cut-off time for the designated short-term investment vehicle, the Escrow Agent shall hold such cash uninvested until the next Business Day. “*Business Day*” means a day other than a Saturday, Sunday or legal holiday, on which banking institutions are not closed in Chicago, Illinois, Woodland, California or New York, New York. In the absence of written instructions from Lessee (on Escrow Agent’s Escrow Account Investment Selection Form) designating a short-term investment of cash in the Escrow Account, cash in the Escrow Account shall remain uninvested and it shall not be collateralized. Escrow Agent shall have no obligation

to pay interest on cash in respect of any period during which it remains uninvested. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Escrow Agent for the reinvestment of any maturing investment. Accordingly, neither the Escrow Agent nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Escrow Account, and Lessee agrees to and does hereby release the Escrow Agent and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Escrow Account shall become part of the Escrow Account, and gains and losses on the investment of the moneys on deposit in the Escrow Account shall be borne by the Lessee. The Escrow Agent shall have no discretion whatsoever with respect to the management, disposition or investment of the Escrow Account. The Escrow Agent shall not be responsible for any market decline in the value of the Escrow Account and has no obligation to notify Lessor and Lessee of any such decline or take any action with respect to the Escrow Account, except upon specific written instructions stated herein. For purposes of this Agreement, "Qualified Investments" means any investments which meet the requirements of California Government Code Sections 53600 *et seq.*

(c) Unless the Escrow Account is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Escrow Account shall be disbursed by the Escrow Agent in payment of amounts described in Section 2 hereof upon receipt of written instruction(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Escrow Account are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Escrow Account on or after the earlier of (i) the expiration of the Acquisition Period or (ii) the date on which Lessee executes a Final Acceptance Certificate shall be applied as provided in Section 4 hereof.

(d) The Escrow Account shall be terminated at the earliest of (i) the final distribution of amounts in the Escrow Account, (ii) the date on which Lessee executes a Final Acceptance Certificate or (iii) written notice given by Lessor of the occurrence of an Event of Default under the Lease or termination of the Lease due to an Event of Non-appropriation. Notwithstanding the foregoing, this Agreement shall not terminate nor shall the Escrow Account be closed until all funds deposited hereunder have been disbursed.

(e) The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Escrow Agent, and for the disposition of the same in accordance herewith. Notwithstanding and without limiting the generality of the foregoing, concurrent with the execution of this Agreement, Lessee and Lessor, respectively, shall deliver to the Escrow Agent an authorized signers form in the form of Exhibit A-1 (Lessee) and Exhibit A-2 (Lessor) attached hereto. Notwithstanding the foregoing sentence, the Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent

or given by the parties or by a person or persons authorized by the parties. The Escrow Agent specifically allows for receiving direction by written or electronic transmission from an authorized representative with the following caveat, to the extent permitted by law, Lessee and Lessor agree to indemnify and hold harmless the Escrow Agent against any and all claims, losses, damages, liabilities, judgments, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") incurred or sustained by the Escrow Agent as a result of or in connection with the Escrow Agent's reliance upon and compliance with instructions or directions given by written or electronic transmission given by each, respectively, *provided, however*, that such Losses have not arisen from the gross negligence or willful misconduct of the Escrow Agent, with regards to the execution of the instructions or directions in question, it being understood that forbearance on the part of the Escrow Agent to verify or confirm that the person giving the instructions or directions, is, in fact, an authorized person shall not be deemed to constitute gross negligence or willful misconduct.

In the event conflicting instructions as to the disposition of all or any portion of the Escrow Account are at any time given by Lessor and Lessee, the Escrow Agent shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(f) Unless the Escrow Agent is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Escrow Agent and its directors, officers, employees and agents and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, does to the extent permitted by law indemnify the Escrow Agent against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(g) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action including an interpleader action to resolve the disagreement. The Escrow Agent shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in such action is received.

(h) The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its gross negligence or willful misconduct. The Escrow Agent may act through attorneys or agents and shall not be responsible for the acts or omissions of any such attorney or agent appointed with due care.

(i) The compensation fee for Escrow Agent's services under this Agreement is \$0.00. Lessee shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for non-routine administration of

the Escrow Account, execution of the directions provided by the Lessee and Lessor and the performance of the Escrow Agent's powers and duties hereunder in connection with any Event of Default under the Lease, any termination of the Lease due to an Event of Non-appropriation or in connection with any dispute between Lessor and Lessee concerning the Escrow Account. The terms of this paragraph shall survive termination of this Agreement and/or the earlier resignation or removal of the Escrow Agent.

(j) The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "*Effective Date*"), which shall be a date not less than 60 days after such notice is delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Escrow Agent shall be under no further obligation except to hold the Escrow Account in accordance with the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Escrow Account.

(k) The Escrow Agent shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no implied duties responsibilities or obligations shall be read into this Agreement. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Agreement, whether or not an original or a copy of such agreement has been provided to the Escrow Agent.

(l) The permissive rights of the Escrow Agent to do things enumerated in this Agreement shall not be construed as a duty and, with respect to such permissive rights, the Escrow Agent shall not be answerable for other than its gross negligence or willful misconduct.

(m) Nothing in this Agreement shall require the Escrow Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers hereunder.

(n) In no event shall the Escrow Agent be responsible or liable for special, indirect, punitive, incidental or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Escrow Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

(o) In the event that any of the funds in the Escrow Account shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the funds in the Escrow Account, the Escrow Agent is hereby expressly authorized to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. To the extent permitted by law, the Escrow Agent shall inform the Lessor and Lessee in writing about any such attachment, garnishment, levy, court order, judgment or decree within ten (10) Business Days of its receipt of any such attachment, garnishment, levy, court order, judgment or decree. In the event that the Escrow Agent obeys or complies with any such writ,

order or decree, it shall not be liable to any of the other parties to this Agreement or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

*Section 2. Acquisition and Installation of Equipment.*

(a) *Acquisition Contracts.* Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Escrow Account. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof. Escrow Agent shall have no duty to inquire as to the performance or nonperformance of any provision of any other agreement, instrument, or document other than this Agreement or monitor or enforce Lessee's compliance with the foregoing covenant.

(b) *Authorized Escrow Account Disbursements.* It is agreed as between Lessee and Lessor that disbursements from the Escrow Account shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Equipment.

(c) *Requisition Procedure.* No disbursement from the Escrow Account shall be made unless and until Lessor has approved in writing such requisition. Prior to disbursement from the Escrow Account there shall be filed with the Escrow Agent a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due. All disbursements shall be made by wire transfer. The Escrow Agent is authorized to obtain and rely on confirmation of such Disbursement Request and payment instructions by telephone call-back to the person or persons designated for verifying such requests on Exhibit A-2 (such person verifying the request shall be different than the person initiating the request). The Lessor and Lessee hereby confirm that any call-back performed by Escrow Agent to verify a disbursement instruction pursuant to a Disbursement Request submitted pursuant to this Section 2(c) before release, shall be made to Lessor only and Escrow Agent shall have no obligation to call-back Lessee.

Each such Disbursement Request shall be signed by an authorized representative of Lessee (an "*Authorized Representative*") and by Lessor, and shall be subject to the following conditions, which Escrow Agent shall conclusively presume have been satisfied at such time as a requisition executed by Lessee and Lessor is delivered to it:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1;
2. Delivery to Lessor of copies of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale therefor or other evidence of title

transfer, and release by Vendor of any security interest, therefor as required by Section 3.04 of the Lease and any additional documentation reasonably requested by Lessor; and

3. The disbursement shall occur during the Acquisition Period.

Lessee and Lessor agree that their execution of the form attached hereto as Schedule 1 and delivery of the executed form to Escrow Agent confirms that all of the requirements and conditions with respect to disbursements set forth in this Section 2 have been satisfied.

*Section 3. Deposit to Escrow Account.* Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount to be deposited in the Escrow Account. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Escrow Account. The Escrow Agent shall not be liable for any amount in excess of the Acquisition Amount.

*Section 4. Excess Proceeds in Escrow Account.* Upon receipt of written instructions from Lessor including a representation that one of the following conditions has been satisfied (upon which representation Escrow Agent shall conclusively rely), any funds remaining in the Escrow Account on or after the earliest of (a) the expiration of the Acquisition Period, or (b) the date on which Lessee executes a Final Acceptance Certificate, or (c) upon a termination of the Escrow Account as provided in this Agreement, shall be distributed by the Escrow Agent to the Lessor in order for the Lessor to apply such funds to amounts owed by Lessee under the Lease in accordance with Section 4.07 of the Lease.

*Section 5. Security Interest.* The Escrow Agent and Lessee acknowledge and agree that the Escrow Account and all proceeds thereof are being held by Escrow Agent for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account, and all proceeds thereof, and all investments made with any amounts in the Escrow Account. If the Escrow Account, or any part thereof, is converted to investments as set forth in this Agreement, such investments shall be made in the name of Escrow Agent and the Escrow Agent hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

*Section 6. Control of Escrow Account.* In order to perfect Lessor's security interest by means of control in (i) the Escrow Account established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Escrow Account, (iii) all of Lessee's rights in respect of the Escrow Account, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "*Collateral*"), Lessor, Lessee and Escrow Agent further agree as follows:

(a) All terms used in this Section 6 which are defined in the California Commercial Code (the "*Commercial Code*") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

(b) Escrow Agent will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) *Provided* that account investments shall be held in the name of the Escrow Agent, Escrow Agent hereby represents and warrants (i) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (ii) that Escrow Agent has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (iii) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Escrow Agent will not enter into any agreement by which Escrow Agent agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Escrow Agent shall promptly notify Lessor if any person requests Escrow Agent to enter into any such agreement or otherwise asserts or seeks to assert a Lien, encumbrance or adverse claim against any portion or all of the Collateral.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Lessee may effect sales, trades, transfers and exchanges of Collateral within the Escrow Account, but will not, without the prior written consent of Lessor, withdraw any Collateral from the Escrow Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Escrow Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

(f) Lessee hereby irrevocably authorizes Escrow Agent to comply with all instructions and entitlement orders delivered by Lessor to Escrow Agent.

(g) Escrow Agent will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

(h) Escrow Agent and Lessee hereby agree that any property held in the Escrow Account shall be treated as a financial asset under such section of the Commercial Code as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Escrow Agent may be a party.

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 8 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Escrow Account statements or reports issued or sent to Lessee with respect to the Escrow Account.

*Section 7. Information Required Under USA Patriot Act.* The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA Patriot Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA Patriot Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

*Section 8. Miscellaneous.* Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below.

Notices and other communications hereunder may be delivered or furnished by electronic mail *provided* that any formal notice shall be attached to an e-mail message in PDF format and *provided further* that any notice or other communication sent to an e-mail address shall be deemed received upon and only upon the sender's receipt of affirmative acknowledgement or receipt from the intended recipient. For purposes hereof no acknowledgement of receipt generated on an automated basis shall be deemed sufficient for any purpose hereunder or admissible as evidence of receipt.

If a court of competent jurisdiction declares any provision hereof invalid, it will be ineffective only to the extent of such invalidity, so that the remainder of the provision and Agreement will continue in full force and effect.



This Agreement and the exhibits hereto set forth the entire agreement and understanding of the parties related to this transaction and supersede all prior agreements and understandings, oral or written.

If to Lessor: Banc of America Public Capital Corp  
11333 McCormick Road  
Mail Code: MD5-031-06-05  
Hunt Valley, MD 21031  
Attn: Contract Administration  
Fax: (443) 541-3057

If to Lessee: Yolo County Office of Education  
1280 Santa Anita Court, Suite 100  
Woodland, CA 95776  
Attention: Associate Superintendent,  
Administrative Services  
Telephone: (530) 668-3772  
Fax No.: (530) 668-3848  
E-mail: Veronica.Coronado@ycoe.org

If to Escrow Agent: Wilmington Trust, National Association  
650 Town Center Drive, Suite 800  
Costa Mesa, CA 92626  
Attention: Chris Johnson  
Telephone: (714) 384-4152  
Fax: (714) 384-4151  
E-mail: cshjohnson@wilmingtontrust.com

*Section 9.* Lessee and Lessor understand and agree that they are required to provide the Escrow Agent with a properly completed and signed Tax Certification (as defined below) and that the Escrow Agent may not perform its duties hereunder without having been provided with such Tax Certification. As used herein "Tax Certification" shall mean an IRS form W-9 or W-8 as described above. The Escrow Agent will comply with any U.S. tax withholding or backup withholding and reporting requirements that are required by law. With respect to earnings allocable to a foreign person, the Escrow Agent will withhold U.S. tax as required by law and report such earnings and taxes withheld, if any, for the benefit of such foreign person on IRS Form 1042-S (or any other required form), unless such earnings and withheld taxes are exempt from reporting under Treasury Regulation Section 1.1461-1(c)(2)(ii) or under other applicable law. With respect to earnings allocable to a United States person, the Escrow Agent will report such income, if required, on IRS Form 1099 or any other form required by law. The IRS Forms 1099 and/or 1042-S shall show the Escrow Agent as payor and Lessee as payee. Escrow Agent shall recognize Lessee as the designated party for regulatory reporting purposes.

Lessee and Lessor agree that they are not relieved of their respective obligations, if any, to prepare and file information reports under Code Section 6041, and the Treasury regulations thereunder, with respect to amounts of imputed interest income, as determined pursuant to Code

Sections 483 or 1272. The Escrow Agent shall not be responsible for determining or reporting such imputed interest.

*Section 10.* This Agreement shall be governed by and construed in accordance with the laws of the State of California and the parties hereto consent to jurisdiction in the State of California and venue in any state or Federal court located in the State of California, and each party expressly waives any objections that it may have to the venue of such courts. **THE PARTIES HERETO EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION BROUGHT ON OR WITH RESPECT TO THIS AGREEMENT.** If the waiver of jury trial contained herein is unenforceable for any reason, then the parties hereto agree that the court shall, and is hereby directed to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision.

*Section 11.* Any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding. Any bank or corporation into which the Lessor may be merged or with which it may be consolidated, or any bank or corporation to whom the Lessor may transfer a substantial amount of its business, shall be the successor to the Lessor without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

*Section 12.* This Agreement may be amended, modified, and/or supplemented only by an instrument in writing executed by all parties hereto.

*Section 13.* No party hereto shall assign its rights hereunder until its assignee has submitted to the Escrow Agent (i) Patriot Act disclosure materials and the Escrow Agent has determined that on the basis of such materials it may accept such assignee as a customer and (ii) assignee has delivered an IRS Form W-8 or W-9, as appropriate, to the Escrow Agent which the Escrow Agent has determined to have been properly signed and completed.

*Section 14.* Escrow Agent will treat information related to this Agreement as confidential but, unless prohibited by law, Lessee and Lessor authorize the transfer or disclosure of any information relating to the Agreement to and between the subsidiaries, officers, affiliates and other representatives and advisors of Escrow Agent and third parties selected by any of them, wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Escrow Agent and any such subsidiary, officer, affiliate or third party may transfer or disclose any such information as required by any law, court, regulator or legal process.

Lessor will treat information related to this Agreement as confidential but, unless prohibited by law, Escrow Agent and Lessee authorize the transfer or disclosure of any information relating to the Agreement to and between the subsidiaries, officers, affiliates, other representatives and advisors of Lessor and debt and equity sources and third parties selected by any of them, and to their prospective assignees wherever situated, for confidential use in the ordinary course of

business, and further acknowledge that Lessor and any such subsidiary, officer, affiliate, debt and equity source or third party or prospective assignee may transfer or disclose any such information as required by any law, court, regulator or legal process.

Lessee will treat the terms of this Agreement as confidential except on a “need to know” basis to persons within or outside Lessee’s organization (including affiliates of such party), such as attorneys, accountants, bankers, financial advisors, auditors and other consultants of such party and its affiliates, except as required by any law, court, regulator or legal process and except pursuant to the express prior written consent of the other parties, which consent shall not be unreasonably withheld.

*Section 15.* This Agreement may be executed and delivered by facsimile signature or other electronic or digital means (including, without limitation, Adobe’s Portable Document Format (“*PDF*”). Any such signature shall be of the same force and effect as an original signature, it being the express intent of the parties to create a valid and legally enforceable contract between them. The exchange and delivery of this Agreement and the related signature pages via facsimile or as an attachment to electronic mail (including in *PDF*) shall constitute effective execution and delivery by the parties and may be used by the parties for all purposes. Notwithstanding the foregoing, at the request of either party, the parties hereto agree to exchange inked original replacement signature pages as soon thereafter as reasonably practicable.

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Escrow and Account Control Agreement as of the date first above written.

BANC OF AMERICA PUBLIC CAPITAL CORP,  
as Lessor

YOLO COUNTY OFFICE OF EDUCATION, as  
Lessee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: Veronica Coronado  
Title: Associate Superintendent,  
Administrative Services

WILMINGTON TRUST, NATIONAL ASSOCIATION,  
as Escrow Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE 1  
TO THE ESCROW AND ACCOUNT CONTROL AGREEMENT**

**FORM OF DISBURSEMENT REQUEST**

Re: Equipment Lease/Purchase Agreement dated as of April 17, 2024 by and between Banc of America Public Capital Corp, as Lessor, and the Yolo County Office of Education, as Lessee (the “Lease”) (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Escrow and Account Control Agreement, dated as of April 17, 2024 (the “Escrow and Account Control Agreement”) by and among Banc of America Public Capital Corp (“Lessor”), the Yolo County Office of Education (“Lessee”) and Wilmington Trust, National Association (the “Escrow Agent”), the undersigned hereby requests the Escrow Agent pay the following persons the following amounts from the Escrow Account created under the Escrow and Account Control Agreement for the following purposes:

DISBURSEMENT AMOUNTS:

PAYEE’S NAME AND ADDRESS (IF  
DISBURSEMENT VIA WIRE, MUST  
INCLUDE WIRE TRANSFER  
INSTRUCTIONS)

INVOICE NUMBER

DOLLAR AMOUNT

PURPOSE

<Payee’s Name>  
<Payee Address 1>  
<Payee Address 2>  
<Payee Address 3>

<invoice list OR “see  
attached” with a  
spreadsheet>

< invoice amount>

<general description of  
equipment; ex “police  
cruiser”>

<Payee Bank Name\*>  
<Payee Bank ABA/Routing\*>  
<Payee Bank Account No\*>  
<Payee Account Name\*>

<\*Payee Address and Payee  
Bank information is required.>

<Payee’s Name>  
<Payee Address 1>  
<Payee Address 2>  
<Payee Address 3>

<invoice list OR “see  
attached” with a  
spreadsheet>

<invoice amount>

[<mobilization fee that is  
payable to the Vendor  
under the Vendor  
Agreement>]

<Payee Bank Name\*>  
<Payee Bank ABA/Routing\*>  
<Payee Bank Account No\*>  
<Payee Account Name\*>

<\*Payee Address information is  
required. Payee Bank  
information only to be included  
for wire/EFT.>

Lessee hereby represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(i) Each obligation specified in the table herein titled as “Disbursement Amounts” (a) has been incurred by Lessee in the stated amount, (b) the same is a proper charge against the Escrow Account for Equipment Costs relating to the Equipment identified above and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof), and (c) has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof), and the Equipment relating to such obligation has been delivered, installed and accepted by Lessee. **[For COI Disbursement only: Each obligation specified in the table herein titled as “Disbursement Amounts” (a) has been incurred by Lessee in the stated amount, and (b) the same is a proper charge against the Delivery Costs Subaccount for costs of delivery of the Lease identified above and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof, in which event Lessee further certifies that the requested reimbursement is not with respect to any amount previously paid from the Lessee’s Contribution).]**

(ii) For each item of Equipment relating to an obligation specified in the table herein titled as “Disbursement Amounts” (a) Lessee has conducted such inspection and testing of the Equipment as it deems necessary and appropriate in order to determine the Equipment’s capability and functionality in order to accept such Equipment, (b) such Equipment has been delivered, installed, is operating in a manner consistent with the manufacturer’s intended use and has been inspected and finally accepted for all purposes by Lessee and title thereto has transferred to Lessee and any security interest of Vendor therein has been released and (c) the date on which Equipment acceptance occurred is \_\_\_\_\_, 20\_\_\_. Attached hereto is a copy of the original invoice, and certification from Vendor as to title transfer and release by Vendor of any security interest with respect to such obligation and the related AIA forms.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor’s, mechanic’s or other Liens or rights to Liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Equipment is insured in accordance with the Lease.

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to the Lease.

(vii) The disbursement shall occur during the Acquisition Period.

(viii) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

(ix) No Material Adverse Change has occurred since the date of the execution and delivery of the Lease.

(x) The information in this Disbursement Request regarding each Payee, including their respective name, address and wiring instructions (collectively, the "*Payee Information*"), is true and correct, such Payee Information has been verified and confirmed by Lessee and the Lessor can rely on Lessee's verification and confirmation of the accuracy of such Payee Information. Lessee hereby acknowledges and agrees that any call-back performed by Lessor to verify the disbursement instructions pursuant to this Disbursement Request shall be made to Lessee only and Lessor shall have no obligation to call-back any Payee listed above.

Dated: \_\_\_\_\_

YOLO COUNTY OFFICE OF EDUCATION

By: \_\_\_\_\_

Name: Veronica Coronado

Title: Associate Superintendent,  
Administrative Services

Disbursement of funds from the Escrow  
Account in accordance with the foregoing  
Disbursement Request hereby is authorized

BANC OF AMERICA PUBLIC CAPITAL CORP  
as Lessor under the Lease

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



[AN "EXHIBIT A-1" MUST BE COMPLETED AND EXECUTED AT TIME OF EXECUTION OF THE AGREEMENT]

**EXHIBIT A-1**

**FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE**

The undersigned, a duly elected or appointed and acting Deputy Superintendent of the Yolo County Office of Education ("*Lessee*") certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the "*Officials*") in the capacity set forth opposite their respective names below and the facsimile signatures below are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute, in writing or electronically, and deliver the Equipment Lease/Purchase Agreement dated as of April 17, 2024 by and between Lessee and Banc of America Public Capital Corp ("*Lessor*"), the Escrow and Account Control Agreement dated as of April 17, 2024 by and among Lessor, Lessee and Wilmington Trust, National Association, as Escrow Agent, all documents related thereto and delivered in connection therewith, and any future modification(s) or amendments thereof (collectively, the "*Operative Agreements*"), and the Operative Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

NAME OF OFFICIAL	TITLE	SIGNATURE
Garth Lewis	Superintendent of Schools	_____
Veronica Coronado	Associate Superintendent, Administrative Services	_____
_____	_____	_____

Dated: April 17, 2024

By: \_\_\_\_\_  
Name: Maria Arvizu-Espinoza  
Title: Deputy Superintendent

(The signer of this Certificate cannot be listed above as authorized to execute the Operative Agreements.)

[AN "EXHIBIT A-2" MUST BE COMPLETED AND EXECUTED AT TIME OF EXECUTION OF THE AGREEMENT]

**EXHIBIT A-2**

**ESCROW AND ACCOUNT CONTROL AGREEMENT DATED AS OF APRIL 17, 2024 BY AND AMONG BANC OF AMERICA PUBLIC CAPITAL CORP, AS LESSOR, THE YOLO COUNTY OFFICE OF EDUCATION, AS LESSEE AND WILMINGTON TRUST, NATIONAL ASSOCIATION, AS ESCROW AGENT**

**CERTIFICATE OF AUTHORIZED REPRESENTATIVES – [LESSOR]**

<b>Name:</b>	<u>Candy Tam</u>	<b>Name:</b>	<u>Nancy Nusenko</u>
<b>Title:</b>	<u>Authorized Agent</u>	<b>Title:</b>	<u>Authorized Agent</u>
<b>Phone:</b>	<u>415-765-7492</u>	<b>Phone:</b>	<u>443-541-3646</u>
<b>Facsimile:</b>	<u>415-633-0183</u>	<b>Facsimile:</b>	<u>443-541-3057</u>
<b>E-mail:</b>	<u>Candy.tam@bofa.com</u>	<b>E-mail:</b>	<u>Nancy.a.nusenko@bofa.com</u>
<b>Signature:</b>	_____	<b>Signature:</b>	_____

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

<b>Name:</b>	<u>Nancy K. Hepner</u>	<b>Name:</b>	<u>Arlene Sobieck</u>
<b>Title:</b>	<u>Authorized Agent</u>	<b>Title:</b>	<u>Authorized Agent</u>
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<b>Signature:</b>	_____	<b>Signature:</b>	_____

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

The Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by the person or persons identified above including without limitation, to initiate and verify funds transfers as indicated.

BANC OF AMERICA PUBLIC CAPITAL CORP

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

Date: April 17, 2024

## **8. 2. Energy Services Agreement with Syserco Energy Solutions, Inc.**

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### **Description**

Yolo County Office of Education (YCOE) administration intends to commence with a project that involves a combination of energy conservation measures at three (3) sites, and HVAC and air quality improvements at eligible sites. This project is expected to result in improved facility conditions, air quality, learning and teaching conditions, as well as avoided utility and operational costs. Additionally, it will provide the infrastructure for added stability during power outage events to eliminate/reduce interruptions for YCOE and/or district operations.

At the March board meeting, the draft version of this agreement was presented as an information item. Attached to this agenda item is the final version of the agreement and scope of work which have been reviewed by YCOE administration, AALRR (YCOE's legal counsel), and Syserco Energy Solutions, Inc.

### **Recommendation**

For action, to authorize YCOE to enter into this agreement, per Government Code 4217.12.

### **Supporting Documents**



FINAL DRAFT Design Build Agreement Syserco - AALRR Rev. 03.25.24(50116089.1)\_SES 2024 04..



Yolo Final ESP 4-1-24

### **Contact Person**

Veronica Coronado, Associate Superintendent, Administrative Services, will present this item.

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**YOLO COUNTY OFFICE OF EDUCATION**

**DESIGN-BUILD ENERGY SERVICES AGREEMENT**

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**Exhibits**

- Exhibit A - Scope of Work
- Exhibit B - Labor and Materials Payment Bond
- Exhibit C - Performance Bond
- Exhibit D - Subcontractor List
- Exhibit E - Certificate of Workers Compensation Insurance
- Exhibit F - Drug-Free Workplace Certificate
- Exhibit G - Warranty
- Exhibit H - Student Safety Certification
- Exhibit I - Special Conditions

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**DESIGN-BUILD ENERGY SERVICES AGREEMENT**

**THIS ENERGY SERVICES AGREEMENT** ("Agreement") is made in the County of ~~Los Angeles~~ Yolo, State of California, by and between **Yolo County Office Of Education**, a California County Office of Education ("COE"), and Syserco Energy Solutions, Inc. having its principal offices at 215 Fourier Ave., Suite 140, Fremont, CA 94539, ("Design-Build Entity," "Provider" or "Contractor") (Provider and the COE are hereinafter collectively referred to as "the Parties"). This Agreement shall be effective as of [REDACTED], 2024.

**WHEREAS**, Provider provides design, engineering, furnishing and installation and related services for energy conservation projects.

**WHEREAS**, the COE contemplates implementation of energy conservation measures consisting of Energy Conservation Measures and related materials/equipment ("ECM" or "Project") at the COE's sites all as specified in Exhibit A, incorporated herein.

**WHEREAS**, the scope of work of the Project (the "Scope") is set forth in the attached Energy Services Proposal incorporated herein as Exhibit A.

**WHEREAS**, the County Board of Education shall have determined, in its good discretion, prior to approval or ratification of this Agreement, that the Provider has demonstrated the requisite skills and qualifications to provide design, installation and related services for the Project situated at the specified sites.

**WHEREAS**, the COE and Provider desire by this Agreement to establish terms and conditions relating to the Project.

**NOW THEREFORE**, for good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties and each of them, the Parties agree as follows:

**1. The Project.**

- 1.1. General. The Project subject to this Agreement is the design, engineering, development, installation and construction of the specified Energy Conservation Measures. The Project is being funded under several sources of revenue, as specified in Exhibit A, all requirements of which are familiar to Provider, and Provider will comply with all requirements thereof.
- 1.2. Energy Conservation Measures Project Description. The Project is described in Exhibit A. Based upon the analyses presented with the Scope of Work in Exhibit A, the COE anticipates reduced marginal costs of electrical, or other energy that would have been consumed by the COE in the absence of the Project is greater than the Contract Amount
- 1.3. The Work. Provider shall provide all services, labor, materials and equipment to complete the Project comprising the following components: (i) all architectural, design and/or engineering services, including, without limitation, all structural, civil, mechanical and electrical engineering necessary to produce a reasonably complete and accurate set of Construction Documents for the Project, and all construction observation and administration to ensure Construction Services are consistent in every material respect

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with the Construction Documents (“Design Services”); (ii) complete construction of the Project, including, without limitation, all site preparation, procurement of all materials and equipment, and construction, erection and installation necessary to the Project (“Construction Services”); (iii) equipment start-up (“Start-Up Services”); and (iv) equipment commissioning (“Commissioning Services”). Provider shall provide, on a turnkey basis, all professional design and engineering services for the design and, if and when required, preparation of design documents necessary to secure the requisite approvals and final project completion certification from the Division of State Architect (“DSA”), together with all construction services including, without limitation, equipment procurement, supervision, labor, materials, equipment, tools, construction equipment and machinery, utilities, transportation, and procurement of Provider Permits for the System in accordance with this Agreement (hereinafter collectively referred to as “the Work”), and other facilities, items and services, in each case to the extent necessary to complete the Work in accordance with the Scope of Work (Exhibit A). Provider shall have sole control over the engineering, design and construction means, methods, techniques, sequences, and procedures and for coordination of all portions of the Work unless otherwise provided herein.

1.4. Contract Price. The COE shall pay the Provider as full consideration for the Provider's full, complete and faithful performance of the Contractor's obligations under the Contract Documents, subject to adjustments of the Contract Price in accordance with the Contract Documents, the Contract Price of Four Million, Six Hundred Ninety-Six Thousand, Three-Hundred Fifteen **Dollars (\$ 4,696,315.00 )** for the ECM.

1.4.1. The COE's payment of the Contract Price shall be in accordance with Article 4.11 of this Agreement.

1.4.2. Energy Efficiency Designer Tax Benefits. Unless otherwise specified in this Contract, Provider is solely entitled to claim tax benefits available under section 179D of the Internal Revenue Code (EPAAct), or its successor.

1.5. Contract Time.

1.5.1. Provider shall achieve Substantial Completion on or before \_\_\_\_\_, **September 30, 2025** and Final Completion on or before \_\_\_\_\_, **December 31, 2025**. The deadlines for Substantial and Final Completion shall be extended only as expressly provided herein. In the event that the COE provides its approval of Design or Construction Documents in less than the maximum number of days allotted under various sections of this Agreement, Provider will make reasonable efforts to expeditiously commence the next phase of work; provided, however, that Provider shall not be obligated to commence the next phase of work by any particular date and it shall not be required to accelerate or otherwise shorten the deadlines for Substantial and Final Completion under this Agreement.

1.6. Notice to Proceed. The COE shall issue the Notice to Proceed for all Work to be performed hereunder (the “NTP Date”). If the NTP Date is later than 30 days after the effective

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date, then Contractor shall be entitled to a day for day extension to the Project Schedule and/or an equitable increase in the Contract Price. Provider shall not commence the Work hereunder until it receives the Notice to Proceed.

## 2. Security for Provider's Performance of Obligations Under the Contract Documents

2.1. Payment Bond; Performance Bond. Prior to commencement of the Work, the Provider shall furnish a Performance Bond in the form attached hereto as Exhibit C as security for Provider's faithful performance of the Work and a Labor and Material Payment Bond in the form provided by COE in the form attached hereto as Exhibit B as security for payment of persons or entities performing work, labor or furnishing materials in connection with Provider's performance of the Work under the Contract Documents. The Performance Bond will guarantee Provider's completion of the Work, and will remain in force for one year from the date of final acceptance of the Work and guarantee Provider's performance of any and all warranty work during that period. The Payment Bond will remain in force for the duration of the applicable local, state or federal law. Unless otherwise stated in the Special Conditions, the amounts of the Performance Bond and the Payment Bond required hereunder shall be one hundred percent (100%) of the cost of the Work. Said Labor and Material Payment Bond and Performance Bond shall be in the form and content set forth in attached Exhibits B and C to this Agreement. The failure or refusal of the Provider to furnish either the Performance Bond or the Labor and Material Payment Bond in strict conformity with this Section may be deemed by the COE as a default by the Provider of a material obligation hereunder. Upon request of the Provider, the COE may consider and accept, but is not obligated to do so, multiple sureties on such bonds. The Surety on any bond required under the Contract Documents shall be an Admitted Surety Insurer as that term is defined in California Code of Civil Procedure §995.120.

## 3. Design Services.

3.1. General. All of the Design Services provided by or through Provider under this Agreement shall be provided and performed consistent with professional skill and care and in such a manner as to avoid hindrance, unnecessary interruption or delay to the orderly progress and completion of the Design Services. Design Services consist generally of the preparation of Drawings and Specifications with sufficient accuracy, clarity and completeness to reflect the Scope, observation of all Construction Services, including maintenance of such personal contact with the construction of the Project as necessary, to assure construction of the Project is consistent in every material respect with the Approved Construction Documents.

3.1.1. The portions of the Project to be completed at Greengate School, 285 West Beamer, Woodland, California ("Greengate Element") is subject to the Field Act and subject to the jurisdiction of the Division of the State Architect (DSA), including, without limitation, for approval of plans and specifications and inspection oversight. Provider shall perform all other responsibilities of the design professional in general responsible charge of the Project as defined in Title 24, Sections 4-217 and 4-316, of the California Administrative Code. Provider is familiar with and shall comply with all requirements of the Field Act and DSA jurisdiction.

3.1.2. The portions of the Project to be completed at the Main Office, 1280 Santa Anita Court, Woodland, California ("Office Element") is subject to the planning jurisdiction of the City of Woodland. Provider shall perform all responsibilities with

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regard to this portion of the Project in accordance with applicable local ordinances and the jurisdiction of the planning department.

~~3.1.1. This Project is subject to the Field Act and subject to the jurisdiction of the Division of the State Architect (DSA), including, without limitation, for approval of plans and specifications and inspection oversight. Provider shall perform all other responsibilities of the design professional in general responsible charge of the Project as defined in Title 24, Sections 4-217 and 4-316, of the California Administrative Code. Provider is familiar with and shall comply with all requirements of the Field Act and DSA jurisdiction.~~

- 3.2. Design Consultants; Design Disciplines. Design Services include all architectural, engineering and other design services necessary to complete Project Design Services including without limitation: (a) architectural; (b) engineering disciplines: structural, mechanical, electrical, plumbing and civil; (c) landscaping. The Design Services may be completed by Provider's personnel or the personnel of Design Consultants to Provider provided that all of the Design Services hereunder shall be provided by or under the direction and control of a California licensed Architect or California registered engineer as required by the nature of the Design Services being provided.
- 3.3. Design Services Standard of Care. Provider and/or its Design Consultants shall provide the Design Services: (a) using their best professional skill and judgment; (b) acting with due care and in accordance with professional standards of care and the terms of this Agreement; and (c) in accordance with all applicable codes, laws, rules or regulations in effect or reasonably foreseeable at the time the Design Services are rendered.
- 3.4. Obligation to Design Within Construction Costs. A material obligation of the Provider under this Agreement and in connection with the Project hereunder is the Provider's development and preparation of Design Documents for the Project that can be constructed within the Construction Price set forth herein, as adjusted by Change Order approved by the COE. Design Documents for the Project shall include features, elements, components or other items which may be added to or deleted from the scope of the Project without impairing the size, intended uses or functions of the Project ("Design Alternatives").
- 3.5. Conformity to COE Specifications and Standards. Design Documents prepared by or through the Provider for the Project shall conform to the Specifications as set forth in the Scope of Work (Exhibit A). Modifications of the Design Documents for the Project to conform to the Specifications shall be without adjustment of the Contract Price for the Project.
- 3.6. Provider Design Services Project Manager. Provider shall designate a responsible employee of Provider to serve as Provider's Design Services Project Manager. The Design Services Project Manager shall: (a) be reasonably satisfactory to the COE; (b) not be replaced without the prior consent of the COE; (c) have the overall responsibility for Provider's timely and complete performance of Design Services obligations under this Agreement; and (d) be authorized to act on behalf of Provider, which shall not be unreasonably withheld, in connection with Design Services of Provider under this Agreement.
- 3.7. Design Documents.

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- 3.7.1. Scope of Design Documents. Based on the Project scope described in Exhibit A, Provider shall develop and prepare Design Documents which include: (a) Drawings indicating schematic layout of all ECMs and related equipment and improvements, (b) complete Specifications including designation/description of materials/equipment to be incorporated into the Work.
- 3.7.2. COE Review of Design Documents. Upon completion of the Design Documents, Provider shall submit the same to the COE Representative for review and acceptance. If the COE Representative fails to provide written acceptance of such Documents within twenty-one (21) calendar days of Provider's submittal of said Documents, the Parties agree that the dates for Substantial and Final Completion shall be extended on a day for day basis, for each day beyond twenty-one (21) calendar days that COE continues its review, prior to granting approval of the Design Documents. The Design Documents shall be deemed to have been accepted only upon express written acceptance thereof by the COE. Provider shall modify the Design Documents as reasonably necessary to obtain the COE's acceptance thereof.
- 3.7.3. Provider Preparation of Design Documents. Upon the execution and ratification of this Agreement, the Provider shall be deemed authorized to commence with the preparation of Design Documents and other Design Services under this Agreement and procure long lead time equipment, without further action of the COE.
- 3.8. Construction Documents. Based on the Design Documents as approved by COE, incorporating all comments of the COE Representative to the Design Documents, Provider shall prepare Construction Documents consisting of detailed Drawings and Specifications with sufficient clarity, coordination and consistency to construct the Project in accordance with the construction Contract Time established by the COE and within the Contract Price. Provider shall submit the completed Construction Documents to the COE for review, comment and acceptance. If the COE Representative fails to provide a written acceptance of such Documents within twenty-one (21) calendar days of Provider's submittal of said Documents, the Parties agree that dates for Substantial and Final Completion shall be extended on a day for day basis, for each day beyond twenty-one (21) calendar days that COE continues its review, prior to granting approval of the Design Documents. Upon completing revisions, if any, to the Construction Documents to address comments of the COE, Provider shall submit the same to the COE Representative for review, comment and acceptance on behalf of the COE. Provider shall revise the Construction Documents as reasonably necessary to obtain the COE's acceptance of the entirety of the Construction Documents, which acceptance or rejection shall not unreasonably be withheld and shall solely be based on whether the Construction Documents are, as determined in the good faith and discretion of COE, comply in every material respect with this Agreement. The Construction Documents accepted by the COE shall be referred to as the Approved Construction Documents. Notwithstanding any provision of this Agreement to the contrary and in addition to other comments/revisions necessary to obtain the COE's acceptance of the Construction Documents, the COE's acceptance of the Construction Documents may be conditioned upon Provider providing, in response to the COE's request, a written statement accompanying the Construction Documents which shall specifically warrant and



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represent to the COE that the scope of the Project depicted in the Contract Documents comprise Energy Conservation Measures that meet or exceed the requirements stated in the Scope of Work. Unless otherwise indicated in this Agreement, references to the Construction Documents in this Agreement shall be deemed references to the Approved Construction Documents.

- 3.9. Limitations on COE Acceptance of Design Documents. The COE's review of Design Documents shall be for the limited purpose of confirming that the Work reflected in the Design Documents conforms in every material respect to the requirements of the Project, as determined in the good faith and discretion of COE, which shall not unreasonably withhold its approval. The COE's review and acceptance of the Design Documents or any portion thereof shall not relieve or limit Provider's obligations, whether pursuant to the terms of this Agreement or by operation of law, relating to its standard of care in preparing Design Documents, nor shall such review/acceptance result in any COE assumption of responsibility for the content thereof nor the completeness and accuracy of the Design Documents. If the COE fails to provide a written acceptance of such Documents within twenty-one (21) calendar days of COE's receipt of Provider's submittal of said Documents, the Parties agree that dates for Substantial and Final Completion shall be extended on a day for day basis, for each day beyond twenty-one (21) calendar days that COE continues its review, prior to granting approval of the Design Documents. The. If the COE deems the Design Documents unacceptable and the Provider disagrees with the COE's assessment, a third party mutually acceptable to the Parties shall mediate among the Parties toward resolution of whether the Design Documents meet the requirements of this Agreement.
- 3.10. Permits, Approvals. Upon completion of the Approved Construction Documents, Provider shall submit the same, on behalf of the COE, to all governmental or quasi-governmental agencies or entities with jurisdiction over any portion of the Work depicted therein for review and issuance of permits or other approvals necessary or required for construction of the Work including, without limitation, DSA and ELECTRICAL UTILITY. Provider shall promptly process such applications and promptly obtain all necessary permits and approvals for construction of the Project. Provider shall keep the COE informed of the status of such applications for permits and approvals. Except for the fee(s) charged by the governmental or quasi-governmental agency issuing a permit or approval relating to Project construction, all costs and expenses associated with or arising out of the submission and processing of necessary permits or approvals for construction of the Project are included and incorporated into the Contract Price. The COE shall be responsible for payment of the fee(s) charge by the governmental or quasi-governmental agency issuing a permit or approval relating to Project construction.

## 4. Construction Services

- 4.1. General. Provider shall provide Construction Services, consisting generally of all labor, materials, equipment and services necessary to procure install and construct the Work indicated in the Construction Documents. The Work indicated in the Construction Documents shall be installed and constructed in accordance with the Construction Documents and applicable laws, ordinances, rules or regulations.

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- 4.2. California Contractors' License. At all times during performance of Construction Services, Provider shall be duly licensed and in good standing by the California Contractors State License Board under License # 991301.
- 4.3. Contractor/Subcontractor Registration. Pursuant to Labor Code Section 1771.1, "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 Labor Code Section 1725.5." Provider's public works contractor registration number, issued by the Department of Industrial Relations is [REDACTED] 10000545743 [REDACTED].
- 4.4. Contractor of Record. This Greengate Element Project is subject to the Field Act and subject to the jurisdiction of the Division of the State Architect (DSA), including, without limitation, for construction compliance oversight. Provider shall perform all other responsibilities of the contractor of record for the Greengate Element Project as defined in Title 24, Sections 4-220 and 4-316, of the California Administrative Code. Provider is familiar with and shall comply with all requirements of the Field Act and DSA jurisdiction.
- 4.5. COE.
- 4.5.1. COE Representative. The COE will designate [REDACTED] Matt Juchniewicz, Director, Support Operations Services, as the COE Representative during construction of the Project to serve as the COE Representative. The COE Representative is authorized to act on behalf of the COE and to enforce the COE's rights under this Agreement. All Work of the Project, whether in place or in progress, shall be available for inspection, observation or review by the COE Representative at any time during standard working hours or, outside of such hours, with one (1) working day prior written notice. Without adjustment of the Contract Price, Provider shall provide the COE Representative with access to the Work, whether in place or in progress. Provider shall have the right, but not the obligation, to accompany the COE Representative.
- 4.5.2. The Project Inspector. In addition to the authority and rights of the Project Inspector as provided for elsewhere in the Contract Documents and/or arising by operation of the Laws, all of the Work shall be performed under the observation of the Project Inspector. The performance of the duties of the Project Inspector under the Contract Documents shall not relieve or limit the Contractor's performance of its obligations under the Contract Documents.
- 4.5.2.1. Access to Work. If required by DSA or the Project Inspector, the Provider shall provide the Project Inspector and other Inspectors with access to all parts of the Work at any time during standard working hours or, outside of such hours, with one (1) working day prior written notice, wherever located and whether partially or completely fabricated, manufactured, furnished or installed. Provider shall have the right to accompany such Project Inspector or other Inspectors. The Project Inspector and other Inspectors shall have the authority to stop Work if the Work is not in conformity with the Contract Documents.
- 4.5.2.2. Limitations on Project Inspector. Except to the extent provided herein, the Project Inspector and other Inspectors do not have authority to

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modify the Work depicted in the Contract Documents, or to interpret the Contract Documents in a manner that effects a modification of the design intent expressed therein. Neither the Project Inspector nor any other Inspector have any authority relative to the content or scope of the Provider's safety plan/program. No Work inconsistent with the Contract Documents shall be performed solely on the basis of the direction of the Project Inspector or other Inspector, and the Provider shall be liable to the COE for the consequences of all Work performed on such basis.

- 4.5.2.3. Compliance with Project Inspector's Corrective Requirements. If the Inspector determines that any portion of the Work is defective or not conforming to requirements of the Construction Documents, upon notice of such defective or non-conforming conditions, Provider shall promptly take all necessary measures to correct such defective or non-conforming conditions. Provider shall undertake and complete corrections to defective/non-conforming conditions identified by the Project Inspector. If Provider fails or refuses to commence correction of defective/non-conforming conditions pursuant to the preceding within ten (10) calendar days of the Project Inspector's determination, the COE, with its own forces or its own separate contractor, may complete correction to defective or non-conforming conditions at the cost and expense of Provider. The COE may deduct such cost(s) and expense(s) from any portion of the Contract Price then or thereafter due Provider. If the Provider contends that the Inspector's corrective requirements are in error and are inconsistent with or constitute a modification of the Contract Documents pursuant to section 4.4.2.2, Provider shall, within no more than 24 hours of receipt of the Project Inspector's Notice of Defective or Non-Conforming Condition, submit written notice of such alleged error, inconsistency or modification, together with all supporting documentation, to the COE's Representative, who shall address the issue with the Project Inspector. The Project Inspector shall thereafter issue a written directive to Provider regarding the notice of defective or non-conforming issue. If the Project Inspector's notice of defective or non-conforming issue is determined to be proper, Provider shall bear sole responsibility and liability for any and all delay to the Project Schedule.
- 4.5.3. Other Inspections. All of the Work shall also be subject to inspections conducted by public agencies with jurisdiction over the Project or any portion thereof.
- 4.5.4. COE's Right to Suspend Work. The COE may, without cause, and without invalidating or terminating the Contract, order the Provider, in writing, to suspend, delay or interrupt the Work in whole or in part for such period of time as the COE may determine. The Provider shall resume and complete the Work suspended by the COE in accordance with the COE's directive, whether issued at the time of the directive suspending the Work or subsequent thereto.
- 4.5.4.1. Adjustments to Contract Price and Contract Time. In the event the COE shall order suspension of the Work, an adjustment shall be made to the

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Contract Price for increases in the direct cost of performance of the Work of the Contract Documents, actually caused by suspension, delay or interruption ordered by the COE; provided however that no adjustment of the Contract Price shall be made to the extent: (i) that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Provider is responsible under the Contract Documents; or (ii) that an equitable adjustment is made or denied under another provision of the Contract Documents. The foregoing notwithstanding, any such adjustment of the Contract Price shall not include any adjustment to increase the Provider's overhead, general administrative costs or profit, all of which will remain as reflected in the Cost Breakdown submitted by the Provider pursuant to the Contract Documents. In the event of the COE's suspension of the Work, the Contract Time shall be equitably adjusted.

- 4.5.5. COE Right to Stop Work. In addition to the COE's right to suspend the Work or terminate the Contract pursuant to the Contract Documents, the COE, may, by written order, direct Provider to stop the Work, or any portion thereof, until the cause for such stop work order has been eliminated if Provider: (i) fails to correct Work which is not in conformity and in accordance with the requirements of the Construction Documents, or (ii) otherwise fails to carry out the Work in conformity and accordance with the Contract Documents. The right of the COE to stop the Work hereunder shall not be deemed a duty on the part of the COE to exercise such right for the benefit of Provider or any other person or entity, nor shall the COE's exercise of such right waive or limit the exercise of any other right or remedy of the COE under the Contract Documents or at law. If Work is stopped or suspended pursuant to the foregoing, the Contract Price and the Contract Time are not subject to adjustment.
- 4.5.6. COE Partial Occupancy or Use. The COE may occupy or use any completed or partially completed portion of the Work, provided that: (i) the COE has obtained the consent of, or is otherwise authorized by, public authorities with jurisdiction thereof, to so occupy or use such portion of the Work and (ii) the COE and Provider have accepted, in writing, the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, utilities, damage to the Work, insurance and the period for correction of the Work and commencement of warranties required by the Contract Documents for such portion of the Work partially used or occupied by the COE. If COE occupies or uses any completed or partially completed portion of the Work; COE shall indemnify the Provider for any damages occurred in association with such occupation or use of the Work. If Provider and the COE are unable to agree upon the matters set forth in (ii) above, the COE may nevertheless use or occupy any portion of the Work, with the responsibility for such matters subject to resolution in accordance with the Contract Documents. Immediately prior to such partial occupancy or use of the Work, or portions thereof, the COE, and Provider shall jointly inspect the portions of the Work to be occupied or to be used to determine and record the condition of the Work. Repairs, replacements or other corrective action noted in such inspection shall be promptly performed and completed by Provider so that the portion of the Work to be occupied or used by the COE is in conformity with the requirements of the Contract Documents and the COE's occupancy or use

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thereof is not impaired. The COE's use or occupancy of the Work or portions thereof pursuant to the preceding shall not be deemed "completion" of the Work as that term is used in Public Contract Code §7107. Provider shall be entitled to a reasonable extension of time and reasonable increase in the contract amount in the event that the use by the COE results in performance delays or increased project costs or expenses.

- 4.5.7. No Acceptance of Defective or Non-Conforming Work. Unless otherwise expressly agreed upon by the COE and Provider, the COE's partial occupancy or use of the Work or any portion thereof, shall not constitute the COE's acceptance of the Work not complying with the requirements of the Contract Documents or which is otherwise defective.
- 4.6. COE Separate Contractors. The COE reserves the right to perform construction or other operations at or about the Site with its own forces or other contractors. Provider shall cooperate with the COE and the COE's separate contractors to coordinate their respective activities on or about the Site and shall afford the COE and the COE's separate contractors a reasonable opportunity for storage of materials/equipment and performance of their respective activities at or about the Site to the same extent that the COE has provided to Provider.
- 4.7. Provider Construction Activities.
- 4.7.1. Field Measurements. Prior to commencement of the Work, or portions thereof, Provider shall take field measurements and verify field conditions at the Site sufficient to assure itself that no field conditions exist at or about the Site which would require revision to the Scope of Work, Contract Price, dates for Substantial or Final Completion, or any other material provision of this Agreement.
- 4.7.2. Dimensions; Layouts and Field Engineering. Provider shall be solely responsible for coordinating the Work of the Contract Documents. All field engineering required for laying out the Work and establishing grades for earthwork operations shall be by Provider at its expense. Any field engineering or other engineering to be provided or performed by Provider under the Contract Documents and required or necessary for the proper execution or installation of the Work shall be provided and performed by a registered engineer under the laws of the State of California in the engineering discipline for such portion of the Work and shall be submitted to the COE Representative for review and acceptance. Upon commencement of any item of the Work, Provider is responsible for dimensions of such item of Work and related Work; without adjustment of the Contract Time or Contract Price, Provider is responsible for making component parts of the Work fit together properly.
- 4.7.3. Work in Accordance With Contract Documents. Provider shall perform all of the Work in strict conformity with the Contract Documents and applicable laws, codes, regulations, rules and ordinances. The Project, as completed shall conform to the Construction Documents, except to the extent that the COE has accepted a Change and issued a Change Order therefor. Provider shall furnish and install the materials and equipment as specified in the Construction Documents, unless Provider shall have obtained the COE's consent and

approval to a substitution of specified materials or equipment.

- 4.7.4. Subsurface Conditions. If the Work under the Contract Documents involves digging trenches or other excavations that extend deeper than four feet below the surface, Provider shall promptly and before the following conditions are disturbed, notify the COE Representative in writing, of any: (i) material that Provider believes may be material that is hazardous waste, as defined in California Health and Safety Code §25117, that is required to be removed to a Class I or Class II or Class III disposal site in accordance with provisions of existing law; (ii) subsurface or latent physical conditions at the site differing from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the Work or the character provided for in the Contract Documents. If the COE and the Provider determine that the conditions so materially differ or involve such hazardous materials which require an adjustment to the Contract Price or the Contract Time, the COE shall issue a Change Order in accordance with the provisions of this Agreement. If any of the conditions listed in (i), (ii), or (iii) above, are discovered and result in any delays by Provider or any increases in Contract Price by Provider, Provider shall be entitled to a change order granting it a reasonable extension of Contract Time and a reasonable increase in the Contract Price based upon the time and increased costs and expenses incurred by Provider in stopping or delaying performance under the Contract Documents, working around affected areas of the project site, and restarting performance under the Contract Documents. In accordance with California Public Contract Code §7104, any dispute arising between Provider and the COE as to any of the conditions listed in (i), (ii) or (iii) above, shall not excuse Provider from the completion of the Work within the Contract Time and Provider shall proceed with all Work to be performed under the Contract Documents. The COE reserves the right to terminate the Contract pursuant to the Contract Documents should the COE determine not to proceed because of any condition described in (i), (ii) or (iii) above. The COE shall notify the Provider in writing of the Contract termination within five (5) calendar days of the notification provided by the Provider of such conditions. If the Contract is terminated because of any the conditions described in (i), (ii) or (iii), the Provider shall be entitled to payment for all Work performed, earned profit and overhead, and costs incurred in accordance with this Contract up to the date of termination.
- 4.7.5. Archaeological Finds. If any significant archaeological deposits, features, or human remains are encountered, and they cannot be avoided, work in the affected area will be suspended. In such an event, an archaeologist recommended by the State Historic Preservation Office will conduct a survey of the affected area. A preliminary determination will then be made as to the significance of the survey findings. If considered significant, the survey remains will be preserved and appropriate professional actions taken in accord with established professional practices. In the event of a suspension under this subsection, an adjustment shall be made to the Contract Price for increases in the direct cost of performance of the Work and the Contract Time shall be equitably adjusted.
- 4.7.6. Supervision and Construction Procedures.

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- 4.7.6.1. Supervision of the Work. Provider shall continuously supervise and direct performance of the Work, using Provider's best skill and attention. Provider shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract Documents, unless Contract Documents give other specific instructions concerning these matters. Provider shall be responsible for inspection of completed or partially completed portions of Work to determine that such portions are in proper condition to receive subsequent Work.
- 4.7.6.2. Responsibility for the Work. Provider shall be responsible to the COE for negligent and/or wrongful acts and omissions of Provider's employees, Subcontractors and their agents and employees and all other persons performing any portion of the Work under a contract with Provider and at Provider's discretion. Provider shall not be relieved of the obligation to perform the Work in accordance with the Contract Documents by tests, inspections or approvals required or performed by persons other than Provider.
- 4.7.6.3. Layouts. Provider is solely responsible for laying-out the Work so that construction of the Work conforms to the requirements of the Contract Documents and so that all component parts of the Work are coordinated. Provider shall be responsible for maintenance and preservation of benchmarks, reference points and stakes for the Work. The cost of maintenance and preservation of benchmarks, reference points and stakes shall be included within the Contract Price. Provider shall be solely responsible for all loss or costs resulting from the loss, destruction, disturbance or damage of benchmarks, reference points or stakes by Provider and its agents, employee's invitees and other representatives. Provider shall not be liable for loss, destruction, disturbance or damage caused by vandal or other third parties not under the control or supervision of Provider. Provider shall be entitled to a reasonable extension of Contract Time and a reasonable increase in the Contract Price based upon the time and increased costs and expenses incurred by Provider as a result of such occurrences.
- 4.7.6.4. Construction Utilities. The COE will furnish and pay the costs of temporary power and water utility services for the Work. The foregoing notwithstanding, COE provided water utility service shall not be used by Provider for any earthwork or grading operations. All other utilities necessary to complete the Work and to completely perform all of Provider's obligations shall be obtained by Provider without adjustment of the Contract Price. Provider shall furnish and install necessary or appropriate temporary distributions of utilities, including utilities furnished by the COE. Any such temporary distributions shall be removed by Provider upon completion of the Work. The costs of all such utility services, including the installation and removal of temporary distributions thereof, shall be borne by Provider and included in the Contract Price.

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4.7.6.5. Existing Utilities; Removal, Relocation and Protection. Provider and the COE acknowledge that under California Government Code §4215, the COE assumes the responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Site which are not identified in the Drawings, Specifications or other Contract Documents. Prior to commencing any underground work on this Project, Provider shall: take all reasonable steps to confirm the location of such utility facilities sufficient to assure itself that no conditions exist at or about the Site which would require revision to the Scope of Work, Contract Price, dates for Substantial or Final Completion, or any other material provision of this Agreement; and, contact Underground Service Alert of Northern California ("USA") and arrange to have the project area marked by USA for underground utilities. In addition, Provider shall review the COE's as-built drawings, survey's and other site documents produced and/or made available to Provider to locate and verify all underground utilities or other underground obstacles or site conditions. In the event that underground utilities or other underground obstacles or site conditions are discovered by Provider that were not reflected in the results of the USA underground service inspection or in the COE's as-built drawings, survey's and other site documents produced to Provider, such matters shall be deemed unforeseen circumstances and Provider shall be entitled to a reasonable extension of time and a reasonable increase in the Contract Price based upon the time and increased costs and expenses incurred by Provider as a result of such inaccuracies. Provider and the COE agree that the provisions of California Government Code §4215 requiring that the utilities be identified in the invitation for bids shall not apply to this Agreement insofar as Provider has the responsibility for design of the Project as well as construction of the Project. Rather, Provider and the COE agree that the scope of Provider's responsibilities relating to design of the Project includes review of COE-provided existing condition information and interface with Underground Service Alert.

## 4.7.6.6. STORM WATER POLLUTION PREVENTION

4.7.6.6.1. Application. Only in the event that the Project, or any element thereof, will or is likely to disturb one (1) acre or more of land, Provider shall comply with the following Sections addressing the preparation, implementation, and monitoring of a Storm Water Pollution Prevention Plan (SWPPP) for the purpose of preventing the discharge of pollutants from the construction site. This includes the elimination of pollution discharges such as improper dumping, spills or leakage from storage tanks or transfer areas. The COE will not issue a Notice to Proceed until Provider has prepared by a qualified individual and obtained approval of the Permit Registration Documents ("PRDs") that include a Notice of Intent, Construction Risk Calculation, Site Map, SWPPP, Annual Fee and any



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additional required documents from all applicable Local Governing Agencies including the Regional Water Quality Control Board. The Provider shall also secure a certification that the Project has met all of the conditions of the General Construction Activity Storm Water Permit (GCASP) and comply with all applicable local, state and federal regulations governing storm water pollution prevention.

#### 4.7.6.6.2. References and Materials.

- 4.7.6.6.2.1. California Stormwater Quality Association New Development and Redevelopment Best Management Practice Handbook
- 4.7.6.6.2.2. 2009 California Stormwater Quality Association Construction BMP Handbook .
- 4.7.6.6.2.3. State Water Resources Control Board (2009). Order 2009-0009-DWQ, NPDES General Permit No. CAS000002: Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbing Activities. Available on-line at:
- 4.7.6.6.2.4. [http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/construction.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml).- Use materials of a class, grade and type needed to meet the performance described in the BMP Handbook.

#### 4.7.6.6.3. Preparation and Approval

- 4.7.6.6.3.1. The Provider shall prepare by a qualified individual the PRDs that include a Notice of Intent, Construction Risk Calculation, Site Map, SWPPP, Annual Fee and any additional required documents. The Provider's Qualified SWPPP Developer ("QSD") shall prepare the Storm Water Pollution Prevention Plan (SWPPP) as required to comply with storm water pollution regulations for project sites with storm water discharges associated with construction activity such as clearing or demolition, grading, excavation and other land disturbances. The SWPPP shall apply to all areas that are directly related to construction activity, including but not limited to staging areas, storage yards, material borrow areas, and access roads.
- 4.7.6.6.3.2. The Provider shall prepare and submit to the Local Governing Agencies and the COE the

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SWPPP for review and approval if the project sites, new or existing, with land disturbance of 1 or more acres (or less than 1 acres if part of a common plan of development); the construction activity that results in land surface disturbances of less than one acre is part of a larger common plan of development or sale of one or more acres of disturbed land surface; or the construction activity associated with Linear Underground/Overhead Projects ("LUPs") including, but not limited to, those activities necessary for the installation of underground and overhead linear facilities (e.g., conduits, substructures, pipelines, towers, poles, cables, wires, connectors, switching, regulating and transforming equipment and associated ancillary facilities) and include, but are not limited to, underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, access road and pole/tower pad and cable/wire pull station, substation construction, substructure installation, construction of tower footings and/or foundations, pole and tower installations, pipeline installations, welding, concrete and/or pavement repair or replacement, and stockpile/borrow locations.

- 4.7.6.6.3.3. The Provider shall also pay annual renewal fee(s) until the contract is completed and make all such checks payable to the State Water Resources Control Board. The Notice of Intent must be submitted at least two weeks prior to the commencement of construction activities.
- 4.7.6.6.3.4. The Provider shall prepare the SWPPP by following the format in Sections 2, 3, 4 and Appendices A through F of the California Stormwater BMP Handbook - Construction, January 2009 edition, published by the California Stormwater Quality Association.
- 4.7.6.6.4. Where land disturbance is less than 1 acre, any BMPs indicated in the BMP Handbook needed to prevent or minimize storm water pollution shall be implemented at no extra cost to the COE.
- 4.7.6.6.5. Within two weeks after Award of Contract by the COE, the Provider shall submit to the COE's Civil Engineer one copy of the PRDs including the SWPPP for review. After the COE's approval, the Provider shall provide approved copies

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of the SWPPP as follows: one copy each to the COE's Construction Inspector, COE's Construction Manager, COE Architect, Commissioned Architect and COE's Civil Engineer.

## 4.7.6.6.6. Implementation

### 4.7.6.6.6.1. The Provider shall implement the Storm Water Pollution Prevention Plan by doing the following:

4.7.6.6.6.1.1. Obtain a Waste Discharger Identification (WDID) number from the SWRCB before beginning construction. This number will be issued once your PRDs are administratively accepted and fee is received.

4.7.6.6.6.1.2. Keep the SWPPP, REAPs, monitoring data on the construction site.

4.7.6.6.6.1.3. Employ a Qualified SWPPP Practitioner (QSP) to implement the SWPPP during construction and develop Rain Event Action Plans ("REAPs").

4.7.6.6.6.1.4. Install, inspect, maintain and monitor BMPs required by the General Permit.

4.7.6.6.6.1.5. Install perimeter controls prior to starting other construction work at the site.

4.7.6.6.6.1.6. Contain on-site storm water at the jobsite. Do not drain on-site water directly into the storm drain.

### 4.7.6.6.6.2. Implement the SWPPP.

4.7.6.6.6.2.1. Provide SWPPP and BMP implementation training for those responsible for implementing the SWPPP.

4.7.6.6.6.2.2. Designate trained personnel for the proper implementation of the SWPPP.

4.7.6.6.6.2.3. Conduct monitoring, as required, and assess compliance with the Numeric Action Levels (NALs) or Numeric Effluent Limitations (NELs) appropriate to your project.

## 4.7.6.7. Report monitoring data:

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- 4.7.6.7.1. Maintain a paper or electronic copy of all required records for three years from the date generated or date submitted, whichever is last. These records must be available at the construction site until construction is completed.
  - 4.7.6.7.2. Have a QSD revise the SWPPP as needed to reflect the phases of construction and to suit changing site conditions and instances when properly installed systems are ineffective.
  - 4.7.6.7.3. Assist the COE with entering any necessary data or information into the Stormwater Multi-Application and Reporting System ("SMARTS").
  - 4.7.6.7.4. At the end of Construction Contract:
    - 4.7.6.7.4.1. Submit Notice of Termination (NOT) into the SMARTS when construction is complete and conditions of termination listed in the NOT have been satisfied.
  - 4.7.6.7.5. Leave in place storm water pollution prevention controls needed for post-construction storm water management and remove those that are not needed as determined by the COE. Thereafter, left-in-place controls will be maintained by the COE.
  - 4.7.6.7.6. Provide Site Monitoring Reports, SWPPP revisions, Compliance Certifications and related documents to the COE. Post-construction storm water operation and management plan as mentioned in the compliance certifications are considered to be in place at the end of the Construction Contract.
- 4.7.6.8. Monitoring
- 4.7.6.8.1. The Provider shall conduct examination of storm water pollution prevention controls as required by the State Water Resources Control Board (2009). Order 2009-0009-DWQ, NPDES General Permit No. CAS000002: Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbing Activities. This includes properly qualified personnel performing all required monitoring, testing, inspections and monitoring. The Provider shall also conduct examination of storm water pollution prevention controls, as well as before and after each storm event in compliance with the State Water Resources Control Board Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities (General Permit) (SWRCB, 2009).and at least once each 24-hour period during extended storm events to identify BMP effectiveness and implement repairs or BMP changes as soon as feasible. All maintenance related to a storm event should be completed within 48 hours of the storm event. The Contactor shall also prepare and

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maintain, at the jobsite, a log of each inspection using Site Monitoring Report forms.

#### 4.7.6.9. Liabilities and Penalties

4.7.6.9.1. Review of the SWPPP and inspection logs by the COE shall not relieve the Provider from liabilities arising from non-compliance with storm water pollution regulations.

4.7.6.9.2. Payment of penalties for non-compliance by the Provider shall be the sole responsibility of the Provider and will not be reimbursed by the COE.

4.7.6.9.3. Compliance with the Clean Water Act pertaining to construction activity is the sole responsibility of the Provider. For any fine(s) levied against the COE due to non-compliance by the Provider, the COE will deduct from the final payment due the Provider the total amount of the fine(s) levied on the COE, plus legal and associated costs.

4.7.6.10. The Provider shall submit to the COE a completed NOI for change of information (Construction Site Information and Material Handling/Management Practices).

4.7.7. Conferences and Meetings. A material obligation of Provider under the Contract Documents is the attendance at required meetings by Provider's supervisory personnel for the Work and Provider's management personnel as required by the Contract Documents or as requested by the COE. Provider's personnel participating in conferences and meetings relating to the Work shall be authorized to act on behalf of Provider and to bind Provider. Provider is solely responsible for arranging for the attendance by Subcontractors, Material Suppliers at meetings and conferences relating to the Work as necessary, appropriate or as requested by the COE.

4.7.7.1. Pre-Construction Conference. Provider's representatives (and representatives of Subcontractors as requested by the COE) shall attend a Pre-Construction Conference at such time and place as designated by the COE. The Pre-Construction Conference will generally address the requirements of the Work and Contract Documents, and to establish construction procedures. Subject matters of the Pre-Construction Conference will include as appropriate: (a) administrative matters, including an overview of the respective responsibilities of the COE, Provider, Subcontractor, Inspectors and others performing any part of the Work or services relating to the Work; (b) Submittals; (c) Changes and Change Order processing; (d) employment practices, including Certified Payroll preparation and submission and prevailing wage rate responsibilities of Provider; (e) Progress Schedule development and maintenance; (f) development of Schedule of Values and payment procedures; (g) requisite Project accounting procedures and submission of records; (h) communication procedures; (i) emergency and safety procedures; (j) Site visitor policies; (k) conduct of Provider/Subcontractor

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personnel at the Site; and (l) punchlist/close-out procedures.

- 4.7.7.2. Progress Meetings. Progress meetings will be conducted on regular intervals (weekly unless otherwise expressly indicated elsewhere in the Contract Documents). Provider's representatives and representatives of Subcontractors (as requested by the COE) shall attend Progress Meetings. Progress Meetings will be chaired by the COE and will generally include as agenda items: Site safety, field issues, coordination of Work, construction progress and impacts to timely completion, if any. The purposes of the Progress Meetings include: a formal and regular forum for discussion of the status and progress of the Work by all Project participants, a review of progress or resolution of previously raised issues and action items assigned to the Project participants, and reviews of the Progress Schedule and Submittals.
- 4.7.7.3. Special Meetings. As deemed necessary or appropriate by the COE, Special Meetings will be conducted with the participation of Provider, Subcontractors and other Project participants as requested by the COE.
- 4.7.7.4. Minutes of Meetings. Following conclusion of the Pre-Construction Conference, Progress Meetings and Special Meetings, Provider will prepare and distribute minutes reflecting the items addressed and actions taken at a meeting or conference. Unless the COE notifies Provider in writing of objections or corrections to minutes prepared hereunder within five (5) business days of the date of distribution of the minutes, the minutes as distributed shall constitute the official record of the meeting or conference. No objections or corrections of any Subcontractor or Material Supplier shall be submitted directly to the COE; such objections or corrections shall be submitted to the COE through Provider. If Provider timely interposes objections or notes corrections, the resolution of such matters shall be addressed at the next scheduled Progress Meeting. If the COE hosts progress or special meetings, the COE will prepare and distribute minutes reflecting the items addressed and actions taken at such meeting or conference. Unless the Provider notifies COE in writing of objections or corrections to minutes prepared hereunder within five (5) dates of the date of distribution of the minutes, the minutes as distributed shall constitute the official record of the COE hosted meeting or conference.
- 4.7.8. Temporary Sanitary Facilities. At all times during Work at the Site, Provider shall obtain and maintain temporary sanitary facilities in conformity with applicable law, rule or regulation. Provider shall maintain temporary sanitary facilities in a neat and clean manner with sufficient toilet room supplies. Personnel engaged in the Work are not permitted to use toilet facilities at the Site.
- 4.7.9. Noise and Dust Control.
  - 4.7.9.1. Noise Control. Provider shall comply with the requirements of the city and county having jurisdiction with regard to noise ordinances governing construction sites and activities. Construction Equipment noise at the Site shall be limited and only as permitted by applicable law, rule or

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regulation. If classes are in session at any point during the progress of the Work, and, in the COE's reasonable discretion, the noise from any Work disrupts or disturbs the students or faculty or the normal operation of an educational facility, at the COE's request, Provider shall schedule the performance of all such Work or make other arrangements so that the Work does not cause such disruption or disturbance. If the decibel level giving rise to the disruption does not exceed Occupational Safety and Health Act (OSHA) rules and regulations and/or the City and County ordinances, laws, rules or regulations governing noise, the COE will negotiate in good faith with Provider regarding an adjustment of the Contract Price or the Contract Time, if the work is on the critical path.

- 4.7.9.2. Dust Control. Provider shall be fully and solely responsible for maintaining all areas of the Site and adjoining areas, outdoors and indoors, and keeping all areas free from flying debris, grinding powder, sawdust, dirt and dust as well as any other product, product waste or work waste, that by becoming airborne may cause respiratory inconveniences to persons, particularly to students and COE personnel. Additionally, Provider shall take specific care to avoid deposits of airborne dust or airborne elements. Such protection devices, systems or methods shall be in accordance with the regulations set forth by the Environmental Protection Agency and OSHA, and other applicable laws, rules or regulations. Additionally, Provider shall be the sole party responsible to regularly and routinely clean up and remove any and all deposits of dust and other elements. Damage and/or any liability derived from Provider's failure to comply with these requirements shall be exclusively at the cost of Provider, including, without limitation, any and all penalties that may be incurred for violations of applicable laws, rules or regulations, and any amounts expended by the COE to pay such damages shall be due and payable to the COE on demand. Provider shall replace any damaged property or part thereof and professionally clean any and all items that become covered or partially covered to any degree by dust or other airborne elements. If classes are in session at any point during the progress of Work, and, in the COE's reasonable discretion, flying debris, grinding powder, sawdust, dirt or dust from any Work disrupts or disturbs the students or faculty or the normal operation of the educational facility, at the COE's request, Provider shall schedule the performance of all such Work around actual educational facility hours and make other arrangements so that the Work does not cause such disruption or disturbance. In no event shall such arrangements result in adjustment of the Contract Price or the Contract Time.
- 4.7.9.3. Provider Failure to Comply. If Provider fails to comply with the requirements for dust control, noise control, or any other maintenance or clean up requirement of the Contract Documents, the COE shall notify Provider in writing and Provider shall take immediate action. Should Provider fail to respond with immediate and responsive action within twenty-four (24) hours from such notification, the COE shall have the absolute right to proceed as it may deem necessary to remedy such matter. Any and all reasonable costs incurred by the COE in connection

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with such actions shall be the sole responsibility of, and be borne by, Provider; the COE may deduct such amounts from the Contract Price then or thereafter due Provider.

- 4.7.10. Hours and Days of Work at the Site. Provider shall plan and schedule all work in consultation with the COE to ensure that no work or related activities cause any material detrimental impact on the educational operations of the COE.
- 4.7.11. Work Hours/Days. Provider shall comply with the requirements of the city and county having jurisdiction with regard to hours and days of work governing construction sites and activities.
- 4.7.12. Labor and Materials.
  - 4.7.12.1. Payment for Labor, Materials and Services. Provider shall provide and pay for labor, materials, equipment, tools, Construction Equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated in the Work.
  - 4.7.12.2. Employee Discipline. Provider shall enforce strict discipline and good order among Provider's employees, the employees of any Subcontractor or Sub-Subcontractor, and all other persons performing any part of the Work at the Site. Provider shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. Provider shall dismiss from its employ and direct any Subcontractor or Sub-Subcontractor to dismiss from their employment any person deemed by the COE to be unfit or incompetent to perform Work and thereafter, Provider shall not employ nor permit the employment of such person for performance of any part of the Work without the prior written consent of the COE, which consent may be withheld in the reasonable discretion of the COE.
  - 4.7.12.3. Provider's Superintendent/Assistant Superintendent. Provider shall employ a competent superintendent and all necessary assistants who shall be in attendance at the Site at all times during active Project construction. Provider's communications relating to the Work or the Contract Documents shall be through Provider's Superintendent or Assistant Superintendent. The superintendent or Assistant Superintendent shall represent Provider and communications given to the Superintendent or Assistant Superintendent shall be binding as if given to Provider. Provider shall dismiss the superintendent or any of his/her assistants if they are deemed, in the sole reasonable judgment of the COE, to be unfit, incompetent or incapable of performing the functions assigned to them, the COE shall have the right to approve the designated Superintendent and Assistant Superintendent and any such replacements.



4.7.13. Prohibition on Harassment.

- 4.7.13.1. COE's Policy Prohibiting Harassment. The COE is committed to providing educational facilities and workplace free of sexual harassment and harassment based on factors such as race, color religion, national origin, ancestry, age, medical condition, marital status, disability or veteran status. Harassment includes without limitation, verbal, physical or visual conduct which creates an intimidating, offensive or hostile environment such as racial slurs; ethnic jokes; posting of offensive statements, posters or cartoons or similar conduct. Sexual harassment includes without limitation the solicitation of sexual favors, unwelcome sexual advances, or other verbal, visual or physical conduct of a sexual nature.
- 4.7.13.2. Provider's Adoption of Anti-Harassment Policy. Provider shall adopt and implement all appropriate and necessary policies prohibiting any form of discrimination in the workplace, including without limitation harassment on the basis of any classification protected under local, state or federal law, regulation or policy. Provider shall take all reasonable steps to prevent harassment from occurring, including without limitation affirmatively raising the subject of harassment among its employees, expressing strong disapproval of any form of harassment, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment and informing complainants of the outcome of an investigation into a harassment claim. Provider shall require that any Subcontractor or Sub-Subcontractor is performing any portion of the Work to adopt and implement policies in conformity with these provisions relating to prohibition of harassment.
- 4.7.13.3. Prohibition on Harassment at the Site. Provider shall not permit any person, whether employed by Provider, a Subcontractor, Sub-Subcontractor, or any other person or entity, performing any Work at or about the Site to engage in any prohibited form of harassment. Any such person engaging in a prohibited form of harassment directed to any individual performing or providing any portion of the Work at or about the Site shall be subject to appropriate sanctions in accordance with the anti-harassment policy adopted and implemented pursuant to these provisions. Any person, performing or providing Work on or about the Site engaging in a prohibited form of harassment directed to any student, faculty member or staff of the COE or directed to any other person on or about the Site shall be subject to immediate removal and shall be prohibited thereafter from providing or performing any portion of the Work. Upon the COE's receipt of any notice or complaint that any person employed directly or indirectly by Provider in performing or providing the Work has engaged in a prohibited form of harassment, the COE will promptly undertake an investigation of such notice or complaint. In the event that the COE, after such investigation, reasonably determines that a prohibited form of harassment has occurred, the COE shall promptly notify Provider of the same and direct

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that the person engaging in such conduct be immediately removed from the Site. Unless the COE's determination that a prohibited form of harassment has occurred is grossly negligent or without reasonable cause, COE shall have no liability for directing the removal of any person determined to have engaged in a prohibited form of harassment and nor shall the Contract Price or the Contract Time shall be adjusted on account thereof. Provider and the Surety shall defend, indemnify and hold harmless the COE and its employees, officers, Governing Board, agents, and representatives from any and all claims, liabilities, judgments, awards, actions or causes of actions, including without limitation, attorneys' fees, which arise out of, or pertain in any manner to: (i) the assertion by any person dismissed from performing or providing work at the direction of the COE pursuant to this provision; or (ii) the assertion by any person that any person directly or indirectly under the employment or direction of Provider has engaged in a prohibited form of harassment directed to or affecting such person. The obligations of Provider and the Surety under the preceding sentence are in addition to, and not in lieu of, any other obligation of defense, indemnity and hold harmless whether arising under the Contract Documents, at law or otherwise; these obligations survive completion of the Work or the termination of the Contract.

- 4.7.14. Taxes. Provider shall pay, without adjustment of the Contract Price, all sales, consumer, use and other taxes for the Work or portions thereof provided by Provider under the Contract Documents.
- 4.7.15. Compliance With Laws. All Work and construction operations shall conform to and comply with all applicable laws, rules, regulations and ordinances. Provider shall comply with and give notices required by laws, ordinances, rules, regulations and other orders of public authorities bearing on performance of the Work.
- 4.7.16. Submittals.
- 4.7.16.1. Waiver of Submittals. Provided that Provider furnishes and installs the materials and equipment indicated in the Construction Documents, Provider shall not be required to submit Shop Drawings, Product Data, Samples and similar submittals (collectively "Submittals") of materials, equipment or construction procedures to the COE Representative or any other party for review and acceptance.
- 4.7.16.2. No Substitutions of Materials/Equipment Without COE Review. Provider shall perform no portion of the Work involving substitutions of materials/equipment indicated in the Construction Documents until the COE Representative has reviewed and returned the Submittal to Provider indicating "No Exception Taken" to such Submittal. If COE fails to return the Submittal to Provider indicating "No Exception Taken" to such Submittal within seven (7) calendar days of receipt of the Submittal by the Provider, the dates for Substantial and Final Completion shall be extended on a day for day basis, for each day beyond seven (7) calendar days that COE continues its review, prior to indicating "No Exception Taken" to such Submittal. If the COE

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deems to “Take Exception” to such Submittal and the Provider disagrees with the COE’s assessment, a mutually acceptable third party shall mediate between the Parties to assist them in reaching accord as to whether the substitution of materials/equipment meets the Scope of Work. Provider shall not perform any portion of the Work requiring a Submittal or which is affected by a required Submittal until the entirety of the required Submittal or other related required Submittal has been fully processed. Such Work shall be in accordance with the final action taken by the COE in their review of Submittals and other applicable portions of the Contract Documents.

- 4.7.16.3. COE Review of Submittals for Substitutions of Materials Equipment. The purpose of the review by the COE of Submittals relating to substitutions of materials/equipment indicated in the Construction Documents is for conformity of the proposed substitution of materials/equipment with the design intent of the Construction Documents, conformity in all material respects with the Contract Documents, and conformity with the performance and other requirements of the Project. If a Submittal is returned to Provider as rejected or requiring correction(s) with re-submission, Provider, so as not to delay the progress of the Work, shall promptly thereafter resubmit a Submittal conforming with the requirements of the Contract Documents; the resubmitted Submittal shall indicate the portions thereof modified in accordance with comments accompanying the rejected Submittal. When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, the COE shall be entitled to rely upon the accuracy and completeness of such calculations and certifications accompanying Submittals. Acceptance of substitute materials/equipment reflected in a Submittal shall not result in an increase in the Contract Time or the Contract Price.
- 4.7.16.4. Deferred Approval Items. In the event that any portion of the Work is designated in the Contract Documents as a “Deferred Approval” item, Provider shall be solely and exclusively responsible for the preparation of Submittals for such item(s) in a timely manner so as not to delay or hinder the completion of the Work within the Contract Time.
- 4.7.17. Materials and Equipment.
  - 4.7.17.1. Specified Materials, Equipment. Provider acknowledges that the Construction Documents for the Work are prepared by or under the direction of Provider and that the Construction Documents as prepared by or under the direction of Provider are in conformity with applicable laws.
  - 4.7.17.2. No Substitutions or Alternatives. Provider shall furnish and install the materials and equipment specified in the Construction Documents without material substitutions or alternatives thereto, unless Provider shall have notified the COE in writing of its intent to substitute materials/equipment and the proposed substituted

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materials/equipment are accepted by the COE pursuant to the Submittal process described in this Section.

4.7.17.3. Placement of Material and Equipment Orders. Provider shall, after issuance of the Notice to Proceed, promptly and timely place all orders for materials and/or equipment necessary for completion of the Work so that delivery of the same shall be made without delay or interruption to the timely completion of the Work. Provider shall require that any Subcontractor or Sub-Subcontractor performing any portion of the Work similarly place orders for all materials and/or equipment to be furnished by any such Subcontractor or Sub-Subcontractor in a prompt and timely manner so that delivery of the same shall be made without delay or interruption to the timely completion of the Work. Upon request of the COE, Provider shall furnish reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, including without limitation, orders for materials and/or equipment to be provided, furnished or installed by any Subcontractor or Sub-Subcontractor.

4.7.17.4. COE's Right to Place Orders for Materials and/or Equipment. Notwithstanding any other provision of the Contract Documents, in the event that Provider shall, upon request of the COE, fail or refuse, for any reason, to provide reasonably satisfactory written evidence of the placement of orders for materials and/or equipment necessary for completion of the Work, or should the COE reasonably determine, in its sole and reasonable discretion, that any orders for materials and/or equipment have not been placed in a manner so that such materials and/or equipment will be delivered to the Site so the Work can be completed without delay or interruption, the COE shall have the right, but not the obligation, to place such orders on behalf of Provider. If the COE exercises the right to place orders for materials and/or equipment pursuant to the foregoing, the COE's conduct shall not be deemed to be an exercise, by the COE, of any control over the means, methods, techniques, sequences or procedures for completion of the Work, all of which remain the responsibility and obligation of Provider. Notwithstanding the right of the COE to place orders for materials and/or equipment pursuant to the foregoing, the election of the COE to exercise, or not to exercise, such right shall not relieve Provider from any of Provider's obligations under the Contract Documents, including without limitation, completion Project construction within the Contract Time and the Contract Price. If the COE exercises the right hereunder to place orders for materials and/or equipment on behalf of Provider pursuant to the foregoing, Provider shall reimburse the COE for all costs and fees incurred by the COE in placing such orders; such costs and fees may be deducted by the COE from the Contract Price then or thereafter due Provider.

#### 4.7.18. Safety.

4.7.18.1. Safety Programs. Provider shall be solely responsible for initiating, maintaining and supervising all safety programs

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required by applicable law, ordinance, regulation or governmental orders in connection with the performance of the Contract, or otherwise required by the type or nature of the Work. Provider's safety program shall include all actions and programs necessary for compliance with California or federally statutorily mandated workplace safety programs, including without limitation, compliance with the California Drug Free Workplace Act of 1990 (California Government Code §§8350 et seq.). Prior to commencement of construction activities at the Site, an authorized representative of Provider shall execute the Drug-Free Workplace Certification and deliver the executed Drug-Free Workplace Certification to the COE, attached hereto as Exhibit F. Without limiting or relieving Provider of its obligations hereunder, Provider shall require that its Subcontractors similarly initiate and maintain all appropriate or required safety programs. Prior to commencement of Work at the Site, Provider shall provide the COE Representative with Provider's proposed safety program for the Work for the COE Representative's review and acceptance. Without adjustment of the Contract Price or the Contract Time, Provider shall modify and re-submit its proposed safety plan to incorporate modifications thereto requested by the COE Representative.

- 4.7.18.2. Safety Precautions. Provider shall be solely responsible for initiating and maintaining reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (i) employees on the Work and other persons who may be affected thereby; (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of Provider or Provider's Subcontractors or Sub-Subcontractors; and (iii) other property or items at the site of the Work, or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction. Provider shall take adequate precautions and measures to protect existing roads, sidewalks, curbs, pavement, utilities, adjoining property and improvements thereon (including without limitation, protection from settlement or loss of lateral support) and to avoid damage thereto. Without adjustment of the Contract Price or the Contract Time, Provider shall repair, replace or restore any damage or destruction of the foregoing items beyond ordinary wear and tear as a result of performance or installation of the Work.
- 4.7.18.3. Safety Signs, Barricades. Provider shall erect and maintain, as required by existing conditions and conditions resulting from performance of the Contract, reasonable safeguards for safety and protection of property and persons, including, without limitation, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners

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and users of adjacent sites and utilities.

- 4.7.18.4. Safety Notices. Provider shall give or post all notices required by applicable law and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- 4.7.18.5. Safety Coordinator. Provider shall designate a responsible member of Provider's organization at the Site whose duty shall be the prevention of accidents and the implementation and maintenance safety precautions and programs. This person shall be Provider's superintendent unless otherwise designated by Provider in writing to the COE.
- 4.7.18.6. Emergencies; First Aid. In an emergency affecting safety of persons or property, Provider shall act, to prevent threatened damage, injury or loss. Provider shall maintain stocked emergency first aid kits at the Site which comply with applicable law, rule or regulation.
- 4.7.19. Hazardous Materials.
  - 4.7.19.1. General. In the event that Provider, any Subcontractor or anyone employed directly or indirectly by them shall use, at the Site, or incorporate into the Work, any material or substance deemed to be hazardous or toxic under any law, rule, ordinance, regulation or interpretation thereof (collectively "Hazardous Materials"), Provider shall comply with all laws, rules, ordinances or regulations applicable thereto and shall exercise all necessary safety precautions relating to the use, storage or disposal thereof.
  - 4.7.19.2. Prohibition on Use of Asbestos Construction Building Materials ("ACBMs"). It is the intent of the COE that ACBMs not be used or incorporated into any portion of the Work. Provider warrants to the COE that the Construction Documents do not incorporate therein any ACBMs. If the Work depicted in the Construction Documents require materials or products which Provider knows, or should have known with reasonably diligent investigation, to contain ACBMs, Provider shall promptly notify the COE Representative of the same so that an appropriate alternative can be made in a timely manner so as not to delay the progress of the Work. Provider warrants to the COE that there are no materials or products used or incorporated into the Work which contain ACBMs. Whether before or after completion of the Work, if it is discovered that any product or material forming a part of the Work or incorporated into the Work contains ACBMs, Provider shall at its sole cost and expense remove such product or material in accordance with any laws, rules, procedures and regulations applicable to the handling, removal and disposal of ACBMs and to replace such product or material with non-ACBM products or

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materials and to return the affected portion(s) of the Work to the finish condition depicted in the Drawings and Specifications relating to such portion(s) of the Work. Provider's obligations under the preceding sentence shall survive the termination of the Contract, the warranty period provided under the Contract Documents, Provider's completion of the Work or the COE's acceptance of the Work. In the event that Provider shall fail or refuse, for any reason, to commence the removal and replacement of any material or product containing ACBMs forming a part of, or incorporated into the Work, within ten (10) days of the date of the COE's written notice to Provider of the existence of ACBM materials or products in the Work, the COE may thereafter proceed to cause the removal and replacement of such materials or products in any manner which the COE determines to be reasonably necessary and appropriate; all costs, expenses and fees, including without limitation fees and costs of consultants and attorneys, incurred by the COE in connection with such removal and replacement shall be the responsibility of Provider and Provider's Performance Bond Surety.

- 4.7.19.3. Disposal of Hazardous Materials. Provider shall be solely and exclusively responsible for the disposal of any Hazardous Materials on or about Site resulting from Provider's performance of Work, unless such Hazardous Materials were present on or about the Site prior to Provider's performance of Work or were brought onto the site by COE or COE's representatives during Provider's performance of the Work. Provider's obligations hereunder shall include without limitation, the transportation and disposal of any Hazardous Materials in strict conformity with any and all applicable laws, regulations, orders, procedures or ordinances.
- 4.7.19.4. The Work and Services expressly exclude any work of any nature associated or connected with the identification, abatement, cleanup, control, removal, or disposal of previously existing hazardous materials or substances, including but not limited to asbestos, lead, or PCBs. As of the Effective Date, COE represents that, to the best of its knowledge, there is no hazardous material on the premises that may in any way relate to the Work or affect Contractor's ability to deliver the Work or Services. Prior to the Commencement Date, COE shall provide to Energy Services Contractor a comprehensive, good faith survey that at a minimum complies with applicable regulatory requirements, and identifies all actual or suspected hazardous materials, quantities, and specific locations of such materials on the premises. Failure to provide such good faith survey in a timely manner shall result in an equitable adjustment to Time. If Contractor becomes aware of or suspects the presence of hazardous materials on the premises during the Work or Services, Contractor shall notify COE, COE shall investigate and correct the suspected hazardous materials in accordance with all applicable laws, Contractor shall have the right to stop work in

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the affected area until the suspected hazardous materials are investigated and remediated by COE, and the Time and Price shall be equitably adjusted relative to the duration of COE's investigation and remediation of the suspected hazardous materials.

#### 4.7.20. Maintenance of Documents.

4.7.20.1. Documents at Site. Provider shall maintain at the Site: (i) one record copy of the Drawings, and Specifications; (ii) Change Orders approved by the COE and all other modifications to the Contract Documents; (iii) Record Drawings; (iv) Material Safety Data Sheets accompanying any materials, equipment or products delivered or stored at the Site or incorporated into the Work; (v) all building and other codes or regulations applicable to the Work, including without limitation, Title 24, Part 2 of the California Code of Regulations; and (vi) all documents required by the Federal Provisions incorporated herein including, without limitation, documents evidencing jobs created and job retained. During performance of the Work, all documents maintained by Provider at the Site shall be available to the COE review, inspection or reproduction. Upon completion of the Work, all documents maintained at the Site by Provider pursuant to the foregoing shall be assembled and transmitted to the COE Representative upon Substantial Completion of the Work.

4.7.20.2. Maintenance of Record Drawings. During its performance of the Work, Provider shall maintain Record Drawings consisting of a set of the Drawings which are marked to indicate all field changes made to adapt the Work depicted in the Construction Documents to adapt to field conditions, changes resulting from Change Orders and all concealed or buried installations, including without limitation, piping, conduit and utility services (the "Record Drawings"). All buried or concealed items of Work shall be completely and accurately marked and located on the Record Drawings. The Record Drawings shall be clean and all changes, corrections and dimensions shall be marked in a neat and legible manner in a contrasting color. Record Drawings relating to the Structural, Mechanical, Electrical and Plumbing portions of the Work shall indicate without limitation, circuiting, wiring sizes, equipment/member sizing and shall depict the entirety of the as built conditions of such portions of the Work. The Record Drawings shall be continuously maintained by Provider during the performance of the Work. At any time during Provider's performance of the Work, upon the request of the COE, Provider shall make the Record Drawings maintained here under available for the COE's review and inspection. The COE's review and inspection of the Record Drawings during Provider's performance of the Work shall be only for the purpose of generally verifying that Provider is continuously maintaining the Record Drawings in a complete and accurate manner; any such inspection or review



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shall not be deemed to be the COE's approval or verification of the completeness or accuracy thereof. The failure or refusal of Provider to continuously maintain complete and accurate Record Drawings or to make available the Record Drawings for inspection and review by the COE may be deemed by the COE to be Provider's default of a material obligation hereunder. Without waiving, restricting or limiting any other right or remedy of the COE for Provider's failure or refusal to continuously maintain the Record Drawings, the COE may, upon reasonably determining that Provider has not, or is not, continuously maintaining the Record Drawings in a complete and accurate manner, take appropriate action to cause the continuous maintenance of complete and accurate Record Drawings, in which event all fees and costs incurred or associated with such action shall be charged to Provider and the COE may deduct the amount of such fees and costs from any portion of the Contract Price then or thereafter due Provider. Prior to receipt of the Final Payment, Provider shall deliver the As-Built Drawings to the COE.

- 4.7.21. Use of Site. Provider shall confine operations at the Site to areas permitted by law, ordinances or permits, subject to any restrictions or limitations set forth in the Contract Documents. Provider shall not unreasonably encumber the Site or adjoining areas with materials or equipment. Provider shall be solely responsible for providing security at the Site with all such costs included in the Contract Price. The COE and agencies with jurisdiction over the Work shall at all times have access to the Site.
- 4.7.22. Clean-Up. Provider shall at all times keep the Site and all adjoining areas free from the accumulation of any waste material or rubbish caused or generated by performance of the Work. Without limiting the generality of the foregoing, Provider shall maintain the Site in a "broom-clean" standard on a daily basis. Notwithstanding the foregoing, Provider shall not be responsible for cleaning the Site areas of any waste materials or rubbish generated by other than Provider or its employees, Subcontractors, agent or representatives. Provider agrees to promptly notify the COE in the event that vandals or other third persons damage or leave waste material or rubbish in or about the Site. In the event that the Work of the Contract Documents includes painting and/or the installation of floor covering, prior to commencement of any painting operations or the installation of any flooring covering, the area and adjoining areas of the Site where paint is to be applied or floor covering is to be installed shall be in a "broom-clean" condition. Prior to completion of the Work, Provider shall remove from the Site all rubbish, waste material, excess excavated material, tools, Construction Equipment, machinery, surplus material that were generated by Provider or its employees, Subcontractors, agent or representatives that are not the property of the COE under the Contract Documents. As directed by the COE, Provider shall remove temporary fencing, barricades, planking, temporary sanitary facilities, temporary utility distributions and other temporary facilities. Subject to the foregoing exclusions, upon completion of the Work, the Site and all adjoining areas shall be left in a neat and broom clean condition satisfactory to COE. If

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Provider fails to clean up as provided for in the Contract Documents, the COE may do so, and all costs incurred in connection therewith shall be charged to Provider; the COE may deduct such costs from any portion of the Contract Price then or thereafter due Provider.

- 4.7.23. Patents and Royalties. Provider and the Surety shall defend, indemnify and hold harmless the COE and its agents, employees and officers from any claim, demand or legal proceeding arising out of or pertaining, in any manner, to any actual or claimed infringement of patent rights arising as a result of Provider's performance of the Work under the Contract Documents. Notwithstanding the foregoing, Provider shall not have any indemnity or liability obligation to the extent that the subject infringements pertain to materials specifically required by the COE under the Contract Documents.
- 4.7.24. Cutting and Patching. Provider shall be responsible for cutting, fitting or patching required to complete the Work or to make the component parts thereof fit together properly. Provider shall not damage or endanger any portion of the Work, or the fully or partially completed construction of the COE or separate Providers by cutting, patching, excavation or other alteration. When modifying new Work or when installing Work adjacent to an existing structure/facility, Provider shall use reasonable efforts under the existing circumstances to match, as closely as conditions of the Site and materials will allow the finishes, textures and colors of the existing structure/facility and refinish elements of the existing structure/facility. Provider shall not cut, patch or otherwise alter the construction by the COE or separate Provider without the prior written consent of the COE or separate Provider thereto, which consent shall not be unreasonably withheld. Provider shall not unreasonably withhold consent to the request of the COE or separate Provider to cut, patch or otherwise alter the Work.
- 4.7.25. Encountering of Hazardous Materials. In the event Provider encounters Hazardous Materials at the Site which have not been rendered harmless or for which there is no provision in the Contract Documents for containment, removal, abatement or handling of such Hazardous Materials, Provider shall immediately stop the Work in the affected area, but shall diligently proceed with the Work in all other unaffected areas. Upon encountering such Hazardous Materials, Provider shall immediately notify the COE Representative, in writing, of such condition. Provider shall proceed with the Work in such affected area only after such Hazardous Materials have been rendered harmless, contained, removed or abated by the COE. In the event such Hazardous Materials are encountered, Provider shall be entitled to an adjustment of the Contract Time to the extent that the Work is stopped and Substantial Completion of the Work is affected thereby and an adjustment to the Contract Price.

4.8. Wage Rates: Employment of Labor.

- 4.8.1. Determination of Prevailing Rates. Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2 of the California Labor Code at §§1770 et seq., the COE has obtained from the Director of the Department of Industrial Relations the general prevailing rate of per diem wages and the prevailing rate for holiday and overtime work in the locality in which the Work is to be performed. Holidays shall be as defined in the collective bargaining agreement applicable to each particular craft, classification or type of worker employed under the Contract. Per diem wages include employer payments for health and welfare, pensions, vacation, travel time and subsistence pay as provided in California Labor Code §1773.8, apprenticeship or other training programs authorized by California Labor Code §3093, and similar purposes when the term “per diem wages” is used herein. Holiday and overtime work, when permitted by law, shall be paid for at the rate of at least one and one-half (1½) times the above specified rate of per diem wages, unless otherwise specified. The Contractor shall post, at appropriate and conspicuous locations on the Site, a schedule showing all determined general prevailing wage rates.
- 4.8.2. Payment of Prevailing Rates. There shall be paid each worker of the engaged in the Work, not less than the general prevailing wage rate for the classification of Work performed, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractor and such worker.
- 4.8.3. Prevailing Rate Penalty. The Contractor shall, as a penalty, forfeit not more than Two Hundred Dollars (\$200.00) to the COE for each calendar day or portion thereof, for each worker paid less than the prevailing rates for such work or craft in which such worker is employed for the Work by the Contractor or by any Subcontractor, of any tier, in connection with the Work. The amount of the penalty for failure to pay applicable prevailing wage rates shall be determined and assessed in accordance with the standards established pursuant to Labor Code §1775(a)(2). The amount of the penalty shall be determined based on consideration of both of the following: (i) whether the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the Contractor or Subcontractor; and (ii) whether the Contractor or Subcontractor has a prior record of failing to meet its prevailing wage obligations. The penalty may not be less than forty dollars (\$40.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the Contractor or Subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor. The penalty may not be less than eighty dollars (\$80.00) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Contractor or Subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned. The penalty may not be less than one hundred twenty dollars (\$120) for each

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calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1. When the penalty amount due hereunder is collected from the Contractor or Subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that Contractor or Subcontractor shall be satisfied before applying that amount to the penalty imposed on that Contractor or Subcontractor hereunder. The difference between prevailing wage rates and the amount paid to each worker each calendar day, or portion thereof, for which each worker paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

- 4.8.4. Payroll Records. Pursuant to California Labor Code §1776, the Contractor and each Subcontractor, of any tier, shall keep an accurate payroll record, 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 person employed for the Work. The payroll records shall be certified and available for inspection at all reasonable hours at the principal office of the Contractor on the following basis: (i) a certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request; (ii) a certified copy of all payroll records shall be made available for inspection or furnished upon request to the COE, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations; (iii) a certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the COE, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, Subcontractors and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor; (iv) the Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; (v) any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the COE, the Division of Apprenticeship Standards or the 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 the Contractor or any Subcontractor, of any tier, performing a part of the Work shall not be marked or obliterated. The Contractor shall inform the COE of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change or location and address. In the event of noncompliance with the requirements of this Article 4.18.4, the Contractor shall have ten (10) days in which to comply, subsequent to receipt of written notice specifying in what respects the Contractor must comply herewith. Should noncompliance still be evident after such 10-day period, the Contractor shall, as a penalty to the COE, forfeit One Hundred Dollars (\$100.00) for each calendar day, or portion thereof, for each

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worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from any portion of the Contract Price then or thereafter due the Contractor. The Contractor is solely responsible for compliance with the foregoing provisions.

- 4.8.5. Labor Code Compliance. This Project will be subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each Contractor and Subcontractor shall furnish the records specified in Labor Code § 1776 directly to the Labor Commissioner in accordance with Labor Code § 1771.4(a)(3), on at least on a monthly basis (or more frequently if required by the COE or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement.
- 4.8.6. The Parties agree and acknowledge that the provisions of Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815 have been attached hereto, and are incorporated as though fully set forth herein, by this reference. Contractor shall include in each subcontract for or related to the Work these same provisions of Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815 as an attachment thereto, incorporated therein.
- 4.8.7. Hours of Work.
- 4.8.7.1. Limits on Hours of Work. Pursuant to California Labor Code §1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code §1811, the time of service of any worker employed at any time by the Contractor or by a Subcontractor, of any tier, upon the Work or upon any part of the Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereafter provided. Notwithstanding the foregoing provisions, Work performed by employees of Contractor or any Subcontractor, of any tier, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (12) times the basic rate of pay.
- 4.8.7.2. Penalty for Excess Hours. The Contractor shall pay to the COE a penalty of Twenty-five Dollars (\$25.00) for each worker employed on the Work by the Contractor or any Subcontractor, of any tier, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor is not less than one and one-half (12) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.
- 4.8.8. Apprentices.

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- 4.8.8.1. Employment of Apprentices. Any apprentices employed to perform any of the Work shall be paid the standard wage paid to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code §3077 who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code §§3070 et seq. are eligible to be employed for the Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.
- 4.8.8.2. Apprenticeship Certificate. When the Contractor or any Subcontractor, of any tier, in performing any of the Work employs workers in any Apprenticeable Craft or Trade, the Contractor and such Subcontractor shall apply to the Joint Apprenticeship Committee administering the apprenticeship standards of the craft or trade in the area of the site of the Work for a certificate approving the Contractor or such Subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected, provided, however, that the approval as established by the Joint Apprenticeship Committee or Committees shall be subject to the approval of the Administrator of Apprenticeship. The Joint Apprenticeship Committee or Committees, subsequent to approving the Contractor or Subcontractor, shall arrange for the dispatch of apprentices to the Contractor or such Subcontractor in order to comply with California Labor Code §1777.5. The Contractor and Subcontractors shall submit contract award information to the applicable Joint Apprenticeship Committee which shall include an estimate of journeyman hours to be performed under the Contract, the number of apprentices to be employed, and the approximate dates the apprentices will be employed. There shall be an affirmative duty upon the Joint Apprenticeship Committee or Committees, administering the apprenticeship standards of the crafts or trades in the area of the site of the Work, to ensure equal employment and affirmative action and apprenticeship for women and minorities. Contractors or Subcontractors shall not be required to submit individual applications for approval to local Joint Apprenticeship Committees provided they are already covered by the local apprenticeship standards.
- 4.8.8.3. Ratio of Apprentices to Journeymen. The ratio of Work performed by apprentices to journeymen, who shall be employed in the Work, may be the ratio stipulated in the apprenticeship standards under which the Joint Apprenticeship Committee operates, but in no case shall the ratio be less than one hour of apprentice work for each five hours of labor performed by a journeyman, except as otherwise provided in California Labor Code §1777.5. The minimum ratio for

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the land surveyor classification shall not be less than one apprentice for each five journeymen. Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the Joint Apprenticeship Committee, is employed at the site of the Work and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the completion of the Work. The Contractor shall, however, endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the site of the Work. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a Joint Apprenticeship Committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification. The Contractor or any Subcontractor covered by this Article and California Labor Code §1777.5, upon the issuance of the approval certificate, or if it has been previously approved in such craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the apprenticeship standards. Upon proper showing by the Contractor that it employs apprentices in such craft or trade in the State of California on all of its contracts on an annual average of not less than one apprentice to each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 ratio as set forth in this Article and California Labor Code §1777.5. This Article shall not apply to contracts of general contractors, or to contracts of specialty contractors not bidding for work through a general or prime contractor, involving less than Thirty Thousand Dollars (\$30,000.00) or twenty (20) working days. The term "Apprenticeable Craft or Trade," as used herein shall mean a craft or trade determined as an Apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

- 4.8.8.4. Exemption From Ratios. The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Article when it finds that any one of the following conditions are met: (i) unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%) or; (ii) the number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen, or; (iii) the Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis, or; (iv) if assignment of an apprentice to any Work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which

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the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman. When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

- 4.8.8.5. Contributions to Trust Funds. The Contractor or any Subcontractor, of any tier, who, performs any of the Work by employment of journeymen or apprentices in any Apprenticeable Craft or Trade and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any such craft or trade in the area of the site of the Work, to which fund or funds other contractors in the area of the site of the Work are contributing, shall contribute to the fund or funds in each craft or trade in which it employs journeymen or apprentices in the same amount or upon the same basis and in the same manner as the other contractors do, but where the trust fund administrators are unable to accept such funds, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. The Division of Labor Standards Enforcement is authorized to enforce the payment of such contributions to such fund(s) as set forth in California Labor Code §227. Such contributions shall not result in an increase in the Contract Price.
- 4.8.8.6. Contractor's Compliance. The responsibility of compliance with this Article for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Article are subject to the provisions of California Labor Code §3081. In the event the Contractor willfully fails to comply with the provisions of this Article and California Labor Code §1777.5, pursuant to California Labor Code §1777.7, the Contractor shall: (i) be denied the right to bid on any public works contract for a period of one (1) year from the date the determination of non-compliance is made by the Administrator of Apprenticeship; and (ii) forfeit, as a civil penalty, Fifty Dollars (\$50.00) for each calendar day of noncompliance. Notwithstanding the provisions of California Labor Code §1727, upon receipt of such determination, the COE shall withhold such amount from the Contract Price then due or to become due. Any such determination shall be issued after a full investigation, a fair and impartial hearing, and reasonable notice thereof in accordance with reasonable rules and procedures prescribed by the California Apprenticeship Council. Any funds withheld by the COE pursuant to this Article shall be deposited in the General Fund or other similar fund of the COE. The interpretation and enforcement of California Labor Code §§1777.5 and 1777.7 shall be in accordance with the rules and procedures of the California Apprenticeship Council.



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- 4.9. Employment of Independent Contractors. Pursuant to California Labor Code §1021.5, Contractor shall not willingly and knowingly enter into any agreement with any person, as an independent contractor, to provide any services in connection with the Work where the services provided or to be provided requires that such person hold a valid contractors' license issued pursuant to California Business and Professions Code §§7000 et seq. and such person does not meet the burden of proof of his/her independent contractor status pursuant to California Labor Code §2750.5. In the event that Contractor shall employ any person in violation of the foregoing, Contractor shall be subject to the civil penalties under California Labor Code §1021.5 and any other penalty provided by law. In addition to the penalties provided under California Labor Code §1021.5, Contractor's violation of this Article 4.18.7 or the provisions of California Labor Code §1021.5 shall be deemed an event of Contractor's default under Article 15.1 of these General Conditions. The Contractor shall require Subcontractors performing or providing any portion of the Work to adhere to and comply with the foregoing provisions.
- 4.10. Assignment of Antitrust Claims. Pursuant to California Government Code §4551, the Contractor and its Subcontractor(s), of any tier, hereby offers and agrees to assign to the COE 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. §15) or under the Cartwright Act (California Business and Professions Code §16700 et seq.), arising from purchases of goods, services or materials hereunder or any Subcontract. This assignment shall be made and become effective at the time the COE tenders Final Payment to the Contractor, without further acknowledgment by the parties. If the COE receives, either through judgment or settlement, a monetary recovery in connection with a cause of action assigned under California Government Code §4550 et seq., the assignor thereof shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the COE any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the COE as part of the Contract Price, less the expenses incurred by the COE in obtaining that portion of the recovery. Upon demand in writing by the assignor, the COE shall, within one year from such demand, reassign the cause of action assigned pursuant to this Article if the assignor has been or may have been injured by the violation of law for which the cause of action arose: and (i) the COE has not been injured thereby; or (ii) the COE declines to file a court action for the cause of action.
- 4.11. Provider Responsibility. Any Work performed by workers necessary to be performed after regular working hours, as established by the city and/or county) or on Sundays or other holidays shall be performed only with prior approval from the COE and without adjustment to the Contract Price or any other additional expense to the COE. The Provider shall be responsible for costs incurred by the COE which arise out of Work performed by the Provider at times other than the COE's regular working hours of 7 am to 5 pm and regular working days of Monday through Friday. Upon determination of such costs, the COE may deduct such costs from the Contract Price then or thereafter due the Provider.
- 4.12. Subcontractors
- 4.12.1. Subcontracts. Any Work performed for Provider by a Subcontractor shall be pursuant to a written agreement between Provider and such Subcontractor which specifically incorporates by reference the Contract Documents and

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which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents, including without limitation, the policies of insurance required by the terms of this Agreement and the termination provisions hereof, and obligates the Subcontractor to assume toward Provider all the obligations and responsibilities of Provider which by the Contract Documents Provider assumes toward the COE. The foregoing notwithstanding, no contractual relationship shall exist, or be deemed to exist, between any Subcontractor and the COE, unless the Contract is terminated and COE, in writing, elects to assume the Subcontract. Each Subcontract for a portion of the Work shall provide that such Subcontract may be assigned to the COE if the Contract is terminated by the COE pursuant to the terms of this Agreement, subject to the prior rights of the Surety obligated under a bond relating to the Contract. If this Agreement is terminated for any reason, Provider shall provide to the COE copies of all executed Subcontracts and Purchase Orders to which Provider is a party. During performance of the Work, Provider shall, from time to time, as and when requested by the COE and mutually agreed upon, provide copies of any and all Subcontracts or Purchase Orders relating to the Work and all modifications thereto. Provider's failure or refusal, for any reason, to provide copies of such Subcontracts or Purchase Orders in accordance with the two preceding sentences is Provider's default of a material term of the Contract Documents.

4.12.2. Subcontractors' Work. Whenever the Work of a Subcontractor is dependent upon the Work of Provider or another Subcontractor, Provider shall require the Subcontractor to: (a) coordinate its Work with the dependent Work; (b) provide necessary dependent data and requirements; (c) supply and/or install items to build into the dependent Work of others; (d) make appropriate provisions for dependent Work of others; (e) carefully examine and understand the portions of the Contract Documents (including without limitation, the Construction Documents) and required Submittals, if any, relating to the dependent Work; and (f) examine the existing dependent Work and verify that the dependent Work is in proper condition for the Subcontractor's Work. If the dependent Work is not in a proper condition, the Subcontractor shall notify Provider in writing and not proceed with the Subcontractor's Work until the dependent Work has been corrected or replaced and is in a proper condition for the Subcontractor's Work.

#### 4.13. Correction or Completion of the Work After Substantial Completion.

4.13.1. Substantial Completion. Substantial Completion means that each of the following has been achieved in accordance with the requirements of the Agreement and each of the documents described herein and as otherwise reasonably required to achieve Substantial Completion of the System (as defined below) on or before \_\_\_\_\_, **September 30<sup>th</sup>, 2025<sup>6</sup>**, (the "Guaranteed Substantial Completion Date") and Final Completion of the System (as defined below) on or before \_\_\_\_\_: **December 30<sup>th</sup>, 2025**.

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4.13.1.1. Mechanical Completion, defined as the point of which Work, defined as the point at which all work of every kind necessary to make the System usable for its intended function is actually complete and any and all fire/life safety systems are completely

installed and fully operational.

- 4.13.2. Punchlist. Upon achieving Substantial Completion of the Work, the COE Representative and Provider shall jointly inspect the Work and prepare a comprehensive list of items of the Work to be corrected or completed by Provider (“the Punchlist”). Substantial Completion is that stage in the progress of the Work when the Work is complete in accordance with the Contract Documents so that the COE can use and occupy the Work for its intended purposes. The exclusion of, or failure to include, any item on the Punchlist shall not alter or limit the obligation of Provider to complete or correct any portion of the Work in accordance with the Contract Documents.
- 4.13.3. Time for Completing Punchlist Items. In addition to establishing the Punchlist, Provider and the COE Representative shall, after the joint inspection, establish a reasonable time for Provider’s completion of all Punchlist items. Provider shall promptly and diligently proceed to complete all Punchlist items within the time established. In the event that Provider shall fail or refuse, for any reason, to complete all Punchlist items within the time established, Provider shall be subject to assessment of Liquidated Damages for delayed completion of Punchlist.
- 4.13.4. Final Completion. Final Completion shall be deemed to have been achieved when all Work has been fully and completed in strict accordance with the Contract Documents, including without limitation, all of the following as applicable: all applicable DSA requirements have been met and the Project has been certified as complete; the satisfactory cure or performance of all correction or completion items noted by the COE; the Project has successfully passed all requisite testing, inspection, and commissioning; any additional meters and monitoring are in place and fully functional; the Project has been energized; the Project has been interconnected to the electrical grid and permission to operate has been granted by the local electrical utility. Final Completion shall be verified by the COE Representative upon request of Provider. The good faith and reasonable determination of Final Completion by the COE Representative shall be controlling and final.
- 4.13.5. Final Acceptance. Final Acceptance of the Work shall occur upon approval of the Final Completion of the Work by the COE’s Governing Board. The commencement of any warranty or guarantee period under the Contract Documents, with the exception of the Performance Guarantee, shall be deemed to be the date upon which Final Completion was achieved pursuant to Section 4.12.4. The commencement of the Performance Guarantee shall be the date of Final Completion.
- 4.14. Construction Schedule.
- 4.14.1. Submittal of Preliminary Construction Schedule. Within five (5) days following issuance of the Notice to Proceed, Provider shall prepare and submit to the COE Representative a Preliminary Construction Schedule indicating, in graphic form, the estimated rate of progress and sequence of all Work required under the Contract Documents. The purpose of the Preliminary Construction Schedule is to assure adequate planning and

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execution of the Work so that it is completed within the Contract Time, in material conformance with the Contract Documents, and to permit evaluation of the progress of the Work. The Preliminary Construction Schedules shall; (i) be prepared utilizing an electronic format reasonably acceptable to the COE; (ii) indicate the date(s) for commencement and completion of various portions of the Work including without limitation, procurement, fabrication and delivery of major items, materials or equipment. If the Preliminary Construction Schedules required hereunder incorporate therein any "float" time, such float shall be deemed to jointly belong to and owned by the COE and Provider. As used herein, "float time" shall be deemed to refer to the time between earliest finish date and the latest finish date of each activity shown on the Preliminary Construction Schedule.

- 4.14.1.1. Review of Preliminary Construction Schedule. The COE Representative shall review the Preliminary Construction Schedule submitted by Provider for conformity with the requirements of the Contract Documents. Within seven (7) working days of the date of receipt of the Preliminary Construction Schedule, the Preliminary Construction Schedule will be returned to Provider with comments to the form or content thereof. Review of the Preliminary Progress Schedule and any comments thereto by the COE Representative shall not be deemed to be the assumption of construction means, methods or sequences by the COE, all of which remain Provider's obligations under the Contract Documents.
- 4.14.1.2. Preparation and Submittal of Contract Construction Schedule. Within seven (7) working days of the COE's return of the Preliminary Construction Schedule to Provider, Provider shall prepare and submit to the COE Representative a Construction Schedule which incorporates therein the comments to the Preliminary Construction Schedule. Upon Provider's submittal of such Construction Schedule, the COE Representative shall review the same for purposes of determining conformity with the requirements of the Contract Documents. Within ten (10) days of the receipt of the Construction Schedule, the COE Representative will approve such Construction Schedule or will return the same to Provider with comments to the form or content. In the event there are comments to the form or content thereof, Provider, shall within seven (7) days of receipt of such comments, revise and resubmit to the COE Representative the Construction Schedule incorporating therein such comments. Upon the COE's approval of the form and content of a Construction Schedule, the same shall be deemed the "Approved Construction Schedule." The COE's approval of a Construction Schedule shall be for the sole and limited purpose of determining conformity with the requirements of the Contract Documents. By approving the Approved Construction Schedule, the COE shall not be deemed to have exercised control over, or approval of, construction means, methods or sequences, all of

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which remain the responsibility and obligation of Provider in accordance with the terms of the Contract Documents. Further, the Approved Construction Schedule shall not operate to limit or restrict any of Provider's obligations under the Contract Documents nor relieve Provider from the full, faithful and timely performance of such obligations in accordance with the terms of the Contract Documents. The activities, commencement and completion dates of activities, and the sequencing of activities depicted on the Approved Construction Schedule shall not be modified or revised by Provider without the prior consent, or direction, of the COE. Updates to the Approved Construction Schedule shall not be deemed revisions to the Approved Construction Schedule. In the event that the Approved Construction Schedule shall depict completion of the Work in a duration shorter than the Contract Time, the same shall not be a basis for an adjustment of the Contract Time or the Contract Price in the event that actual completion of the Work shall occur after such the time depicted in such Approved Construction Schedule. In such event, the Contract Price shall not be subject to adjustment on account of any additional costs incurred by Provider to complete the Work prior to the Contract Time, as adjusted in accordance with the terms of the Contract Documents. Any adjustment of the Contract Time or the Contract Price shall be based upon the Contract Time set forth in the Contract Documents and not any shorter duration which may be depicted in the Approved Construction Schedule.

- 4.14.1.3. Revisions to Approved Construction Schedule. In the event that the progress of the Work or the sequencing of the activities of the Work shall materially differ from that indicated in the Approved Construction Schedule, as determined by the COE in its reasonable discretion and judgment, the COE may direct Provider to revise the Approved Construction Schedule; within fifteen (15) days of the COE's direction, Provider shall prepare and submit to the COE Representative a revised Approved Construction Schedule, for review and acceptance by the COE Representative. Provider may request consent of the COE to revise the Approved Construction Schedule. Any such request shall be considered by the COE only if in writing setting forth Provider's proposed revision(s) to the Approved Construction Schedule and the reason(s) therefor. The COE may consent to, or deny, any such request of Provider to revise the Approved Construction Schedule in its reasonable discretion.
- 4.14.1.4. Updates to Approved Construction Schedule. Provider shall monitor and update the Approved Construction Schedule on a monthly basis, or more frequently as required by the conditions or progress of the Work, or as may be requested by the COE. Provider shall provide the COE Representative with updated Approved Construction Schedules indicating progress achieved

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and activities commenced or completed within the prior updated Approved Construction Schedule. Updates to the Approved Construction Schedule shall not include any revisions to the activities, commencement and completion dates of activities or the sequencing of activities depicted on the Approved Construction Schedule. Any such revisions to the Approved Construction Schedule shall result in the COE's rejection of such update and Provider shall, within seven (7) days of the COE's rejection of such update, submit to the COE Representative an Updated Approved Construction Schedule which does not incorporate any such revisions. If requested by the COE, Provider shall also submit, with its updates to the Approved Construction Schedule a narrative statement including a description of current and anticipated problem areas of the Work, delaying factors and their impact, and an explanation of corrective action taken or proposed by Provider. If the progress of the Work is behind the Approved Construction Schedule, Provider shall indicate what measures will be taken to place the Work back on schedule. The COE may, from time to time, and in the COE's sole and exclusive discretion, transmit to Provider's Performance Bond Surety the Approved Construction Schedule, any updates thereof and the narrative statement described hereinabove. The COE's election to transmit, or not to transmit such information, to Provider's Performance Bond Surety shall not limit Provider's obligations under the Contract Documents.

4.14.1.5. Provider Responsibility for Construction Schedule. Provider shall be responsible for the preparation, submittal and maintenance of the Construction Schedules required by the Contract Documents, and any failure of Provider to do so may be deemed by the COE as Provider's default in the performance of a material obligation under Contract Documents. Any and all costs or expenses required or incurred to prepare, submit, maintain, and update the Construction Schedules shall be solely that of Provider and no such cost or expense shall be charged to the COE. The Contract Price shall not be subject to adjustment on account of costs, fees or expenses incurred or associated with Provider's preparation, submittal, and maintenance or updating of the Construction Schedules.

4.14.2. Adjustment of Contract Time. If Substantial Completion is delayed, adjustment, if any, to the Contract Time on account of such delay shall be in accordance with the following:

4.14.2.1. Excusable Delays. If Substantial Completion of the Work or Final Completion, as applicable, is delayed by Excusable Delays, the Contract Time shall be subject to adjustment for such reasonable period of time as determined by the COE Representative; Excusable Delays shall not result in any increase in the Contract Price except as provided in this Section, or otherwise in the

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Contract Documents. Excusable Delays refer to unforeseeable and unavoidable casualties or other unforeseen causes beyond the control, and without fault or neglect, of Provider, any Subcontractor, Material Supplier or other person directly or indirectly engaged by Provider in performance of any portion of the Work. Excusable Delays include unanticipated and unavoidable labor disputes, unusual and unanticipated delays in transportation of equipment, materials or Construction Equipment reasonably necessary for completion and proper execution of the Work, unanticipated unusually severe weather conditions, Force Majeure Events, changes in applicable law after the date hereof that affect Provider's performance under this Agreement, DSA delayed approval of plans and specifications or DSA directive to stop the Work. Neither the financial resources of Provider or any person or entity directly or indirectly engaged by Provider in performance of any portion of the Work shall be deemed conditions beyond the control of Provider. If an event of Excusable Delay occurs, the Contract Time shall be subject to adjustment hereunder only if Provider establishes: (i) full compliance with all applicable provisions of the Contract Documents relative to the method, manner and time for Provider's notice and request for adjustment of the Contract Time; (ii) that the event(s) forming the basis for Provider's request to adjust the Contract Time are outside the reasonable control and without any fault or neglect of Provider or any person or entity directly or indirectly engaged by Provider in performance of any portion of the Work; and (iii) that the event(s) forming the basis for Provider's request to adjust the Contract Time directly and adversely impacted the progress of the Work as indicated in the Approved Construction Schedule or the most recent updated Approved Construction Schedule relative to the date(s) of the claimed event(s) of Excusable Delay. There shall be no adjustment to the Contract Price for delays, interruptions, hindrances or disruptions to the progress of the Work relating to unanticipated unusually severe weather conditions, Force Majeure Events, DSA delayed approval of plans and specifications or DSA directive to stop the Work, as such events shall be deemed excusable, non-compensable delays. Adjustments to the Contract Price and the Contract Time, if any, on account of Changes to the Work or Suspension of the Work shall be governed by the applicable provisions of the Contract Documents

- 4.14.2.2. Compensable Delays. If Substantial Completion or Final Completion, as applicable, of the Work is delayed and such delay is caused by the acts or omissions of the COE, or separate Provider employed by the COE, Work required or expenses or costs incurred as a result or in connection with any of the exclusions set forth in this Agreement (including Exhibit A hereto) and any change to the Specifications requested by the COE

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(collectively “Compensable Delays”), upon Provider’s request and notice, in strict conformity with applicable provisions of the Contract Documents, the Contract Time will be adjusted by Change Order for such reasonable period of time as determined by the COE Representative and the Provider, taking into consideration all intervening and interfering events, including without limitation competing uses for the Project Site, work by other unrelated Providers, and other matters not within the control of Provider. In accordance with California Public Contract Code §7102, if Provider’s progress is delayed by any of the events described in the preceding sentence, Provider shall not be precluded from the recovery of damages directly and proximately resulting therefrom, to the extent that Provider and its employees, Subcontractors, agents or representative are not responsible for the delay and the delay was not within the reasonable contemplation of the COE and Provider at the time of execution of the Agreement. In such event, Provider’s damages, if any, shall be limited to direct, actual and unavoidable additional costs of labor, materials or Construction Equipment directly resulting from such delay, and shall exclude indirect or other consequential damages. Except as expressly provided for herein, Provider shall not have any other claim, demand or right to adjustment of the Contract Price arising out of delay, interruption, hindrance or disruption to the progress of the Work. Adjustments to the Contract Price and the Contract Time, if any, on account of Changes to the Work or Suspension of the Work shall be governed by the applicable provisions of the Contract Documents.

- 4.14.2.3. Unexcusable Delays. Unexcusable Delays refer to any delay to the progress of the Work caused by events or factors other than those specifically identified in Sections 4.13.2.1 and 4.13.2.2 above. Neither the Contract Price nor the Contract Time shall be adjusted on account of Unexcusable Delays.

#### 4.14.3. Adjustment of Contract Time.

- 4.14.3.1. Procedure for Adjustment of Contract Time. The Contract Time shall be subject to adjustment only in strict conformity with applicable provisions of the Contract Documents. Failure of Provider to request adjustment(s) of the Contract Time in strict conformity with applicable provisions of the Contract Documents shall be deemed Provider’s waiver of the same.
- 4.14.3.2. Limitations Upon Adjustment of Contract Time on Account of Delays. Any adjustment of the Contract Time on account of an Excusable Delay or a Compensable Delay shall be limited as set forth herein. If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last. If an



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Unexcusable Delay occurs concurrently with either an Excusable Delay or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, which the Excusable Delay or the Compensable Delay exceeds the period of time of the Unexcusable Delay. In addition to the foregoing limitations upon extension of the Contract Time, no adjustment of the Contract Time shall be made on account of any Excusable Delays or Compensable Delays unless such delay(s) actually and directly impact Work or Work activities on the critical path of the then current and updated Approved Construction Schedule as of the date on which such delay first occurs. The COE shall not be deemed in breach of, or otherwise in default of any obligation hereunder, if the COE shall deny any request by Provider for an adjustment of the Contract Time for any delay which does not actually and directly impact Work or Work activities on the critical path of the then current and updated Approved Construction Schedule.

#### 4.15. Liquidated Damages.

4.15.1. Should the Provider neglect, fail or refuse to achieve Substantial Completion of the Work within the Contract Time, (subject to adjustments authorized under the Contract Documents), the Provider agrees to pay to the COE the amount of three hundred [REDACTED] Dollars (\$300 [REDACTED]) per day as per diem Liquidated Damages, not as a penalty but as Liquidated Damages, for every day beyond the Contract Time (or such later date as adjusted to in accordance with the Contract Documents) the date of Substantial Completion occurs.

4.15.2. Generally. The Liquidated Damages amounts set forth herein are agreed upon by and between the Provider and the COE because of the difficulty of fixing the COE's actual damages in the event of delayed Final Completion. The Provider and the COE specifically agree that said amounts are a reasonable estimate of the COE's damages in such event, and that such amounts do not constitute a penalty. Liquidated Damages may be deducted from the Contract Price then or thereafter due the Provider. The Provider and the Surety shall be liable to the COE for any Liquidated Damages exceeding any amount of the Contract Price then held or retained by the COE. In the event that the Provider shall fail or refuse to complete the Project and the COE elects to exercise its right to cause completion or correction of such items pursuant to Sections 4.14.1 and 4.14.2 hereof, the COE's assessment of Liquidated Damages pursuant to the foregoing shall be in addition, and not in lieu of, the COE's right to charge Provider with the cost of completing or correcting such items of the Work. The Provider and the COE acknowledge and agree that the provisions of this Section are reasonable under the circumstances existing at the time of the Provider's execution of the Agreement.

4.15.3. COE's Right to Take-Over Work. Unless caused by the COE, if Provider fails or refuses, for any reason and at any time, to furnish adequate materials, labor, equipment or services to maintain progress of the Work in accordance

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with the then current Construction Schedule after one (1) week advance written notice from the COE Representative to Provider of its failure or refusal, the COE may thereafter, without terminating this Agreement or waiving/limiting any right or remedy arising therefrom, furnish or cause to be furnished such materials, labor, equipment or services necessary to maintain progress of the Work in accordance with the then current Construction Schedule. All reasonable costs, expenses or other charges (whether direct, indirect and administrative) incurred by the COE in furnishing such materials, labor, equipment or services shall be at the sole cost of Provider and the COE may deduct the same from the Contract Price then or thereafter due Provider. The COE's exercise of rights pursuant to the foregoing shall not be deemed a waiver or limitation of any other right or remedy of the COE under the Contract Documents or arising by operation of law.

#### 4.16. Payment of Contract Price.

- 4.16.1. No Adjustment to Contract Price. Except for Reimbursable Expenses for permit fees and reproduction of the Design Documents and Construction Documents for Subcontractors and except as adjusted through a Change Order, the Contract Price is the full and complete amount due from the COE to the Provider for Provider's completion of its obligations hereunder.
- 4.16.2. Reimbursable Expenses. There are no Reimbursable Expenses due from the COE to Provider in connection with Provider's Design Services and Construction Services, except for the actual direct costs of permits or approvals of the Design Documents for construction of the Project or if the COE directs Provider to reproduce the Design Documents for use by Subcontractors during construction. Reimbursable Expenses, if any, shall be billed by Provider to the COE at actual cost without mark-up.
- 4.16.3. Provider Billings for Payment of the Design Services and Construction Services Contract Price. During its performance of Design Services and Construction Services, Provider shall submit monthly billing statements for payment of portions of the Design Services and Construction Services of the Contract Price. Each monthly billing statement shall reflect the costs of the Design Services and Construction Services rendered in the immediately preceding month, provided that the monthly billing statements shall be limited the amount allocated to each phase of the Design Services and Construction Services. Billing statements shall be in such form and format and with such substantiating detail as required by the COE.
- 4.16.4. COE Payments for Design and Construction Services. Within thirty (30) days of receipt of Provider's billing statements for Design Services and Construction Services, COE will make payment to Provider of undisputed amounts of the Contract Price. The COE may, however, withhold or deduct from amounts otherwise due Provider for Design or Construction Services if Provider fails to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Provider has fully cured such failure of performance, less costs, damages or losses sustained by the COE resulting therefrom. Notwithstanding any provision of this Agreement to the contrary,

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if the COE shall, in good faith, dispute the amount due Provider for Design Services under any billing statement for Design Services rendered by Provider under this Agreement, pursuant to Civil Code §3320(a), the COE may withhold from payment to Provider an amount not to exceed one hundred and fifty percent (150%) of the disputed amount.

4.16.5. Disbursement of Design Services Contract Price. For the Project, One Million, One Hundred Seventy Four Thousand, Seventy Nine **Dollars (\$1,174,079 [REDACTED])** of the Contract Price is allocated for Design Services (the "Design Services Contract Price").

4.16.5.1. Initial Payment. Thirty (30) days after the date of the Agreement, the Provider may submit a billing for the Initial Payment of the Design Services Contract Price. Such billing shall be in an amount equal to seventy five percent ( 75%) of the Design Services Contract Price and shall be accompanied by a detailed statement of the Design Services completed by the Provider in the thirty (30) day period after the date of the Agreement. Provided that the Provider has diligently proceeded to complete Design Services obligations, as reflected in the Provider's detailed statement of Design Services, the COE will disburse the Initial Payment within thirty (30) days after the date of the COE's receipt of the Provider's statement requesting disbursement of the Initial Payment of the Design Services Contract Price.

4.16.5.2. Interim Payments. At such time as the Provider has completed preparation of the Design Documents and submitted the same to the COE Representative for review and acceptance and the COE Representative has accepted the Design Documents in accordance with Section 3.7.2 hereof, Provider may submit a billing for disbursement of the Interim Payment of the Design Services Contract Price. Such billing shall be an amount equal to fifteen percent (15%) of the Design Services Contract Price. Within thirty (30) days of the COE's receipt of the Provider's statement requesting disbursement of the Interim Payment, the COE will disburse the Interim Payment. Thereafter, at such time as the Provider has completed preparation of the Construction Documents and submitted the same to DSA and other governmental or quasi-governmental agencies with jurisdiction over any portion of the Project for review and permitting, the Provider may submit a billing for disbursement of the Interim Payment of the Design Services Contract Price. Such billing shall be an amount equal to thirty percent (30%) of the Design Services Contract Price. Such billing shall be accompanied by written evidence of the Provider's submission of the Design Documents to DSA and other governmental and quasi-governmental agencies for review and permitting. Provided that the Provider has submitted complete Construction Document to DSA and other governmental and quasi-governmental agencies for review and permitting, within thirty (30) days of the COE's

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receipt of the Provider's statement requesting disbursement of the Interim Payment, the COE will disburse the Interim Payment.

4.16.5.3. Final Payment. At such time as DSA and other governmental and quasi-governmental agencies have completed their review of the Construction Documents and have issued their respective permits/approvals authorizing construction of the Project, the Provider may submit a billing statement for the Final Payment of the Design Services Contract Price, which shall be an amount equal to ten percent (10%) of the Design Services Contract Price. Provided that DSA and other governmental and quasi-governmental agencies have issued a permit or other approval authorizing construction of the Project, within thirty (30) days of the date of the COE's receipt of the Provider's Final Payment billing statement, the COE will disburse the Final Payment of the Design Services Contract Price to the Provider.

4.16.5.4. Any withholding of disputed amounts from periodic payments for Design Services shall be in strict conformance with the provisions of Civil Code § 3320.

#### 4.16.6. Disbursement of Construction Services Contract Price.

4.16.6.1. Allocation of Construction Services Contract Price. For the Project, Three Million, Five Hundred Twenty-Two Thousand, Two Hundred Thirty Six Dollars (\$ 3,522,236) of the Contract Price is allocated for Procurement and Construction Services; (referred to as the "Construction Services Contract Price").

4.16.6.2. Disbursement of Construction Services. The portion of the Contract Price allocated for Construction Services shall be disbursed by Progress Payments reflecting the value of the Work actually installed at the time of the Provider's submission of an Application for Progress Payment. Each Application for Progress Payment shall be subject to review and verification pursuant to Section 4.15.6 through 4.15.10 hereof and the amount disbursed for Construction Services shall not exceed ninety percent (95%) of the amounts allocated in Section 4.15.6.1. The retained amount of five percent (5%) ("Retainage") shall be disbursed by the COE upon Final Completion of the Work and acceptance by the COE in accordance with Public Contract Code § 9203 and the Provider's submission of an application for Final Payment pursuant to Section 4.15.11.

#### 4.16.7. Progress Payments for Construction Services Contract Price.

4.16.7.1. Applications for Progress Payments. During Provider's performance of Construction Services, Provider shall submit a monthly invoice to the COE Representative, Application for Progress Payments, setting forth an itemized estimate of Work

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completed in the preceding month for the purpose of the COE's making of Progress Payments of the Construction Services Contract Price. Within thirty (30) days after the COE's receipt of invoice, COE shall make payment to the Provider for the Work performed hereunder. Values utilized in the Applications for Progress Payments shall be based upon the Schedule of Values and the estimated percentage of Work completed as approved by the COE ("Cost Breakdown"); such values shall be only for determining the basis of Progress Payments to Provider, and shall not be considered as fixing a basis for adjustments, whether additive or deductive, to the Construction Services Contract Price, or for determining the extent of Work actually completed.

- 4.16.7.2. COE's Review of Applications for Progress Payments. In accordance with Public Contract Code §20104.50, upon receipt of an Application for Progress Payment, the COE will review each Application for Progress Payment as soon as is practicable after receipt of such Application for Progress Payment. Such review shall be for the purpose of determining that the Application for Progress Payment is a proper Progress Payment request. An Application for Progress Payment shall be deemed "proper" only if it is submitted on the form approved by the COE, with all of the requested information of such form of Application for Progress Payment completely and accurately provided by Provider and such completed Application for Progress Payment is accompanied by: (i) Certified Payrolls of Provider and all Subcontractors, of any tier, for laborers performing any portion of the Work for which a Progress Payment is requested; (ii) duly completed and executed forms of Conditional Waiver and Release of Rights Upon Progress Payment in accordance with California Civil Code §3262 of Provider, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment requested; (iii) duly completed and executed forms of Unconditional Waiver and Release of Rights upon Progress Payment in accordance with California Civil Code §3262 of Provider, all Subcontractors of any tier, and Material Suppliers covering the Progress Payment received by Provider under the prior Application for Progress Payment; (iv) if applicable, a current union statement reflecting that Provider and any Subcontractor of any tier, are current in the payment of any supplemental fringe benefits required pursuant to any collective bargaining agreement to which Provider or any such Subcontractor is a party to or is otherwise bound by; and (v) a certification by Provider that it has continuously maintained, or caused to maintained, the Record Drawings reflecting the actual as-built conditions of the Work performed be for which the Progress Payment is requested, it being understood that such certification is subject to verification by the COE prior to disbursement of the Progress Payment. In accordance with Public Contract Code §20104.50, an Application for Progress

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Payment determined by the COE not to be a proper Application for Progress Payment shall be returned by the COE to Provider as soon as is practicable after receipt of the same from Provider, but in no event not more than seven (7) days after the COE's receipt thereof. The COE's return of any Application for Progress Payment pursuant to the preceding sentence shall be accompanied by a written document setting forth the reason(s) why the Application for Progress Payment is not proper.

- 4.16.7.3. Review of Applications for Progress Payments. Upon receipt of an Application for Progress Payment, the COE Representative shall inspect and verify the Work to determine whether it has been performed in accordance with the terms of the Contract Documents and to determine the portion of the Application for Progress Payment which is properly due to Provider under the terms of the Contract Documents.

4.16.8. COE's Disbursement of Progress Payments.

- 4.16.8.1. Timely Disbursement of Progress Payments. In accordance with Public Contract Code §20104.50, within thirty (30) days after the COE's receipt of a proper Application for Progress Payment, there shall be paid, by COE, to Provider a sum equal to ninety-five percent (95%) of the value of the Work indicated in the Application for Progress Payment which is actually in place as of the date of the Application for Progress Payment and as verified and approved by the COE Representative; provided, however, that the COE's obligation to disburse any Progress Payment shall be subject to the COE's receipt of all documents set forth above, each and all of which are conditions precedent to the COE's obligation to disburse Progress Payments. If an Application for Progress Payment is determined not to be proper due to the failure or refusal of Provider to submit documents with the Application for Progress Payment, as required by the Contract Documents, or incompleteness or inaccuracies in any such documents submitted or if it is reasonably determined that the Record Drawings have not been continuously maintained to reflect the actual as built conditions of the Work completed in the period for which the Progress Payment is requested, the thirty (30) day period hereunder for the COE's timely disbursement of a Progress Payment shall be deemed to commence on the date that the COE is actually in receipt of documents not submitted with the Application for Progress Payment, or corrections to documents with the Application for Progress Payment so as to render them complete and accurate, or the date upon which Provider accurately and fully completes preparation of the Record Drawings relating to the Work for which the Progress Payment is requested.

- 4.16.8.2. Untimely Disbursement of Progress Payments. In accordance with Public Contract Code §20104.50, in the event that the COE

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shall fail to make any Progress Payment within thirty (30) days after receipt of an undisputed and properly submitted Application for Progress Payment, the COE shall pay Provider interest on the undisputed amount of such Application for Progress Payment equal to the legal rate of interest set forth in California Code of Civil Procedure §685.010(a). The foregoing notwithstanding, in the event that the COE shall determine that any Application for Progress Payment is not proper, and the COE does not return such Application for Progress Payment within seven (7) days, the period of time for the COE's disbursement of the Progress Payment on such Application for Progress Payment without incurring the interest liability shall be reduced by the number of days exceeding the seven (7) day return period.

- 4.16.8.3. COE's Right to Disburse Progress Payments by Joint Checks. Provided that the COE is in receipt of the applicable Subcontract or Purchase Order, the COE, may in its sole discretion, issue joint checks to Provider and such Subcontractor or Material Supplier in satisfaction of its obligation to make Progress Payments or the Final Payment due hereunder.
- 4.16.8.4. No Waiver of Defective or Non-Conforming Work. The approval of any Application for Progress Payment or the disbursement of any Progress Payment to Provider shall not be deemed nor constitute acceptance of defective Work or Work not in conformity with the Contract Documents.
- 4.16.8.5. Progress Payments for Changed Work. Provider's Applications for Progress Payment may include requests for payment on account of Changes in the Work which have been properly authorized and approved by the COE Representative and all other governmental agencies with jurisdiction over such Change in accordance with the terms of the Contract Documents and for which a Change Order has been issued. Except as provided for herein, no other payment shall be made by the COE for Changes in the Work.
- 4.16.8.6. Materials or Equipment Not Incorporated Into the Work.
  - 4.16.8.6.1. Limitations Upon Payment. Except as expressly provided for herein, no payments shall be made by the COE on account of any item of the Work, including without limitation, materials or equipment which, at the time of Provider's submittal of an Application for Progress Payment, has/have not been incorporated into and made a part of the Work.
  - 4.16.8.6.2. Materials or Equipment Delivered and Stored at the Site. The COE may, in its sole and exclusive discretion, make payment for materials or equipment not yet incorporated into the Work if, at or prior to the

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time of Provider's submittal of a an Application for Progress Payment incorporating therein a request for payment of such materials or equipment if all of the following are complied with: (a) the materials or equipment have been delivered to the Site; (b) adequate arrangements, reasonably satisfactory to the COE, have been made by Provider to store and protect such materials or equipment at the Site including without limitation, insurance reasonably satisfactory to the COE, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if such coverage is not afforded under the policy of Builder's Risk insurance obtained pursuant to the Contract Documents; and (c) the establishment of procedures reasonably satisfactory to the COE by which title to such materials or equipment will be vested in the COE upon the COE's payment therefor. Provider acknowledges that the discretion to make, or not to make, payment for materials or equipment delivered or stored at the site of the Work pursuant to the preceding sentence shall be exercised exclusively by the COE; the COE's exercise of discretion not to make payment for materials or equipment delivered or stored at the Site, but not yet incorporated into the Work shall not be deemed the COE's default hereunder. If the COE elects to make payment for materials or equipment delivered and stored at the Site, the costs and expenses incurred to comply with the requirements of (b) and (c) above shall be borne solely and exclusively by Provider and no payment shall be made by the COE on account of such costs and expenses.

- 4.16.8.6.3. Materials or Equipment Not Delivered or Stored at the Site. No payments shall be made by the COE for materials or equipment to be incorporated into the Work where such materials or equipment have not been delivered or stored at the Site. The foregoing notwithstanding, the COE may, in its sole and exclusive discretion, elect to make payment for materials or equipment not incorporated into the Work and which are not delivered or stored at the Site at or prior to the time of Provider's submittal of an Application for Progress Payment incorporating therein a request for payment of such materials or equipment, provided that each and all of the following have been complied with: (a) adequate arrangements, reasonably satisfactory to the COE, have been made by Provider to store and protect such materials or



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equipment which include without limitation, insurance reasonably satisfactory to the COE, covering and protecting against the risk of loss, destruction, theft or other damage to such materials or equipment while in storage if coverage for the same is not afforded under the policy of Builder's Risk insurance obtained pursuant to the Contract Documents; and (b) the establishment of procedures reasonably satisfactory to the COE by which title to such materials or equipment will be vested in the COE upon the COE's payment therefor. Provider acknowledges that the discretion to make, or not to make, payment for such materials or equipment pursuant to the preceding sentence shall be exercised exclusively by the COE; the COE's exercise of discretion not to make payment for such materials or equipment shall not be deemed the COE's default hereunder. In the event that the COE shall elect to make payment for materials or equipment not at the Site, the costs and expenses incurred to comply with the requirements of (a) and (b) above shall be borne solely and exclusively by Provider and no payment shall be made by the COE on account of such costs and expenses.

4.16.8.6.4. Materials or Equipment in Fabrication or Transit. The COE shall not make any payment on account of any materials or equipment which is in the process of being fabricated or which are in transit to the Site of or other storage location.

4.16.8.7. Exclusions From Progress Payments. In addition to the COE's right to withhold disbursement of any Progress Payment provided for in the Contract Documents, neither Provider's Application for Progress Payment shall include, nor shall the COE be obligated to disburse any portion of the Contract Price for amounts which Provider does not intend to pay any Subcontractor, of any tier, or Material Supplier because of a dispute or any other reason.

4.16.9. Title to Work. Provider warrants that title to all Work covered by an Application for Progress Payment will pass to the COE no later than the time of payment. Provider further warrants that upon submittal of an Application for Progress Payment, all Work for which a Progress Payment has been previously issued and Provider has received payment from the COE therefor shall, to the best of Provider's knowledge, information and belief, be free and clear of liens, claims, stop notices, security interests or encumbrances in favor of Provider, Subcontractors, Material Suppliers or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

4.16.10. Substitute Security for Retention. In accordance with the provisions of

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California Public Contract Code §22300, eligible and equivalent securities may be substituted for any monies withheld by the COE to ensure Provider's performance under the Contract Documents at the request and expense of Provider and in conformity with the provisions of California Public Contract Code §22300. The foregoing and the provisions of California Public Contract Code §22300 notwithstanding, failure of Provider to request the substitution of eligible and equivalent securities for monies to be withheld by the COE within ten (10) days following issuance of the Notice to Proceed shall be deemed a waiver of such right.

#### 4.16.11. Final Payment.

4.16.11.1. Application for Final Payment. When Provider has achieved Final Completion of the Work and has otherwise fully performed its obligations under the Contract Documents, Provider shall submit an Application for Final Payment on such form as approved by the COE. Thereupon, the COE Representative will promptly make a final inspection of the Work and when the COE Representative finds the Work acceptable under the Contract Documents and that the Contract has been fully performed by Provider, the COE Representative will thereupon promptly approve the Application for Final Payment. The Final Payment shall include the remaining balance of the Construction Services Contract Price and any retention from Progress Payments previously withheld by the COE.

4.16.11.2. Conditions Precedent to Disbursement of Final Payment. Neither Final Payment nor any remaining Construction Services Contract Price shall become due until Provider submits to the COE each and all of the following, the submittal of which are conditions precedent to the COE's obligation to disburse the Final Payment: (i) an affidavit or certification by Provider that payrolls, bills for materials and other indebtedness incurred in connection with the Work for which the COE or the COE's property may or might be responsible or encumbered have been paid or otherwise satisfied; (ii) a certificate evidencing that general liability and design phase insurance required by Section 6.4 will remain in force for one year after Provider's receipt of Final Payment is currently in effect; (iii) a written statement that Provider knows of no substantial reason that the insurance will not be renewable to cover any period following Final Payment as required by the Contract Documents; (iv) duly completed and executed forms of Conditional or Unconditional Waivers and Releases of rights upon Final Payment of Provider, Subcontractors of any tier and Material Suppliers in accordance with California Civil Code §3262, with each of the same stating that there are, or will be, no claims for additional compensation after disbursement of the Final Payment; (v) Operations and Maintenance manuals and separate warranties provided by any manufacturer or distributor of any materials or equipment

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incorporated into the Work; (vi) the As-Built Drawings; (vii) any and all other items or documents required by the Contract Documents to be delivered to the COE upon completion of the Work; (viii) the completion and submittal of all reports required by the Contract Documents, including without limitation, verified reports required by applicable provisions of the California Code of Regulations; and (ix) if required by the COE, such other data establishing payment or satisfaction of obligations such as receipts, releases and waivers of liens, stop notices, claims, security interest or encumbrances arising out of the Contract to the extent and in such form as may be required by the COE.

- 4.16.11.3. Disbursement of Final Payment. Provided that the COE is then in receipt of all documents and other items required by the Contract Documents as conditions precedent to the COE's obligation to disburse Final Payment, not later than thirty (30) days following Final Acceptance by the COE's Governing Board, the COE shall disburse the Final Payment to Provider. Pursuant to California Public Contract Code §7107, if there is any dispute between the COE and Provider at the time that disbursement of the Final Payment is due, the COE may withhold from disbursement of the Final Payment an amount not to exceed one hundred fifty percent (150%) of the amount in dispute.
- 4.16.11.4. Waiver of Claims. Provider's acceptance of the Final Payment is a waiver and release by Provider of any and all claims against the COE for compensation or otherwise in connection with Provider's performance of the Contract.
- 4.16.11.5. Claims Asserted After Final Payment. Any lien, stop notice or other claim filed or asserted after Provider's acceptance of the Final Payment by any Subcontractor, of any tier, laborer, Material Supplier or others in connection with or for Work performed under the Contract Documents shall be the sole and exclusive responsibility of Provider who further agrees to indemnify, defend and hold harmless the COE and its officers, agents, representatives and employees from and against any claims, demands or judgments arising or associated therewith, including without limitation attorneys' fees incurred by the COE in connection therewith. In the event any lien, stop notice or other claim of any Subcontractor, Laborer, Material Supplier or others performing Work under the Contract Documents remain unsatisfied after Final Payment is made, Provider shall refund to COE all monies that the COE may pay or be compelled to pay in discharging any lien, stop notice or other claim, including, without limitation all costs and reasonable attorneys' fees incurred by COE in connection therewith.
- 4.16.11.6. Withholding of Payments. The COE may withhold any Progress Payment or the Final Payment, in whole or in part, or backcharge Provider to the extent it may deem advisable to protect the COE

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on account of: (i) defective Work or Work not in conformity with the requirements of the Contract Documents which is not remedied; (ii) failure of Provider to make payments when due Subcontractors or Material Suppliers for materials or labor; (iii) claims filed or reasonable evidence of the probable filing of claims by Subcontractors, laborers, Material Suppliers, or others performing any portion of the Work under the Contract Documents for which the COE may be liable or responsible including, without limitation, Stop Notice Claims filed with the COE pursuant to California Civil Code §3179, et seq.; (iv) a reasonable doubt that the Contract can be completed for the then unpaid balance of the Contract Price; (v) tax demands filed in accordance with California Government Code §12419.4; (vi) other claims, penalties and/or forfeitures for which the COE is required or authorized to retain funds otherwise due Provider; (vii) any amounts due from Provider to the COE under the terms of the Contract Documents; or (viii) Provider's failure to perform any of its obligations under the Contract Documents or its default under the Contract Documents or its failure to maintain adequate progress of the Work. In addition to the foregoing, the COE shall not be obligated to process any Application for Progress Payment or Final Payment, nor shall Provider be entitled to any Progress Payment or Final Payment so long as any lawful or proper direction concerning the Work or the performance thereof or any portion thereof, given by the COE, the COE Representative and any public authority having jurisdiction over the Work, or any portion thereof, shall not be fully and completely complied with by Provider. When the COE is reasonably satisfied that Provider has remedied any such deficiency, payment shall be made of the amount withheld. The COE shall not be liable to Provider or others for its good faith decision to make or not make payment(s) of amounts withheld from Provider pursuant to the foregoing. If the COE elects to make payments to other of amounts withheld from Provider, the COE may do so without prior judicial determination; the COE will render Provider a complete and accurate accounting of amounts withheld and paid to others on behalf of Provider.

- 4.16.11.7. Payments to Subcontractors. Provider shall pay all Subcontractors for and on account of Work of the Contract performed by such Subcontractors in accordance with the terms of their respective subcontracts and as provided for pursuant to California Public Contract Code §10262, the provisions of which are deemed incorporated herein by this reference. In the event of Provider's failure to make payment to Subcontractors in conformity with California Public Contract Code §10262, the provisions of California Public Contract Code §10253 shall apply; by this reference, the provisions of California Public Contract Code §10253 are incorporated herein in its entirety, except that the references in said Section 10253 to "the director" shall be

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deemed to refer to the COE. Provider shall timely make payment of retention due Subcontractors in accordance with Public Contract Code §7107.

## 4.17. Changes

- 4.17.1. Changes in the Work During Construction Phase. The COE, at any time, by written order, may make Changes within the general scope of the Work under the Contract Documents or issue additional instructions require additional Work or delete Work (each a “Change” and collectively, the “Changes”). Provider shall not proceed with any Change involving an increase or decrease in the Contract Price or the Contract Time without prior written authorization from the COE. The foregoing notwithstanding, Provider shall promptly commence and diligently complete any Change to the Work subject to the COE’s written authorized issued pursuant to the preceding sentence unless Provider, in its sole discretion, has reasonable concerns with respect to such Changes requested by the COE. Provider shall not be relieved or excused from its prompt commencement and diligent completion of any Change subject to the COE’s written authorization by virtue of the absence or inability of Provider and the COE to agree upon the extent of any adjustment to the Contract Time or the Contract Price on account of such Change. The issuance of a Change Order in connection with any Change authorized by the COE shall not be deemed a condition precedent to Provider’s obligation to promptly commence and diligently complete any such Change authorized by the COE hereunder. Any requirement of notice of Changes in the scope of Work to the Surety shall be the responsibility of Provider. Changes to the Work may be subject to approval by governmental and/or quasi-governmental agencies with jurisdiction over the Change or the Project.
- 4.17.2. Provider Submittal of Data. Within ten (10) days after receipt of a written order from the COE directing a Change in the Work, Provider shall submit to the COE Representative a detailed written statement setting forth the general nature of the Change, the amount of any adjustment to the Contract Price on account thereof, properly itemized and supported by sufficient substantiating data to permit evaluation of the same, and the extent of adjustment of the Contract Time, if any, required by such Change. No claim or adjustment to the Contract Price or the Contract Time shall be allowed if not asserted by Provider in strict conformity herewith or if asserted after Final Payment is made under the Contract Documents.
- 4.17.3. Adjustment to Contract Price and Contract Time on Account of Changes to the Work. Adjustments to the Contract Price due to Changes in the Work shall be determined by application of one of the following methods, in the following order of priority:
- 4.17.3.1. Mutual Agreement. By negotiation and mutual agreement, on a lump sum basis, between the COE and Provider on the basis of the estimate of the actual and direct increase or decrease in costs on account of the Change. Provider’s estimate of increase or decrease in costs pursuant to the foregoing, if requested, shall

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be in sufficient detail and in such form as to allow the COE Representative to review and assess the completeness and accuracy thereof. Provider shall be solely responsible for any additional costs or additional time arising out of, or related in any manner to, its failure to provide the estimate of costs within the time specified in the request of the COE Representative for such estimate.

- 4.17.3.2. Determination by the COE. By the COE, whether or not negotiations are initiated pursuant to the preceding Section based upon actual and necessary costs incurred by Provider as determined by the COE on the basis of Provider's records. In the event that the procedure set forth in this Section is utilized to determine the adjustment to the Contract Price for Changes to the Work, promptly upon determining the extent of adjustment to the Contract Price, the COE shall notify Provider in writing of the same; Provider shall be deemed to have accepted the COE's determination of the amount of adjustment to the Contract Price on account of a Change to the Work unless Provider shall notify the COE Representative, in writing, not more than fifteen (15) days from the date of the COE's written notice, of any objection to the COE's determination. Notwithstanding any objection of Provider to the COE's determination of the extent of any adjustment to the Contract Price, Provider shall diligently proceed to perform and complete any such Change.
- 4.17.3.3. Basis for Adjustment of Contract Price. If Changes in the Work require an adjustment of the Contract Price, the basis for adjustment of the Contract Price shall be as follows:
  - 4.17.3.3.1. Labor. Provider shall be compensated for the costs of field labor actually and directly utilized in the performance of the Change. Wage rates for labor shall not exceed the prevailing wage rates for the labor classification(s) necessary for the performance of the Change. Labor costs exclude costs incurred by Provider prepare estimate(s) of the costs of the Change, maintenance of records relating to the Change, coordination and assembly of materials and information relating to the Change or performance thereof, or the supervision, general overhead and administrative functions and general conditions costs associated with the Change or performance thereof.
  - 4.17.3.3.2. Materials and Equipment. Provider shall be compensated for the actual costs of materials and equipment necessarily and actually used or consumed in connection with the performance of Changes. If, in the reasonable opinion of the COE, the costs asserted by Provider for materials and/or equipment in connection with any Change is excessive, or if Provider

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fails to provide satisfactory evidence of the actual costs of such materials and/or equipment, the costs of such materials and/or equipment and the COE's obligation for payment of the same shall be limited to the then lowest price at which similar materials and/or equipment are available in the quantities required to perform the Change. The COE may elect to furnish materials and/or equipment for Changes to the Work, in which event Provider shall not be compensated for the costs of furnishing such materials and/or equipment or any mark-up thereon.

- 4.17.3.3.3. Construction Equipment. Provider shall be compensated for the actual cost of the necessary and direct use of Construction Equipment in the performance of Changes to the Work. Use of such Construction Equipment in the performance of Changes to the Work shall be compensated in increments of fifteen (15) minutes. Rental time for Construction Equipment moved by its own power includes time required to move such Construction Equipment to the Site from the nearest available rental source. If Construction Equipment is not moved to the Site by its own power, Provider will be compensated for the loading and transportation costs in lieu of rental time. The foregoing notwithstanding, neither moving time or loading and transportation time shall be allowed if the Construction Equipment is used for performance of any portion of the Work other than Changes to the Work. Unless prior approval in writing is obtained by Provider from the COE Representative and the COE, no costs or compensation shall be allowed for time while Construction Equipment is inoperative, idle or on standby, for any reason. Provider shall not be entitled to an allowance or any other compensation for Construction Equipment or tools used in the performance of Changes to the Work where such Construction Equipment or tools have a replacement value of Five Hundred Dollars (\$500.00) or less. Construction Equipment costs claimed by Provider in connection with the performance of any Change to the Work shall not exceed commercial rental rates in the locality of the Site. The allowable rate for Construction Equipment in connection with Changes to the Work is full compensation to Provider for the cost of rental, fuel, power, oil, lubrication, supplies, necessary attachments, repairs or maintenance of any kind, depreciation, storage, insurance, labor (exclusive of labor costs of the Construction Equipment operator), and any all other costs incurred by Provider incidental to the use of such Construction Equipment.

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- 4.17.3.3.4. Mark-up on Costs of Changes to the Work. In determining the cost to the COE and the extent of increase to the Contract Price resulting from a Change adding to the Work, the allowance for mark-ups on the costs of the Change for all overhead (including home office and field overhead), general conditions costs and profit associated with the Change shall not exceed the percentage set forth herein. For the portion of any Change performed by Subcontractors of any tier, the percentage mark-up on the allowable actual direct labor and materials costs cumulatively incurred by all Subcontractors of any tier shall be Twelve Percent (12%). In addition, for the portion of any Change performed by Subcontractors of any tier, Provider may add an amount equal to Eight Percent (8%) of the allowable actual direct labor and materials costs of Subcontractors performing the Change. For the portion of any Change performed by the Provider's own forces, the mark-up on the allowable actual direct labor and materials costs of such portion of a Change shall be Seventeen Percent (17%). If a Change to the Work reduces the Contract Price, no profit, general conditions or overhead costs shall be paid by the COE to Provider for the reduced or deleted Work. In the event of deductive changes, the adjustment to the Contract Price shall be the actual cost reduction realized by the reduced or deleted Work.
- 4.17.3.3.5. Provider Maintenance of Records. In the event that Provider shall be directed to perform any Changes to the Work, or should Provider encounter conditions which Provider, believes would obligate the COE to adjust the Contract Price and/or the Contract Time, Provider shall maintain detailed records on a daily basis. Such records shall include without limitation hourly records for labor and Construction Equipment and itemized records of materials and equipment used that day in connection with the performance of any Change to the Work. If more than one Change to the Work is performed by Provider in a calendar day, Provider shall maintain separate records of labor, Construction Equipment, materials and equipment for each such Change. If Subcontractors provide or perform any portion of Change to the Work, Provider shall require that each such Subcontractor maintain records in accordance with this Section. Each daily record maintained hereunder shall be signed by Provider's Superintendent or Provider's authorized representative; such signature shall be deemed Provider's representation and warranty that all information contained therein is true, accurate,



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and complete and relate only to the Change referenced therein. All records maintained by a Subcontractor, relating to the costs of a Change to the Work shall be signed by such Subcontractor's authorized representative or Superintendent. All records maintained hereunder shall be subject to inspection, review and/or reproduction by the COE Representative upon request. If Provider fails or refuses, for any reason, to maintain or make available for inspection, review and/or reproduction such records and the adjustment to the Contract Price on account of any Change to the Work is determined by the district, the COE's reasonable good faith determination of the extent of adjustment to the Contract Price shall be final, conclusive, dispositive and binding upon Provider. Provider's obligation to maintain records hereunder is in addition to, and not in lieu of, any other Provider obligation under the Contract Documents with respect to Changes to the Work.

4.17.3.3.6. Adjustment to Contract Time. In the event of Change(s) to the Work the Contract Time shall be extended or reduced by Change Order for a period of time commensurate with the time reasonably necessary to perform such Change.

4.17.4. Change Orders. If the COE approves of a Change, a written Change Order prepared by the COE Representative on behalf of the COE shall be forwarded to Provider describing the Change and setting forth the adjustment to the Contract Time and the Contract Price, if any, on account of such Change. All Change Orders shall be in full payment and final settlement of all claims for direct, indirect and consequential costs, including without limitation, costs of delays or impacts related to, or arising out of, items covered and affected by the Change Order, as well as any adjustments to the Contract Time. Any claim or item relating to any Change incorporated into a Change Order not presented by Provider for inclusion in the Change Order shall be deemed waived. Once the Change Order has been prepared and forwarded to Provider for execution, without the prior approval of the COE which may be granted or withheld in the sole and exclusive discretion of the COE, Provider shall not modify or amend the form or content of such Change Order, or any portion thereof. Provider's attempted or purported modification or amendment of any such Change Order, without the prior approval of the COE, shall not be binding upon the COE; any such unapproved modification or amendment to such Change Order shall be null, void and unenforceable. Unless otherwise expressly provided for in the Contract Documents or in the Change Order, any Change Order issued hereunder shall be binding upon the COE only upon action of the County Superintendent ~~COE's Governing Board~~ approving and ratifying such Change Order. Any Change Order issued hereunder shall be binding upon Provider only upon Provider's execution of the Change Order.

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- 4.17.4.1. Provider Notice of Changes. If Provider should claim that any instruction, request, action, condition, omission, default, or other situation obligates the COE to increase the Contract Price or to extend the Contract Time, Provider shall notify the COE Representative, in writing, of such claim within ten (10) days from the date of its actual or constructive notice of the factual basis supporting the same. The COE shall consider any such claim of Provider only if sufficient supporting documentation is submitted with Provider's notice to the COE Representative. Time is of the essence in Provider's written notice pursuant to the preceding sentence so that the COE can promptly investigate and consider alternative measures to the address such instruction, request, action, condition, omission, default or other situation. Accordingly, Provider acknowledges that its failure, for any reason, to give written notice (with sufficient supporting documentation to permit the COE's review and evaluation) within ten (10) days of its actual or constructive knowledge of any instruction, request, action, condition, omission, default or other situation for which Provider believes there should an adjustment of the Contract Time or the Contract Price shall be deemed Provider's waiver, release, discharge and relinquishment of any right to assert or claim any entitlement to an adjustment of the Contract Time or the Contract Price on account of any such instruction, request, Drawings, Specifications, action, condition, omission, default or other situation. In the event that the COE determines that the Contract Price or the Contract Time are subject to adjustment based upon the events, circumstances and supporting documentation submitted with Provider's written notice under this Section, any such adjustment shall be determined in accordance with the Contract Documents.
- 4.17.4.2. Disputed Changes. In the event of any dispute or disagreement between Provider and the COE regarding the characterization of any item as a Change to the Work or as to the appropriate adjustment of the Contract Price or the Contract Time on account thereof, Provider shall promptly proceed with the performance of such item of the Work, subject to a prompt resolution of such dispute or disagreement in accordance with the terms of the Contract Documents. Provider's failure or refusal to so proceed with such Work is Provider's default of a material obligation.
- 4.17.5. Emergencies. In an emergency affecting the safety of life, or of the Work, or of property, Provider, without special instruction or prior authorization from the COE or the COE Representative, is permitted to act at its discretion to prevent such threatened loss or injury.
- 4.17.6. Minor Changes in the Work. The COE Representative may order minor Changes in the Work not involving an adjustment in the Contract Price or the Contract Time and not inconsistent with the intent of the Contract Documents. Such Changes shall be effected by written order and shall be

binding on the COE and Provider.

4.17.7. Unauthorized Changes. Any Work beyond the lines and grades shown on the Contract Documents, or any extra Work performed or provided by Provider without notice to the COE Representative in the manner and within the time set forth in the Contract Documents. Work so done will not be measured or paid for, no extension to the Contract Time will be granted on account thereof and any such Work may be ordered removed at Provider's sole cost and expense. The failure of the COE to order removal of such Work is not acceptance of such Work nor relieves Provider from any liability on account thereof.

4.18. Tests; Inspections; Observations.

4.18.1. Testing/Inspection Laboratory. The COE shall select duly qualified person(s) or testing laboratory(ies) to conduct the tests and inspections to be paid for by the COE and required by the Contract Documents. Tests and inspections required of the Work shall be as set forth in the Contract Documents and as required by the Laws, including without limitation, Title 24 of the California Code of Regulations. Test/inspection standards shall be as set forth in the Contract Documents or established by applicable law, rule or regulation. Where inspection or testing is to be conducted by an independent laboratory or testing agency, materials or samples thereof shall be selected by the laboratory, testing agency, the Project Inspector, the Construction Manager or other COE representative and not by the Provider.

4.18.2. Additional Tests, Inspections and Approvals. If the Architect, the Construction Manager, the Project Inspector or public authorities having jurisdiction over the Work determine that portions of the Work require additional testing, inspection or approval, the COE Representative or Construction Manager will, upon written authorization from the COE, instruct the Provider to make arrangements for such additional testing, inspection or approval by an entity acceptable to the COE, and the Provider shall give timely notice to the COE Representative, Construction Manager and the Project Inspector of when and where tests and inspections are to be made so the Project Inspector and the Construction Manager may observe such procedures. The COE shall bear the costs of such additional tests, inspections or approvals, except to the extent that such additional tests, inspections or approvals reveal any failure of the Work to comply with the requirements of the Contract Documents, in which case the Provider shall bear all costs made necessary by such failures, including without limitation, the costs of corrections, repeat tests, inspections or approvals and the costs of the services, the Architect or its consultants, the Construction Manager and Project Inspector in connection therewith.

4.18.3. Delivery of Certificates. Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Provider and delivered to the Project Manager.

4.18.4. Timeliness of Tests, Inspections and Approvals. Tests or inspections required and conducted pursuant to the Contract Documents shall be made

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or arranged by Provider to avoid delay in the progress of the Work.

## 4.19. Correction of Work; Warranties.

- 4.19.1. Uncovering of Work. If any portion of the Work is covered contrary to the request of the COE Representative or the requirements of the Contract Documents, it must, if required by the COE Representative, be uncovered for observation by the COE Representative and be replaced without adjustment of the Contract Time or the Contract Price.
- 4.19.2. Rejection of Work. Prior to the COE's Final Acceptance of the Work, any Work which is defective or not in conformity with the Contract Documents may be rejected by the COE Representative and Provider shall correct such rejected Work without adjustment to the Contract Price or the Contract Time, even if the Work, materials or equipment have been previously inspected or even if they failed to observe the defective or non-conforming Work, materials or equipment. Provider shall, at its sole cost and expense, remove from the Site all portions of the Work which are defective or are not in accordance with the requirements of the Contract Documents which are neither corrected by Provider nor accepted by the COE.
- 4.19.3. Correction of Work. Provider shall promptly correct any portion of the Work properly rejected by the COE Representative for failing to conform to the requirements of the Contract Documents, or which is determined by them to be defective, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. Provider shall bear all costs of correcting such rejected Work, including additional testing and inspections and compensation for the services and expenses made necessary thereby. Provider shall bear all costs of correcting destroyed or damaged construction, whether completed or partially completed, of the COE or separate Providers, caused by Provider's correction or removal of Work which is not in accordance with the requirements of the Contract Documents, or which is defective.
- 4.19.4. Failure of Provider to Correct Work. If Provider fails to commence to correct defective or non-conforming Work within five (5) days of notice of such condition and promptly thereafter complete the same within a reasonable time, the COE may correct the same at Provider's expense.
- 4.19.5. Acceptance of Defective or Non-Conforming Work. The COE may elect to accept Work which is defective or which is not in accordance with the requirements of the Contract Documents, instead of requiring its removal and correction, in which case the Contract Price may be reduced as appropriate and equitable.
- 4.19.6. Workmanship and Materials. Provider warrants to the COE that all materials and equipment (including any substitute or alternative items) furnished under the Contract Documents shall be new at the time of installation, of good quality and of the most suitable grade for the Site at the time of design approval by COE, and the quality required for the purpose of compliance with the Design Specifications including generating the requisite power required

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by the COE approved Specifications and the related Project construction work. All Work shall be of good quality and in conformity with the requirements of the Contract Documents at the time performed. If required by the COE Representative, Provider shall furnish satisfactory evidence as to the kind and quality of materials and equipment incorporated into the Work.

- 4.19.7. Warranty Requirements. Not less than one (1) year for labor and materials, in addition to assignment of all manufacturers' warranties to COE.
- 4.19.8. Warranty Work. In addition to the CSI required warranty provisions, if, after the date of Final Acceptance, a claim arises under the warranties contained in the Contract Documents, Provider shall commence necessary corrective action not more than Five (5) business days after receipt of a written notice from the COE to do so, and to thereafter diligently complete the same. If Provider fails or refuses to commence correction of any such item within said Five (5) business day period or to diligently prosecute such corrective actions to completion, the COE may, with 24 hour notice to Provider, cause such corrective Work to be performed and completed. In such event, Provider shall be responsible for all costs in connection with such corrective Work, including without limitation, general administrative overhead costs of the COE in securing and overseeing such corrective Work; provided that the warranties provided under this Contract Documents may not apply to such corrective Work unless such Work was performed by a third party previously approved by Provider. The obligations of Provider hereunder are in addition to, and not in lieu of, any guarantees or warranties provided by any manufacturer of any item or equipment forming a part of, or incorporated into the Work, or otherwise recognized, prescribed or imposed by law. Neither the COE's Final Acceptance, the making of Final Payment, any provision in Contract Documents, nor the use or occupancy of the Work, in whole or in part, by COE shall constitute acceptance of Work not in accordance with the Contract Documents nor relieve Provider from liability with respect to any warranties or responsibility for faulty or defective Work or materials, equipment and workmanship provided pursuant to this Agreement. In any event that corrective Work is required under any Warranty provided to the COE pursuant to this Agreement, including, without limitation, any manufacturer's warranties, Provider shall provide all labor for the completion of such corrective Work at its sole cost and expense.
- 4.19.9. Survival of Warranties. Provider's warranty obligations survive Provider's completion of Work, the COE's Final Acceptance of the Work and/or the termination of the Contract.

## 5. Post Construction Services

- 5.1. Final Completion. Upon request of the Provider, the COE, Project Inspector and Provider shall inspect the Work of the Project to determine that Final Completion has been achieved and that the Work conforms and complies with the requirements of this Agreement. If Final Completion has been achieved, the Provider shall determine and certify the date of Final Completion of the Project or portions thereof. It shall be a material requirement for and condition of Final Completion that Provider shall have provided to COE complete and accurate documentation that the Project has met all

checklist criteria reflected in Exhibit A.

5.2. Rebate/Incentive Programs.

5.2.1. Provider Assistance. Provider shall provide reasonable assistance and cooperation to COE in the preparation and submittal of any and all applications or other documentation necessary for COE to participate in the Inflation Reduction Act, Investor Tax Credit, Direct-Pay Program program (a "Rebate/Incentive Program"). Provider shall attend all site verification visits conducted by the applicable public utility or Governmental Authority and shall assist COE in satisfying the requirements of the Rebate/Incentive Program. Provider's obligations under this Section shall expire on the first anniversary of Final Completion of the System.

5.2.2. COE as Owner. The Parties acknowledge and agree that any rebates or incentives payable under any Rebate/Incentive Program or any tax credits associated with the ownership of the System will be paid directly to, or shall be retained by, COE. Provider makes no representation or warranty as to the amount or availability of any Rebate/ Incentive Program or tax credit or incentive or any other incentives or credits available or perceived or believed to be available from any utility, governmental authority or any other Person, and assumes no responsibility or liability in connection therewith. COE shall be solely responsible for determining the availability of any Rebate/Incentive Program and negotiating the payment of any such rebates with the applicable public utility or governmental authority.

5.2.2.1. Provider shall provide all reasonable assistance to COE isby analyzing technical applicability of funding identified by COE as to the Project and in preparing any documentation reasonably required by COE to secure funding.

5.2.2.2. Provider shall consult with a qualified tax advisor to compile all documentation through and including a 990-T, and all reasonably related documents, to obtain the direct-pay tax credit through the Inflation Reduction Act for the solar/battery storage/Electric Vehicle (EV) charging elements of the Project.

~~5.2.2.---~~

5.3. Close-Out Documents.

5.3.1. Assembly/Transmittal of Close-Out Documents. The Provider shall compile and assemble the Provider's close-out documents for delivery to the COE, including without limitation, Record As-Built Drawings, Operations and Maintenance manuals, key schedules and warranties.

5.3.2. Governmental Agency Close-Out. The Provider shall prepare and submit for processing such documentation as required by governmental agencies, including DSA, in connection with completion of the construction of the Project. An express condition precedent to the Provider's right to receive the

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portion of the Contract Price for a Project allocated for the Post-Construction Services and an express condition precedent to the COE's obligation to disburse the portion of the Contract Price allocated for the Post-Construction Services is the Provider's completion of all of its Post-Construction obligations, including without limitation the preparation and submission of Verified Reports to DSA.

- 5.3.3. As-Built Drawings. The COE shall require the Provider for the Project to provide the COE with As-Built Drawings indicating the location and size of all concealed, underground or imbedded construction not covered in the original Drawings, Change Orders, Supplemental Drawings or Submittals. The Provider shall be required to record such work on reproducible drawings prepared by the Provider and furnished to the COE. The Provider's As-Built Drawings shall be delivered by the Provider to the COE for the COE's review. Provider shall bear sole responsibility for the accuracy and completeness of the As-Built Drawings.
- 5.3.4. Warranties. Provider shall deliver to COE copies of all manufacturer warranties covering the equipment, together with all other documentation required to satisfy Provider's obligations identified in Section 4.15.

## 6. Insurance; Indemnity and Bonds.

- 6.1. Design and Construction Phase Insurance Requirements. At all times during performance of obligations under this Agreement, Provider and its Design Services sub-consultants and its Construction Services Subcontractors shall obtain and maintain the following insurance coverages:
  - 6.1.1. Workers' Compensation Insurance; Employer's Liability Insurance. Provider and each of its Design Consultants and Subcontractors shall purchase and maintain Workers' Compensation Insurance as will protect them from claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed. Provider and each of its Design Consultants and Subcontractors shall purchase and maintain Employer's Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee's employment by Provider. The Employer's Liability Insurance required of Provider and its Design Consultants and Subcontractors hereunder may be obtained as a separate policy of insurance or as an additional coverage under the Workers' Compensation Insurance required to be obtained and maintained hereunder. Coverage amounts for Provider, its Design Consultants and Subcontractors under their respective Workers Compensation insurance policies shall be in accordance with applicable law. The minimum coverage amount under Employer's Liability Insurance required hereunder for Provider, its Design Consultants and Subcontractors shall be One Million Dollars (\$1,000,000). Concurrently with execution of this Agreement, Provider shall execute and deliver to the COE the form of Certificate of Workers' Compensation Insurance attached hereto as Exhibit E. The foregoing is a material obligation of Provider hereunder.
  - 6.1.2. Commercial General Liability and Property Insurance. Provider and each of its

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Design Consultants and Subcontractors shall purchase and maintain Commercial General Liability and Property Insurance covering the types of claims set forth below which may arise out of or result from Provider's operations under the Contract Documents and for which they may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than their employees; (ii) claims for damages insured by usual personal injury liability coverage; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; (v) contractual liability insurance applicable to their obligations under the Contract Documents; and (vi) Completed Operations. The minimum coverage under the Commercial General Liability insurance policies of Provider and its Design Consultants/Subcontractors shall be One Million Dollars (\$1,000,000.00) per occurrence.

- 6.1.3. Design Phase Insurance. In addition to the insurance coverage requirements set forth above, in connection with Provider's obligations under the Design Phase of this Agreement, Provider and each of its Design Services Consultants shall each obtain and maintain a policy of Professional Liability insurance covering their liabilities in completing its obligations in connection with the Design Services under this Agreement. The minimum coverage amounts of the Professional Liability insurance policies of Provider and each of its Design Phase Consultants shall be Two Million Dollars (\$2,000,000.00) per claim/Four Million Dollars (\$4,000,000.00) aggregate.
- 6.1.4. Builder's Risk "All-Risk" Insurance. Builders Risk insurance covering the risks of loss, damage or destruction of Work in progress or in place at the Site resulting from the perils of fire, malicious mischief, vandalism, and collapse will be obtained by the COE as part of the scope of coverage under the COE's property casualty insurance policy. If a claim is adjusted under the COE obtained Builder's Risk Insurance, Provider shall be liable and responsible for payment of the deductible, subject to a maximum of \$10,000 any one event or loss. In lieu of Provider's direct payment of the deductible to the insurance carrier issuing the Builder's Risk Insurance policy, the COE may deduct any portion of the deductible from the Contract Price then or thereafter due Provider. Provider shall bear full and sole responsibility for purchasing and maintaining any additional insurance coverage for risks not covered by the COE by and through its Builder's Risk "All-Risk" Insurance policy, for which Provider requires or deems necessary.
- 6.2. Insurance Policy Requirements. Each policy of insurance required by the Contract Documents shall confirm the following requirements.
  - 6.2.1. Minimum Coverage Amounts. The insurance required of Provider hereunder shall be written for not less than any limits of liability specified in the Contract Documents, or required by law, whichever is greater. In the event of any loss or damage covered by a policy of insurance required to be obtained and maintained by Provider hereunder, Provider shall be solely and exclusively responsible for the payment of the deductible, if any, under such policy of



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insurance, without adjustment to the Contract Price on account thereof.

6.2.2. **Required Qualifications of Insurers.** Required policies of insurance under this Agreement will be accepted by the COE only if the insurer(s) are: (a) A.M. Best rated A- or better; (b) A.M. Best Financial Size Category VII or higher; and (c) authorized under California law to transact business in the State of California and authorized to issue insurance policies in the State of California, unless otherwise approved by the COE. If at any time during performance of Provider obligations under this Agreement, the insurer(s) issuing a required policy of insurance is/are not A.M. Best rated A- or better and is/are not A.M. Best Financial Size Category VII or higher, Provider or its Design Consultant/Subcontractor, as applicable shall within thirty (30) days of the COE's written notice of the insufficiency of an insurer to obtain insurance coverage(s) from alternative insurer(s) who is/are then A.M. Best rated A- or better and who is/are A.M. Best Financial Size Category VII or higher. If Provider fails to deliver Certificate(s) of Insurance from an alternative insurer(s) meeting or exceeding the A.M. Best rating and A.M. Best Financial Size Category set forth above, within thirty (30) days of the date of the COE's issuance of a written notice pursuant to the preceding sentence, in addition to any other right or remedy of the COE under the Contract Documents or arising by operation of law, the COE may issue a non-compensable stop work directive and withhold disbursement of any payment otherwise due hereunder until Provider has delivered such Certificate(s) of Insurance from an alternative insurer(s).

6.3. **Evidence of Insurance; Subcontractor's Insurance.** Concurrently with execution of this Agreement, Provider shall provide to the COE Representative documented evidence of Insurance for itself and all Design Phase Sub-Consultants evidencing the insurance coverages in at least the minimum coverage amounts required by this Agreement during performance of Design Services. The insurance policies required of Provider hereunder during Construction Services shall also name the COE, as an additional insured. Prior to commencing construction activities at the Site, Provider shall deliver to the COE Representative documented evidence of Insurance evidencing the insurance coverages required of Provider and its Subcontractors during performance of Construction Services. Failure or refusal of Provider to so deliver documented evidence of Insurance may be deemed by the COE to be a default of a material obligation of Provider under the Contract Documents, and thereupon the COE may proceed to exercise any right or remedy provided for under the Contract Documents or at law. Provider shall forward to the COE any and all written notices regarding the cancellation, expiration, lapse or material change in any of the required Provider insurance policies within 48 hours of Provider's receipt of such notices from the Insurer. Should any policy of insurance be canceled before Final Acceptance of the Work by the COE and Provider fails to immediately procure replacement insurance as required, the COE reserves the right to, but is not obligated to, procure such insurance and to deduct the premium cost thereof and other costs incurred by the COE in connection therewith from any sum then or thereafter due Provider under the Contract Documents or issue a non-compensable stop work directive until Provider presents to the COE proof of its replacement insurance. Provider shall, from time to time, furnish the COE, when requested, with satisfactory proof of coverage of each type of insurance required by the Contract Documents; failure of Provider to comply with the COE's request may be

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deemed by the COE to be a default of a material obligation of Provider under the Contract Documents.

6.4. Maintenance of Insurance. General liability and design phase insurance shall be maintained after the COE's Final Acceptance of all of the Work for the full one year correction of Work period and any longer specific guarantee or warranty periods set forth in the Contract Documents. Should such insurance be canceled before the end of any such periods and Provider fails to procure replacement insurance within 24 hours cancellation or lapse of insurance, the COE reserves the right, but is not obligated, to procure such insurance and to charge the cost thereof to Provider or to issue a non-compensable stop work directive until Provider presents to the COE proof of its replacement insurance. Nothing contained in these insurance requirements is to be construed as limiting the extent of Provider's responsibility for payment of damages resulting from its operations or performance of the Work under the Contract Documents, including without limitation Provider's obligation to pay Liquidated Damages. In no instance will the COE's exercise of its option to occupy and use completed portions of the Work relieve Provider of its obligation to maintain insurance required under this Section until the date of Final Acceptance of the Work by the COE, or such time thereafter as required by the Contract Documents.

6.5. Provider's Insurance Primary. All insurance and the coverages thereunder required to be obtained and maintained by Provider hereunder, if overlapping with any policy of insurance maintained by the COE, shall be deemed to be primary and non-contributing with any policy maintained by the COE and any policy or coverage thereunder maintained by COE shall be deemed excess insurance. To the extent that the COE maintains a policy of insurance covering property damage arising out of the perils of fire or other casualty covered by Provider's Builder's Risk Insurance or the Comprehensive General Liability Insurance of Provider or any Subcontractor, the COE, Provider and all Subcontractors waive rights of subrogation against the others. The costs for obtaining and maintaining the insurances coverage required herein of Provider and its Subcontractors shall be included in the Contract Price.

**Commented [A1]:** SES will provide our COI. These are the Coverages we will provide.

6.6. Indemnity. Unless the liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arise out of the negligence or willful misconduct of the COE or its Governing Board, officers, employees, Subcontractors, agents or representatives (the "COE Indemnified Parties"), and in all cases subject to Section 6.8 hereof, Provider shall indemnify, defend and hold harmless the COE Indemnified Parties to the extent arising from Provider's and/or its subcontractors' and suppliers' conduct as follows:

6.6.1. Contractor shall defend, indemnify and hold harmless COE and the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury or property damage to the extent caused by any act, omission, or breach of Contractor connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, and subject to the express limitations described herein, Contractor shall protect and defend, at its own expense, COE and State of California and their officers, employees, agents and independent contractors from any legal action including reasonable attorney's fees or other proceeding based upon

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such act, omission, breach or as otherwise required by this Section. Contractor agrees to and does hereby defend, indemnify and hold harmless COE and the State of California and their officers, employees, agents and independent contractors from every claim or demand made, and every liability, loss, damage, expense or attorney's fees of any nature whatsoever, which may be incurred by reason of:

- 6.6.1.1. Liability for (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; or (3) any failure or alleged failure to comply with any provision of law or the Contract Documents, except for liability to the extent resulting from the negligence or the willful misconduct of any COE Indemnified Party.
- 6.6.1.2. Any bodily injury to or death of persons or damage to property caused by any act, omission or breach of Contractor or any person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages or injury to or death of persons, loss (including theft) or loss of use of any property, sustained by any person, firm or corporation, including the COE, arising out of or in any way connected with Work covered by this Agreement or the Contract Documents, whether said injury or damage occurs either on or off COE property, except to the extent caused by the negligence or willful misconduct of any COE Indemnified Party.
- 6.6.1.3. Any dispute between Contractor and Contractor's subcontractors/supplies/ Sureties, including, but not limited to, any failure or alleged failure of the Contractor (or any person hired or employed directly or indirectly by the Contractor) to pay any Subcontractor or Materialman of any tier or any other person employed in connection with the Work and/or filing of any stop notice or mechanic's lien claims.
- 6.6.1.4. If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Provider in the performance of the professional obligations of a registered engineer, the Provider shall indemnify and hold the COE harmless from any loss, injury to, death of persons, or damage to property caused by such negligence, recklessness, or willful misconduct of the Provider, or any person, firm, or corporation employed by the Provider, either directly or by independent contract, including all such damages due to loss or theft, sustained by any person, firm, or corporation, including the COE, arising out of, or in any way connected with, the Project, including injury or damage either on or off COE property; but not to the extent any such loss, injury, death, or damages is caused by the negligence or willful misconduct of any COE Indemnified Party. With regard to the Provider's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought

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against the COE, but rather to reimburse the COE for reasonable attorneys' fees and costs incurred by the COE in defending such actions or proceedings brought against the COE that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Provider.

- 6.6.2. Contractor, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the COE, its officers, agents or employees, on account of or founded upon any cause, damage, or injury identified in this Article 6.6.1, and shall pay or satisfy any judgment that may be rendered against the COE, its officers, agents or employees in any action, suit or other proceedings as a result thereof.
- 6.6.3. The Contractor's obligation to defend, indemnify and hold harmless the COE, COE Architect, Inspector, the State of California and their officers, employees, agents and independent contractors hereunder shall include, without limitation, any and all claims, damages, and costs to the extent arising in connection with the Work for the following: (1) any damages or injury to or death of any person, and damage or injury to, loss (including theft), or loss of use of, any property; (2) breach of any express warranty (3) failure of the Contractor or Subcontractors to comply with any applicable governmental law, rule, regulation, or other requirement; and (4) any claims of violation of the Americans with Disabilities Act.
- 6.7. COE Indemnity. Unless arising out of the negligence or willful misconduct of Provider or its officers, employees, Subcontractors, agents or representatives (the "Provider Indemnified Parties"), the COE shall indemnify, defend and hold harmless the Provider Indemnified Parties to the extent arising from COE's and/or its Governing Board', officers', employees', agents' or representatives' sole negligence, active negligence or wrongful misconduct as follows. COE's obligations hereunder include indemnity, defense and hold harmless of the Provider Indemnified Parties from and against any and all damages, losses, claims, demands or liabilities whether for damages, losses or other relief, including, without limitation reasonable attorneys' fees and costs to the extent arising, in whole or in part, from the Contract Documents or the acts, omissions or other conduct of COE or its Governing Board, officers, employees, agents or representatives in connection with (i) injuries to or death of persons; (ii) damage to property; or (iii) theft or loss of property. The obligations of the COE, as set forth above shall include, without limitation losses, costs, expenses, damages and other claims asserted by any other person or entity to Provider arising out of the acts, omissions or other conduct of the COE or its Governing Board, officers, employees, agents or representatives. If any action or proceeding, whether judicial, administrative, binding arbitration to which COE is a party, or otherwise, shall be prosecuted on account of any claim, demand or liability subject to the COE's obligations hereunder, and such action or proceeding names any of the Provider Indemnified Parties as a party thereto, and COE is determined in that proceeding to bear liability for which it agrees to indemnify the Indemnified Parties under this Section, COE shall, at its sole cost and expense, reimburse named Provider Indemnified Parties in such action or proceeding in an amount directly proportional to COE's and/or its Governing Board', officers', employees', agents' or representatives' degree of fault as determined in that proceeding. In the event that there shall be any judgment, award, ruling, settlement, or

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other relief arising out of any such action or proceeding to which any of the Provider Indemnified Parties are subject to, or bound by, the COE shall pay, satisfy or otherwise discharge any such judgment to the extent adjudicated to have arisen from COE's its Governing Board', officers', employees', agents' or representatives' negligence or wrongful conduct; the COE shall indemnify and hold harmless the Provider Indemnified Parties from any and all liability or responsibility arising out of any such judgment, award, ruling, or relief adjudicated and determined by a court of competent jurisdiction.

6.8. Claims. Any Party seeking indemnification hereunder (the "Indemnified Party") shall deliver to the other Party (the "Indemnifying Party") a notice describing the facts underlying its indemnification claim and the amount of such claim (each such notice an "Indemnification Claim Notice"). Such Indemnification Claim Notice shall be delivered promptly to the Indemnifying Party after the Indemnified Party receives notice that an action at law or a suit in equity has commenced; *provided, however*, that failure to deliver the Indemnification Claim Notice as aforesaid shall not relieve the Indemnifying Party of its obligations under this Section, except to the extent that such Indemnifying Party has been prejudiced by such failure. The Indemnifying Party shall be entitled to control the defense of any claim, action, suit or proceeding for which it is obligated to indemnify hereunder, subject to conducting such defense with due diligence and in good faith the defense of any claim against the Indemnified Party, and the Indemnified Party shall cooperate with the Indemnifying Party in such defense. With the exception of claims under Section 6.6.1.4, the Indemnifying Party shall have charge and direction of the defense and settlement of such claim; *provided, however*, that the Indemnifying Party will not settle any such claim without first obtaining the express written acceptance of the COE Indemnified Parties or Provider Indemnified Parties, as applicable, which acceptance shall not unreasonably be withheld or delayed. The Indemnified Party may elect to participate through separate counsel in the defense of any such claim, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party.

6.9. General Claims. Any claim for the following shall be submitted by Provider, and shall be processed by the Parties in accordance with Public Contract Code section 9204:

6.9.1. Claims for any time extension, including, without limitation, for relief from damages or penalties for delay.

6.9.2. Claims for payment of any moneys by COE, damages arising from work done by, or on behalf of, Provider pursuant to this Agreement, and/or payment of any sums not otherwise expressly provided for or to which Provider is not expressly entitled under this Agreement.

6.9.3. Claims for payment of an amount that is disputed by COE.

## 7. Termination; Suspension.

7.1. Termination for Default. Either the COE or Provider may terminate this Agreement upon seven (7) days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the twentieth (20<sup>th</sup>) day following the date of the written termination notice, unless during such twenty (20) day period, the Party receiving the written termination

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notice shall commence to cure its default(s) and diligently thereafter prosecute such cure to completion. In addition to the COE's right to terminate this Agreement pursuant to the foregoing, the COE may terminate this Agreement upon written notice to Provider if: (a) Provider becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by Provider or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for Provider or any of Provider's property on account of Provider's insolvency; or (b) if Provider disregards applicable laws, codes, ordinances, rules or regulations. If COE exercises the right of termination hereunder prior to Provider's completion of the Work, the Contract Price due the Provider, if any, shall be based upon the Work completed prior the effective date of the COE's termination of this Agreement, reduced by the COE's prior payments of the Contract Price and losses, damages, or other costs sustained by the COE arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Provider shall remain responsible and liable to COE all losses, damages or other costs sustained by COE arising out of termination pursuant to the foregoing or otherwise arising out of Provider's default hereunder, to the extent that such losses, damages or other costs exceed any amount due Provider hereunder for the Contract Price.

- 7.2. COE's Right to Suspend. The COE may, in its discretion, suspend all or any part of the design or construction of the Project or the Provider's services under this Agreement; provided, however, that if the COE shall suspend design or construction of the Project or Provider's services for a period of thirty (30) consecutive days or more and such suspension is not caused by the Provider's default or the acts or omissions of Provider or its Design Consultants or Subcontractors, upon rescission of such suspension, the Contract Price will be subject to adjustment to reflect actual costs and expenses incurred by Provider, if any, as a direct result of the suspension and resumption of Project design/construction.
- 7.3. COE's Termination for Convenience. The COE may, at any time, upon seven (7) days advance written notice to Provider terminate this Agreement for the COE's convenience and without fault, neglect or default on the part of Provider. In such event, the Agreement shall be deemed terminated seven (7) days after the date of the COE's written notice to Provider or such other time as the COE and Provider may mutually agree upon. In such event, the COE shall make payment of the Contract Price to Provider for services provided through the date of termination, calculated in accordance with the Contract Price, plus actual costs incurred by Provider directly attributable to such termination, including a fifteen percent (15%) markup for overhead.
- 7.4. Provider Suspension of Services. If the COE shall fail to make payment of the Design Services Phase of the Contract Price when due Provider hereunder, Provider may, upon seven (7) days advance written notice to the COE, suspend further performance of the design services hereunder until payment in full is received.
- 7.5. Provider Obligations Upon Termination. Upon the COE's exercise of the right of termination under pursuant to the foregoing, Provider shall take action as directed by the COE relative to on-going preparation of the Design Documents or construction of the Project. If requested by the COE, the Provider shall within five (5) days of such request, assemble and deliver to the COE all work product, instruments of service and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the Provider under this Agreement.

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Provider shall deliver the originals of all work product, instruments of service and other items of a tangible nature requested by the COE pursuant to the preceding sentence; provided, however, that Provider may, at its sole cost and expense, make reproductions of the originals delivered to the COE.

## 8. COE Responsibilities.

- 8.1. Access to Site. On the Commencement Date of the Work and for so long as any Work (including any Work related to the Warranty) is provided by Provider hereunder, COE shall enable Provider or any of its subcontractors or agents to gain free, unobstructed, access to the Site for the purpose of performing the Work hereunder and shall keep the Site free and clear from any encumbrances, obstructions or Hazardous Materials introduced to the Site by COE. In addition to the foregoing, COE shall allow Provider to have access to the Site to: (a) inspect the Site to verify conditions and to construct and install the System on the Site; (b) to access and maintain a data acquisition system ("DAS") on the System and collect data from such DAS, independent of any DAS owned by COE; and (c) to perform (or cause to be performed) all tasks necessary or appropriate, as reasonably determined by Provider, to carry out the activities and enjoy the rights set forth in this Agreement. COE shall ensure that Provider has access to and use of lighting, power, and water while performing Work hereunder.
- 8.2. Compliance with Laws and Agreements. COE shall comply with any express or implied obligation required at law or in equity or under any permits, financing documents or other agreements or understandings to which COE is a party or under which it is bound that would have an effect on this Agreement or COE's or Provider's obligations hereunder.
- 8.3. Cooperation. COE shall fully and timely cooperate with Provider in Provider's performance of its obligations under this Agreement, including, without limitation, (a) timely review and, where applicable, approve drawings, specifications, Change Order requests and other Provider requirements, (b) timely negotiate and execute related agreements and timely provide all information and consents necessary for Provider to apply for the permits and fulfill its obligations hereunder, (c) comply with the Construction Schedule as it applies to COE and (d) perform or cause to be performed any work, or pay or caused to be paid any amount, required hereunder in connection with any exclusion set forth herein.
- 8.4. Storage. COE shall provide Provider with an area for storage space located near the Site for storage of materials, tools and equipment, and other purposes.

## 9. Miscellaneous

- 9.1. Governing Law; Interpretation. This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. The titles of the various Sections of this Agreement and elsewhere in the Contract Documents are used for convenience of reference only and are not intended to, and shall in no way, enlarge or diminish the rights or obligations of the COE or Provider and shall have no effect upon the construction or interpretation of the Contract Documents. The Contract Documents shall be construed as a whole in accordance with their fair meaning and not strictly for or against the COE or Provider.

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- 9.2. Ambiguities; Conflicting Terms/Provisions. In the event there is a discrepancy between the various Contract Documents, the more specific, more stringent, and greater quantity of Work shall apply. In the event that the foregoing provision does not resolve the discrepancy, the following order of precedence in the interpretation of Contract Documents or resolution of discrepancy therein shall prevail:
- (a) Amendments to this Agreement (including Change Orders) duly signed and issued after the signing of this Agreement, with those of a later date having precedence over those of an earlier date;
  - (b) this Agreement;
  - (c) Exhibit A; and
  - (d) other exhibits.
- 9.3. Successors and Assigns. Except as otherwise expressly provided in the Contract Documents, all terms, conditions and covenants of the Contract Documents shall be binding upon, and shall inure to the benefit of the COE and Provider and their respective heirs, representatives, successors-in-interest and assigns.
- 9.4. Cumulative Rights and Remedies; No Waiver. Duties and obligations imposed by the Contract Documents and rights and remedies hereunder are in addition to, and not in lieu of nor a limitation of, duties, obligations, rights and remedies under law. No action or failure to act by the COE is a waiver of a right or remedy under the Contract Documents or at law nor does the COE's failure to act constitute approval of or acquiescence in a breach hereunder.
- 9.5. Severability. If any provision of the Contract Documents is deemed illegal, invalid, unenforceable and/or void, by a court or any other governmental agency of competent jurisdiction, such provision shall be deemed to be severed and deleted from the Contract Documents, but all remaining provisions hereof, shall in all other respects, continue in full force and effect.
- 9.6. No Assignment by Provider. Provider shall not sublet or assign the Contract, or any portion thereof, or any monies due thereunder, without the express prior written consent and approval of the COE, which may be withheld or restricted in the sole discretion of the COE.
- 9.7. Gender and Number. Whenever the context of the Contract Documents so require, the neuter gender includes the feminine and masculine, the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural number includes the singular.
- 9.8. Independent Contractor Status. Provider is an independent contractor to the COE and not an agent or employee of the COE.
- 9.9. Notices. Except as otherwise expressly provided for in the Contract Documents, all notices which the COE or Provider may be required, or may desire, to serve on the other, shall be effective only if delivered by personal delivery or by postage prepaid, First Class Certified Return Receipt Requested United States Mail, addressed to the



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COE or Provider at their respective address set forth below, or such other address(es) as either the COE or Provider may designate from time to time by written notice to the other in conformity with the provisions hereof.

If to the COE:

Yolo County Office of Education

Attn: Matt Juchniewicz, Director, Support Operations Services  
[matthew.juchniewicz@ycoe.org](mailto:matthew.juchniewicz@ycoe.org)  
1280 Santa Anita Court, Suite 100  
Woodland, CA 95776

If to Provider:

\_\_\_\_\_, Syserco Energy Solutions, Inc.  
Attn: \_\_\_\_\_ Scott Meizen, Vice President & General  
Manager  
[s.meizen@syserco-es.com](mailto:s.meizen@syserco-es.com)  
215 Fourier Avenue, Suite 140  
Fremont, CA 94539  
\_\_\_\_\_

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\_\_\_\_\_. In the event of personal delivery, such notices shall be deemed effective upon delivery, provided that such personal delivery requires a signed receipt by the recipient acknowledging delivery of the same. In the event of mailed notices, such notice shall be deemed effective on the third working day after deposit in the mail.

9.10. Disputes; Continuation of Work. Notwithstanding any claim, dispute or other disagreement between the COE and Provider regarding performance under this Agreement or the Contract Documents, the scope of Work thereunder, or any other matter arising out of or related to, in any manner, this Agreement, the Contract Documents or the Work, Provider shall proceed diligently with performance of the Work in accordance with the COE's written direction, pending any final determination or decision regarding any such claim, dispute or disagreement.

9.11. Dispute Resolution; Arbitration.

9.11.1. Claims Under \$375,000.00. Claims between the COE and Provider of Three Hundred Seventy-Five Thousand Dollars (\$375,000.00) or less shall be resolved in accordance with the procedures established at Public Contract Code, §§20104, *et seq.*

9.11.2. Arbitration. Except as provided above, any other claims, disputes, disagreements or other matters in controversy between the COE and Provider arising out of, or related, in any manner, to the Contract Documents, or the interpretation, clarification or enforcement thereof shall be resolved by arbitration conducted before a retired judge in accordance with the Construction Industry Arbitration Rules of JAMS in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The

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locale for any arbitration commenced hereunder shall be the regional office of the JAMS closest to the Site. The award rendered by the Arbitrator(s) is final and binding upon the COE and Provider. The discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 are applicable, and are incorporated herein by this reference. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. If more than one Demand for Arbitration is made by either the COE or Provider, all such controversies shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by the COE and Provider. Provider's Surety, a Design Sub-Consultant, Subcontractor or Material Supplier to Provider and other third parties may be permitted to join in and be bound by an arbitration commenced hereunder if required by the terms of their respective agreements with Provider, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between the COE and Provider, in which case an appropriate severance order shall be issued by the Arbitrator(s). The expenses and fees of the Arbitrator(s) shall be divided equally among the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys' fees, witness fees and other cost and expense incurred in connection with such arbitration. The foregoing notwithstanding, the Arbitrator(s) may award arbitration costs, including Arbitrators' fees but excluding attorneys' fees, to the prevailing party. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.

9.11.3. Provider Compliance with California Government Code §900 et seq. The foregoing provisions relating to dispute resolution procedures notwithstanding, neither this Agreement nor such provisions shall be deemed to waive, limit or modify any requirements under California Government Code §900 et seq. relating to the Provider's submission of claims to the COE as a express condition precedent and prerequisite to filing a Demand for Arbitration, which shall be deemed a "claim" for money or damages under California Government Code §900 et seq. The Provider's strict compliance with all applicable provisions of California Government Code §900 et seq. in connection with any claim, dispute or other disagreement arising hereunder shall be an express condition precedent to the Provider's initiation of the binding arbitration procedures under Section 9.11.2.

9.12. Limitation on Damages. In the event of the COE's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Provider shall be limited to general damages which are directly caused by said breach or default of the COE and shall exclude any and all special or consequential damages, if any, suffered by the Provider. By executing this Agreement, the Provider expressly

# FINAL DRAFT

acknowledges the foregoing limitation to the recovery only of general damages from the COE if the COE is in breach or default of its obligations under the Contract Documents. Each Party expressly waives any right to and foregoes the recovery of any indirect, special, exemplary or consequential damages from the other Party including, without limitation, damages for: (i) lost or impaired bonding capacity; (ii) business interruption; and/or (iii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents. With the exception of claims related to (i) Section 4.6.23 (Patents and Royalties), (ii) third party indemnification claims, and (iii) Provider's fraud, gross negligence or willful misconduct, Provider's aggregate liability (including any liability of Provider's Subcontractors, vendors and related entities of Provider and any of their directors, officers, employees and agents) to the COE arising out of, under or in relation to the Contract Documents shall be limited to that portion of the Contract Price that the COE has paid to Provider under the Contract Documents.

- 9.13. Attorneys' Fees. Except as expressly provided for in the Contract Documents, or authorized by law, neither the COE nor Provider shall recover from the other any attorneys' fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of the Contract Documents or the Work.
- 9.14. Provisions Required by Law Deemed Inserted. Each and every provision of law and clause required by law to be inserted in the Contract Documents is deemed to be inserted herein and the Contract Documents shall be read and enforced as though such provision or clause are included herein, and if through mistake, or otherwise, any such provision or clause is not inserted or if not correctly inserted, then upon application of either party, the Contract Documents shall forthwith be physically amended to make such insertion or correction.
- 9.15. Days. Unless otherwise expressly stated, references to "days" in the Contract Documents shall be deemed to be calendar days.
- 9.16. Use of Design Documents.
- 9.16.1. Ownership. Subject to the provisions hereof, all of Provider's Instruments of Service, including without limitation, the originals and reproducible transparencies of the Drawings, Specifications and other Design Documents prepared by or on behalf of Provider under this Agreement (which include, but are not limited to, working drawings, and master plans, preliminary sketches, architectural presentation drawings, As-Built Drawings, structural and other engineering calculations or computations and estimates) are and shall remain the property of COE as required under Education Code section 17316. The foregoing notwithstanding, if this Agreement is terminated for the default of Provider, in addition to any other right or remedy arising from Provider's default, the COE may use any portion of the Design Documents (whether completed or in progress) for purposes of (i) completing the Project or (ii) repairing, maintaining, renovating, or modernizing the completed Project, but not reuse for, expansion of the Project outside its existing footprint other than to eliminate conflicts with any planned adjacent development.
- 9.16.2. Electronic Files. At each stage of Provider's submission of Schematic Design

# FINAL DRAFT

Documents and Construction Documents to the COE pursuant to the terms hereof, Provider shall also submit to the COE electronic files of the same. Electronic files of the Drawings shall be prepared in the latest version of commercially available computed aided drafting software. Electronic text files shall be prepared in the latest version of MS Word and electronic spreadsheet files shall be prepared in the latest version of MS Excel

## 9.17. Definitions.

- 9.17.1. Design Consultant(s). Design Consultant(s) are individuals or entities retained by Provider to provide or perform a portion of the Provider's Design Services, including any portion of the Design Documents. Design Consultants shall be duly licensed as required by applicable law, rule or regulation and shall be qualified to perform or provide the portion of Provider's services or work product assigned by having previously provided design consulting services for California public local educational agency project design and construction. The COE shall have the right to reasonably disapprove a Design Consultant. Provider shall be responsible for the adequacy, timeliness and quality of services or work product provided or performed by Design Consultants.
- 9.17.2. Submittals. Shop Drawings, Product Data or Samples prepared or provided by Provider or its Subcontractor(s) or supplier(s) illustrating some portion of the Work.
- 9.17.3. Site. The physical area for construction and related activities of the Project.
- 9.17.4. Drawings. The Drawings are the graphic and pictorial portions of the Design Documents showing generally the location, design and dimensions of the Work, including without limitation, plans, elevations, sections, details, schedules and diagrams.
- 9.17.5. Specifications. Specifications are the portion of the Design Documents which consist of written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services. Prior to completion of the Design Documents, Specifications are the written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services as provided in Exhibit A.
- 9.17.6. Work. All of the design, construction and other services required by the terms of the Agreement including all labor, materials, equipment and other services required of Provider to complete design and construction of the Project.
- 9.17.7. Construction Cost Estimate. Construction Cost Estimates are estimates prepared by or on behalf of the Provider of the current costs of labor, materials, equipment and services plus a reasonable allowance for Provider's profit, overhead and administrative cost as necessary to complete construction of the Project in accordance with the Design Documents.
- 9.17.8. COE. The "COE" refers to Yolo County Office of Education and unless otherwise stated, includes the COE's authorized representatives, including the COE's Governing Board and the COE's officers, employees, agents and

# FINAL DRAFT

representatives.

- 9.17.9. Surety. The Surety is the person or entity that executes, as surety, Provider's Labor and Material Payment Bond and/or Performance Bond.
- 9.17.10. Subcontractors; Sub-Subcontractors. A Subcontractor is a person or entity under contract with Provider to perform a portion of Provider's Construction Services obligations. A Sub-Subcontractor is a person or entity under contract with a Subcontractor to perform Provider's Construction Services obligations. References to "Subcontractor" include Sub-Subcontractors unless otherwise stated or indicated by context.
- 9.17.11. Material Supplier. A Material Supplier is a person or entity who furnishes materials or equipment (including equipment rental) without fabricating, installing or consuming them in construction of the Project.
- 9.17.12. Division of State Architect ("DSA"). The DSA is the California Division of the State Provider including without limitation the DSA's Office of Construction Services, Office of Design Services and the Office of Regulatory Services; references to the DSA in the Contract Documents shall mean the DSA, its offices and its authorized employees and agents. The authority of the DSA over the Work and the performance thereof shall be as set forth in the Contract Documents and Title 24 of the California Code of Regulations ("CCR").
- 9.17.13. Project Inspector ("IOR"). The Project Inspector is the individual designated and employed by the COE in accordance with the requirements of Title 24 of the California Code of Regulations. The Project Inspector shall be authorized to act on behalf of the COE as provided for in the Contract Documents and the Laws, including without limitation, in Title 24 of the California Code of Regulations, as the same may be amended from time to time.
- 9.17.14. Provider's Superintendent. Provider's Superintendent is an individual employed by Provider whose principal responsibility is supervision and coordination of the Construction Services; Provider's Superintendent shall not perform routine construction labor.
- 9.17.15. Record Drawings. The Record Drawings are the Drawings marked by Provider during performance of its Construction Services to completely and accurately indicate the as-built condition of the Project.
- 9.17.16. As-Built Drawings. Provider's final submittal of Record Drawings to the COE after final completion of the Project.
- 9.17.17. Construction Equipment. "Construction Equipment" is equipment utilized for the performance of any portion of the Work, but which is not incorporated into the Work.
- 9.17.18. Site. The Site is the physical area designated in the Contract Documents for Provider's performance, construction and installation of the Work.
- 9.17.19. Force Majeure Event. Any event or circumstance beyond the reasonable

## FINAL DRAFT

control of the Parties, including, without limitation, strikes, fires, floods, hurricanes, typhoons, winds in excess of 90 mph, volcanoes, earthquakes, tornados, vandalism, terrorism, war and acts or omissions of any governmental authority.

- 9.17.20. Defective or Non-Conforming Work. Defective or non-conforming Work is any Project construction which is unsatisfactory, faulty or deficient by: (a) not conforming to the requirements of the Contract Documents; (b) not conforming to the standards of workmanship of the applicable trade or industry; or (c) not being in compliance with the requirements of any inspection, reference, standard, test, or approval required by the Contract Documents.
- 9.17.21. Delivery. "Delivery" is the unloading and storage of materials, equipment or other items in a protected condition pending incorporation into the Work.
- 9.17.22. Notice to Proceed. The Notice to Proceed is the written notice issued by or on behalf of the COE to Provider authorizing Provider to proceed with commencement of construction of the Work and which establishes the date for commencement of the Contract Time.
- 9.17.23. Progress Reports; Verified Reports. Progress Reports, if required, are written reports prepared by Provider and periodically submitted to the COE in the form and content as required by the Contract Documents.
- 9.17.24. The Contract Documents. The documents forming a part of the Contract Documents consist of the following, all of which are component parts of the Contract Documents: this Agreement, the Scope of Work (Exhibit A), Payment Bond (Exhibit B), Performance Bond (Exhibit C), Subcontractors List (Exhibit D), Certificate of Workers' Compensation Insurance (Exhibit E), Drug Free Workplace Certificate (Exhibit F), System Warranty (Exhibit G), Student Safety Certification (Exhibit H), and the Performance Guarantee (Exhibit I), incorporated herein in their entirety by reference.
- 9.18. Entire Agreement. The Contract Documents contain the entire agreement and understanding between the COE and Provider concerning the subject matter hereof, and supersedes and replaces all prior negotiations, proposed agreements or amendments, whether written or oral. No amendment or modification to any provision of the Contract Documents shall be effective or enforceable except by an agreement in writing executed by the COE and Provider.
- 9.19. Authority to Execute. The individual(s) executing this Agreement on behalf of Provider is/are duly and fully authorized to execute this Agreement on behalf of Provider and to bind Provider to each and every term, condition and covenant of the Contract Documents.

**FINAL DRAFT**

In witness hereof, the COE and Provider have executed this Agreement as of the date set forth above.

“COE”  
**YOLO COUNTY OFFICE OF  
EDUCATION**

“Provider”  
**SYSERCO ENERGY SOLUTIONS INC.**  
\_\_\_\_\_

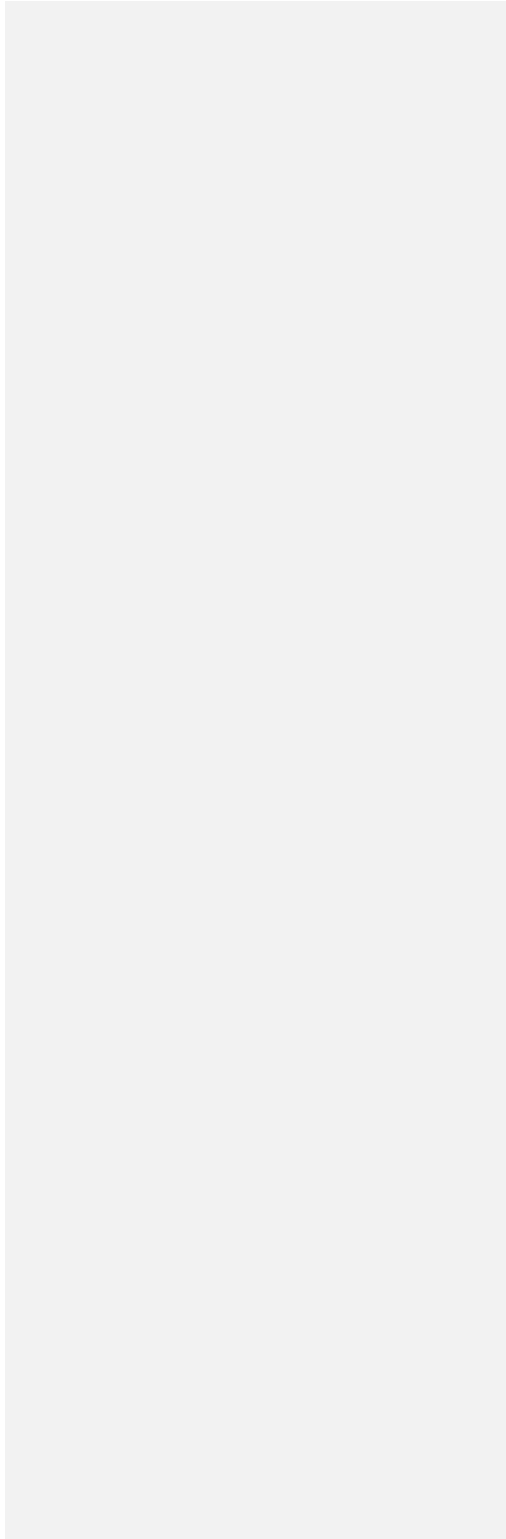
By: \_\_\_\_\_  
Veronica Coronado, Associate  
Superintendent, Administrative Services  
**(INSERT NAME AND TITLE)**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Date: \_\_\_\_\_

**FINAL DRAFT**

**EXHIBIT A**  
**SCOPE OF WORK**  
**[INSERT SCOPE OF WORK]**





**FINAL DRAFT**

**EXHIBIT B**

**LABOR AND MATERIAL PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the Yolo County Office of Education (sometimes referred to hereinafter as "Obligee") has awarded to \_\_\_\_\_ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: \_\_\_\_\_ (hereinafter referred to as the "Public Work or Project"); and

WHEREAS, said Contractor is required to furnish a bond in connection with said Contract, and pursuant to California Civil Code section 9550;

NOW, THEREFORE, We, \_\_\_\_\_, the undersigned Contractor, as Principal; and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Yolo County Office of Education and to any and all persons, companies, or corporations entitled by law to file stop notices under California Civil Code section 9100, or any person, company, or corporation entitled to make a claim on this bond, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), such sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which payment will and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if said Principal, its heirs, executors, administrators, successors, or assigns, or subcontractor, shall fail to pay any person or persons named in Civil Code section 9100; or fail to pay for any materials, provisions, 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 Code, with respect to work or labor thereon of any kind; or shall fail to deduct, withhold, and pay over to the Employment Development Department, any amounts required to be deducted, withheld, and paid over by Unemployment Insurance Code section 13020 with respect to work and labor thereon of any kind, then said Surety will pay for the same, in an amount not exceeding the amount herein above set forth, and in the event suit is brought upon this bond, also will pay such reasonable attorneys' fees as shall be fixed by the court, awarded and taxed as provided in California Civil Code section 9550 et seq.

This bond shall inure to the benefit of any person named in Civil Code section 9100 giving such person or his/her assigns a right of action in any suit brought upon this bond.

It is further stipulated and agreed that the Surety of this bond shall not be exonerated or released from the obligation of the bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, Plans, or specifications, or agreement pertaining or relating to any scheme or work of improvement herein above described; or pertaining or relating to the furnishing of labor, materials, or equipment therefor; nor by any change or modification of any terms of payment or extension of time for payment pertaining or relating to any scheme or work of improvement herein above described; nor by any rescission or attempted rescission of the contract, agreement or bond; nor by any conditions precedent or subsequent in the bond

**SCOPE OF WORK – EXHIBIT A  
ENERGY SERVICES AGREEMENT**

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**FINAL DRAFT**

attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond; nor by any fraud practiced by any person other than the claimant seeking to recover on the bond; and that this bond be construed most strongly against the Surety and in favor of all persons for whose benefit such bond is given; and under no circumstances shall the Surety be released from liability to those for whose benefit such bond has been given, by reason of any breach of contract between the Obligee and the Contractor or on the part of any obligee named in such bond; that the sole condition of recovery shall be that the claimant is a person described in California Civil Code section 9100, and who has not been paid the full amount of his or her claim; and that the Surety does hereby waive notice of any such change, extension of time, addition, alteration or modification herein mentioned.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PRINCIPAL/CONTRACTOR:

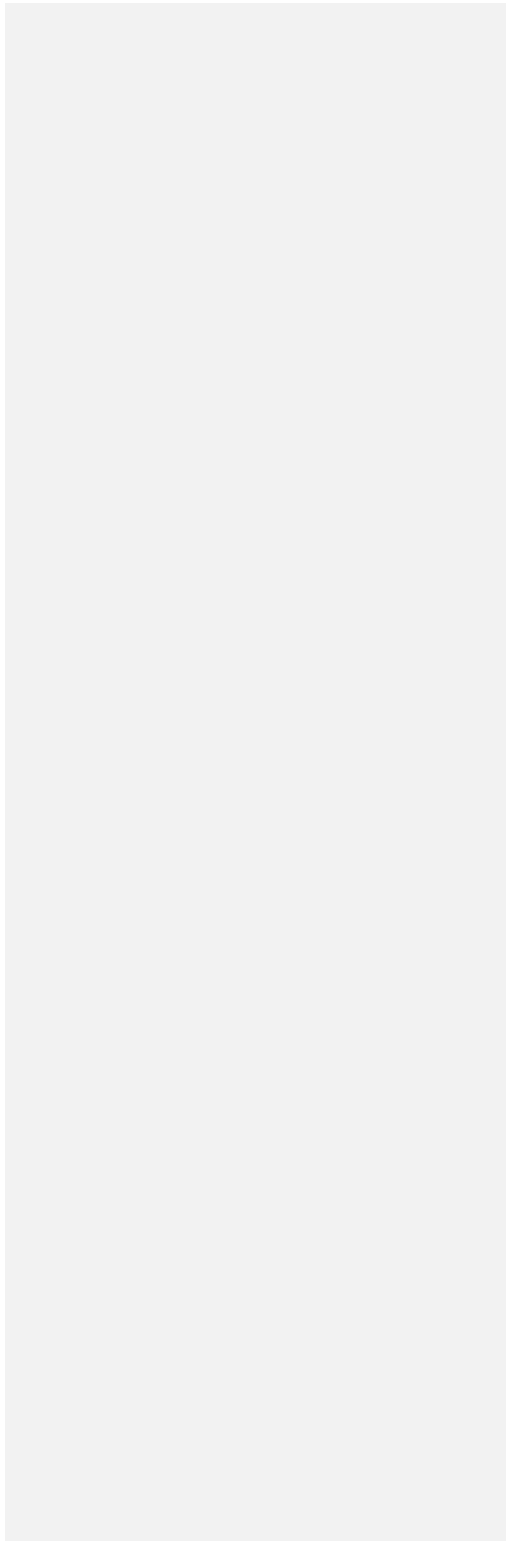
\_\_\_\_\_

By: \_\_\_\_\_

SURETY:

\_\_\_\_\_

By: \_\_\_\_\_  
Attorney-in-Fact



**FINAL DRAFT**

**IMPORTANT: THIS IS A REQUIRED FORM.**

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:  
(Name and Address of Surety)

(Name and Address of agent or representative for  
service for service of process in California)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF                        )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, who proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as the Attorney-in-Fact of \_\_\_\_\_ (Surety) and acknowledged to me that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

Commission expires: \_\_\_\_\_

**FINAL DRAFT**

**EXHIBIT C  
PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS:

THAT WHEREAS, the Yolo County Office of Education (sometimes referred to hereinafter as "Obligee") has awarded to \_\_\_\_\_ (hereinafter designated as the "Principal" or "Contractor"), an agreement for the work described as follows: \_\_\_\_\_ (hereinafter referred to as the "Public Work or Project"); and

WHEREAS, the work to be performed by the Contractor is more particularly set forth in that certain contract for said Public Work dated \_\_\_\_\_, (hereinafter referred to as the "Contract"), which Contract is incorporated herein by this reference; and

WHEREAS, the Contractor is required by said Contract to perform the terms thereof and to provide a bond both for the performance and guaranty thereof.

NOW, THEREFORE, we, \_\_\_\_\_, the undersigned Contractor, as Principal, and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the Yolo County Office of Education in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), said sum being not less than one hundred percent (100%) of the total amount payable by said Obligee under the terms of said Contract, for which amount well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the bounded Contractor, his or her 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 said Contract and any alteration thereof made as therein provided, on his or her part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning; and shall faithfully fulfill guarantees of all materials and workmanship; and indemnify, defend and save harmless the Obligee, its officers and agents, as stipulated in said Contract, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any change, extension of time, alteration in or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same, nor by any change or modification to any terms of payment or extension of time for any payment pertaining or relating to any scheme of work of improvement under the contract. Surety also stipulates and agrees that it shall not be exonerated or released from the obligation of this bond (either by total exoneration or pro tanto) by any overpayment or underpayment by the Obligee that is based upon estimates approved by the Architect. The Surety stipulates and agrees that none of the aforementioned changes, modifications, alterations, additions, extension of time or actions shall in any way affect its obligation on this bond, and it does hereby waive

# FINAL DRAFT

notice of any such changes, modifications, alterations, additions or extension of time to the terms of the contract, or to the work, or the specifications as well notice of any other actions that result in the foregoing.

Whenever Principal shall be, and is declared by the Oblige to be, in default under the Contract, the Surety shall promptly either remedy the default, or shall promptly take over and complete the Contract through its agents or independent contractors, subject to acceptance and approval of such agents or independent contractors by Oblige as hereinafter set forth, in accordance with its terms and conditions and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages; or, at Oblige's sole discretion and election, Surety shall obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Oblige of the lowest responsible bidder, arrange for a contract between such bidder and the Oblige and make available as work progresses (even though there should be a default or succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the "balance of the Contract price" (as hereinafter defined), and to pay and perform all obligations of Principal under the Contract, including, without limitation, all obligations with respect to warranties, guarantees and the payment of liquidated damages. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable to Principal by the Oblige under the Contract and any modifications thereto, less the amount previously paid by the Oblige to the Principal, less any withholdings by the Oblige allowed under the Contract. Oblige shall not be required or obligated to accept a tender of a completion contractor from the Surety.

Surety expressly agrees that the Oblige may reject any agent or contractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal. Unless otherwise agreed by Oblige, in its sole discretion, Surety shall not utilize Principal in completing the Contract nor shall Surety accept a bid from Principal for completion of the work in the event of default by the Principal.

No final settlement between the Oblige and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

The Surety shall remain responsible and liable for all patent and latent defects that arise out of or relate to the Contractor's failure and/or inability to properly complete the Public Work as required by the Contract and the Contract Documents. The obligation of the Surety hereunder shall continue so long as any obligation of the Contractor remains.

Contractor and Surety agree that if the Oblige is required to engage the services of an attorney in connection with enforcement of the bond, Contractor and Surety shall pay Oblige's reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

In the event suit is brought upon this bond by the Oblige and judgment is recovered, the Surety shall pay all costs incurred by the Oblige in such suit, including reasonable attorneys' fees to be fixed by the Court.

**FINAL DRAFT**

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PRINCIPAL/CONTRACTOR:

By: \_\_\_\_\_

SURETY:

\_\_\_\_\_

By: \_\_\_\_\_

Attorney-in-Fact

The rate of premium on this bond is \_\_\_\_\_ per thousand.

The total amount of premium charged: \$ \_\_\_\_\_ (This must be filled in by a corporate surety).

**IMPORTANT: THIS IS A REQUIRED FORM.**

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code section 105, and if the work or project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative for service for service of process in California)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

**FINAL DRAFT**

A notary public or other office completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA                    )  
  ) ss.

COUNTY OF                                    )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, who proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) as the Attorney-in-Fact of \_\_\_\_\_ (Surety) and acknowledged to me that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

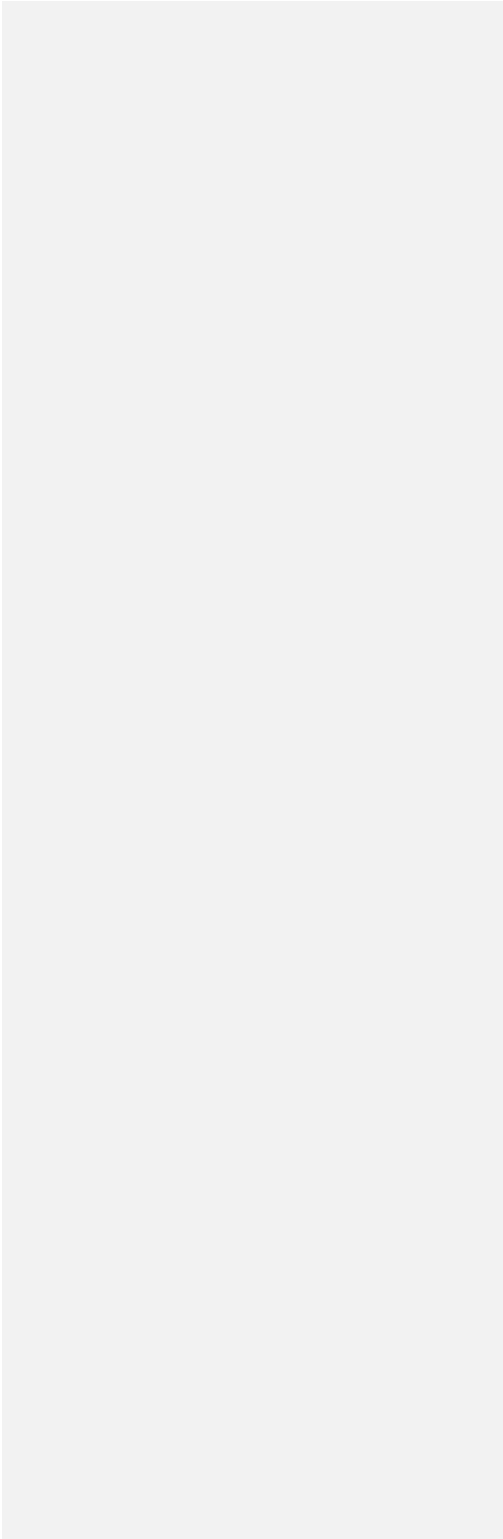
\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

Commission expires: \_\_\_\_\_

**FINAL DRAFT**

**EXHIBIT D  
SUBCONTRACTORS LIST**





**FINAL DRAFT**

**EXHIBIT E**

**CERTIFICATE OF WORKERS' COMPENSATION INSURANCE**

**PROJECT:** \_\_\_\_\_

I, \_\_\_\_\_ the \_\_\_\_\_ of  
(Name) (Title)

\_\_\_\_\_, declare, state and certify that:  
(Provider Name)

1. I am aware that California Labor Code §3700(a) and (b) 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 in 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 either as an individual employer, or one employer in a group of employers, 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 or her employees."

2. I am aware that the provisions of California Labor Code §3700 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 this Contract.

\_\_\_\_\_  
(Provider Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

**EXHIBIT F**

**DRUG-FREE WORKPLACE CERTIFICATION**

I, \_\_\_\_\_, am the \_\_\_\_\_ of \_\_\_\_\_  
(Print Name) (Title)

I declare, state and certify to all of the following:

1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.
2. I am authorized to certify, and do certify, on behalf of the Design-Build Entity ("Provider") that a drug free workplace will be provided by Provider by doing all of the following:
  - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Provider's workplace and specifying actions which will be taken against employees for violation of the prohibition;
  - B. Establishing a drug-free awareness program to inform employees about all of the following:
    - i. The dangers of drug abuse in the workplace;
    - ii. Provider's policy of maintaining a drug-free workplace;
    - iii. The availability of drug counseling, rehabilitation and employee-assistance programs; and
    - iv. The penalties that may be imposed upon employees for drug abuse violations;
  - C. Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Provider in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.
  - D. Provider agrees to fulfill and discharge all of Provider's obligations under the terms and requirements of California Government Code §8355 by, inter alia, publishing a statement notifying employees concerning: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.
3. Provider and I understand that if the COE determines that Provider has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract

**FINAL DRAFT**

awarded herein is subject to termination, suspension of payments, or both. Provider and I further understand that, should Provider violate the terms of the Drug-Free Workplace Act of 1990, Provider may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.

- 4. Provider and I acknowledge that Provider and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Provider and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

I declare under penalty of perjury under the laws of the State of California that all of the foregoing is true and correct.

Executed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(City and State)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Handwritten or Typed Name)

**EXHIBIT G**  
**WARRANTY**

1. **System Information.** This Standard Warranty (this "Warranty") applies to the System installed by [REDACTED] ("Provider") pursuant to the Agreement for the [REDACTED] Project ("ESC").

2. **System Warranty.** Provider warrants that the Project shall conform to the Specifications on the date of Final Completion and shall be free from defects in materials, equipment and workmanship under normal operating conditions for a period of one (1) year thereafter ("Warranty Term"). Upon a claim under the Warranty, Provider will, at its option, either repair or replace any defective parts and equipment at no cost to the COE. Provider's System Warranty shall also provide at no cost to the COE all requisite labor and pay all necessary transportation and shipping costs. Unless this Warranty is extended by written agreement, the COE shall pay for any repair costs incurred by Provider after the Warranty Term expires, provided that such repairs are not covered under another agreement between COE and Provider expressly superseding this Warranty, or other separate warranty provisions provided by Provider. This Warranty does not include: (a) roof repair or maintenance or (b) site work, including but not limited to, grading and landscape maintenance, provided that Provider does not damage or destroy site work when repairing or replacing defective parts and equipment, and provided that such work is not covered under another agreement between COE and Provider expressly superseding this Warranty, or other separate warranty provisions provided by Provider. Should Provider damage or destroy site in the performance of such warranty work, Provider shall, at its own cost, repair or replace the damaged or destroyed site work.

3. **Manufacturer Warranties.** Provider assigns to the COE the applicable pass-through warranties from Provider's manufacturers ("Other Manufacturers"). The Other Manufacturers shall be stated in the Design Documents. Notwithstanding the foregoing, Provider acknowledges and incorporates by reference hereto the Warranty provisions set forth at Sections 4.14.7 and 4.14.8 of the ESC requiring that Provider's warranty shall provide no-cost repair or replacement of the system or system components, including any associated labor, testing, inspection and transportation costs for a ten (10) year period commencing on the date of Final Completion of the Project. During the System Warranty period, Provider, and not the COE, shall be responsible for asserting any and all warranty claims on behalf of the COE to Other Manufacturers and ensuring no-cost repair and/or replacement of any and all defects in materials, equipment and workmanship. Provider further warrants that its Services hereunder shall be performed and completed in a manner consistent with the Standard of Care so as to avoid or minimize hindrance or interruption to the generation of power and so as not to void or otherwise impact or impair Other Manufacturers' warranties. For purposes of this warranty and the ESC, the term "Standard of Care" shall mean, the skill knowledge, judgment and care possessed and used by contractors and architectural/engineering professionals in similar circumstances. Provider makes no representation or warranty, and the COE shall seek no recourse from Provider, unless specifically provided to the contrary, regarding the warranties of Other Manufacturers extending beyond the scope of this Warranty.

4. **Warranty Exceptions.** This Warranty does not apply to:

4.1 Damage, malfunction, or degradation of the Project caused by:

- a. normal wear and tear, including expected degradation electrical output; or
- b. environmental factors, including but not limited to corrosion, insects, animals, lightning, flooding, and winds in excess of design specifications;

4.2 Damage, malfunction, or degradation of the Project, including electrical output and Project's supporting structure, without limit:

- a. resulting from the COE or third party abuse, accident, alteration, improper use, negligence, vandalism, theft, or a Force Majeure Event; or
- b. caused by unknown structural defects with the building or foundation upon which the Project is located, excepting structures installed by Provider and included under this Warranty scope; or

4.3 Change in usage of the building or site, including neighboring surroundings, which may affect building or site permits and related requirements, without the written approval of Provider.

For purposes of this Section, "Properly Operate and Maintain the System" shall mean that the COE, or qualified party on COE's behalf, shall:

- a. perform all initial troubleshooting and diagnostics, including photographic evidence when applicable, prior to submitting a warranty claim; and
- b. otherwise operate and maintain the Project in full accordance with the printed manuals and instructions provided with the Project to the COE.

Resetting of any protective devices and replacement of any fuses or other consumables within the Project are assumed to be included within Proper Operation and Maintenance and not included within the scope of this Warranty.

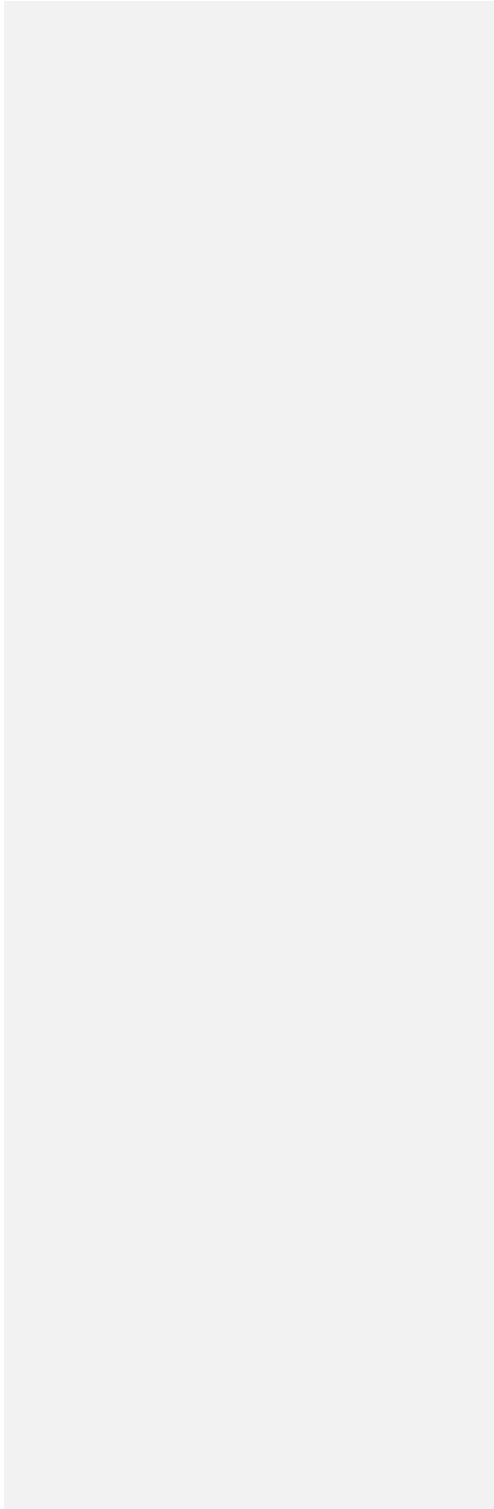
4.4 The manufacturer of the equipment is not able or willing to honor its product warranty to COE and COE does not remedy by procuring replacement material, parts, or equipment at its own expense, provided that Provider used its best efforts to assist the Owner in its attempts to oblige the manufacturer to comply with its warranty obligations.

5. **Ambiguities; Conflicting Terms/Provisions.** To the extent there are any ambiguities and/or conflicting terms and provisions as between this System Warranty and warranty provisions contained in the any other agreement between COE and Provider expressly superseding this Warranty, Provider hereby acknowledges and agrees that this : [REDACTED] Warranty shall govern and no other warranty shall serve as a limitation to or otherwise reduce Provider's warranty obligations to the COE under this no cost repair and replacement System Warranty.

6. **Successors and Assigns.** This Warranty shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns (including, without limitation, any owner or tenant of the Site). No assignment by a party shall relieve such party of any of its obligations under this Warranty. Nothing in this Warranty, expressed or implied, is intended to confer any rights, remedies, obligations or liabilities under or by reason of this Warranty upon any person or entity other than the Parties. In the event that there is a change in ownership of the Site, the COE shall cause the new owner to execute and deliver to Provider an assumption of the COE's obligations under this Warranty in a form reasonably acceptable to Provider.

7. **Disclaimer.** Except as expressly provided herein, Provider expressly disclaims any and all warranties of any kind, express, implied or statutory, including without limitation any implied warranties of merchantability and/or fitness for a particular purpose. Neither this Agreement nor any document furnished under it, unless explicitly stated, is intended to express or imply any warranty or guarantee with regard to the performance of the Project, including, but not limited to, (i) electricity output, (ii) reduction in energy costs or environmental savings, (iii) financial savings or return on investment and (iv) public recognition.

1. **YSERCO ENERGY SOLUTIONS, INC.**
- 2.
- 3.
4. By: \_\_\_\_\_
5. Name: Majd Khleif
6. Title CEO
- 7.
8. Date: \_\_\_\_\_



**EXHIBIT H**  
**STUDENT SAFETY CERTIFICATION**

TO: Yolo County Office of Education

FROM: [REDACTED]

RE: [REDACTED] Project

[REDACTED] Contract # [REDACTED]

I am authorized to certify, and do certify, on behalf of [REDACTED], a [REDACTED] corporation ("Provider"), all of the statements made hereinafter.

EITHER

Provider, at its sole expense, shall provide and maintain the following measures to ensure student safety:

1. The installation of a physical barrier at the worksite to limit contact between all Provider's employees and personnel, and the employees and personnel of all subcontractors, and any pupils; and,
2. Continual supervision and monitoring of all Provider's employees and personnel, and the employees and personnel of all subcontractors, by an employee of Provider whom the California Department of Justice has ascertained has not been convicted of a violent or serious felony, as that term is defined in Education Code section 45122.1.

OR:

Provider (i) has complied with the fingerprinting and criminal background investigation requirements of California Education Code section 45125.1 with respect to Provider's employees and personnel who may have contact with Washington USD pupils in the course of performance of the Contract, and (ii) has caused its subcontractors to comply with the fingerprinting and criminal background investigation requirements of California Education Code section 45125.1 with respect to the employees and personnel of such subcontractors who may have contact with Washington USD pupils in the course of performance of the Contract.

The California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1.

Provider certifies that the above information is correct and is in compliance with Education Code section 45122.1 and AB 2102.

WHEREFORE

The undersigned declares, under penalty of perjury according to the laws of the State of California, that the foregoing certification is true and correct to the personal knowledge of the undersigned.

S  
(Provider Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)



# ENERGY SERVICES PROPOSAL – EXHIBIT A

Prepared for Yolo County Office of Education



**Presented by:**  
Syserco Energy Solutions, Inc.

**Date Submitted:**  
April 1, 2024

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## Executive Summary

Yolo County Office of Education (District) selected Syserco Energy Solutions, Inc. (SES), a qualified energy services company and design-build contractor, to develop and implement a comprehensive design-build energy services project. The scope of work for this project is a combination of energy conservation measures (ECMs) at three (3) schools, as well as HVAC and air quality improvements at eligible sites district-wide, under the California Schools Healthy Air, Plumbing and Efficiency Program (CalSHAPE).

The process of developing the energy conservation measures for the District involved performing an Investment Grade Audit (IGA) of the District's identified facilities. The IGA established a historical energy use baseline and identified facility improvement and ECMs that address the primary objectives of the District's facilities staff.

We are pleased to present the following energy efficiency and facility enhancement project proposal to Yolo County Office of Education. This proposal represents the scope of work, approved by the District, and shall result in improved facility conditions, air quality, learning and teaching conditions, and significant operational cost reductions for the District.

The primary objective of this project is to implement ECMs that provide energy resiliency from utility blackouts, maximize energy savings, generate operational savings, utilize CalSHAPE grant funds to assess HVAC systems, improve air quality and ventilation for students and staff, and utilize solar energy generation to offset PG&E energy consumption. Secondary goals include replacing aged and/or failing equipment, future capital cost avoidance, and the reduction of greenhouse gas emissions across the District.

The following priorities were identified by the District as the most crucial items to address in this project:

- Installation of battery storage at the Santa Anita Court (Main Office) building to provide resiliency against utility outages.
- Installation of new controls at the Santa Anita Court (Main Office) building to provide visibility and control over building operation.
- Application and installation of CalSHAPE measures across all three (3) schools in the District.



The following table outlines the lump sum project cost and estimated grants and incentives, resulting in the expected net project cost to the District.

<b>Estimated Project Cost</b>	<b>\$4,696,315*</b>
CalSHAPE Grant Funding	\$56,880
Estimated IRA ITC	\$940,450**
Estimated Net Project Cost	\$3,702,670**
Estimated 20-year term savings	\$7,145,609***
Estimated Life Cycle Savings	\$9,743,701***

*\*Pricing assumes the Office of Education approves this project at a regularly scheduled public hearing in April 2024, public notice of which is given at least two weeks in advance. Pricing may be subject to change if the approval is delayed.*

*\*\*Values are estimated and not guaranteed.*

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

## Section 1 – Introduction

We are pleased to present this Energy Services Proposal (proposal) to Yolo County Office of Education (District) for the purpose of implementing the recommended energy conservation measures (ECMs) as approved by District staff. In implementing this project, the District will achieve improved occupant comfort and reduced utility consumption. As such, this project will reduce ongoing maintenance costs, thus providing operational cost savings.

To develop the recommended project, our experienced energy engineers, project managers, and project developers examined existing systems and equipment through a detailed energy and operational audit of the District's facilities to determine the full potential for savings. This proposal is a culmination of our audit findings, recommended measures, infrastructure enhancements, operational savings, and overall cost reductions. We have investigated multiple means for accomplishing this goal including retrofitting equipment, installation of new devices, and employing enhanced strategies to improve operational efficiency.

### 1.1 Approach

The project development process involved numerous site visits, interaction with District administration and facilities staff, a detailed analysis of existing equipment and systems, current utility consumption, and any available logs and profiles of equipment. Studies of energy usage, operating conditions, and interviews with the District's facility team have been valuable sources of information, contributing greatly to this effort. We have taken into consideration the input provided by staff and have integrated the various infrastructure needs of the District by compiling the proposed ECMs.

## Section 2 – Scope of Work

### 2.1 Energy Conservation Measure (ECM) Summary

For the detailed scope of work descriptions, please refer to section “2.5 ECM Descriptions and Detailed Scope of Work.”

### 2.2 Clarifications and Exclusions

#### 2.2.1 Clarifications

- There will be one (1) working shift, in the morning/early afternoon hours.
- We will work closely with District staff to identify any areas that may require after-hours work. We will review the project schedule with District staff to ensure mutual agreement is reached regarding site access and District-approved work in occupied spaces.
- The District shall provide all required static IP addresses and ethernet drops for equipment where applicable and required.
- The District shall provide a laydown and storage area during the construction period.
- All existing curbs, housekeeping pads, structural mounts, and support structures for mechanical equipment are assumed to be in good condition and are structurally adequate.
- Due to the like-for-like replacement nature of this project, permits (except for solar/battery) are assumed to be excluded.
- It is assumed that the existing electrical circuit breakers and disconnects are working in good order and are fully functional.
- The District shall provide electrical power to operate electrical construction tools and equipment.
- Our proposal is based on reusing existing electrical circuits unless specifically stated in the detailed scope of work.
- It is assumed proper grounding exists for all electrical equipment.
- The District will provide our team with two (2) sets of master keys during the construction period.

#### 2.2.2 Exclusions

- Provision of temporary heating, cooling, fans, and domestic water.
- Any repair work for existing systems beyond that which is stated in the ECM scope of work or resolving existing code violations. All existing equipment is assumed to be in good working order and meet code.
- Work or other performance requirements shown in any other documents not stated in this proposal.
- Fire and life safety system programming or related work.
- Hazardous material abatement.

## 2.3 Extent of Subcontracting

We may subcontract portions of work related to this contract to licensed and qualified companies including equipment installation, start-up, and training.

## 2.4 Project Schedule

As a predecessor milestone, the initial construction schedule start date is based on the execution of the contract. The projected overall project implementation schedule will be developed by our project manager and reviewed with District staff during the construction kickoff meeting.

## 2.5 ECM Descriptions and Detailed Scope of Work

### 2.5.1 Introduction

As a result of our project development work, several ECMs have been identified to meet the specific needs of each facility. ECM identification and selection is the result of our detailed review of each site, in conjunction with the District’s building plans, specifications, equipment arrangements, and interviews with District staff. These ECMs are intended to enhance the efficiency of the buildings through new equipment, repair, retrofit, and reprogramming of the various systems in the buildings.

The following section is a detailed description of each proposed ECM. Each description includes the existing and proposed conditions, planned scope of work, and any impacts to operations and/or maintenance.

### 2.5.2 Detailed Scope of Work for Energy Efficiency Project

#### Building Automation System

##### ECM 3.01 – Building HVAC Controls

##### Existing Conditions and General Intent

There are currently a mix of different building controls at the Santa Anita (Main Office) building including some Alerton controls and some stand-alone thermostats. Greengate School, Cesar Chavez Community School, Plainfield Elementary, Lemen Center, and Esparto School have a mix of standalone thermostats.

##### ECM Benefits

SES will install a standardized building automation system across the District’s chosen buildings to give District staff access and visibility to all controls from a computer. Additionally, the Santa Anita Court (Main Office) building will have integrated one click buttons that will allow staff to open and close all units with an economizer. Closing dampers in the event of an extended utility shut down will reduce building load and allow the battery storage system to provide power to the buildings’ critical functions for a longer period of time, and opening dampers will allow for the purging of contaminants out of the space.



Additionally, PM2.5 sensors will be installed on three (3) units in Suite 190 to give District staff data on air quality. Finally, CO<sub>2</sub> sensors will be installed in Greengate School and Cesar Chavez Community School classrooms to meet the eligibility requirements of the CalSHAPE program.

**Impacted Equipment**

*Please see Attachment A for a detailed description of the proposed Building HVAC Controls.*

**HVAC**

**ECM 4.01 – CalSHAPE Ventilation – Assessment and Maintenance (A&M), Filters, and Contingency Repair**

**Existing Conditions and General Intent**

There are standalone thermostats throughout the District. This measure will install new network-capable electronic thermostats with integrated CO<sub>2</sub> sensors. These will immediately meet the requirements of the CalSHAPE program, making the District eligible for grant funding. The District needs to submit their Notice of Proposed Award (NOPA) documents to be eligible to receive grant funding.

**ECM Benefits**

SES will add networked thermostats with integrated CO<sub>2</sub> sensors to meet the CalSHAPE requirements. Additionally, units will be tested following the Assessment and Maintenance (A&M) pathway for the CalSHAPE program, and a new round of filters will be installed. Finally, after the completion of A&M, SES will provide a list of eligible repairs and perform repairs up to the allocated contingency budget at each school. Please see the detailed scope breakout for each school below.

School Name	Assessment & Maintenance	Filter Replacements	CO <sub>2</sub> Provision & Installation	Contingency Repair (\$)
Cesar Chavez Community School	5	15	5	\$3,825.00
Greengate School	11	33	8	\$5,655.00
<b>Total</b>	<b>16</b>	<b>48</b>	<b>13</b>	<b>\$9,480.00</b>



#### CalSHAPE Ventilation Assessment and Maintenance (A&M) Details:

1. Verification of HVAC quantities and types on site prior to starting work.
2. Verification of ventilation rates in eligible spaces will be performed by qualified testing personnel.
3. Calculation of the required minimum outside air ventilation rates for each occupied space.
4. Measurement of outside air under Section B of California Energy Commission (CEC) form CEC-NRCA-MCH-02-A.
5. Verification of survey readings of inlets and outlets to ensure all ventilation is reaching the served zone and there is adequate distribution.
6. Verification of building pressure relative to the outdoors to ensure a proper level of positive pressure differential.
7. Verification of coil velocities and discharge air temperatures required to maintain desired indoor conditions.
8. Confirmation that the air-handling units are bringing in outdoor air and removing exhaust air as intended by the system design.

#### HVAC Assessment Report

SES will provide and submit an HVAC Assessment report that has been prepared by Qualified Testing Personnel or Qualified Adjusting Personnel. HVAC assessment report to include:

1. Name and address of school facility and person preparing and certifying HVAC Assessment Report
2. Documentation of HVAC equipment model number, serial number, and general condition of unit
3. Verification that MERV 13 filters have been installed or that the maximum MERV-rated filter that the system is able to effectively handle has been installed.
4. Verification of ventilation rates for eligible spaces.
5. Documentation of system deficiencies and recommendations for additional maintenance, replacement, or upgrades to improve energy efficiency, safety, or performance.
6. Name of the utility that provides electricity service and monthly electricity meter data.

#### Filter Replacement

1. Verification of filter quantities and sizes to be on site prior to ordering.
2. Replacement of existing filters with a minimum efficiency of MERV 13 or better in the HVAC systems where feasible.
3. Recommendations for additional maintenance, replacement, or upgrades to the above will be recorded in the HVAC Assessment Report.

### CalSHAPE Contingency Repairs – requires approval by the District

1. The CalSHAPE program has an allowance for “minor repairs” following the assessment and maintenance of each HVAC unit, the allowed amount per school is detailed in Attachment A, which may be subject to change after the completion of the assessment tasks. Contingency dollars cannot be transferred between schools.
2. We will compile a list of needed repairs and costs, broken out by school, to present to the District for approval.
3. **We strongly encourage the District to set aside additional contingency money to cover repairs that the CalSHAPE Contingency Repairs allowance does not cover.**

### ECM 4.02 – HVAC replacement

#### Existing Conditions and General Intent

There is an old HVAC unit at Greengate School that is past end of useful life and is recommended for replacement.

#### ECM Benefits

SES will replace the HVAC unit with a new high efficiency unit. The new unit is more efficient and will save energy and reduce operation and maintenance costs.

#### Impacted Equipment

##### Greengate School

1. Check in with the customer and lock out tag out electrical as necessary.
2. Remove one (1) existing Carrier RTU utilizing a crane and dispose in accordance with state and local regulations.
3. Provide and install one (1) new Heat Pump RTU in place of the existing.
4. Detail, fabricate, and install new supply and return ducting to accommodate new unit configuration.
5. Remove existing curb adapter.
6. Mount new RTU on existing curb cap.
7. Remove gas piping at the unit and cap off after the shut off valve.
8. Reconnect condensate at the unit and modify as necessary.
9. Provide and install one (1) new economizer.
10. Reconnect to existing thermostat.
11. Reconnect to existing electrical wiring and re-use existing breaker.
12. Install new electrical disconnect if necessary.
13. Re-use existing condensate lines.
14. Start-up, test, and calibrate new systems according to manufacturer’s recommendations to ensure optimal system operation.
15. New equipment comes with a factory one (1)-year parts warranty and five (5)-year compressor warranty. SES includes a one-year parts and labor warranty on new equipment.



### ECM 4.03 – HVAC Coil Rejuvenation

#### Existing Conditions and General Intent

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

#### ECM Benefits

HVAC rejuvenation combs and straightens the condenser fins/coils adding a covalently bonded coating of marine-grade polyurethane and aluminum flecks. This improves efficiency and extends the life of the unit, adding physical protection of the coil. HVAC rejuvenation also provides a barrier, preventing further corrosion, efficiency-depleting wear, and extending the life cycle of the equipment for this critical component. HVAC rejuvenation protectant is a UV inhibitor and requires only pressurized water for further cleaning.

#### Impacted Equipment

Site Name	Qty (#)
Cesar Chavez Community/Greengate School	7
Santa Anita (Main Office) Court Building	26
<b>Total</b>	<b>33</b>

#### HVAC Service

- Deenergize system, lock-out/tag-out
- Partially disassemble equipment around condenser coil
- Thoroughly clean coil from inside and outside to remove debris and scaling from coils/fins.
- Comb coil/fins straight as much as feasible to enhance air flow.
- Provide and install HVAC coating from both inside and outside of coil to get thorough coverage of coil.
- Confirm installation per manufacturer’s specification and drying time.
- Reassemble equipment
- Reenergize system, lock-out/tag-out removal.
- Provide necessary engineering and project management for complete turnkey system.

## Building Envelope ECM's

### ECM 6.01 – Building Envelope

#### Existing Conditions and General Intent

The exit doors have missing or damaged door sweeps and seals. There are wall penetrations for pipes that are not properly caulked and sealed. This allows for air, water, and pest infiltration into the buildings. By repairing or replacing the door sweeps and seals of the exterior doors and caulking wall penetrations, the amount of infiltration will be reduced.

#### ECM Benefits

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

#### Impacted Equipment

##### Santa Anita Court (Main Office) Building

- Roof/Wall joint to be sealed with two (2)-part foam – 1,000 feet
- Interior door to be weather stripped and sealed – one (1) door
- Pipe penetrations to be sealed with one (1) or two (2)-part foam – five (5) feet
- Pipe penetrations to be sealed exterior with black foam or caulk – fifteen (15) penetrations
- Exterior doors to be weather stripped and sealed – four (4) doors
- Exterior double doors to be weather stripped and sealed – six (6) double doors

##### Cesar Chavez Community School

- Exterior doors to be weather stripped and sealed – eight (8) doors

##### Greengate School

- Exterior single doors to be weather stripped and sealed – fifteen (15) doors
- Exterior double doors to be weather stripped and sealed – seven (7) double doors
- Exterior sliding doors to be weather stripped and sealed – two (2) doors

##### Plainfield Elementary

- Exterior doors to be weather stripped and sealed – five (5) doors



**ECM 6.02 – Window Film**

**Existing Conditions and General Intent**

Existing windows have standard reflectivity that allows a large solar heat gain into the space, which increases heat load and required cooling, which increases energy consumption.

**ECM Benefits**

Reducing the solar heat gain into the space will reduce the heat gain, therefore reducing the amount of air conditioning required. This will save energy and reduce run time on existing HVAC units.

**Impacted Equipment**

Building Name	Qty. of Windows	Sq. Ft. of Windows
Santa Anita (Main Office) Court building	383	3,350
Cesar Chavez Community School	44	393
Greengate School	78	682
<b>Total</b>	<b>505</b>	<b>4,425</b>

**Renewable Energy Systems**

**ECM 11.01 - Solar Photovoltaic and Energy System (Solar PV and ESS)**

**Existing Conditions and General Intent**

The designs of the new solar arrays and energy storage systems were developed in conjunction with the energy efficiency project to offset as much of the District’s overall electricity use and costs from PG&E as feasible. Equipment location, identification, and selection is the result of our detailed review of the sites, the District’s building plans, specifications, physical equipment arrangements, and discussions with the District’s personnel. These new solar PV arrays and energy storage systems are intended to reduce the annual true-up energy consumption and cost relative to the PG&E bills and provide resilience for the Santa Anita Court (Main Office) building site during PG&E power outages.

This project will design, furnish, and install new solar PV ground mount, carport shade structure, and energy storage systems at various District sites. These new systems, coupled with the energy efficiency measures which will be constructed concurrently, will bring each site close to a net zero energy balance relative to the grid-purchased electrical energy. Additionally, the energy storage system on the Santa Anita (Main Office) Court building site will be constructed in a microgrid configuration, allowing for the operation of the site during PG&E power outages.

**ECM Benefits**

The benefit to the District is a reduced electrical need by providing solar production on site to offset the volume of electrical energy purchased from the grid, and energy storage systems to offset electrical demand charges from PG&E in addition to providing resilience capability to the Santa Anita Court (Main Office) building.



**Impacted Equipment (Solar)**

Site Name	Nominal Array Size (kW DC)	Target Energy Production (kWh)	Mounting Type
Santa Anita Court (Main Office) Building	241.5	358,990	Ground
Cesar Chavez Community/Greengate School	146.625	217,362	Carport
<b>Total</b>	<b>388.125</b>	<b>576,352</b>	<b>N/A</b>

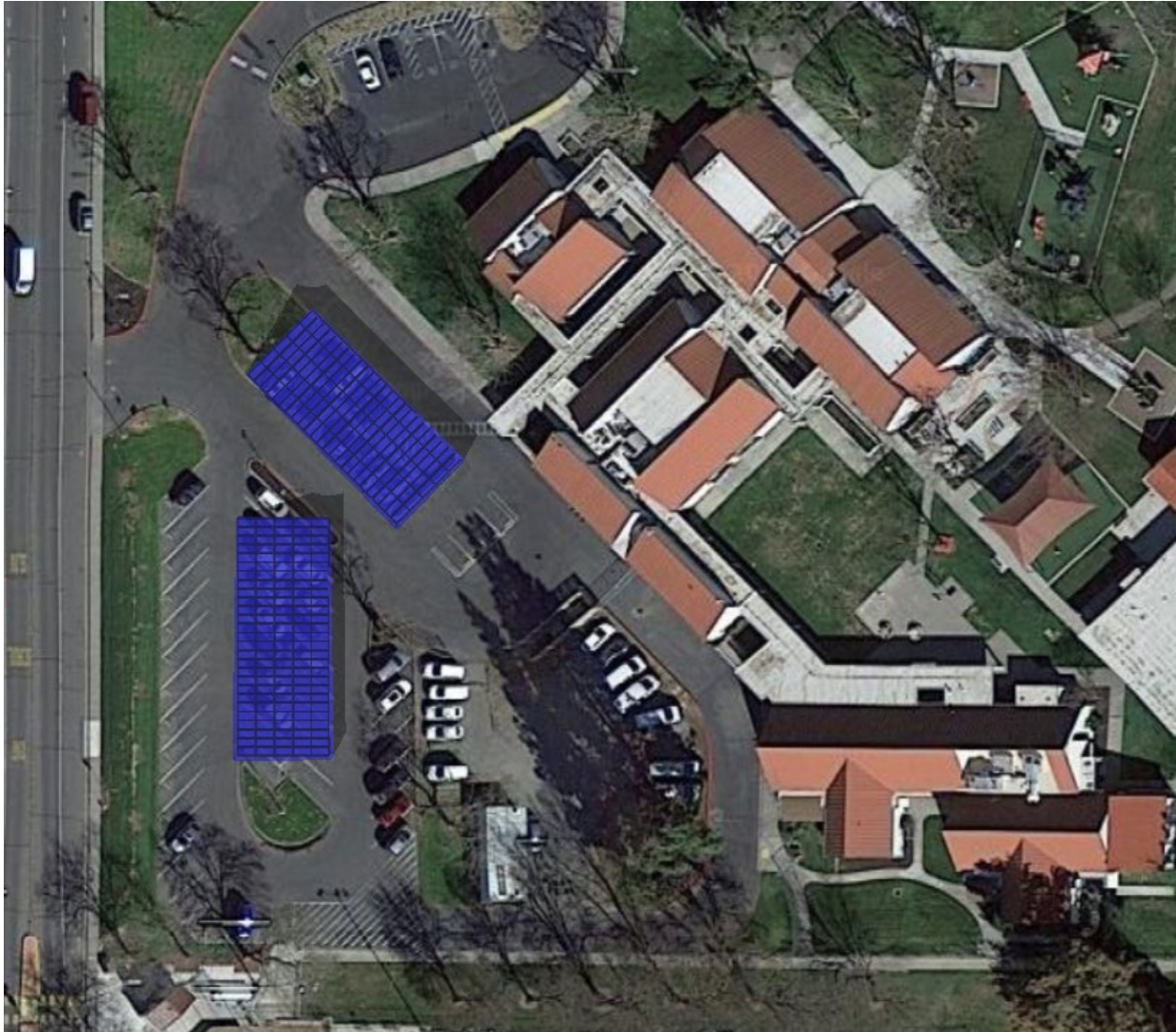
**Impacted Equipment (Energy Storage)**

Site Name	Energy Storage Size (kW)	Energy Storage Size (kWh)
Santa Anita Court (Main Office) Building	125	330

Santa Anita Court (Main Office) Building – 241.5 kW DC PV Nominal, 125 kW / 330 kWh ESS –  
358,990 kWh Generation – Ground Mount



Cesar Chavez Community School/Greengate School – 146.625 kW DC PV Nominal – 217,362 kWh  
Generation – Carport





### Assumed Conditions

1. All work will be performed during regular work hours (Monday through Friday, 7:00 a.m. to 3:30 p.m.).
2. All field craft labor will comply with prevailing wage requirements and current California Department of Industrial Relations (DIR).
3. The District shall provide all IT support required for the installation of solar PV, energy storage, and interface systems for this project.
4. All structural engineering related to the support of equipment as identified is included. All structural work related to the mounting of the energy storage system is included. All structural work related to the construction of the canopy and ground mount structures is included.
5. The District shall provide a laydown and storage area during the construction period.
6. All permit drawings and permit fees required for the execution of the work are included.
7. The District shall provide electrical power to operate electrical construction tools and equipment.
8. Pricing is based on a single-mobilization project, multiple phases or extensions to schedule may constitute a change in scope and project schedule.
9. A warranty from date of Notice of Substantial Completion is included.
10. All carport solar PV structures shall include LED lighting, as required by code.
11. Any tree removal necessary for installation of new carport solar PV is included.
12. Crossing of the PG&E easement for the existing gas line running through the parking lot at the Santa Anita Court site is included.

### Customer Furnished/Performed Items

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

## Design Phase

1. The solar PV and energy storage schematic design aims to meet the targeted electrical production and backup duration outlined in the conceptual design, which is provided in the technical documents for each site. It will be based on accurate and detailed modeling of system production and consideration of shading analysis or other site constraints using industry-standard tools. The design plans will include sufficient detail to analyze and discuss critical design decisions and the system layout will only utilize areas identified by the District for use.
2. Design development and complete construction drawings of the solar PV, energy storage system, and all ancillary work required for permitting and construction will be provided by SES. Drawings shall fully describe all aspects of the construction work including fencing, directional boring/trenching, excavations, racking and mounting systems, electrical systems, signage, foundations, lighting, Americans with Disabilities Act (ADA) requirements, etc. SES will provide electrical, structural, and all other required California licensed engineers and/or architects (Engineers of Record and Architect of Record) to provide a complete, stamped design set as required to permit and construct a complete energy project submittal for the authority having jurisdiction (AHJ). The electrical construction drawings shall show and include all conduits below and above the finished grade/finish. All plans and specifications must meet the approval of AHJ, the District, the District's representative, the local Fire Authority, and any other agency deemed as having jurisdiction over this project.
3. All design and engineering will follow SES' submittal process.

## Construction Phase

1. SES will Provide and Install the following:
  - a. PV racking
  - b. PV modules
  - c. PV inverters
  - d. Energy Storage System
  - e. Attachments/Foundations
  - f. Data collection and online monitoring system with a five (5) year monitoring service subscription, a five (5) year cellular service plan, and inputs such as irradiance, panel temperature, ambient temperature, and utility grade production.
  - g. Interconnection Work: includes connection of systems to utility grid at the main switchboard of each site.
2. SES will provide the utility Interconnection Application (IA), process management, materials, and coordination for inspection from the local utility. The IA process includes a utility application review phase. The utility engineering review phase can result in additional costs not included or reasonably anticipated (as they can only be determined by the utility at the end of the IA process) upon execution of this contract.

3. SES will identify all ADA compliance issues that are directly associated with this project. SES is responsible for covered parking space ratios, signage, and any other compliance issues that are located under the footprint of any solar PV array canopy including canopies not located in parking lots. The cost of all other ADA compliance enhancements outside the canopy areas (i.e., path-of-travel access issues that fall outside the canopy footprint) is not known at this time and is therefore excluded from the scope of work.
4. SES' project manager will be assigned for the duration of the project through final completion. Regular coordination meetings (via conference calls or on-site visits, if necessary) will be facilitated by this same project manager. The assigned project manager will create a project schedule with a District representative utilizing project constraints and information revealed during due diligence activities within the design and engineering phase. The project schedule will include these phases sequentially:
  - a. Design, engineering, interconnection application phase
  - b. Permitting phase
  - c. Procurement phase
  - d. Construction phase
  - e. Commissioning phase
  - f. Close-out phase
5. SES will coordinate with and support inspectors, the District, our team, and their consultants during design, construction, commissioning, and close-out.
6. SES is responsible for and will address the removal of trees, light standard removal, new lighting, parking islands, soft scape modifications, ADA upgrades within the footprint of new solar canopy arrays, fire land modifications, ramp access, etc. that are required for the installation of the energy projects.
7. All work assumes normal subsurface and digging conditions. The District acknowledges that SES has not yet performed subsurface due diligence or a geotechnical engineering analysis and therefore make no representation of knowing the impact of the results of the geotechnical study upon the scope, cost, or schedule of the proposed project. If, prior to the issuance of a "Notice to Proceed," any of the sites are deemed to be infeasible in commercially reasonable discretion of the District after consultation with SES, such site shall be removed from the portfolio and the total Fixed Price shall be adjusted based on the size of the balance of the portfolio.
8. SES will perform project commissioning including all associated tasks and documentation related to successfully commissioning the system.
9. Final energy system as-built construction documents clearly conformed with all changes during construction shall be provided.
10. SES will provide a comprehensive set of closeout documents, including O&M manuals for each installed system.
11. SES will conduct training for District staff including orientation to the O&M manuals, systems, and safety procedures.
12. SES will secure laydown and storage facilities at the job site for all racking materials, energy system equipment, and supplies including any required security.
13. SES will provide legal toilets and handwashing facilities at job sites.

14. SES will perform daily cleanup to “broom clean” conditions.
15. SES will return any disturbed areas to pre-construction conditions including repair of all pavement/concrete, street sweeping, restriping, landscape restoration, irrigation restoration, equipment track marks, and scuffs on finished concrete surfaces.
16. SES will provide project closeout, inclusive of obtaining AHJ final inspection and closeout.
17. SES will provide a Stormwater Pollution Prevention Plan (SWPPP)

### **Exclusions**

1. All ADA upgrades are excluded.
2. Any upgrades determined after due diligence after Contract Effective Date by the AOR will be managed through a contract change order.
3. Engineering, installation, and maintenance of permanent stormwater facilities and features if required by the AHJ, which includes the best management practice mitigations including but not limited to riprap, basins, inlet structures, and down inlet protections.
4. Multiple mobilizations.
5. Environmental engineering and/or any environmental/biological remediation.
6. Floodplain engineering and/or any alterations to site and materials to accommodate floodplains.
7. Service upgrades, electrical service equipment, or new services.
8. Changes to project design and implementation required to accommodate easements and/or rights of way not listed in the scope of work.
9. Environmental assessment, environmental impact reports, testing, and other reports not listed in the scope of work.
10. Any design or engineering related to flood plans and/or FEMA high-hazard floodplains.
11. Specialized environmental insurance.
12. Relocation and/or removal of any existing utilities (active or abandoned), inclusive of water, electricity, communication, data, cable TV, security systems, irrigation, etc.
13. Hazardous material surveys, testing, and/or monitoring.
14. Removal and/or disposal of any hazardous or contaminated materials.
15. Excavation, removal and/or disposal of unsuitable materials.
16. Rock excavation and drilling.
17. Soft soil stabilization.
18. Dewatering drilled foundations and sleeving of foundations.
19. Removal/disposal of existing on-site trash and/or debris (inclusive of encountered underground trash or debris).
20. Corrosion-resistant materials (beyond standard galvanization).
21. Arc Fault Hazard Assessment.
22. Overcurrent Protection Coordination Studies.
23. Lab of Record (LOR), Inspector of Record (IOR), and special inspections.



## Electric Vehicle Charging Stations

### ECM 11.02 – Electric Vehicle (EV) Charging Stations

#### General Intent

The quantity of electric vehicles in California is rapidly expanding, which require EV charging stations in order to refuel. The ability to provide on-site access to EV chargers will be an attractive amenity for staff and visitors alike, and will position the district to be prepared for a future dominated by electric vehicles. This measure will install EV charging stations at the main office and provide infrastructure for additional EV chargers at the main office and Greengate locations.

#### ECM Benefits

The benefit to the District is the ability for staff and visitors to charge their electric vehicles on site, and to position the district to cost-effectively install additional chargers in the future as additional capacity becomes needed, by installing 3” conduits and pull boxes at the locations indicated in the provided site layouts.

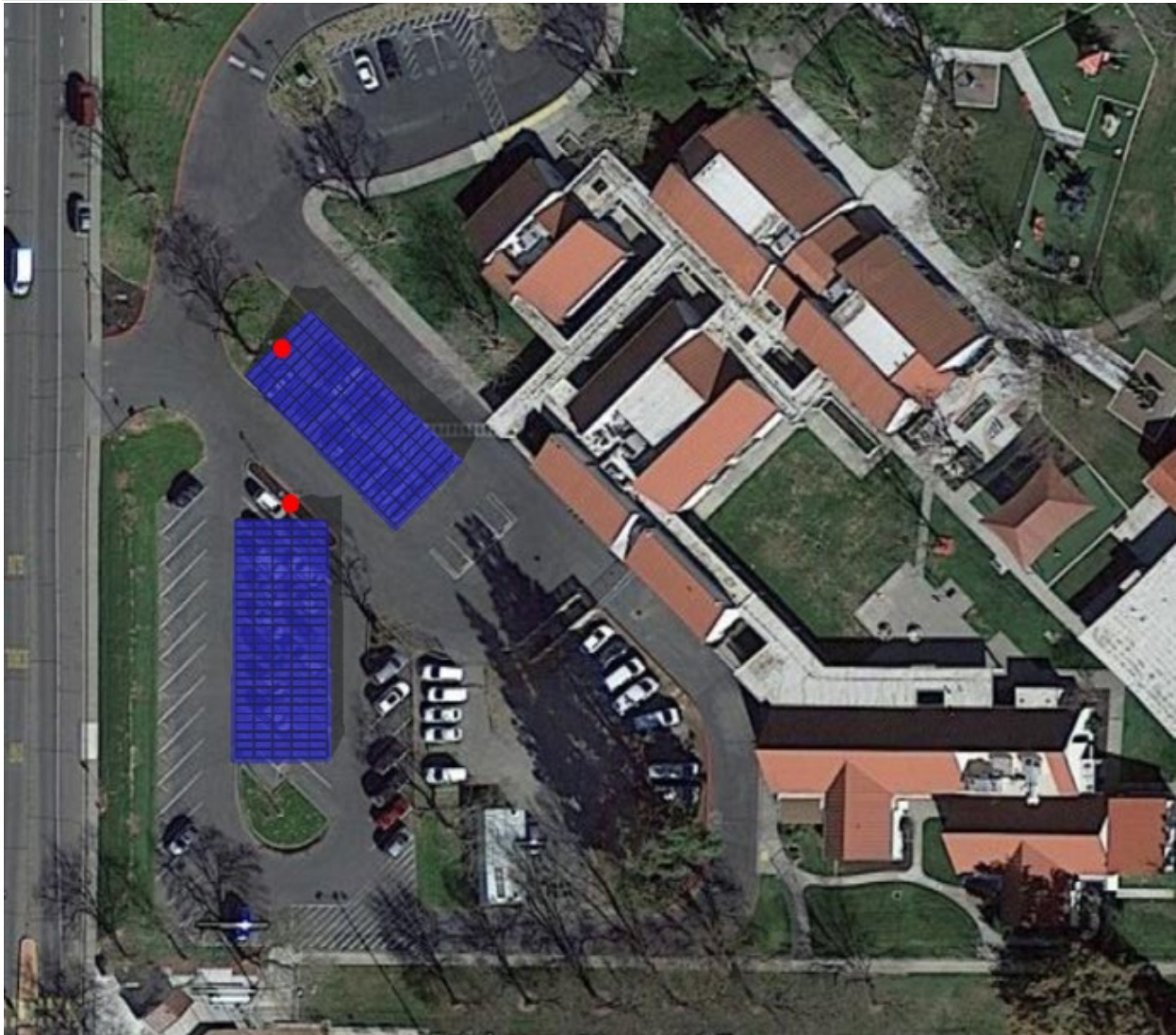
#### Impacted Equipment (EV Chargers)

Site Name	Electric Vehicle Charging Stations	Conduits and Pull Boxes for Future EV Expansion?
Santa Anita Court (Main Office) Building	4	Yes
Cesar Chavez Community/Greengate School	0	Yes
<b>Total</b>	<b>4</b>	<b>Yes</b>

Santa Anita Court (Main Office) Building – (4) EV chargers (orange), (1) Pull box (red) and conduit to main switchgear



Cesar Chavez Community School/Greengate School – (2) Pull boxes (red) with conduit to main switchgear



### **Assumed Conditions**

1. All work will be performed during regular work hours (Monday through Friday, 7:00 a.m. to 3:30 p.m.).
2. All field craft labor will comply with prevailing wage requirements and current California Department of Industrial Relations (DIR).
3. The District shall provide all IT support required for the installation EV chargers for this project.
4. All structural engineering related to the support of equipment as identified is included. All structural work related to the mounting of the chargers is included.
5. The District shall provide a laydown and storage area during the construction period.
6. All permit drawings and permit fees required for the execution of the work are included.
7. The District shall provide electrical power to operate electrical construction tools and equipment.
8. Pricing is based on a single-mobilization project, multiple phases or extensions to schedule may constitute a change in scope and project schedule.
9. A warranty from date of Notice of Substantial Completion is included.
10. Crossing of the PG&E easement for the existing gas line running through the parking lot at the Santa Anita Court site is included.

### **Customer Furnished/Performed Items**

1. All as built drawings or site-specific information necessary to effectively design, engineer and construct the renewable energy solution including but not limited to past site plans, all existing utilities (including irrigation infrastructure), permits for past work, etc.
2. Water as needed to complete the work. Construction services and, if it is required by the authority having jurisdiction, to fill any fire safety water tanks.
3. Provide and maintain a suitable good-weather site access road that will accommodate heavy vehicles, deliveries, and service vehicles.
4. Provide mutually acceptable construction staging and storage area(s) adjacent to project site throughout the construction phase.
5. Provide unrestricted access to the Site during construction (Monday through Friday, 6:00 a.m. to 6:00 p.m.)
6. Lab of Record (LOR), Inspector of Record (IOR), and special inspections.





### Design Phase

1. The EV charging schematic design will be provided by SES. The design plans will include sufficient detail to analyze and discuss critical design decisions and the system layout will only utilize areas identified by the District for use.
2. Design development and complete construction drawings of EV charging system and all ancillary work required for permitting and construction will be provided by SES. Drawings shall fully describe all aspects of the construction work including directional boring/trenching, excavations, racking and mounting systems, electrical systems, signage, foundations, Americans with Disabilities Act (ADA) requirements, etc. SES will provide all required California licensed engineers and/or architects (Engineers of Record and Architect of Record) to provide a complete, stamped design set as required to permit and construct a complete energy project submittal for the authority having jurisdiction (AHJ). The electrical construction drawings shall show and include all conduits below and above the finished grade/finish. All plans and specifications must meet the approval of AHJ, the District, the District's representative, the local Fire Authority, and any other agency deemed as having jurisdiction over this project.
3. All design and engineering will follow SES' submittal process.

### Construction Phase

1. SES will Provide and Install the following:
  - g. EV Chargers
  - h. Attachments/Foundations
  - i. Interconnection Work: includes connection of EV Chargers to utility grid at the main switchboard of each site.

2. SES will identify all ADA compliance issues that are directly associated with this project. SES is responsible for compliance issues that are located in the EV Charging parking stalls. The cost of all other ADA compliance enhancements outside the EV Charging stalls (i.e., path-of-travel access issues that fall outside the parking area footprint) is not known at this time and is therefore excluded from the scope of work.
3. SES' project manager will be assigned for the duration of the project through final completion. Regular coordination meetings (via conference calls or on-site visits, if necessary) will be facilitated by this same project manager. The assigned project manager will create a project schedule with a District representative utilizing project constraints and information revealed during due diligence activities within the design and engineering phase. The project schedule will include these phases sequentially:
  - j. Design, engineering, interconnection application phase
  - k. Permitting phase
  - l. Procurement phase
  - m. Construction phase
  - n. Commissioning phase
  - o. Close-out phase
4. SES will coordinate with and support inspectors, the District, our team, and their consultants during design, construction, commissioning, and close-out.
5. All work assumes normal subsurface and digging conditions. The District acknowledges that SES has not yet performed subsurface due diligence or a geotechnical engineering analysis and therefore make no representation of knowing the impact of the results of the geotechnical study upon the scope, cost, or schedule of the proposed project. If, prior to the issuance of a "Notice to Proceed," any of the sites are deemed to be infeasible in commercially reasonable discretion of the District after consultation with SES, such site shall be removed from the portfolio and the total Fixed Price shall be adjusted based on the size of the balance of the portfolio.
6. SES will perform project commissioning including all associated tasks and documentation related to successfully commissioning the system.
7. Final system as-built construction documents clearly conformed with all changes during construction shall be provided.
8. SES will provide a comprehensive set of closeout documents, including O&M manuals for each installed system.
9. SES will conduct training for District staff including orientation to the O&M manuals, systems, and safety procedures.
10. SES will secure laydown and storage facilities at the job site for all racking materials, energy system equipment, and supplies including any required security.
11. SES will provide legal toilets and handwashing facilities at job sites.

12. SES will perform daily cleanup to “broom clean” conditions.
13. SES will return any disturbed areas to pre-construction conditions including repair of all pavement/concrete, street sweeping, restriping, landscape restoration, irrigation restoration, equipment track marks, and scuffs on finished concrete surfaces.
14. SES will provide project closeout, inclusive of obtaining AHJ final inspection and closeout.
15. SES will provide a Stormwater Pollution Prevention Plan (SWPPP)

### **Exclusions**

1. All ADA upgrades are excluded.
2. Any upgrades determined after due diligence after Contract Effective Date by the AOR will be managed through a contract change order.
3. Engineering, installation, and maintenance of permanent stormwater facilities and features if required by the AHJ, which includes the best management practice mitigations including but not limited to riprap, basins, inlet structures, and down inlet protections.
4. Multiple mobilizations.
5. Environmental engineering and/or any environmental/biological remediation.
6. Floodplain engineering and/or any alterations to site and materials to accommodate floodplains.
7. Service upgrades, electrical service equipment, or new services.
8. Changes to project design and implementation required to accommodate easements and/or rights of way not listed in the scope of work.
9. Environmental assessment, environmental impact reports, testing, and other reports not listed in the scope of work.
10. Any design or engineering related to flood plans and/or FEMA high-hazard floodplains.
11. Specialized environmental insurance.
12. Relocation and/or removal of any existing utilities (active or abandoned), inclusive of water, electricity, communication, data, cable TV, security systems, irrigation, etc.
13. Hazardous material surveys, testing, and/or monitoring.
14. Removal and/or disposal of any hazardous or contaminated materials.
15. Excavation, removal and/or disposal of unsuitable materials.
16. Rock excavation and drilling.
17. Soft soil stabilization.
18. Dewatering drilled foundations and sleeving of foundations.
19. Removal/disposal of existing on-site trash and/or debris (inclusive of encountered underground trash or debris).
20. Corrosion-resistant materials (beyond standard galvanization).
21. Arc Fault Hazard Assessment.
22. Overcurrent Protection Coordination Studies.
23. Lab of Record (LOR), Inspector of Record (IOR), and special inspections.



## Plug Load

### ECM 19.01 – Plug Load Controllers

#### General Intent

There are many devices that are plugged into wall outlets for power. This equipment consumes electricity when not in use. When taken in aggregate the volume of stand-by electricity consumption adds notable and unnecessary cost. This measure will install plug load, end-device controllers, and centralized infrastructure to schedule, monitor and control these devices for the purpose of reducing stand-by energy losses.

#### ECM Benefits

By turning this equipment completely off on a schedule the District can be sure that plugged in equipment is fully turned off each night, eliminating energy waste.

#### Impacted Equipment

Site Name	# of plug load controllers
Santa Anita (Main Office) Court building	70
Cesar Chavez Community School	24
Greengate School	49
<b>Total</b>	<b>143</b>

## Section 3 – Project Financials

### 3.1 Firm-Fixed Project Cost

Costs presented in this proposal are valid until 4/19/2024. If the Notice to Proceed is issued after 4/19/2024, SES reserves the right to re-evaluate the project and make necessary modifications to the construction cost.

### 3.2 Items Included in Project Cost

Project costs include:

1. Engineering audit/project development including the cost for preparation of this proposal.
2. Engineering design
3. Construction/project management and site supervisor services.
4. Installation of equipment as specified in the scope of work:
  - a. All costs will be paid by SES for the installation of the equipment. This includes costs paid to subcontractors, team member reimbursements, or otherwise as it relates to the installation or system verification of equipment.
  - b. Cost of all equipment, materials, supplies, and equipment incorporated in the scope of work, including costs of transportation thereof.
  - c. Cost or rental charges including transportation and maintenance, of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers.
  - d. Cost of premiums for all bonds and insurance.
  - e. Demolition cost and off haul of all non-hazardous debris.
  - f. Cost of equipment startup, training, system verification, and balancing performed by SES.
5. We will provide a *Schedule of Values* that will include all costs related to the installation of the equipment. The *Schedule of Values* will be presented during the project construction kickoff meeting at the initiation of the project implementation phase.
6. Mobilization, project development, and engineering fee:
  - a. The invoice will be presented upon mutual execution of the Energy Services Agreement and will be in the amount of 25% of the project's total value.

**Attachment A**

Site	Unit	Existing Unit	Controlled Unit	Economizer	CO2	Smoke	PM 2.5
Cesar Chavez	#1 Principal	BARD	BARD	N	Y	N	N
Cesar Chavez	#1 Classroom	BARD	BARD	N	Y	N	N
Cesar Chavez	#2 Entry	BARD	BARD	N	Y	N	N
Cesar Chavez	Art	BARD	BARD	N	Y	N	N
Cesar Chavez	#2 Classroom	BARD	BARD	N	Y	N	N
Cesar Chavez	#3 Classroom	BARD	BARD	N	Y	N	N
Cesar Chavez	#4 Classroom	BARD	BARD	N	Y	N	N
Cesar Chavez	#1	BARD	BARD	N	Y	N	N
Cesar Chavez	#2	BARD	BARD	N	Y	N	N
Esparto	Classroom	Pkg Wall	Pkg Wall	N	Y	N	N
Esparto	Office	Ductless Minisplit	Ductless Minisplit	N	N	N	N
Greengate	A 1	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	A 2	Ductless Minisplit	Ductless Minisplit	N	N	N	N
Greengate	B 1	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	B 2	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	B 3	Ductless Minisplit	Ductless Minisplit	N	N	N	N
Greengate	C 1	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	C 2	Ductless Minisplit	Ductless Minisplit	N	N	N	N
Greengate	D 1	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	E 1	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	E 2	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Greengate	E 3	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Lemen	Pkg Wall Unit	Pkg Wall	Pkg Wall	N	Y	N	N
Plainfield	#1	Pkg Wall	Pkg Wall	N	Y	N	N
Plainfield	#2	Pkg Wall	Pkg Wall	N	Y	N	N
Plainfield	#3	Pkg Wall	Pkg Wall	N	Y	N	N
Plainfield	#4	Pkg Wall	Pkg Wall	N	Y	N	N
Santa Anita	AC 1	Pkg Gas / DX	Pkg Gas / DX	Y	Y	Y	N
Santa Anita	AC 2	Pkg Gas / DX	Pkg Gas / DX	Y	Y	Y	N
Santa Anita	AC 3	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Santa Anita	AC 4	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 5	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 6	Pkg Gas / DX	Pkg Gas / DX	N	Y	Y	N
Santa Anita	AC 8	Pkg Gas / DX	Pkg Gas / DX	Y	Y	Y	N
Santa Anita	AC 9	Pkg Gas / DX	Pkg Gas / DX	N	Y	Y	N
Santa Anita	AC 10	Pkg Gas / DX	Pkg Gas / DX	Y	Y	Y	N
Santa Anita	AC 11	Pkg Gas / DX	Pkg Gas / DX	N	Y	Y	N
Santa Anita	AC 12	Pkg HP	Pkg HP	N	Y	N	N
Santa Anita	AC 13	Pkg HP	Pkg HP	Y	Y	N	N
Santa Anita	AC 14	Pkg HP	Pkg HP	N	Y	N	N
Santa Anita	AC 15	Pkg HP	Pkg HP	N	Y	Y	N
Santa Anita	AC 16	Pkg HP	Pkg HP	Y	Y	N	N
Santa Anita	AC 17	Pkg HP	Pkg HP	Y	Y	N	N
Santa Anita	AC 18	Pkg HP	Pkg HP	N	N	Y	N
Santa Anita	AC 19	Pkg HP	Pkg HP	N	N	Y	N
Santa Anita	AC 21	Pkg HP	Pkg HP	N	N	Y	N

Santa Anita	AC 22	Pkg HP	Pkg HP	N	Y	Y	N
Santa Anita	AC 23	Pkg HP	Pkg HP	Y	Y	N	N
Santa Anita	AC 24	Pkg HP	Pkg HP	Y	Y	N	N
Santa Anita	AC 25	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 26	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 27	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 28	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 29	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 30	Pkg Gas / DX	Pkg Gas / DX	N	Y	N	N
Santa Anita	AC 31	Pkg Gas / DX	Pkg Gas / DX	N	Y	N	N
Santa Anita	AC 32	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 33	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 34	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Santa Anita	AC 35	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 36	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 37	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 38	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 39	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 40	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Santa Anita	AC 41	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 42	Pkg Gas / DX	Pkg Gas / DX	N	Y	N	Y
Santa Anita	AC 43	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	Y
Santa Anita	AC 44	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Santa Anita	AC 46	Pkg Gas / DX	Pkg Gas / DX	N	Y	N	N
Santa Anita	AC 47	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	AC 48	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	Y
Santa Anita	AC 49	Pkg Gas / DX	Pkg Gas / DX	Y	Y	N	N
Santa Anita	AC 50	Pkg Gas / DX	Pkg HP	Y	Y	N	N
Santa Anita	A	Ductless Minisplit	Ductless Minisplit	N	N	N	N
Santa Anita	B	Ductless Minisplit	Ductless Minisplit	N	N	N	N
Santa Anita	C	Ductless Minisplit	Ductless Minisplit	N	N	N	N

**8. 3. RESOLUTION #23-24/40 In Recognition of California Retired Teachers Association's (CaIRTA) 95th Anniversary** 

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**Description**

Approve RESOLUTION #23-24/40 In Recognition of California Retired Teachers Association's 95th Anniversary

**Recommendation**

Staff recommends approval of RESOLUTION #23-24/40 In Recognition of California Retired Teachers Association's 95th Anniversary

**Supporting Documents**



Cal Retired Teachers 95th Anniversary

**Contact Person**

President Shelton Yip will present this resolution to Bob Gonzalez and Gill Walker, CaIRTA.





**Yolo County Board of Education and  
Yolo County Superintendent of Schools**

**Resolution #23-24/40**

**In Recognition of 95 Years for the California Retired Teachers Association**

**WHEREAS**, the California Retired Teachers Association has dedicated the past 95 years to protecting and advocating for retired and active educators, in addition to providing support for public education in local communities; and

**WHEREAS**, during the Great Depression, retired schoolteachers were receiving a pension estimated around \$500 per year with many living in poverty after a lifetime of teaching; and

**WHEREAS**, at the start of the Great Depression, the California Retired Teachers Association was formed in 1929 when Laura E. Settle, a retired teacher from the Pasadena School District, convened a meeting of nine teachers in her home to address actions to improve the lives of her fellow educators; and

**WHEREAS**, this first gathering of teachers by Laura E. Settle laid the foundation for the association to serve as a powerful advocate for retired teachers across the state; and

**WHEREAS**, Laura E. Settle became the founder and president of the California Retired Teachers Association, serving 16 years as president of the association until 1945; and

**WHEREAS**, the California Retired Teachers Association is now the nation's largest retired teacher association and has achieved numerous legislative accomplishments on behalf of its membership; and

**WHEREAS**, the California Retired Teachers Association provides continuing support to current and future teachers statewide and in Yolo County, including grants, scholarships and donations of more than \$750,000 a year; and

**WHEREAS**, retired teachers led by example, including dozens of members who have given more than 4,000 hours of volunteer service annually; and

**WHEREAS**, in Yolo County, educators representing the five school districts and YCOE have donated 51,088 volunteer hours; and

**NOW, THEREFORE BE IT RESOLVED**, that the Yolo County Board of Education and the Yolo County Superintendent of Schools does hereby recognize the contributions of the California Retired Teachers Association, offers congratulations for 95 years of service, and offers best wishes for continued success in the future.

**PASSED AND ADOPTED** by the Yolo County Board of Education and the Yolo County Superintendent of Schools at a meeting held on April 9, 2024, by the following vote:

**AYES: Esquivel, Moreno, Salud-Ambriz, Yip, Zendejas**

**NOES: None**

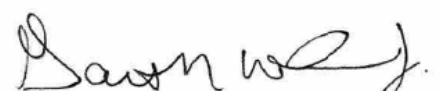
**ABSENT: None**

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Shelton Yip, President  
Yolo County Board of Education

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Garth Lewis  
Yolo County Superintendent of Schools



**8. 4. RESOLUTION #23-24/41 Asian American and Pacific Islander Heritage Month - May 2024** 

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**Description**

Approve RESOLUTION #23-24/41 Asian American Month - May 2024

**Recommendation**

Staff recommends approval of RESOLUTION #23-24/41 Asian American Month - May 2024

**Supporting Documents**

 Asian American and Pacific Islander Heritage Month

**Contact Person**

President Shelton Yip will present this resolution to Norb Kumagai.



**Yolo County Board of Education and  
Yolo County Superintendent of Schools**

**Resolution #23-24/41  
Asian American and Pacific Islander Heritage Month – May 2024**

**WHEREAS**, The State of California is home to over 600,000 Asian and Pacific Islander students from kindergarten through grade twelve;

**WHEREAS**, The diversity of these groups includes Bengali, Burmese, Cambodian, Chinese, Filipino, Hmong, Indonesian, Japanese, Korean, Lao, Malayan, Okinawan, Pakistani, Thai, Vietnamese, Samoan, Asian Indian, and others;

**WHEREAS**, We acknowledge the historical and cultural contributions of Asian American and Pacific Islanders in the development of the State of California; and

**WHEREAS**, May was designated as National Asian Pacific American Heritage Month by the United States Congress in 1992; and

**WHEREAS**, May was chosen as the designated month of celebration to commemorate the completion of the transcontinental railroad on May 10, 1869, where Chinese immigrants played a key role in laying track; and

**WHEREAS**, Many Asian Pacific Americans have experienced the injustices of exclusionary acts, denial of citizenship and land ownership, as well as internment in relocation camps; and

**WHEREAS**, We acknowledge these Americans for their contributions to government, industry and commerce, agriculture, science, literature, and the arts; and

**THEREFORE, BE IT RESOLVED** by the Yolo County Board of Education that May 2024 is recognized as Asian American and Pacific Islander Heritage Month and that all educational sites be encouraged to recognize the contributions of Asian Americans and Pacific Islanders through curriculum and activities at the school.

**PASSED AND ADOPTED** by the Yolo County Board of Education and the Yolo County Superintendent of Schools at a meeting held on April 9, 2024.

**AYES: Esquivel, Moreno, Salud-Ambriz, Yip, Zendejas**

**NOES: None**

**ABSENT: None**

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Shelton Yip, President  
Yolo County Board of Education

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Garth Lewis, Superintendent  
Yolo County Office of Education

**8. 5. RESOLUTION #23-24/42 Mental Health Awareness Month - May 2024** 

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**Description**

Approve RESOLUTION #23-24/42 Mental Health Awareness Month - May 2024

**Recommendation**

Staff recommends approval of RESOLUTION #23-24/42 Mental Health Awareness Month - May 2024

**Supporting Documents**



Mental Health Awareness

**Contact Person**

Trustee Tico Zendejas will present resolution to Tony Kildare, Clinical Manager, Child, Youth and Family Branch, Yolo County Health and Human Services Agency (HHSA) and Karleen Jakowski, Assistant HHSA Director and Mental Health Director for Yolo County HHSA.



**Yolo County Board of Education and  
Yolo County Superintendent of Schools**

**Resolution #23-24/42: Mental Health Awareness Month - May 2023**

**WHEREAS**, mental health is essential to everyone's overall health and well-being; and

**WHEREAS**, since 1949, May has officially been recognized as Mental Health Awareness Month; and

**WHEREAS**, early intervention efforts could greatly reduce the number of people experiencing serious mental health conditions; and

**WHEREAS**, the impacts of the COVID-19 pandemic caused considerable strain in the mental health system and with youth in particular; and

**WHEREAS**, 16% of youth reported suffering from at least one major depressive episode in the past year, according to the Mental Health America report from 2023; and

**WHEREAS**, a focus on prevention and early intervention efforts could greatly reduce the number of children experiencing serious mental health conditions; and

**WHEREAS**, there is strong research that humor, recreation, social connections, and work-life balance can help all Americans protect their health and well-being; and

**WHEREAS**, there is a need to improve public awareness of mental illness and to strengthen local and national awareness of brain diseases, so that all those with mental illness may receive adequate and appropriate treatment that will result in their becoming fully functioning members of society; and

**WHEREAS**, in Yolo County, there are key initiatives to address and improve mental health services for school-age youth, such as the K-12 School Partnership Program, a collaborative effort between Yolo County Health and Human Services Agency and the Yolo County Office of Education.

**NOW THEREFORE, BE IT RESOLVED**, that the Yolo County Board of Education and Yolo County Superintendent of Schools proclaims the month of May 2024 as "Mental Health Awareness Month" and requests school districts, government agencies and the wider community recommit to increasing awareness and understanding of mental health.

**PASSED AND ADOPTED** by the Yolo County Board of Education and the Yolo County Superintendent of Schools at a meeting held on April 9, 2024.

**AYES:** Esquivel, Moreno, Salud-Ambriz, Yip, Zendejas

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

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Shelton Yip, President  
Yolo County Board of Education

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Garth Lewis, Superintendent  
Yolo County Office of Education

**8. 6. RESOLUTION #23-24/43 National Foster Care Month - May 2024** 

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**Description**

Approve RESOLUTION #23-24/43 National Foster Care Month - May 2024.

**Recommendation**

Staff recommend approval of RESOLUTION #23-24/43 National Foster Care Month - May 2024.

**Supporting Documents**



Foster Care Month

**Contact Person**

Trustee Melissa Moreno will present resolution to Michael Fleming, representing Yolo County Resource Families.





**Yolo County Board of Education and  
Yolo County Superintendent of Schools**

**Resolution #23-24/43: National Foster Care Month – May 2024**

**WHEREAS**, the youth of Yolo County are our most precious resource and hope for the future, all children deserve a safe, loving and nurturing place to call home; and

**WHEREAS**, Resource families, including foster, adoptive and kinship families, are the unsung heroes that serve as the primary source of love, protection, and support to the abused and neglected children and youth of Yolo County; and

**WHEREAS**, Resource families who open their hearts and homes to children and youth whose families are in crisis play a vital role in helping children and families heal and reconnect thereby launching young people into successful adulthood; and

**WHEREAS**, we acknowledge that much work remains to be done to ensure that all children and youth have a safe, loving, nurturing, and permanent family, regardless of age or special needs; and

**WHEREAS**, a child’s success is best supported in a system that is family-focused, child-centered, and community-based; and

**WHEREAS**, there are 410 children and youth in the foster care system in Yolo County; and

**WHEREAS**, Foster Care Month is an appropriate time to acknowledge the accomplishments and successes of the resource families, the child welfare workforce, advocacy community, education leaders, and mentors for their dedication and work to ensure the futures of children and youth in foster care remain bright.

**NOW, THEREFORE, BE IT RESOLVED** that the Yolo County Board of Education and the Yolo County Superintendent of Schools hereby declare support of the month of May as “National Foster Care Month” and encourages all in Yolo County to honor the commitment and dedication of the individuals who work tirelessly to provide assistance, education and services to children and youth in the foster care system.

**PASSED AND ADOPTED** by the Yolo County Board of Education at a meeting held on April 9, 2024.

**AYES:** Esquivel, Moreno, Salud-Ambriz, Yip, Zendejas

**NOES:** None

**ABSENT:** None

**ABSTAIN:** None

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Shelton Yip, President  
Yolo County Board of Education

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Garth Lewis  
Yolo County Superintendent of Schools

**8. 7. RESOLUTION #23-24/44 Teen Pregnancy Prevention Month - May 2024** 

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**Description**

Approve RESOLUTION #23-24/44 Teen Pregnancy Prevention Month - May 2024

**Recommendation**

Staff recommend approval for RESOLUTION #23-24/44 Teen Pregnancy Prevention Month - May 2024.

**Supporting Documents**



Teen Pregnancy Month

**Contact Person**

Superintendent Garth Lewis will present this resolution.



**Yolo County Board of Education and  
Yolo County Superintendent of Schools**

**Resolution #23-24/44: Teen Pregnancy Prevention Month – May 2024**

**WHEREAS**, Ongoing efforts in Yolo County to prevent teen pregnancies has resulted in the county’s adolescent birth rate as one of the lowest in the state, according to data released by the California Department of Public Health; and

**WHEREAS**, The county has seen the rate of births among females and males between the ages of 15 and 19 steadily decline in recent years, from 24.3 births per 1,000 females in 2000 to 11.3 in 2013, and 7.9 in 2019; and

**WHEREAS**, All students deserve access to a comprehensive and engaging educational program around sexual and reproductive health; and

**WHEREAS**, Access to high-quality, teen-friendly health care improves young people's physical and mental health and strengthens the systems and structures designed to support the health and well-being of this population; and

**WHEREAS**, Recognizing and responding to the diversity, individuality and unique circumstances of young people includes addressing the social, economic and environmental factors that negatively impact the health of young people; and

**WHEREAS**, the Yolo County Office of Education joins with local public health agencies, youth serving organizations, health care professionals, and communities in bringing awareness and equity to issues supporting the reduction of teen pregnancy.

**NOW, THEREFORE, BE IT RESOLVED**, that the Yolo County Board of Education and the Yolo County Superintendent of Schools proclaims the month of May as “Teen Pregnancy Prevention Month.”

**PASSED AND ADOPTED** by the Yolo County Board of Education and the Yolo County Superintendent of Schools at a meeting held on April 9, 2024.

**AYES: Esquivel, Moreno, Salud-Ambriz, Yip, Zendejas**

**NOES: None**

**ABSENT: None**


**ABSTAIN: None**

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Shelton Yip, President  
Yolo County Board of Education

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Garth Lewis, Superintendent  
Yolo County Office of Education

**8. 8. Second Reading of BP 6185.1 - Chavez Extension Program (CEP)** 

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**Description**

BP 6185.1 - Chavez Extension Program (CEP)

**Recommendation**

Staff recommends that the Board adopt BP 6185.1 - Chavez Extension program (CEP).

**Supporting Documents**



BP 6185.1 Chavez Extension Program

**Contact Person**

Veronica Coronado, Associate Superintendent, Administrative Services will present this item.

**CHAVEZ EXTENSION PROGRAM (CEP)****Cesar Chavez Community School****Students Served**

The Chavez Extension Program (CEP) is designed to meet the educational needs of the students who are identified as continuously enrolled since age 18. (*Continuously enrolled since age 18 is defined as: A student who has been continuously enrolled since turning age 18 without a gap in enrollment of more than 30 consecutive calendar days, California Code of Regulations (CCR), Title 5, Section 1039.2*)

Students for whom the traditional school day is not conducive due to extenuating circumstances such as lack of childcare, work schedule, transportation, or family matters, etc., are welcome to enroll in the CEP as staff are trained to help students navigate these challenges.

CEP enrollees would not be required to have a transfer referral from their district of residence; however, they must meet the following criteria:

- Must be between ages 18 – 21 years of age, be enrolled in a school program and meet one or more of the following criteria:
  - Probation
  - Truant/Attendance
  - Expelled youth
  - Behavior concerns/School discipline concerns
- May be served through independent study until their 19<sup>th</sup> birthday, even though they have had a break in enrollment.
- May be served through independent study up to the age of 21, as long as they remain continuously enrolled and their break in enrollment was less than 30 calendar days.

**Summary and Conclusion**

Selected Yolo County students, primarily the ones who decide to drop out of school, often need: (1) More time to complete a high school diploma; and (2) More flexibility, with increased support. Therefore, YCOE staff should consider implementing the Chavez Extension Program because it can address the forementioned student needs. Additionally, CEP is in alignment with the YCOE Strategic Plan and underpins YCOE's cradle to career philosophy.

As stated, the purpose of the Chavez Extension Program (CEP) is to re-engage students, ages 18-21, who are in jeopardy of dropping out of high school, or who have been out of school and want to return to complete their diploma. Often, these students drop out of school because they view themselves as too mature to engage in conventional high school environments, but not mature

enough to participate in formal adult education environments. The CEP can/will provide students an opportunity to engage in learning activities with other 18-21-year-olds, at times that are convenient to them, and in a location that is geographically near their homes.

The CEP was specifically designed to help students who need extra time to graduate high school. Through personalized education plans, the flexible CEP model utilizes an independent study model which provides daily, in-person academic support as well as the minimum independent study appointment. Flexibility allows students to finish their requirements while still meeting employment, personal, and family obligations.

**Adopted:** April 9, 2024

Yolo County Office of Education

**9. INFORMATION ITEMS**

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## 9. 1. Head Start/ Early Head Start Reports

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### Description

The following reports are being presented to the Board as information:

- a. Program - this is a standing report to the Board
- b. Financial Reports - this is a standing report to the Board
- c. Head Start/Early Head Start 2022-2023 Annual Report

### Recommendation

For information.

### Supporting Documents



Board Report March 2024 on Letterhead



February Policy packet 2024.v2



Annual Report HS-EHS 2022-23

### Contact Person

Shannon McClarin, Director, Early Childhood Education will present this item.



## **Head Start Director's Report – March 2024**

We presented our new five year grant application to our Policy Council parents and received approval, as well as submitted our application to the Office of Head Start. Our overarching goal is:

**To further develop and continue to implement and improve an effective service delivery system that directly links School Readiness and family engagement activities to help ensure successful child outcomes.**

Below is an Executive Summary of our year one updates and year two plans.

**GOAL 1: Strengthen community partnerships in all service areas to build a system of comprehensive resources and support for children and families.**

This goal was partially met. While some partnerships and collaborations with existing community partners were reestablished and formalized with Memorandum of Understanding (MOU's), the program wasn't able to accomplish this in all service areas. One area of the goal that was met is the program is able to track and identify family needs during the intake process and connect families to services through established community partners. In Year 2 the program will focus on establishing MOU's with existing community partners, as well as creating agreements with new community partners.

**GOAL 2: Enhance teacher self-efficacy to create, sustain, and support equitable learning opportunities and care for all children to promote social emotional competencies and school readiness.**

Areas of this goal that were met include providing training to staff around creating supportive learning environments. For example strategies to support behaviors in the classroom, supporting children with inclusive practices, behavior intervention strategies, as well as professional development related to how to read and support IEP's and IFSP documents. In addition training has been provided to staff around curriculum, lesson planning and using the curriculum to individualize instruction for children in the classrooms. Furthermore training and ongoing coaching support around appropriate environments for children, which includes the physical and socio-emotional climate in the classroom. Areas of the goal that were not met include providing training to staff on Adverse Childhood Experiences (ACEs) and Non-Violent Crisis Intervention. For Year 2 of this grant the program plans to provide ACE's training, Non-Violent Crisis Intervention training and will continue to support our instructional staff with coaching to support instruction, teacher-child interactions and environmental supports.

**GOAL 3: Support the success of school readiness for African American boys by participating in The Office of Head Start's Community of Practice.**

This is a new goal for our program that we have added for Year 2 of the 5-year grant. Program staff developed this goal after being accepted into the Community of Practice with the Office of Head Start to Support the School Readiness of Young African American Boys. The goal developed after members of our management team attended informational sessions that discussed the research around disparities that exist for African American boys and their families. Based on this information and the data that was collected, for Year 2 of this grant the program will develop a goal to measure improved Desired Results Developmental Profile (DRDP) outcomes as well as reduce the number of behavioral and/or developmental referrals for our African American students.

**Early Learning and Care Quality Programs**

Round two of the Universal Pre-Kindergarten (UPK) Mixed Delivery funding planning grant request for applications has been released by the California Department of Education. Our program will be submitting this application which is due April 17. The duration of the grant is three years.

Program staff are also working on the application for Quality Counts California Workforce Pathways grant. This funding is utilized to support professional development for publicly and privately funded early learning and care programs in our county. This grant is also for three years of funding.

The Yolo County Child Development Conference planning is underway! The last time this event was held in Yolo County was prior to the pandemic and the LPC is excited to bring this opportunity back to our community. The event will be held on May 18 at the Woodland Community Center. The conference is for all early educators who serve children 0-5 years old.

Executive Summary  
2023/2024 Fiscal Year  
February 2024

Program	Working Budget	Current Expenditures	Year-To-Date Expenditures	Encumbered	Balance	% of Budget Spent	% of Budget Encumbered	Unspent or Not Obligated
Head Start/Quality Improvement	\$ 3,415,038	\$ 214,344	\$ 1,878,181	\$ 895,107	\$ 641,751	55.00%	26.21%	18.79%
Early Head Start/Quality Improvement	\$ 1,323,330	\$ 80,989	\$ 702,854	\$ 314,533	\$ 305,943	53.11%	23.77%	23.12%
Head Start T&TA	\$ 34,554	\$ 2,200	\$ 31,862	\$ 2,564	\$ 129	92.21%	7.42%	0.37%
Early Head Start T&TA	\$ 25,983	\$ 1,532	\$ 24,932	\$ 899	\$ 152	95.95%	3.46%	0.58%
<b>Total Grant</b>	<b>\$ 4,798,905</b>	<b>\$ 299,064</b>	<b>\$ 2,637,829</b>	<b>\$ 1,213,103</b>	<b>\$ 947,974</b>	<b>54.97%</b>	<b>25.28%</b>	<b>19.75%</b>

Credit Cards	Monthly
Visa	\$ 10,449.44
Wal-Mart	\$ -
Nugget/Food 4 Less	\$ 346.45
Interstate Oil	\$ 355.60
<b>Total Credit Card Expense</b>	<b>\$ 11,151.49</b>

Administrative Percent Calculation	
Maximum allowed Administrative Percent:	15%
Calculated Percentage for the Month:	12%
Annual Percentage	13%

Calculation of In-Kind Contributions	
	Total Administrative Costs
Head Start & Quality Improvement:	\$ 1,878,180.74 \$ 469,545.19
Head Start T & TA:	\$ 31,861.71 \$ 7,965.43
Early Head Start & Quality Improvement:	\$ 702,854.40 \$ 175,713.60
Early Head Start T & TA:	\$ 24,931.70 \$ 6,232.93
<b>Total</b>	<b>\$ 2,637,828.55 \$ 659,457.14</b>
	Amount Required: \$ 659,457.14
	Actual In-Kind: \$ 836,481.28
	*Surplus/(Deficit): \$ 177,024.14
If deficit: will be returned to Federal Government from unrestricted dollars	

<b>HEAD START &amp; QUALITY IMPROVEMENT/PROGRAMA HEAD START</b>			
Resource 5210/Recurso 5210		<i>Resource 5219 not currently in use</i> <i>Recurso 5219 no esta actualmente en uso</i>	
CATEGORY/CATEGORIA	Current/	Year to Date	
<b>Revenues/Ingresos:</b>		\$ 3,415,038.00	
<b>Expenditures/Gastos:</b>			
Salaries/Salarios	\$ 117,687.96	\$	926,546.88
Benefits/Beneficios	\$ 46,629.98	\$	372,974.46
Supplies/Provisiones	\$ 8,280.53	\$	54,932.84
<i>Parent Activities/Actividades de los padres</i>	\$ 52.35	\$	1,307.28
Site Supplies/Articulos de oficina para el centro	\$ 8,228.18	\$	53,625.56
Contracted Services/Servicios Contratados	\$ 15,257.20	\$	160,128.57
Operations/Gastos de Operacion	\$ 26,488.26	\$	215,488.54
	\$ -	\$	-
Indirect Costs/Castos Indirectos	\$ -	\$	144,934.45
Cafeteria Fund/transferencia al fondo del café	\$ -	\$	3,175.00
<b>Total Expenditures/Total de Gastos</b>	<b>\$ 214,343.93</b>	<b>\$</b>	<b>1,878,180.74</b>

<b>EARLY HEAD START &amp; QUALITY IMPROVEMENT/PROGRAMA EARLY HEAD START</b>			
Resource 5212/Recurso 5212			
CATEGORY/CATEGORIA	Current/	Year to Date	
<b>Revenues/Ingresos:</b>		\$ 1,323,330.00	
<b>Expenditures/Gastos:</b>			
Salaries/Salarios	\$ 46,328.11	\$	362,687.05
Benefits/Beneficios	\$ 17,774.15	\$	140,381.25
Supplies/Provisiones	\$ 2,608.45	\$	21,781.67
<i>Parent Activities/Actividades de los padres</i>	\$ -	\$	309.28
Site Supplies/Articulos de oficina para el centro	\$ 2,608.45	\$	21,472.39
Contracted Services/Servicios Contratados	\$ 8,789.36	\$	80,664.83
Operations/Gastos de Operacion	\$ 5,488.48	\$	43,169.14
Building/Land Improvements	\$ -	\$	-
Indirect Costs/Castos Indirectos	\$ -	\$	54,170.46
Cafeteria Fund/transferencia al fondo del café			
<b>Total Expenditures/Total de Gastos</b>	<b>\$ 80,988.55</b>	<b>\$</b>	<b>702,854.40</b>

<b>HEAD START T&amp;TA/PROGRAMA HEAD START T &amp; TA</b>			
Resource 5208/Recurso 5208			
CATEGORY/CATEGORIA	Current/	Year to Date	
<b>Revenues/Ingresos:</b>		\$ 34,554.00	
<b>Expenditures/Gastos:</b>			
Salaries/Salarios	\$ -	\$	-
Benefits/Beneficios	\$ -	\$	-
Supplies/Provisiones	\$ 92.52	\$	1,136.56
<i>Parent Activities/Actividades de los padres</i>	\$ -	\$	-
Site Supplies/Articulos de oficina para el centro	\$ 92.52	\$	1,136.56
Contracted Services/Servicios Contratados	\$ 920.00	\$	5,999.61
Operations/Gastos de Operacion	\$ 1,187.49	\$	24,725.54
Indirect Costs/Castos Indirectos	\$ -	\$	-
<b>Total Expenditures/Total de Gastos</b>	<b>\$ 2,200.01</b>	<b>\$</b>	<b>31,861.71</b>

<b>EARLY HEAD START T&amp;TA/PROGRAMA EARLY HEAD START T &amp; TA</b>			
Resource 5218/Recurso 5218			
CATEGORY/CATEGORIA	Current/	Year to Date	
<b>Revenues/Ingresos:</b>		\$ 25,983.00	
<b>Expenditures/Gastos:</b>			
Salaries/Salarios	\$ -	\$	-
Benefits/Beneficios	\$ -	\$	-
Supplies/Provisiones	\$ 92.51	\$	1,023.45
<i>Parent Activities/Actividades de los padres</i>	\$ -	\$	-
Site Supplies/Articulos de oficina para el centro	\$ 92.51	\$	1,023.45
Contracted Services/Servicios Contratados	\$ 680.00	\$	3,865.03
Operations/Gastos de Operacion	\$ 759.20	\$	20,043.22
Indirect Costs/Castos Indirectos	\$ -	\$	-
<b>Total Expenditures/Total de Gastos</b>	<b>\$ 1,531.71</b>	<b>\$</b>	<b>24,931.70</b>

Credit Cards	Monthly Expense
Visa	\$ 10,449.44
Wal-Mart	\$ -
Nugget/Food 4 Less	\$ 346.45
Interstate Oil	\$ 355.60
<b>Total Credit Cards</b>	<b>\$ 11,151.49</b>

Calculation of In-Kind Contributions			
	Dollars Expended Year-To-Date	In-Kind Required	
Head Start	\$ 1,878,180.74	\$ 469,545.19	
HS T & TA	\$ 31,861.71	\$ 7,965.43	
Early HS	\$ 702,854.40	\$ 175,713.60	
EHS T & TA	\$ 24,931.70	\$ 6,232.93	
<b>Total</b>	<b>\$ 2,637,828.55</b>	<b>\$ 659,457.14</b>	
	Amount Required: \$	659,457.14	
	Actual In-Kind: \$	836,481.28	
	<b>*Surplus/(Deficit): \$</b>	<b>177,024.14</b>	
If deficit: will be returned to Federal Government from unrestricted dollars			

Administrative Percent Calculation	
Maximum Percent Allowed	15%
Calculated Percent for the Month	12%
Annual Percentage	13%

Executive Summary  
2023/2024 Fiscal Year  
February 2024

**Early Head Start & Quality Improvement**

**Resource 5212 EHS**

*RS 5229 Not currently in use*

		Expended/Received							
CATEGORY	Budget	Adjustment	Revised Budget	Actual Current	Year-to-date	Encumbered	Balance	%	
<b>Revenues</b>									
<b>All Other Federal</b>	1,323,330	0	1,323,330	0	532,769	0	790,561	59.74%	
<b>Prior Year</b>	0	0	0	0	0	0	0	#DIV/0!	
COLA	0	0	0	0	0	0	0		
<b>Total Revenues</b>	1,323,330	0	1,323,330	0	532,769	0	790,561	59.74%	
<b>Expenditures</b>									
<b>Salaries</b>	555,143	0	555,143	46,328	362,687	174,726	17,730	3.19%	
<b>Benefits</b>	256,266	0	256,266	17,774	140,381	69,679	46,206	18.03%	
<b>Supplies</b>	64,054	0	64,054	2,608	21,782	20,889	21,383	33.38%	
<i>Parent Activity Supplies &amp; Food for Parent Meetings</i>	2,013	0	2,013	0	309	320	1,384	68.75%	
<i>Site Supplies</i>	62,041	0	62,041	2,608	21,472	20,570	19,999	32.24%	
<b>Travel &amp; Conference</b>	20,548	0	20,548	1,261	10,464	3,464	6,619	32.21%	
<b>Dues &amp; Memberships</b>	968	0	968	0	952	0	16	1.68%	
<b>Insurance</b>	1,829	0	1,829	0	0	0	1,829	100.00%	
<b>Operations and Housekeeping</b>	3,306	0	3,306	0	256	330	2,720	82.28%	
<b>Rentals, Leases, Repairs &amp; Noncapitalized Improvements</b>	1,234	0	1,234	254	692	540	2	0.12%	
<b>Direct Costs for Transfer of Services</b>	52,270	0	52,270	3,871	30,320	0	21,950	41.99%	
<b>Professional/Contracted Services &amp; Operating Expenditures</b>	238,415	0	238,415	8,789	80,665	31,791	125,959	52.83%	
<b>Intergovernmental Fees</b>	1,042	0	1,042	102	485	550	7	0.66%	
<b>Indirect Costs</b>	115,692	0	115,692	0	54,170	0	61,522	53.18%	
<b>Equipment</b>	0	0	0	0	0	0	0	0.00%	
<b>Land Improvements</b>	12,563	0	12,563	0	0	12,563	1		
<b>Total Expenditures</b>	1,323,330	0	1,323,330	80,989	702,854	314,533	305,943	23.12%	

Executive Summary  
2023/2024 Fiscal Year  
February 2024

**PROGRAMA EARLY HEAD START**  
**PRESUPUESTO DEL AÑO FISCAL 2023/2024**

Recurso 5212						Gastado/Recibido			
Recurso 5229 no esta actualment en uso	Presupuesto	Ajustes	Presupuesto Revisado	Actual	Lo que va del año	Sobrecargado	Balance	%	%
CATEGORÍA									
<b>Ingresos:</b>									
<b>Todos los otros Federales</b>	1,323,330	0	1,323,330	0	532,769	0	790,561	59.74%	
	0	0	0	0	0	0	0	#DIV/0!	
	0	0	0	0	0	0	0		
<b>Total de Ingresos</b>	1,323,330	0	1,323,330	0	532,769	0	790,561	59.74%	
<b>Gastos:</b>									
<b>Salarios</b>	555,143	0	555,143	46,328	362,687	174,726	17,730	3.19%	
<b>Beneficios</b>	256,266	0	256,266	17,774	140,381	69,679	46,206	18.03%	
<b>Provisiones</b>	64,054	0	64,054	2,608	21,782	20,889	21,383	33.38%	
<i>Artículos para las actividades de los padres y comida para las juntas</i>	2,013	0	2,013	0	309	320	1,384	68.75%	
<i>Artículos de oficina para el centro</i>	62,041	0	62,041	2,608	21,472	20,570	19,999	32.24%	
<b>Viaje y Conferencia</b>	20,548	0	20,548	1,261	10,464	3,464	6,619	32%	
<b>Cuotas y Membresias</b>	968	0	968	0	952	0	16	2%	
<b>Seguro</b>	1,829	0	1,829	0	0	0	1,829	100%	
<b>Operations and Housekeeping</b>	3,306	0	3,306	0	256	330	2,720	82%	
<b>Rentas, Arrendamientos, Reparaciones y Mejoras No-Capitalizadas</b>	1,234	0	1,234	254	692	540	2	0%	
<b>Costos Directos para Transferencias de Servicios</b>	52,270	0	52,270	3,871	30,320	0	21,950	42%	
<b>Servicios Profesionales/Contratados y Gastos de</b>	238,415	0	238,415	8,789	80,665	31,791	125,959	53%	
<b>Cuotas Intergubernamentales</b>	1,042	0	1,042	102	485	550	7	1%	
<b>Gastos Indirectos</b>	115,692	0		0	54,170	0	61,522	53%	
<b>Equipment</b>	0	0	0	0	0	0	0	0%	
<b>Total de Gastos</b>	1,323,330	0	1,323,330	80,989	702,854	314,533	305,943	23%	

Executive Summary  
2023/2024 Fiscal Year  
February 2024  
**HEAD START T&TA**

**Resource 5208**

CATEGORY	Budget	Adjustment	Revised Budget	Current	Expended/Received			Balance	% %
					Year-to-date	Encumbered			
<b>Revenues</b>									
<b>All Other Federal</b>	34,554	0	34,554	4,806	22,167	0	12,387	35.85%	
<b>COLA</b>	0	0	0	0	0	0	0		
<b>Total Revenues</b>	34,554	0	34,554	4,806	22,167	0	12,387	35.85%	
<b>Expenditures</b>									
<b>Salaries</b>	0	0	0	0	0	0	0	0.00%	
<b>Benefits</b>	0	0	0	0	0	0	0	0.00%	
<b>Supplies</b>	1,188	0	1,188	93	1,137	53	(2)	-0.14%	
<i>Parent Activity Supplies &amp; Food for Parent Meetings</i>	1	(1)	0	0	0	0	0	#DIV/0!	
<i>Site Supplies</i>	1,187	1	1,188	93	1,137	53	(2)	-0.14%	
<b>Travel &amp; Conference</b>	27,166	0	27,166	1,187	24,726	2,492	(51)	-0.19%	
<b>Contracted Services</b>	6,200	0	6,200	920	6,000	19	182	2.93%	
<b>Indirect Costs</b>	0	0	0	0	0	0	0	#DIV/0!	
<b>Total Expenditures</b>	34,554	0	34,554	2,200	31,862	2,564	129	0.37%	

Executive Summary  
2023/2024 Fiscal Year  
February 2024  
**PROGRAMA HEAD START T&TA**

Recurso 5208		Presupuesto	Ajustes	Presupuesto Revisado	Actual	Gastado/Recibido		Balance	% %
CATEGORÍA						Lo que va del año	Sobrecargado		
<b>Ingresos:</b>									
<b>Todos los otros Federales</b>		34,554	0	34,554	4,806	22,167	0	12,387	36%
<b>COLA</b>		0	0	0	0	0	0	0	0%
<b>Total de Ingresos</b>		34,554	0	34,554	4,806	22,167	0	12,387	36%
<b>Gastos:</b>									
<b>Salarios</b>		0	0	0	0	0	0	0	0%
<b>Beneficios</b>		0	0	0	0	0	0	0	0%
<b>Provisiones</b>		1,188	0	1,188	93	1,137	53	(2)	0%
<i>Artículos para las actividades de los padres y comida para las juntas</i>		1	(1)	0	0	0	0	0	#DIV/0!
<i>Artículos de oficina para el centro</i>		1,187	1	1,188	93	1,137	53	(2)	0%
<b>Viaje y Conferencia</b>		27,166	0	27,166	1,187	24,726	2,492	(51)	0%
<b>Servicios Contratados</b>		6,200	0	6,200	920	6,000	19	182	3%
<b>Gastos Indirectos</b>		0	0	0	0	0	0	0	#DIV/0!
<b>Total de Gastos</b>		34,554	0	34,554	2,200	31,862	2,564	129	0%



Executive Summary  
2023/2024 Fiscal Year  
February 2024  
**HEAD START & QUALITY IMPROVEMENT**

Resource 5210 HS & Quality Improvement RS 5219\*

\*RS 5219 Not currently in use

CATEGORY	Budget	Adjustment	Revised Budget	Current	Expended/Received			% %
					Year-to-date	Encumbered	Balance	
<b>Revenues</b>								
<b>All Other Federal</b>	3,415,038	0	3,415,038	380,431	1,385,762	0	2,029,276	59.42%
Indirect	0	0	0	0	0	0	0	0.00%
<b>COLA</b>	0	0	0	0	0	0	0	0.00%
<b>Total Revenues</b>	3,415,038	0	3,415,038	380,431	1,385,762	0	2,029,276	59.42%
<b>Expenditures:</b>								
<b>Salaries</b>	1,445,044	13	1,445,057	117,688	926,547	447,854	70,656	4.89%
<b>Benefits</b>	760,307	(13)	760,294	46,630	372,974	188,228	199,091	26.19%
<b>Supplies</b>	149,924	(6,532)	143,392	8,281	54,933	29,246	59,213	41.29%
<i>Parent Activity Supplies &amp; Food for Parent Meetings</i>	3,781	0	3,781	52	1,307	2,200	274	7.23%
<i>Site Supplies</i>	146,143	(6,532)	139,611	8,228	53,626	27,046	58,940	42.22%
<b>Travel &amp; Conference</b>	50,404	0	50,404	331	18,465	5,142	26,797	53.16%
<b>Dues &amp; Memberships</b>	7,621	0	7,621	0	3,677	0	3,944	51.75%
<b>Insurance</b>	13,568	(13,568)	0	0	0	0	0	#DIV/0!
<b>Operations &amp; Housekeeping</b>	2,291	0	2,291	0	932	1,358	1	0.03%
<b>Rentals, Leases, Repairs &amp; Noncapitalized Improvements</b>	5,599	0	5,599	1,017	3,487	2,110	2	0.04%
<b>Direct Costs for Transfer of Services</b>	309,000	0	309,000	24,755	186,863	0	122,137	39.53%
<b>Professional/Contracted Services &amp; Operating Expenditures</b>	349,950	20,100	370,050	15,257	160,129	203,643	6,279	1.70%
<b>Intergovernmental Fees</b>	4,475	0	4,475	386	2,065	2,407	3	0.07%
<b>Equipment</b>	0	0	0	0	0	0	0	#DIV/0!
<b>Indirect Costs</b>	298,559	0	298,559	0	144,934	0	153,625	51.46%
<b>Land and Improvements</b>	18,296	0	18,296	0	3,175	15,119	2	0.01%
<b>Total Expenditures</b>	3,415,038	0	3,415,038	214,344	1,878,181	895,107	641,751	18.79%

Executive Summary  
2023/2024 Fiscal Year  
February 2024  
**PROGRAMA HEAD START**

Recurso 5210		Presupuesto	Ajustes	Presupuesto Revisado	Actual	Gastado/Recibido		Balance	%
CATEGORÍA						Lo que va del año	Sobrecargado		
<b>Ingresos:</b>									
Todos los otros Federales		3,415,038	0	3,415,038	380,431	1,385,762	0	2,029,276	59%
COLA		0	0	0	0	0	0	0	0%
<b>Total Revenues/Total de Ingresos</b>		<b>3,415,038</b>	<b>0</b>	<b>3,415,038</b>	<b>380,431</b>	<b>1,385,762</b>	<b>0</b>	<b>2,029,276</b>	<b>59%</b>
<b>Gastos:</b>									
Salarios		1,445,044	13	1,445,057	117,688	926,547	447,854	70,656	5%
Beneficios		760,307	(13)	760,294	46,630	372,974	188,228	199,091	26%
Provisiones		149,924	(6,532)	143,392	8,281	54,933	29,246	59,213	41%
<i>Artículos para las actividades de los padres y comida para las juntas</i>		<i>3,781</i>	<i>0</i>	<i>3,781</i>	<i>52</i>	<i>1,307</i>	<i>2,200</i>	<i>274</i>	<i>7%</i>
<i>Artículos de oficina para el centro</i>		<i>146,143</i>	<i>(6,532)</i>	<i>139,611</i>	<i>8,228</i>	<i>53,626</i>	<i>27,046</i>	<i>58,940</i>	<i>42%</i>
Viaje y Conferencia		50,404	0	50,404	331	18,465	5,142	26,797	53%
Cuotas y Membresías		7,621	0	7,621	0	3,677	0	3,944	52%
Seguro		13,568	(13,568)	0	0	0	0	0	#DIV/0!
		2,291	0	2,291	0	932	1,358	1	0%
<b>Rentas, Arrendamientos, Reparaciones y Mejoras No-Capitalizadas</b>		<b>5,599</b>	<b>0</b>	<b>5,599</b>	<b>1,017</b>	<b>3,487</b>	<b>2,110</b>	<b>2</b>	<b>0%</b>
<b>Costos Directos para Transferencias de Servicios Profesionales/Contratados y Gastos de Operación</b>		<b>309,000</b>	<b>0</b>	<b>309,000</b>	<b>24,755</b>	<b>186,863</b>	<b>0</b>	<b>122,137</b>	<b>40%</b>
Cuotas Intergubernamentales		4,475	0	4,475	386	2,065	2,407	3	0%
Mejoras a los Terrenos		0	0	0	0	0	0	0	#DIV/0!
Gastos Indirectos		298,559	0	298,559	0	144,934	0	153,625	51%
transferencia al fondo del café		18,296	0	18,296	0	3,175	15,119	2	0%
<b>Total de Gastos</b>		<b>3,415,038</b>	<b>0</b>	<b>3,415,038</b>	<b>214,344</b>	<b>1,878,181</b>	<b>895,107</b>	<b>641,751</b>	<b>19%</b>

Executive Summary  
 2023/2024 Fiscal Year  
 February 2024  
**EARLY HEAD START T&TA**

Resource 5218

CATEGORY	Budget	Adjustment	Revised Budget	Current	Expended/Received			Balance	% %
					Year-to-date	Encumbered			
<b>Revenues</b>									
<b>All Other Federal</b>	25,983	0	25,983		19,406	0	6,577	25.31%	
<b>Total Revenues</b>	25,983	0	25,983	0	19,406	0	6,577	25.31%	
<b>Expenditures</b>									
<b>Salaries</b>	0	0	0	0	0	0	0	0.00%	
<b>Benefits</b>	0	0	0	0	0	0	0	0.00%	
<b>Supplies</b>	1,078	0	1,078	93	1,023	53	1	0.13%	
<i>Parent Activity Supplies &amp; Food for Parent Meetings</i>	0	0	0	0	0	0	0	#DIV/0!	
<i>Site Supplies</i>	1,078	0	1,078	93	1,023	53	1	0.13%	
<b>Travel &amp; Conference</b>	20,797	103	20,900	759	20,043	827	29	0.14%	
<b>Contracted Services</b>	4,108	(103)	4,005	680	3,865	19	121	3.03%	
<b>Indirect Costs</b>	0	0	0	0	0	0	0	#DIV/0!	
<b>Total Expenditures</b>	25,983	0	25,983	1,532	24,932	899	152	0.58%	

Executive Summary  
2023/2024 Fiscal Year  
February 2024  
**PROGRAMA EARLY HEAD START T&TA**

Recurso 5218

CATEGORÍA	Presupuesto	Ajustes	Presupuesto Revisado	Actual	Gastado/Recibido		Balance	% %
					Lo que va del año	Sobrecargado		
<b>Ingresos:</b>								
<b>Todos los otros Federales</b>	25,983	0	25,983	0	19,406	0	6,577	25%
	0							
<b>Total de Ingresos</b>	25,983	0	25,983	0	19,406	0	6,577	25%
<b>Gastos:</b>								
<b>Salarios</b>	0	0	0	0	0	0	0	0%
<b>Beneficios</b>	0	0	0	0	0	0	0	0%
<b>Provisiones</b>	1,078	0	1,078	93	1,023	53	1	0%
<i>Artículos para las actividades de los padres y comida para las juntas</i>	0	0	0	0	0	0	0	#DIV/0!
<i>Artículos de oficina para el centro</i>	1,078	0	1,078	93	1,023	53	1	0%
<b>Viaje y Conferencia</b>	20,797	103	20,900	759	20,043	827	29	0%
<b>Servicios Contratados</b>	4,108	(103)	4,005	680	3,865	19	121	3%
<b>Gastos Indirectos</b>	0	0	0	0	0	0	0	#DIV/0!
	0	0	0	0	0	0	0	0%
<b>Total de Gastos</b>	25,983	0	25,983	1,532	24,932	899	152	1%

**HEAD START/EARLY HEAD START  
 CREDIT CARD REPORT**

<b>MANAGER</b>	<b>VISA</b>
<b>Shannon McClarin</b>	
Travel/Conference	\$ 3,631.10
Center Supplies	\$ 1,976.80
<b>TOTAL</b>	<b>\$ 5,607.90</b>
<b>Gustavo Melgoza</b>	
Travel/Conference	\$ -
Center Supplies	\$ (67.30)
<b>TOTAL</b>	<b>\$ (67.30)</b>
<b>Katrina Hopkins</b>	
Travel/Conference	\$ 320.00
Center Supplies	\$ 576.38
<b>TOTAL</b>	<b>\$ 896.38</b>
<b>Jade Meihl</b>	
Travel/Conference	\$ 1,008.24
Center Supplies	\$ 178.66
<b>TOTAL</b>	<b>\$ 1,186.90</b>
<b>Naomi Gonzalez</b>	
Travel/Conference	\$ 1,008.24
Center Supplies	\$ -
<b>TOTAL</b>	<b>\$ 1,008.24</b>
<b>Connie Luna</b>	
Travel/Conference	\$ -
Center Supplies	\$ -
<b>TOTAL</b>	<b>\$ -</b>
<b>Nicole Castrejon</b>	
Travel/Conference	\$ 244.00
Center Supplies	\$ 1,573.32
	<b>\$ 1,817.32</b>
<b>VISA Grand Total</b>	<b>\$ 10,449.44</b>
Nugget/Food4Less	\$ 346.45
InterState Oil	\$ 355.60
<b>TOTAL MONTHLY EXPENDITURES:</b>	<b>\$ 11,151.49</b>

\*\*Credit card statements available upon request

**Programas Head Start/Early Head Start**  
**REPORTE DE TARJETAS DE CRÉDITO**  
**Año FISCAL 2023/2024**

SUPERVISOR	VISA
<b>Shannon McClarin</b>	
Viaje/Conferencia	\$ 3,631.10
Artículos para el centro	\$ 1,976.80
	<u>\$ 5,607.90</u>
<b>Gustavo Melgoza</b>	
Viaje/Conferencia	\$ -
Artículos para el centro	\$ (67.30)
<b>Total</b>	<b>\$ (67.30)</b>
<b>Katrina Hopkins</b>	
Viaje/Conferencia	\$ 320.00
Artículos para el centro	\$ 576.38
<b>Total</b>	<b>\$ 896.38</b>
<b>Jade Meihl</b>	
Viaje/Conferencia	\$ 1,008.24
Artículos para oficina	\$ 178.66
<b>Total</b>	<b>\$ 1,186.90</b>
<b>Naomi Gonzalez</b>	
Viaje/Conferencia	\$ 1,008.24
Artículos para oficina	\$ -
<b>Total</b>	<b>\$ 1,008.24</b>
<b>Connie Luna</b>	
Viaje/conferencia	\$ -
Artículos para oficina	\$ -
<b>Total</b>	<b>\$ -</b>
<b>Nicole Castrejon</b>	
Viaje/conferencia	\$ 244.00
Artículos para oficina	\$ 1,573.32
<b>Total</b>	<b>\$ 1,817.32</b>
<b>VISA Grand Total</b>	<b>\$ 10,449.44</b>
NUGGET/FOOD 4 LESS	\$ 346.45
INTERSTATE OIL	\$ 355.60

**Total de Gastos Mensuales: \$ 11,151.49 \*\*\***

\*\*\*Estados de cuenta de als tarjetas de credito, estan despinsibles, si son solicitadas.\*\*

**Headstart / Early Head Start**

**Step 1: Calculate % rent is administrative expense**

Administrative Square Footage	Total Square Footage	% of Total Square Footage	Plant Services Charges (FN 8000-8999)	% of Rent allocated to Admin
-	-	#DIV/0!	\$ -	#DIV/0!

Dual Facility Costs - All Sites - July thru June				
Administrative Square Footage	Total Square Footage	% of Total Square Footage	Plant Services Charges (FN 8000-8999)	% of Rent allocated to Admin
360.00	22,125.00	0.013145	\$ 28,140.11	\$ 369.90

**Step 2: Calculate maximum administrative expenses allowed for 15%**

Federal Share	\$ 299,064.20	All Grants
Required 20 percent NFS	\$ 74,766.05	Non Federal Share
Total Approved Costs	\$ 373,830.25	
15% Administrative Cost Limitation	\$ 56,074.54	

**Step 3: Identify total administrative expenses**

Dual Facility Costs	\$ 369.90	Per Above Calculation in step 1
School Admin	\$ 20,693.31	Staff charged to Administration
General Admin	\$ 27,872.78	Indirect
Total	\$ 48,935.99	

Grant Expenditures	\$ 299,064.20
Less Capital Outlay	\$ -
= Expenditures subject to indirect	\$ 299,064.20

Currently Charged Admin Costs	\$ 48,935.99
In-Kind Indirect	\$ -
In - Kind Administrative	\$ -
Administrative Total	\$ 48,935.99

**Step 4: Calculate actual administrative percentage and verify less or equal to 15%**

Maximum allowed Administrative Percent: 15%

Calculated Percentage to date: 13%

**Feb-24**  
 Calculation of Administrative Salaries

\$	11,361.70	Per Budget Report Object code 1xxx
\$	7,088.64	Per Budget Report Object code 2xxx
\$	7,616.22	Per Budget Report Object code 3xxx
\$	<u>26,066.56</u>	Total Salary Costs Charged to Admin

\$	26,066.56	
		Adjustments - See FAR110 Report for Details
\$	<u>26,066.56</u>	

		Salary Costs that should be Program Support
\$	26,066.56	Total 1-6xxx admin costs from Budget Report
\$	1,035.53	Less 50% - Vanessa Lopez Program Support
		Less 50% - Program Support
\$	-	Less 50% - Program Support
\$	1,708.48	Less 50% Yolizma Villegas Flores - Program Support
		Less 50% - Program Support
\$	2,629.24	Less 50% Stephanie Bibriesca - Program Support
\$	-	Less 50% Maria Cardenas - Program Support
		Less 50% - Program Support
		Less 50% - Program Support
\$	<u>20,693.31</u>	Total Administrative Costs



Executive Summary  
2023/2024 Fiscal Year  
February 2024

HEAD START/EARLY HEAD START

Month	Year	Location									Grand Total
		Other	Alyce Norman	Itinerant	Esparto	Lemen	Montgomery	Prairie/Plainfield	WCC/Winters	Greengate	
July	2023	\$ 16,147.65	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,147.65
August	2023	\$ 301,551.22	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 301,551.22
September	2023	\$ 381,509.81	\$ 8,708.46	\$ -	\$ 1,130.74	\$ 572.56	\$ 256.17	\$ 1,484.16	\$ -	\$ 3,225.89	\$ 396,887.79
October	2023	\$ 1,505.58	\$ 5,640.30	\$ 3,342.86	\$ 1,100.39	\$ 973.40	\$ 3,302.02	\$ 2,321.87	\$ 2,326.67	\$ 3,354.63	\$ 23,867.72
November	2023	\$ -	\$ 9,960.97	\$ 3,618.30	\$ 1,218.93	\$ 1,120.75	\$ 4,116.40	\$ 2,632.72	\$ 1,483.69	\$ 4,184.15	\$ 28,335.91
December	2023	\$ -	\$ 6,823.51	\$ 1,785.00	\$ 423.16	\$ 157.17	\$ 2,907.64	\$ 676.33	\$ 711.37	\$ 3,480.28	\$ 16,964.46
January	2024	\$ -	\$ 9,082.37	\$ 3,399.50	\$ 751.76	\$ 821.16	\$ 7,220.38	\$ 2,255.51	\$ -	\$ 4,841.60	\$ 28,372.28
February	2024	\$ 326.00	\$ 8,517.82	\$ 3,354.29	\$ 805.92	\$ 539.22	\$ 2,987.50	\$ 2,328.33	\$ 1,398.58	\$ 4,096.59	\$ 24,354.25
March	2024	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
April	2024	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
May	2024	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
June	2024	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
		\$ 701,040.26	\$ 48,733.43	\$ 15,499.95	\$ 5,430.90	\$ 4,184.26	\$ 20,790.11	\$ 11,698.92	\$ 5,920.31	\$ 23,183.14	\$ 836,481.28

Total Contribution Due based on actual dollars claimed:

	Dollars Expended as of 7/31/23	In-Kind Required
Head Start & Quality Improvement:	1,878,180.74	469,545.19
Head Start T & TA:	31,861.71	7,965.43
Early Head Start & Quality Improvement:	702,854.40	175,713.60
Early Head Start T & TA:	24,931.70	6,232.93
Total:	2,637,828.55	659,457.14

\*November in-kind updated 1/19/2024

Amount Required: 659,457.14  
Actual In-Kind: 836,481.28

\*Surplus/(Deficit): 177,024.14

Surplus(Deficit): 177,024.14

If deficit: will be returned to Federal Government from unrestricted dollars

**Headstart / Early Head Start  
2023/2024 Fiscal Year  
Administrative Percentage Calculation  
July 1, 2023 - June 30, 2024**

**Step 1: Calculate % rent is administrative expense**

Administrative Square Footage	Total Square Footage	% of Total Square Footage	Plant Services Charges (FN 8000-8999)	% of Rent allocated to Admin
1,440.00	130,680.00	0.011019		\$ -

Dual Facility Costs - All Sites July thru June				
Administrative Square Footage	Total Square Footage	% of Total Square Footage	Plant Services Charges (FN 8000-8999)	% of Rent allocated to Admin
360.00	22,125.00	0.013145	\$ 207,661.41	\$ 2,729.69

**Step 2: Calculate maximum administrative expenses allowed for 15%**

Federal Share	\$ 2,637,828.52	All Grants
Required 20 percent NFS	\$ 659,457.13	Non Federal Share
Total Approved Costs	\$ 3,297,285.65	
15% Administrative Cost Limitation	<u>\$ 494,592.85</u>	

**Step 3: Identify total administrative expenses**

Dual Facility Costs	\$ 2,729.69	Per Above Calculation in step 1
School Admin	\$ 97,689.86	Staff charged to Administration
General Admin	\$ 220,660.70	Indirect
Total	<u>\$ 321,080.25</u>	

Grant Expenditures	\$ 2,435,548.61
Less Capital Outlay	\$ -
= Expenditures subject to indirect	<u>\$ 2,435,548.61</u>

Currently Charged Admin Costs	\$ 321,080.25
In-Kind Indirect	\$ -
In - Kind Administrative	\$ -
Administrative Total	<u>\$ 321,080.25</u>

**Step 4: Calculate actual administrative percentage and verify less or equal to 15%**

Maximum allowed Administrative Percent: 15%

Calculated Percentage to date: 10%

Executive Summary  
2023/2024 Fiscal Year  
February 2024

Calculation of Administrative Salaries

Annual		Current Month
\$ 90,893.63	Per Budget Report Object code 1xxx	\$ 11,361.70
\$ 58,189.30	Per Budget Report Object code 2xxx	\$ 7,088.64
\$ 59,494.42	Per Budget Report Object code 3xxx	\$ 7,616.22
<u>\$ 208,577.35</u>	Total Salary Costs Charged to Admin	\$ 26,066.56
\$ 208,577.35	Per Employer Paid Benefit History Report	\$ 26,066.56
	<b>Adjustment:</b>	
<u>\$ 208,577.35</u>		

Salary Costs that should be Program Support		
\$ 208,577.35	Total 1-6xxx admin costs from Budget Report	\$ 26,066.56
\$ 8,821.11	Less 50% - Vanessa Lopez Program Support	\$ 1,035.53
\$ -	Less 50% - Program Support	
\$ -	Less 50% - Program Support	\$ -
\$ 13,673.48	Less 50% Yolizma Villegas Flores - Program Support	\$ 1,708.48
\$ -	Less 50% - Program Support	
\$ -	Less 50% - Program Support	\$ -
\$ 9,995.94	Less 50% Maria Cardenas - Program Support	\$ 2,629.24
\$ 10,516.94	Less 50% Stephanie Bibriesca - Program Support	
	Less 50% - Program Support	\$ -
	Less 50% - Program Support	\$ -
\$ 165,569.88	Total Administrative Costs	

Head Start/Early Head Start  
2022-2023

*Yolo County*  
OFFICE OF  
EDUCATION  
*Garth Lewis, Yolo County Superintendent of Schools*

# ANNUAL --- REPORT

YCOE.ORG



*a year's overview*

## DIRECTOR'S LETTER

I am so impressed with the impact our Head Start/Early Head Start program has on the children and families in the community we serve. Our Head Start staff are all dedicated to providing quality ECE programming which encompasses high quality child/adult interactions, a warm and welcoming environment for children and families, and access to services beyond what is provided within the classroom to ensure all needs are met.

As a program we continued to deal with the aftereffects of the COVID-19 pandemic during the 2022-2023 school year. One of the challenges we faced was staffing shortages in all our program areas, including family support staff, nutrition and health services, education and disabilities and mental health. However, despite these challenges, all of our staff, including Home Based staff, family support staff, management and administrative support staff truly worked together to keep our classrooms open to provide in-person quality instruction and continued to work to support families with necessary screenings and resources in the areas of nutrition, health, development, etc.

We are proud of the work we have done to prepare our Head Start and Early Head Start children for their future educational attainment. Please enjoy reading about our progress and accomplishments toward reaching our school readiness goals in this annual report to the public.

Respectfully,  
Shannon McClarin  
Director of Early Childhood Education  
Yolo County Office of Education



## OUR COMMUNITY

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Through the Yolo County Office of Education (YCOE), we offer a diverse array of federal and state-funded services to income eligible children and their families in our community. We are committed to ensuring that ALL children and families in our community have access to high quality early childhood education programs regardless of income, noting that 18.60% of families with children (birth to 17 years) in Yolo County were living below the federal poverty level in 2020.

Our comprehensive programs include Early Head Start, Head Start, Home Base programming, and a state-funded Preschool program. Our staff also support coordination of the Local Child Care Planning Council Which supports Early Learning and Care in Yolo County. Our Head Start/Early Head Start program serves approximately 90% of income and age-eligible families in Yolo County, with program enrollment including no more than 10% of the total number of enrolled families with incomes above the federally established income poverty guidelines.

Our community's collaborative framework is one of our greatest strengths. We know that good programs depend on healthy partnerships, and we continue to enjoy and appreciate the extraordinary commitment of a wide array of community partners, including:



*Over 2,300 children birth to age five in Yolo County qualify for Head Start or Early Head Start services due to family income. We work to mitigate the impacts of poverty by ensuring our community's youngest and most vulnerable members have access to developmentally stimulating experiences.*

- Rise, Inc.
- University of California, Davis
- Yolo County Mental Health Program
- SELPA
- Yolo County First Steps Infant Program
- Yolo County School Districts
- Woodland Community College
- California State University Sacramento
- Children's Home Society
- Yolo County ChildCare Planning Council
- Yolo Crisis Nursery
- First 5 Yolo
- Alta California Regional Center
- Yolo Health Department
- Yolo Farm 2 Fork
- Yolo County Department of Employment
- Yolo County Department of Social Services
- Yolo County Children's Alliance
- CommuniCare Health Centers
- City of West Sacramento
- Empower Yolo
- YCOE Head Start Health Advisory Committee

# A PARENT'S PERSPECTIVE

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**Dear Alyce Norman**

**I wanted to take a moment to express my gratitude for the wonderful head start program that my child is a part of. The play based learning and the out door time they get truly makes this program exceptional. I am particularly grateful for classroom one and teacher Yasmeen. Her attentiveness and dedication to helping the children learn and communicate is remarkable. She goes above and beyond to create a nurturing and engaging environment for the little ones. I appreciate how she communicates at such a high level, ensuring that every child feels heard and understood. As a parent it brings me joy to see how much my child enjoys coming home from school. He is always excited to share stories about his day, and it's clear that he is thriving under teacher Yasmeen's guidance. Thank you for providing such a positive and enriching learning experience for my child. I am grateful for the opportunity to be a part of this community.**

**Sincerely,  
Jacklyn Macias (parent)**



## OUR FAMILIES

We are pleased to report that during the 2022-2023 program year, YCOE served a combined total of 356 children. Our 10-month programs end on the first week of June every year. However, our extended classrooms continue to operate through the summer months.

### Enrollment for Preschool age children:

240 Head Start children participated in services during the 2022-2023 program year:

44%	3 years old
52%	4 years old
4%	5 years old
50%	Female
50%	Male
17%	Individual Education Plan ( IEP)
70%	Hispanic or Latino Origin
30%	Non-Hispanic or Non-Latino Origin
39%	English Speaking
45%	Spanish Speaking
15%	Middle Eastern or South Asian Languages
1%	East Asian Language
-	European or Slavic Language
-	Other languages

### Enrollment for Infants and Toddlers:

116 Early Head Start children participated in services during the 2022-2023 program year:

15%	Under 12 months of age
28%	12- 24 months of age
54%	24 - 36 months of age
3%	Expectant mothers
55%	Female
45%	Male
13%	Individual Family Service Plan ( IEP)
72%	Hispanic or Latino Origin
28%	Non-Hispanic or Non-Latino Origin
29%	English Speaking
51%	Spanish Speaking
6%	Middle Eastern or South Asian Languages
-	East Asian Language
14%	European or Slavic Language



	EHS	Head Start
<b>FUNDED ENROLLED</b>	<b>88</b>	<b>247</b>
<b>ATTENDED LESS THAN 45 DAYS</b>	<b>1</b>	<b>6</b>
<b>TOTAL DROPPED</b>	<b>18</b>	<b>28</b>
<b>TOTAL CUMULATIVE ENROLLMENT</b>	<b>106</b>	<b>275</b>
<b>INSURANCE COVERAGE</b>	<b>112</b>	<b>240</b>
<b>MEDI-CAL</b>	<b>93</b>	<b>224</b>
<b>PRIVATE INSURANCE</b>	<b>19</b>	<b>16</b>
<b>UNINSURED</b>	<b>0</b>	<b>0</b>
<b>IMMUNIZATIONS COMPLETED ALL FOR AGE</b>	<b>13</b>	<b>10</b>
<b>IMMUNIZATIONS UP-TO-DATE</b>	<b>99</b>	<b>230</b>
<b>TB CLEARANCE</b>	<b>106</b>	<b>275</b>
<b>MEDICAL HOMES</b>	<b>106</b>	<b>275</b>
<b>WELL CHILD EXAMS</b>	<b>106</b>	<b>275</b>
<b>DENTAL HOMES</b>	<b>112</b>	<b>241</b>
<b>DENTAL ASSESSMENTS</b>	<b>112</b>	<b>240</b>



*Our Approach*

## FAMILY PARTNERSHIPS

The YCOE Early Childhood Education Department has been very successful with the Family Partnership process, which is aligned with the Head Start Parent, Family, and Community Engagement Framework. We administer the Family Engagement Outcomes Survey each year to identify family strengths, goals, and areas in need of additional support. In establishing goals during the 2022-2023 program year, our families prioritized the areas of Family Engagement in Transitions, Family Well-Being, Families as Learners, Positive Parent-Child Relationships, and Families as Lifelong Educators.

Additionally, all families are invited to participate in a variety of activities to strengthen family partnerships and overall engagement, including:

- The Policy Council (PC)
- Classroom activities
- Development, evaluation and overall conduct of the program
- Parent activities, such as parent meetings and family events
- In-Kind
- Parent workshops and trainings

The Policy Council (PC) is made up of 51% of Head Start/Early Head Start Program parents throughout Yolo County. The PC is designed to ensure that parents from all program

### 2022-2023 Family Engagement & Support Services

#### Family Support Services Highlights:

Family Partnerships completed with families	294
Community Resource connections	3352
Families that received emergency & crisis intervention support	79
Family Engagement activities (internal/external opportunities)	670
<b>Total Family Services Actions logged for PY 22-23</b>	<b>6092</b>





## FAMILY ENGAGEMENT

As part of our Family Engagement component, YCOE's Head Start/Early Head Start Program offers numerous literacy events each year including parent workshops, "Read Across America" celebration, and the Raising A Reader (RAR) program that bridges literacy from school to home environments.

YCOE HS/EHS has implemented the "Make Parenting A Pleasure" parenting curriculum since 2019. The curriculum is research-based and focuses on key topics such as self-care, understanding stress, handling strong emotions, attachment, serve and return, sensory processing, showing up, teaching pyramid, temperament, and survival tips. We offer two sessions, each lasting 12 weeks. The workshops are offered by a mental health consultant who has extensive knowledge in child development and mental health. Families receive incentives after each workshop, which are tied to the topics. Families can contact their FSSA for further information.

Making Parenting a Pleasure Parent Workshop s a fun and educational support group for parents of children 0-12 years of age.

Topics include:

- Self-Care
- Understanding Stress
- Handling Strong Emotions
- Connection and Relationships
- Serve and Return
- Sensory Processing
- Showing Up for our Kids
- Teaching Pyramid Tools
- Temperament
- Tips for Survival






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## RAISING A READER

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The Raising A Reader program empowers families with knowledge and resources. It is a three prong approach that involves: develop, practice and maintain.

Raising A Reader promotes language and literacy development through the extensive selection of developmentally appropriate books that build the skill for vocabulary, imagination, and overall reading success. Raising A Reader helps children strengthen listening skills, hear language and rich vocabulary that is not part of everyday speech, and practice conversations in their home language.

Raising A Reader encourages family time and reinforces the development of home learning habits that are critical for school success by helping children associate the habit of reading with pleasure. The warmth that accompanies reading by a caring adults lasts beyond the experience. It is designed to give families the confidence and strategies to create a literacy-rich environment, regardless of families' language or literacy proficiency.



# RECRUITMENT & ENROLLMENT

YCOE assumes a strategic approach to recruiting to ensure our community’s most vulnerable and disadvantaged children and families are served through the Head Start/Early Head Start Program. We begin intensive recruitment efforts for the upcoming program year during the previous Spring, and continue with outreach activities throughout the year. During the intake process, recruitment data is collected from families to track successful recruitment strategies. Our 2022-23 recruitment data reflects that community canvassing, including door-to-door flyer distribution, the use of yard signs and banners for local marketing and networking with community agencies continues to provide the greatest community outreach recruitment results. Our Family Support Staff use every tool in their toolkit to reach families, with a focused emphasis on targeting rural areas where families often encounter barriers to participation such as transportation and access to written materials in the home language of the family. Our community partners include local faith centers, school districts, community health clinics, local nonprofit agencies and public benefit offices. They are all essential to our outreach efforts. Community partners support our recruitment efforts by posting information, sharing Head Start/Early Head Start Program information with their clients, referring children and families, inviting us to present at their virtual gatherings and providing a space for information booths.

Program Year 2022-2023 recruitment activities included:

- Door-to-door flyer distribution at the 70+ Affordable Housing Units located throughout Yolo County.
- 70 hours of tabling at Community events and attendance at 21 local events catered to children and families.
- Outreach to 150+ local businesses, including community clinics, local schools, and non-profits.
- Placement of 100+ yard signs along county roads and busy streets for maximum exposure.
- Networking with local domestic violence shelters, family shelters, and our local Public Health Nurse Partnership programs to streamline enrollments.

May 2023	Region 9	California	Yolo County
Head Start	78%	77%	87%
Early Head Start	72%	72%	89%

**YCOE HS/EHS accomplished higher enrollment than the State & Regional average!**

## RECRUITMENT & ENROLLMENT

We believe that from the first day of enrollment, parents are vital in developing their child's goals for the school year. Head Start/Early Head Start teachers use home visits to discuss child/family goals and how to implement these goals in the classroom. Our staff also use daily communication (either verbal or written) with parents to keep them informed of their child's progress, which complement parent conferences and home visits held throughout the year. These conferences are a great venue for teachers and parents to make the goals at school align with goals at home.

The Head Start/Early Head Start program continues to be focused on the effort to increase the number of fathers/guardians participating at all levels of the ECE Program. The focus includes outreach efforts by teachers, information about the importance of fathers/guardians in their children's education and father/guardian events.

*At YCOE, we are committed to providing services that fully engage families in their child's education. We believe that parents are their child's first and most influential teacher, and all aspects of our work is guided by this philosophy.*



## EDUCATION



Our teaching staff utilizes the California Department of Education's Preschool Learning Foundations and Curriculum Framework as well as Creative Curriculum to ensure best practices in early childhood education and support children to successfully transition to the K-12 school system. Our teachers guide in-depth exploration and investigation spanning 4-6 weeks per study, culminating with an activity involving the entire family. For example, at the end of Creative Curriculum's Reduce, Reuse, Recycle Study, each family is asked to work with their child to create a piece of art out of recycled materials. This activity is inspired by children's literature read throughout the study. Families are encouraged to brainstorm, make a plan, gather materials and execute their plan. Children then present their creation during our Recycle Wrecks Art Walk. This helps to build a strong home school connection between our program and the families we serve.

Our Head Start and Early Head Start program truly believes that our parents are the first and most influential teachers of their children. We partner with parents to help children in their developmental progression by providing a multitude of opportunities to learn and grow. Our Head Start and Early Head Start teachers have a natural love for children that shows each day through their acceptance, understanding, and nurturing. Children in our program spend time in warm and inviting environments where they have the opportunity to develop a sense of identity and belonging, create and sustain meaningful relationships with adults and other children, and establish a life long love of learning. We witness firsthand when these children leave Head Start how prepared they are for kindergarten, excited about learning, and ready to succeed!



# EDUCATION

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Due to the prevalence of adverse childhood experiences (ACE's) we have placed an emphasis on becoming more trauma informed. We are dedicated to understand the impact of trauma on physical, emotional, and mental health as well as on behaviors and engagement in the classroom. Teaching staff were given professional development on trauma, social emotional curriculum, challenging behaviors, sensory integration, relationship building and the importance of schedules and routines. Classrooms were given various tools and materials to help our children with their social emotional development. Each day our teachers incorporate a large group instruction that is dedicated to implementing our social emotional curriculum as well as reading quality literature with a social emotional emphasis. We place an importance on building our students emotional literacy which will help them be successful now and later in life.

## *Mentor Coaches*

During the 2022-2023 school year, four coaches worked across Yolo County with our Infant, Toddler and Preschool classrooms to build classroom quality and teacher support. Additionally, twenty-seven early childhood classrooms have been positively supported by the Quality Rating Improvement System (QRIS) initiative derived via California Department of Education to improve and build classroom quality. Teachers have gained new knowledge around teacher-child interactions, environmental set-up, teaching best practices and professional development.



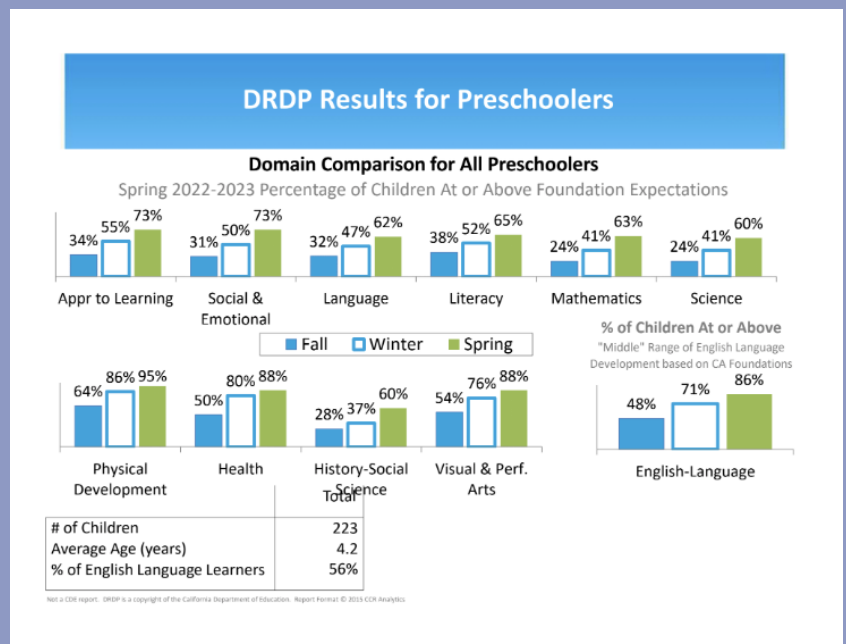
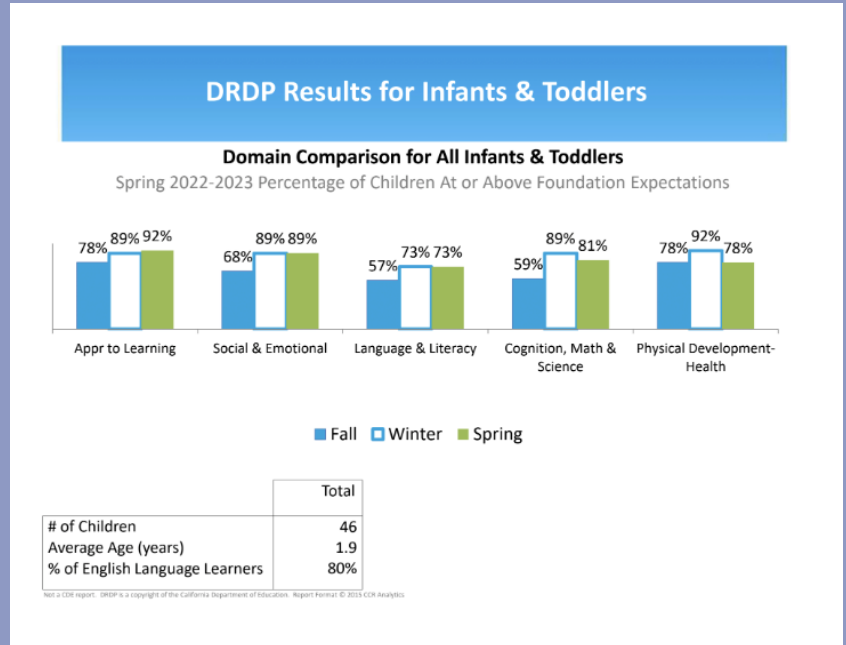
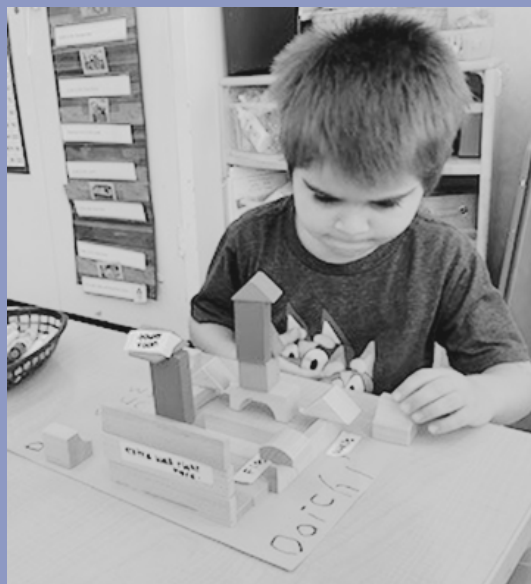


## EDUCATION

### *Our impact*

YCOE Head Start / Early Head Start utilizes the DRDP 2015. This assessment tool offers a seamless transition from the Infant/Toddler DRDP View to the Preschool DRDP View. The DRDP 2015 is aligned with all three volumes of CDE Preschool Foundations and Frameworks and Head Start Early Learning Outcomes Framework.

YCOE uses both preschool and infant/toddler lesson plans to ensure the foundations are offered through age appropriate activities and experiences based on the needs of each individual child. A checklist is also used to ensure the Creative Curriculum is being used to fidelity.



# TRANSITIONING TO KINDERGARTEN

The Head Start Approach to School Readiness means, “That children are ready for school, families are ready to support their children’s learning, and schools are ready for children.” Our program has developed School Readiness Goals that are based on the needs of the children and families in the program. In our program we promote a strong connection between home and school, we have created age- and developmentally- appropriate goals for children and families. These goals are in the domains of Language & Literacy, Cognition, Approaches to Learning, Perceptual, Motor, & Physical Development, and Social & Emotional Development. These goals align to the Head Start Early Learning Outcomes Framework and California Department of Education Preschool Learning Foundations and Curriculum Framework. Implementing and measuring progress toward school readiness goals helps to individualize for each child and ensure that children are kindergarten ready.

The children in the program are assessed three times per year using the Desired Results Developmental Profile (DRDP) and individual child goals are developed through parent/teacher conferences. With each assessment period, parents and teachers meet to discuss progress. Staff use observations and work samples to determine the strengths and areas of need for the child and support these strengths and needs through classroom activities.

The Head Start/Early Head Start staff begins the Transition to Kindergarten process at the beginning of the year. Kindergarten Readiness activities are offered to children such as story books about moving on to Kindergarten, a virtual visit from a Kindergarten teacher and a virtual visit to a Kindergarten classroom. The Head Start program offers a Kindergarten Round Table which provides parents with information on how to support their child’s transition to Kindergarten. At the end of the school year, children and families are given a Moving On to Kindergarten booklet. This booklet includes activities and community resources for the family to use with their child during the critical months prior to their child transitioning to Kindergarten.



*Program staff and families have joined forces to aid children's learning, growth and development as they prepare to enter the next stage in their educational journey.*

# HEALTH AND NUTRITION

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At YCOE, we believe that good health provides an important foundation for children. Studies show that low-income children don't always receive all their required immunizations, placing them at a higher risk for preventable infections and long-term illness. The children we serve have less access to a continuous source of medical and dental care and tend to miss more school because of illness, putting them further behind their more advantaged peers in terms of educational achievement. We have the unique opportunity to address these types of health and educational disparities for our Head Start and Early Head Start families, and we offer a full range of age appropriate screenings and assessments for each child while highlighting milestone achievements.

The YCOE Head Start/Early Head Start program strives to meet the dietary needs of enrolled children. Nutrition Services continues to be actively involved in a comprehensive and collaborative program to increase the health and wellness of the children, families and staff. Our daily menus follow USDA guidelines to ensure well-balanced, nutritious meals are served. It is important that children learn to eat a variety of foods as a part of a balanced diet. Classroom nutrition activities and the UC Davis Nutrition boxes support the classroom in nutrition education, and we provide growth assessments and ongoing monitoring to ensure the best possible health outcomes for the children in our program.

Our classroom curriculum also models a healthy lifestyle by promoting physical fitness activities for children throughout the day. Nutrition Consulting complete the referral and follow up process by providing services through the Women, Infants and Children (WIC) department to ensure the nutrition needs of participating children are met.



*“We are excited about giving parents hands-on experiences in healthy living and nutrition.*

*This helps build their skills, develop a better understanding about foods that are served in the program, and can apply this learning at home to promote a healthier lifestyle.”*

*Gustavo Melgoza, Health Services Manager*

# PROFESSIONAL DEVELOPMENT

The YCOE Head Start/Early Head Start Program staff participates in researched-based on-going professional development opportunities throughout the year. Professional Development opportunities are based on a variety of internal monitoring results and staff feedback. The YCOE Head Start/Early Head Start Professional Development includes:

- Head Start Early Learning Outcomes Framework
- Creative Curriculum Fidelity
- Effective research-based instructional strategies for English Learners
- DRDP (Desired Results Developmental Profile) with strategies on how to analyze individual and group DRDP data to drive instruction.
- Social and Emotional Development
- Trauma & Resiliency for ECE
- Inclusive Education
- How to Administer: Screenings, Assessments, Observations, and Conferences
- Health, Safety, & Nutrition Trainings
- Pediatric First Aid & CPR
- Professional Learning Communities

Through a group format practice-based coaching model, teachers are offered professional development in a cohort form that expands over time. Led by a trained facilitator, teachers use video recordings of themselves in the classroom and participate in group discussions to reflect and receive feedback. All topics discussed relate to the Head Start Learning Outcomes Framework Effective Practice Guides.



With funding from the California Department of Social Services, the ECE Program is pleased to offer the QRIS (Quality Rating Improvement System) Coaching support for teaching staff. Coaching allows teachers to review their progress on classroom environment assessments and teacher-child interaction assessments and build a Professional Development plan individualized for each specific teacher. Together the teaching team and coach determine goals that support their growth in the classroom. Our program also offers higher education, child development permit and professional development support through the QCC Workforce Pathways program.



## MENTAL HEALTH

During the 2022-2023 program year, our program partnered with a Mental Health Consultant to provide mental health services and support to enrolled children and families. This consultant identified the emerging mental health needs of the children and/or families using culturally sensitive strategies and referred families when needed for more intensive services. Mental health intervention and prevention strategies included observations, modeling, building, and implementing positive behavioral support plans for children with externalizing or challenging mental health behaviors. We offered services through a pyramid approach by providing a positive environment, positive teaching strategies, and individual interventions.

## DISABILITIES

The YCOE Head Start/Early Head Start Program Special Services component includes support for children with disabilities or other special needs. Children who have an active IFSP (Individualized Family Service Plan) or an IEP (Individualized Education Program) are included in the classroom. The program supports the idea of Least Restrictive Environment (LRE) and works closely with Early Intervention Services and our local School Districts to ensure that the IFSP or IEP goals and individual needs of the child are being met. Often this is the first exposure children have in an early childhood environment and potential concerns are just surfacing for some children. In those cases, the teaching staff, the family and the Special Services staff work together to refer the child to the appropriate agency for further evaluation. As part of the Head Start grant, the program must maintain a 10% enrollment of children with an active IFSP or IEP.

BUDGET FOR 2022-2023

	BUDGET	ACTUAL
<b>INCOME</b> FEDERAL REVENUES	4,385,754	4,385,754
<b>EXPENSES</b> CERTIFICATED STAFF SALARIES	1,337,301	1,337,302
CLASSIFIED STAFF SALARIES	617,751	617,751
BENEFITS	823,843	812,355
SUPPLIES	233,716	226,264
TRAVEL & CONFERENCE	18,030	17,411
DUES & MEMBERSHIPS	14,104	14,103
RENTAL, LEASES, REPAIRS	3,001	2,190
DIRECT COSTS FOR TRANSFER OF SERVICES	351,864	340,390
PROFESSIONAL SERVICES	392,373	369,267
INTERGOVERNMENTAL FEES	2,608	1,921
OPERATIONS & HOUSEKEEPING	2,766	3,045
EQUIPMENT	173,802	232,522
TRANSFERS OF INDIRECT COST	414,594	410,233
<b>TOTAL EXPENSES</b>	<b>4,385,754</b>	<b>4,385,754</b>

## 9. 2. Cesar Chavez Attendance Reports for April 2024

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### Description

Cesar Chavez Attendance Reports for April 2024.

### Recommendation

For information only.

### Supporting Documents



Data for Board April 2024



Data for Board April 2024

### Contact Person

Jared Coughlan, Principal, Alternative Education will present this item.

# ATTENDANCE REPORTS

Dan Jacobs

Cesar Chavez Community School - Woodland  
Yolo County Career Program (YCCP)  
Chavez Extension Program





# Program Enrollment

	Dan Jacobs	Cesar Chavez	YCCP	Chavez Extension Program
Enrollment				
Program Notes:	Duration (days): 1. 120+: <b>2</b> 2. 30+: <b>1</b> 3. 15+: <b>0</b> 4. 5+: <b>0</b>  • 1 New Enrollment	In-person instruction: <b>21</b> Independent Study: <b>14</b>  • 0 New Enrollments	In-person instruction: <b>11</b> Independent Study: <b>0</b>  • 0 New Enrollments	In-person instruction: <b>0</b> Independent Study: <b>20</b>  • 0 New Enrollment

Attendance Update: 04/02/2024

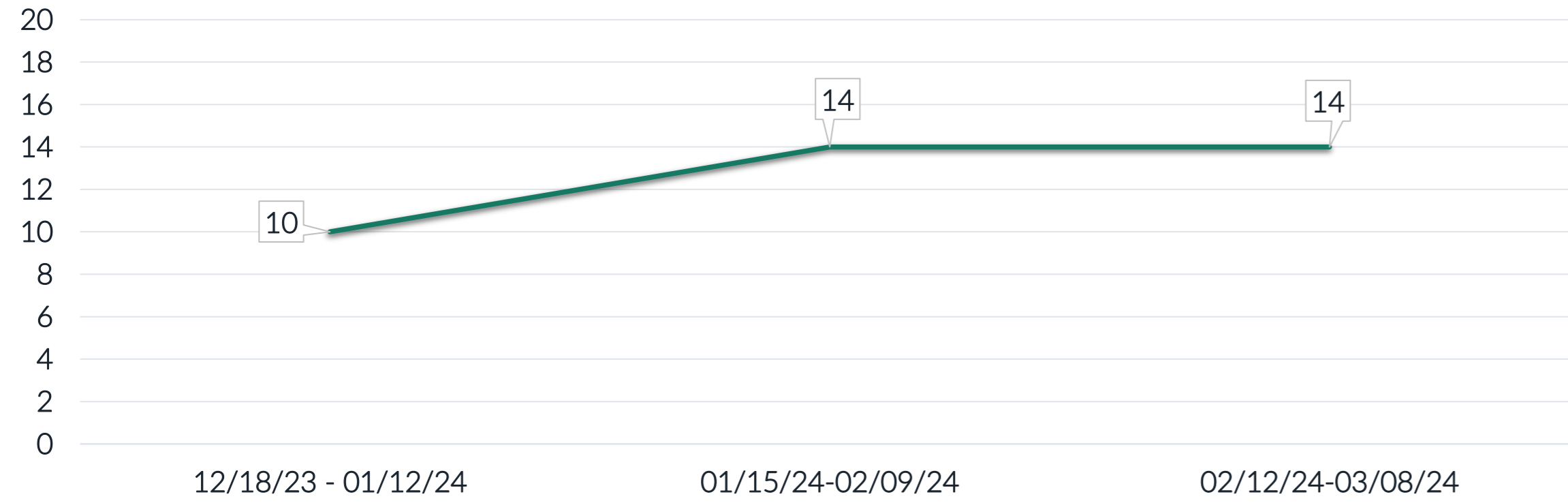


# Dan Jacobs School

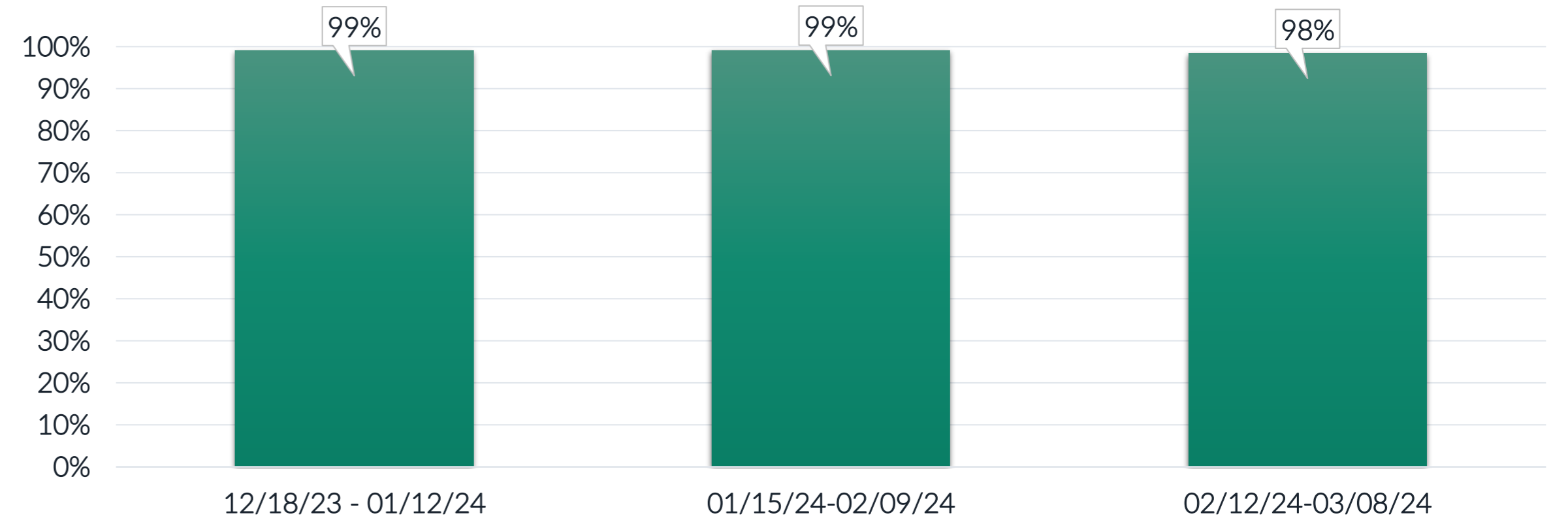
## Months 7-9 (2023-2024)

Attendance Period: 12/18/2023 - 03/08/2024

Enrollment Totals (#)  
(Total Enrollments for each attendance period)



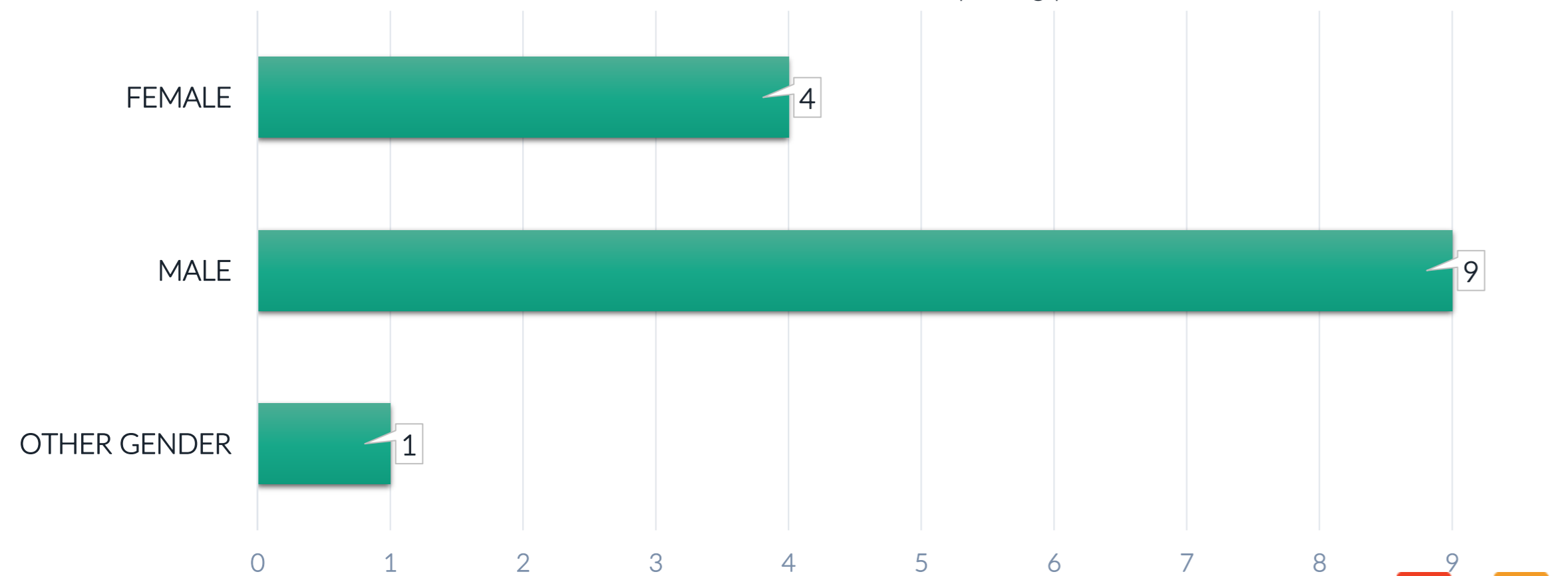
Average Attendance (%)



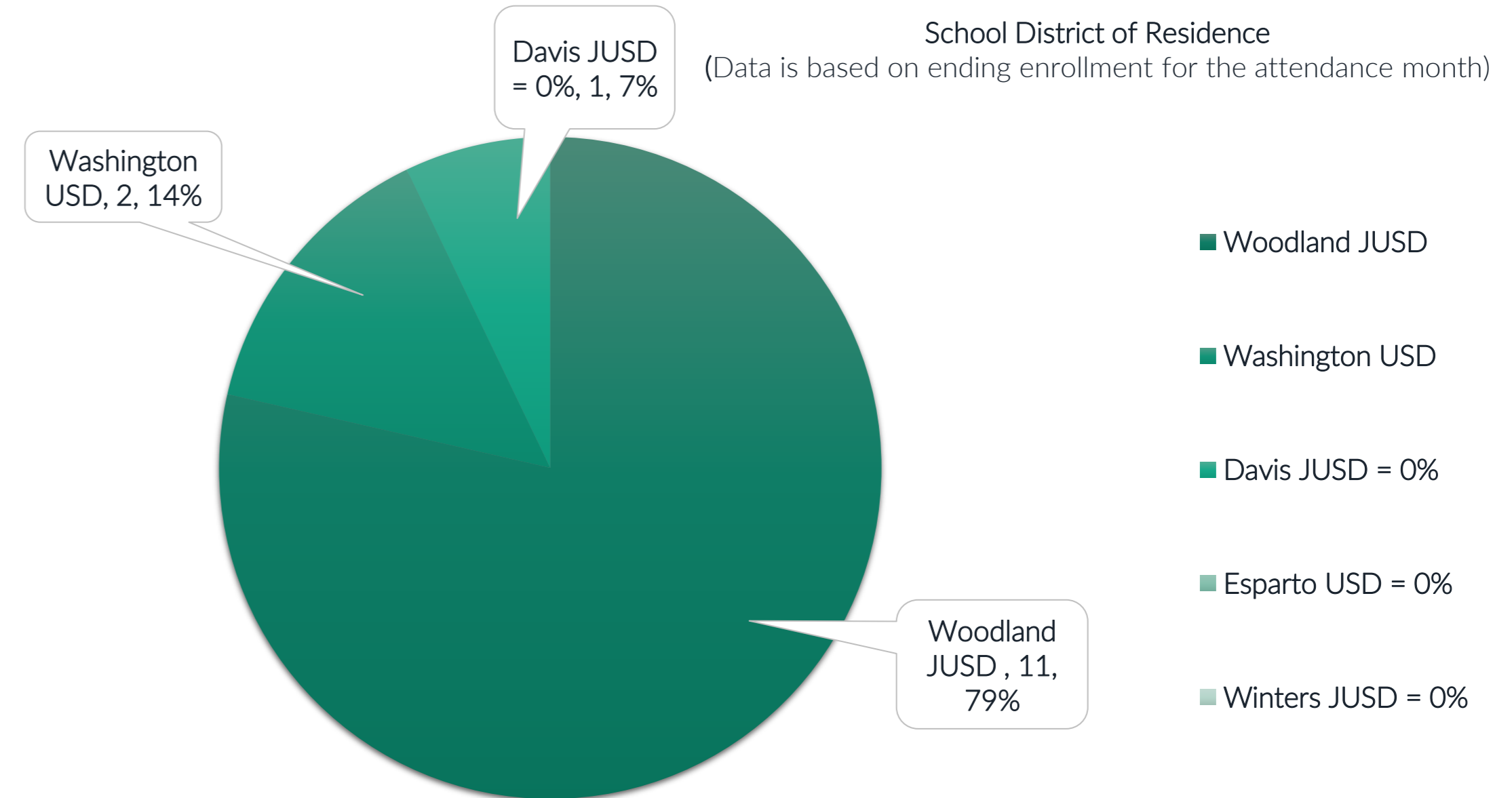
Gender

Attendance Period: 02/12/2024 - 03/08/2024

(Data is pulled from the Aeries attendance dashboard on the final day of the attendance period and may not reflect total enrollments for the reporting period).



School District of Residence  
(Data is based on ending enrollment for the attendance month)

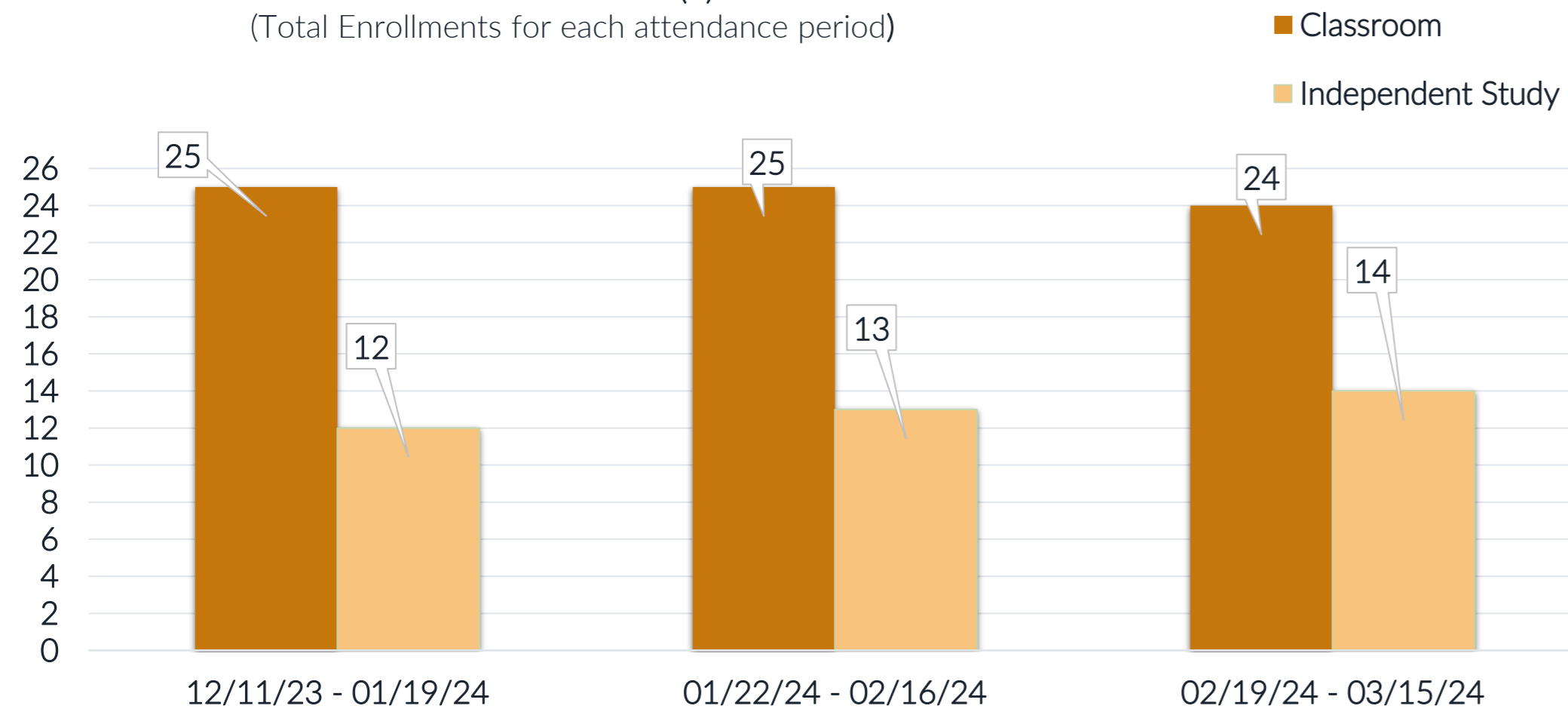


# Cesar Chavez Community School - Woodland

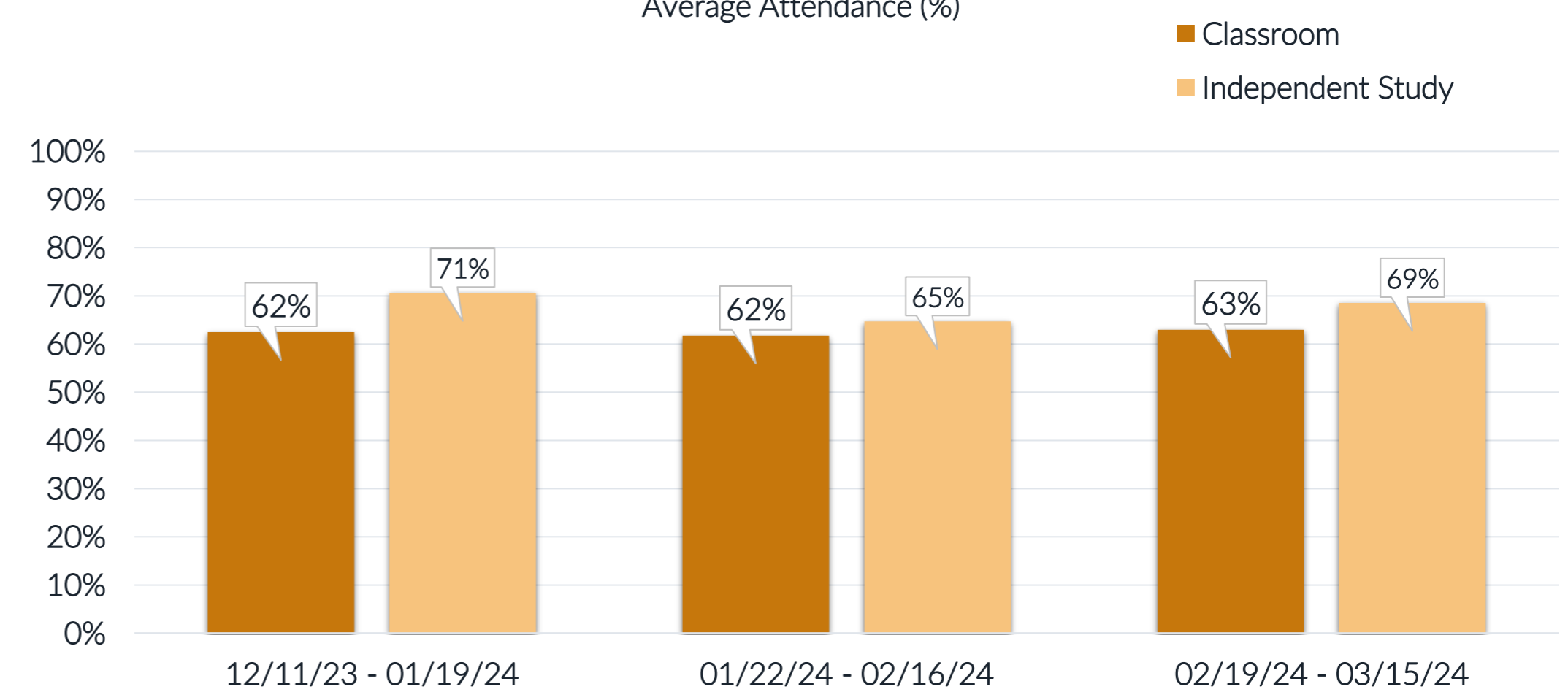
Month 5-7 (2023-2024)

Attendance Period: 12/11/2023- 03/15/2024

Enrollment Totals (#)  
(Total Enrollments for each attendance period)



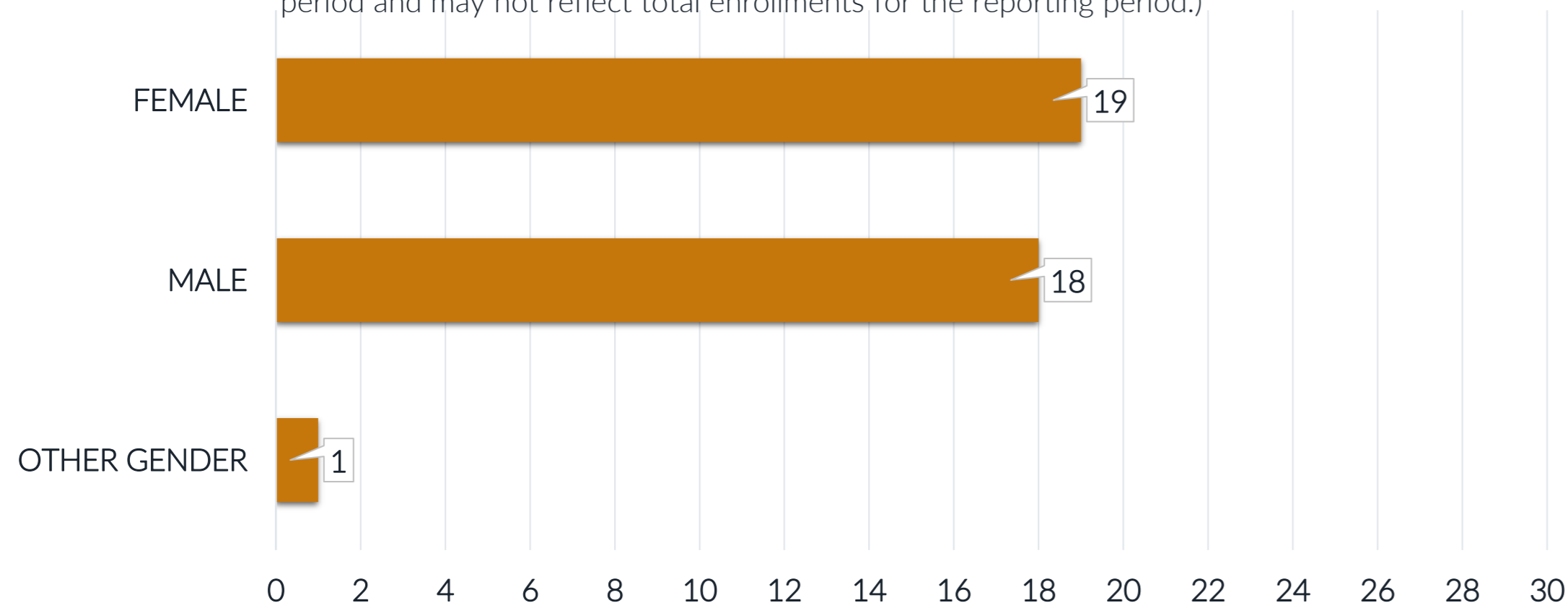
Average Attendance (%)



Gender

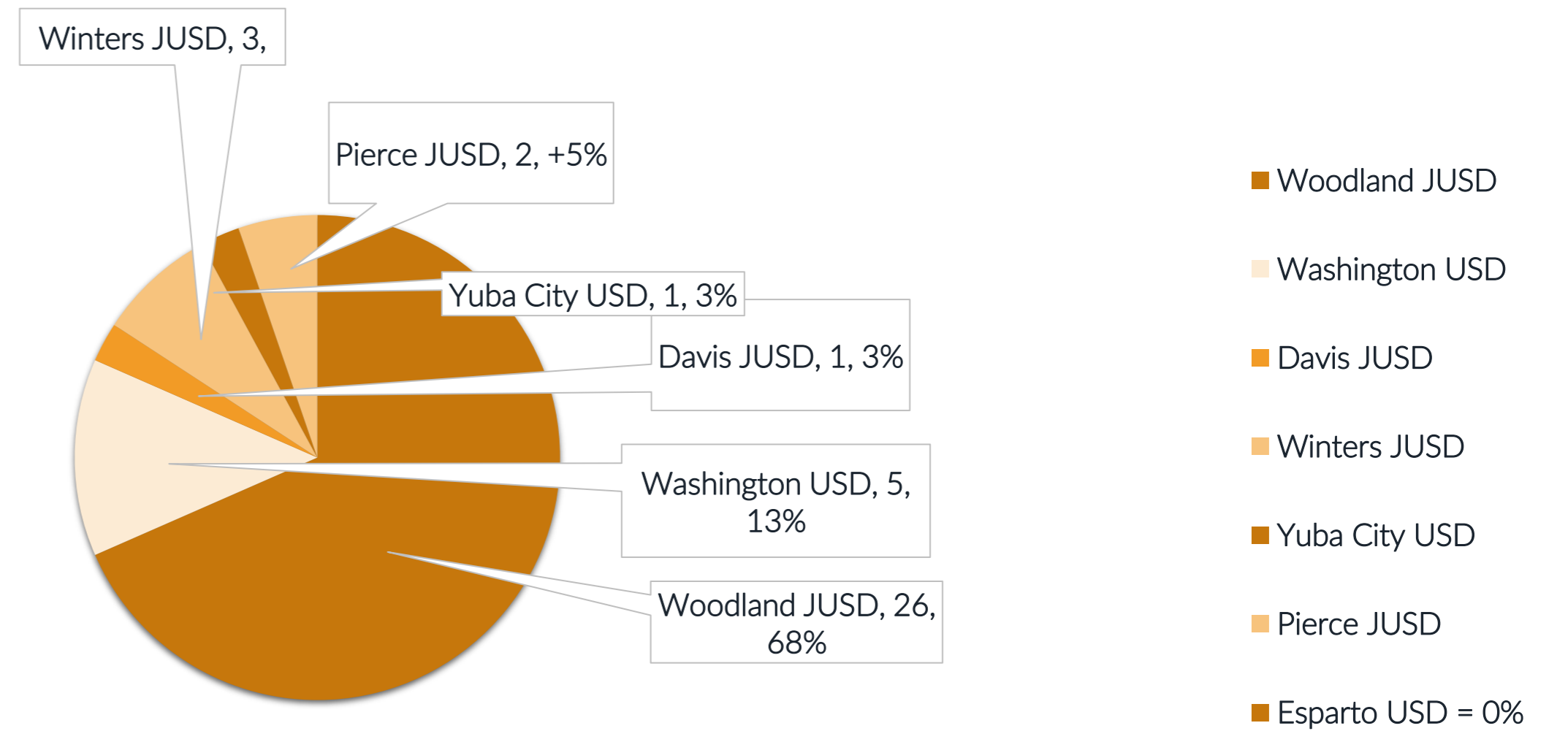
Attendance Period: 02/19/24 - 03/15/24

(Data is pulled from the Aeries attendance dashboard on the final day of the attendance period and may not reflect total enrollments for the reporting period.)



School District of Residence

(Data is based on ending enrollment for the attendance month)

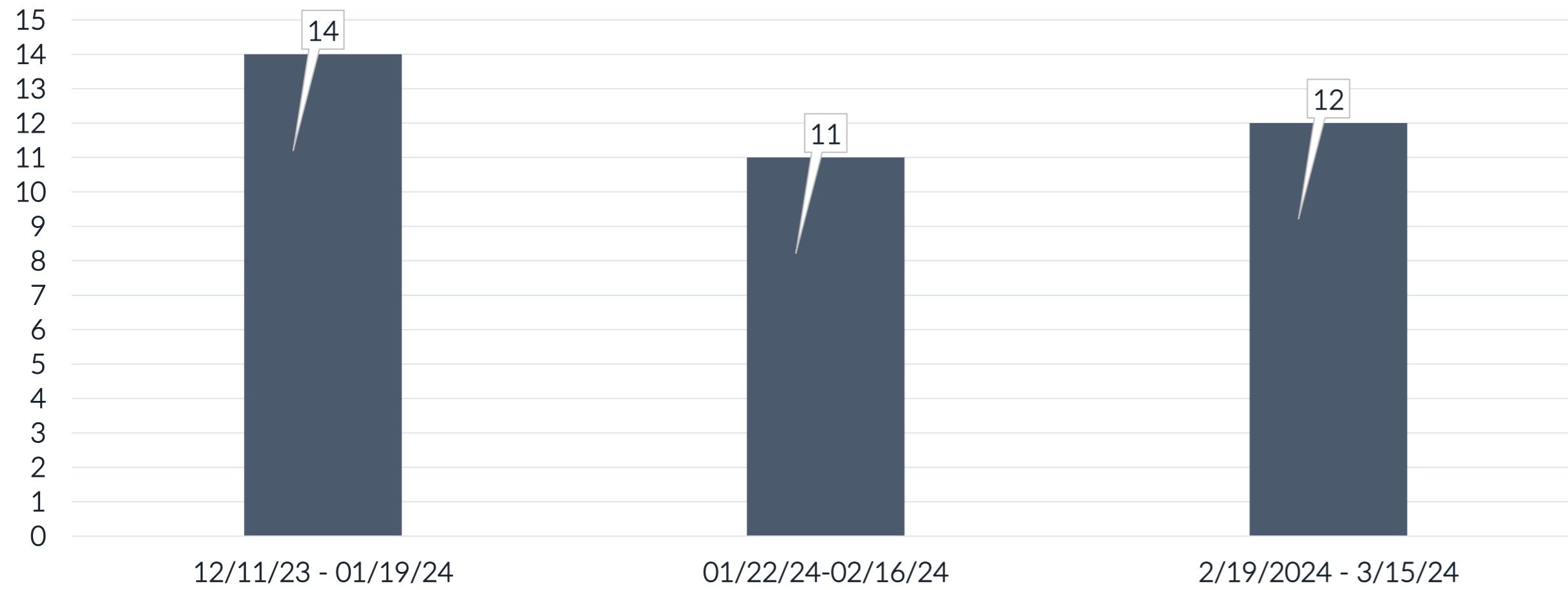


# YCCP ( Yolo County Career Program)

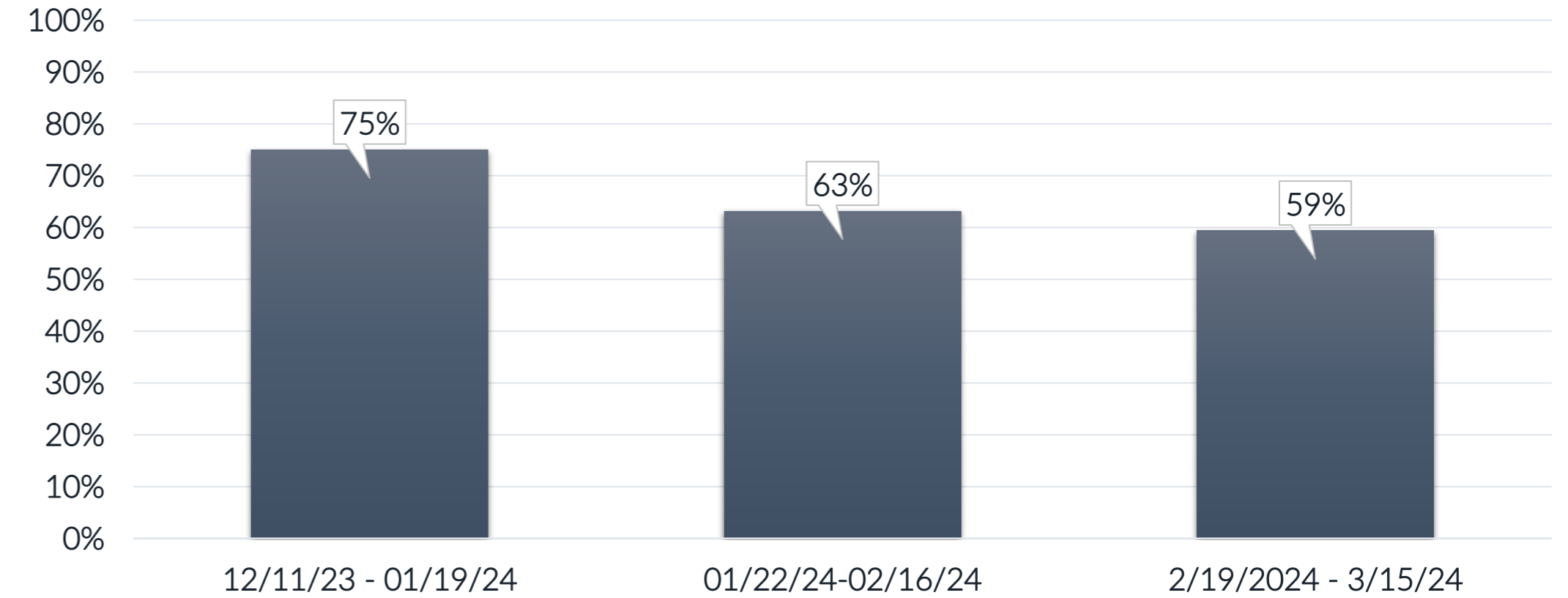
Month 4-6 (2023-2024)

Attendance Period: 12/11/2023- 03/15/2024

Enrollment Totals (#)  
(Total Enrollments for each attendance period)

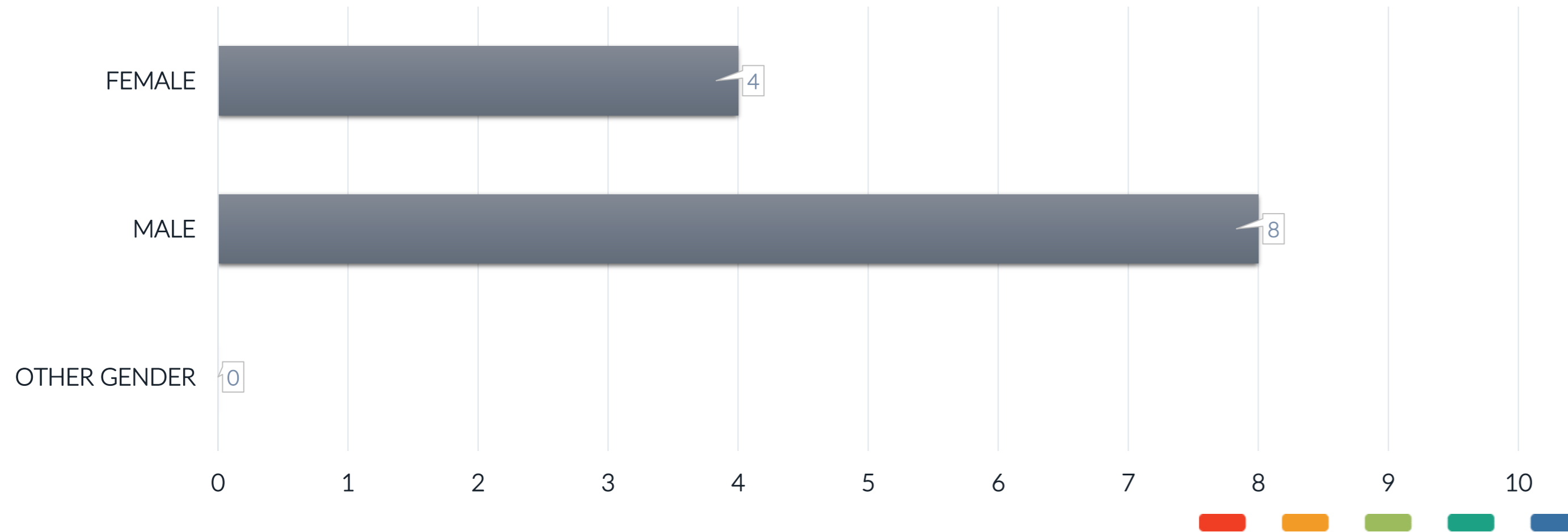


Average Attendance (%)

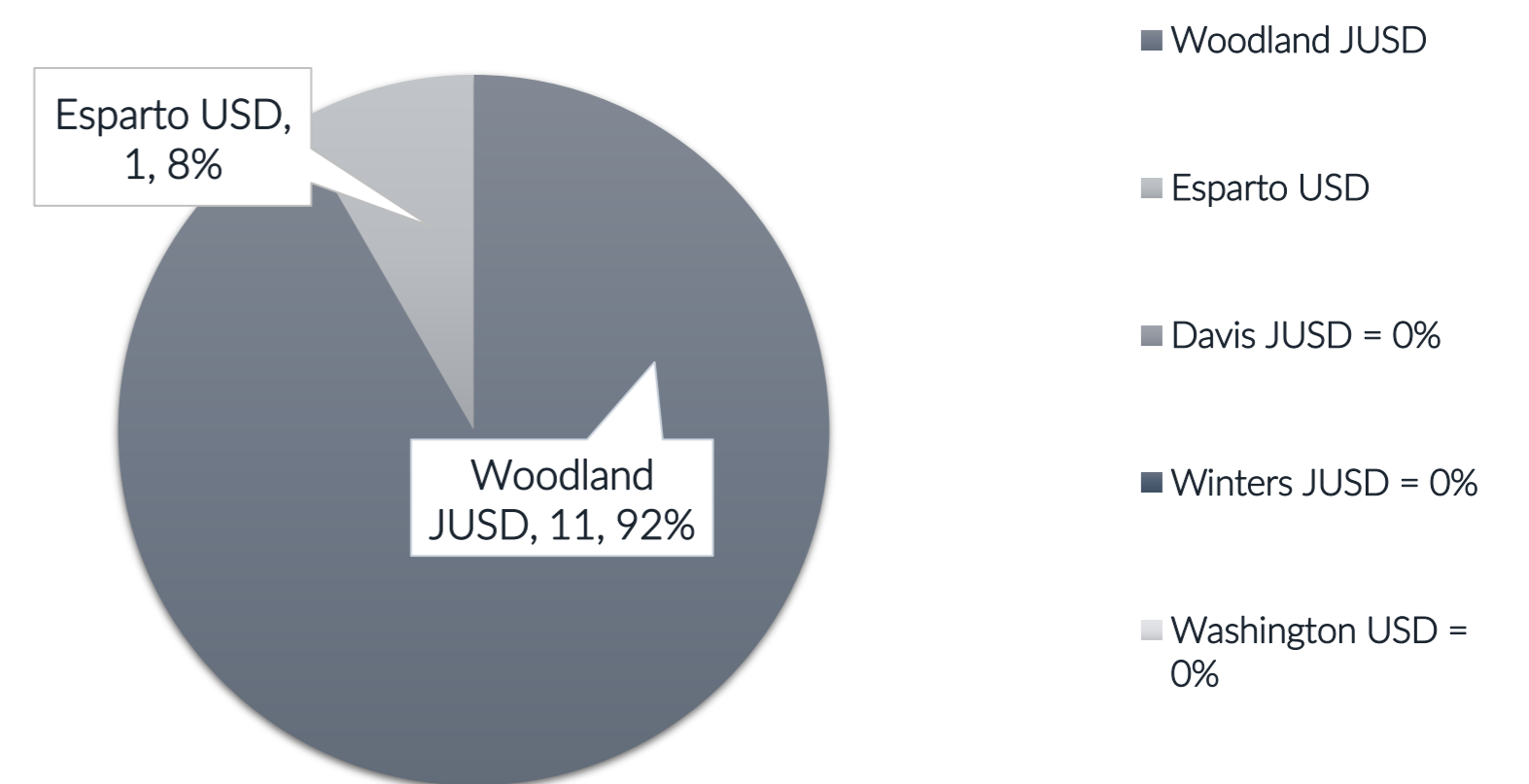


Gender  
Attendance Period: 02/19/24 - 03/15/24

(Data is pulled from the Aeries attendance dashboard on the final day of the attendance period and may not reflect total enrollments for the reporting period.)



School District of Residence  
(Data is based on ending enrollment for the attendance month)

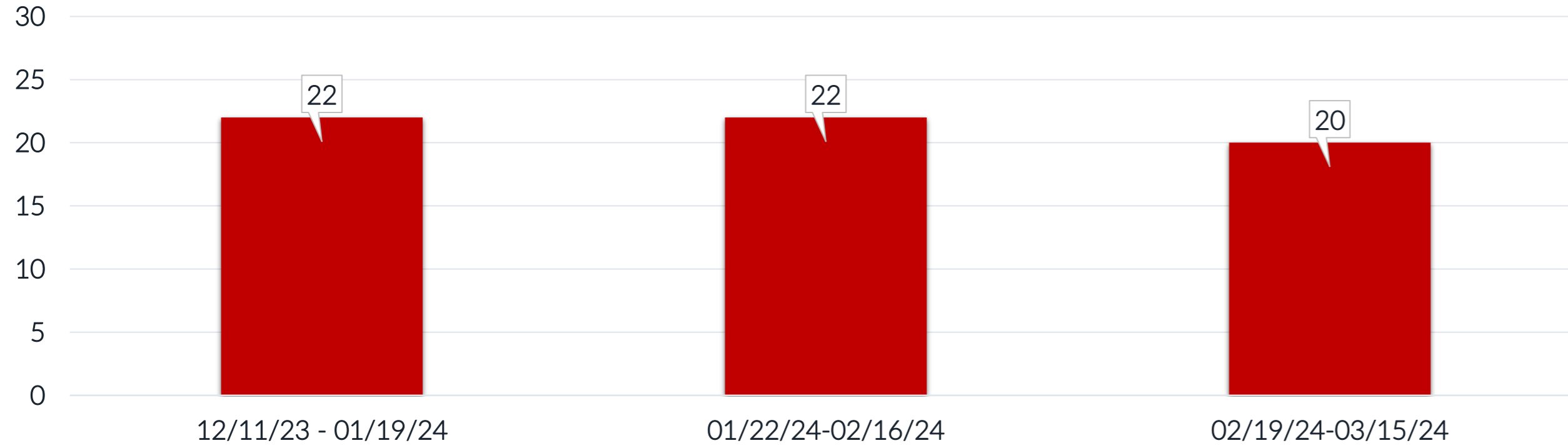


# Chavez Extension Program

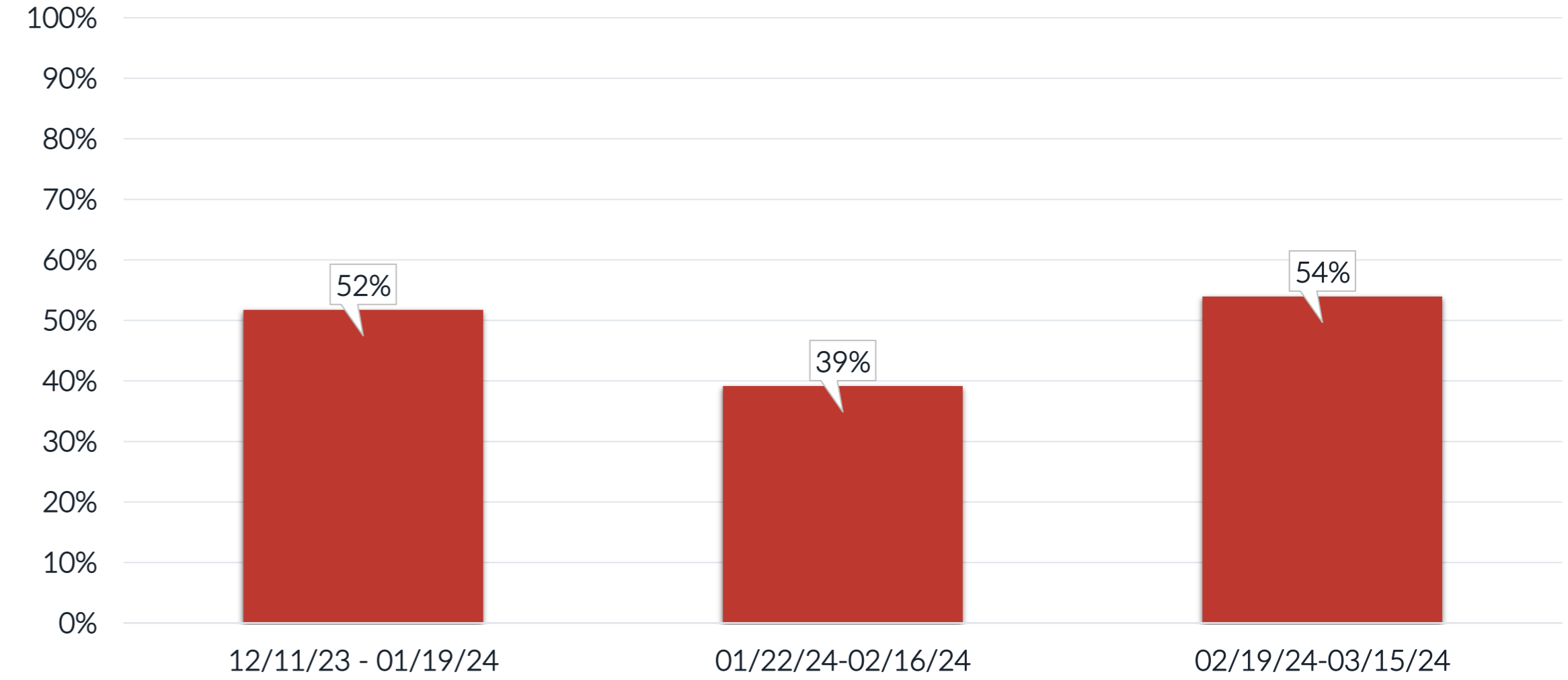
Month 4-6 (2023-2024)

Attendance Period: 12/11/2023 – 03/15/2024

Enrollment Totals (#)  
(Total Enrollments for each attendance period)

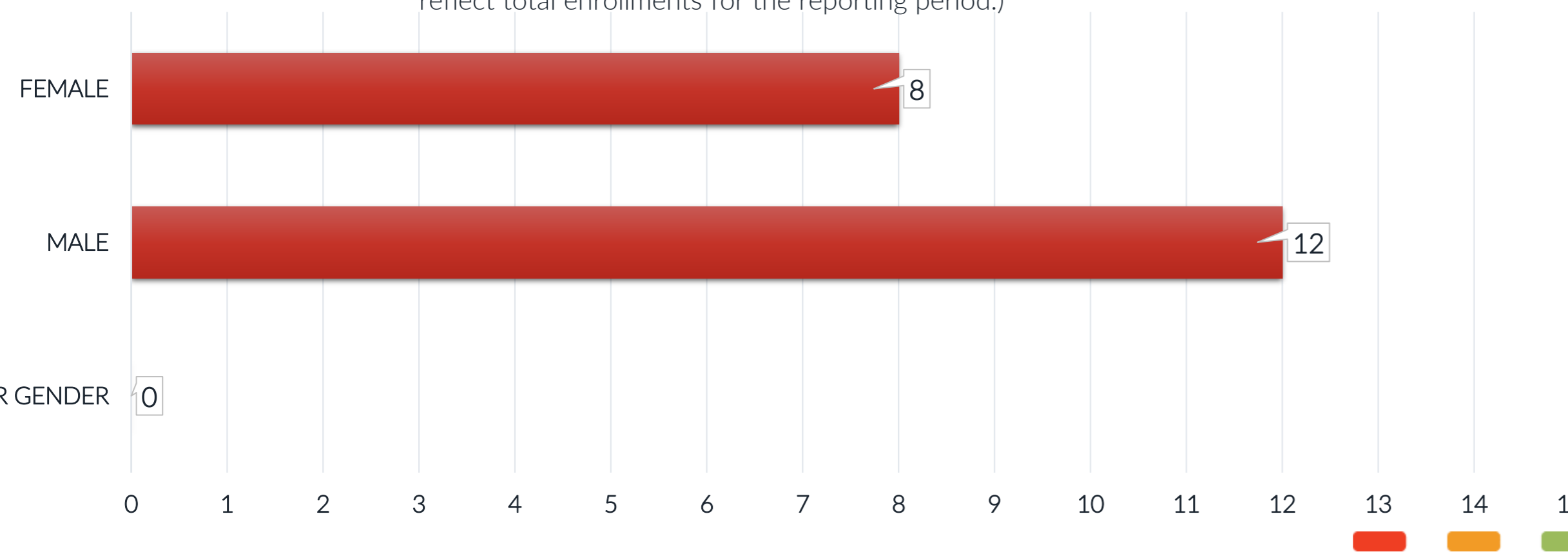


Average Attendance (%)

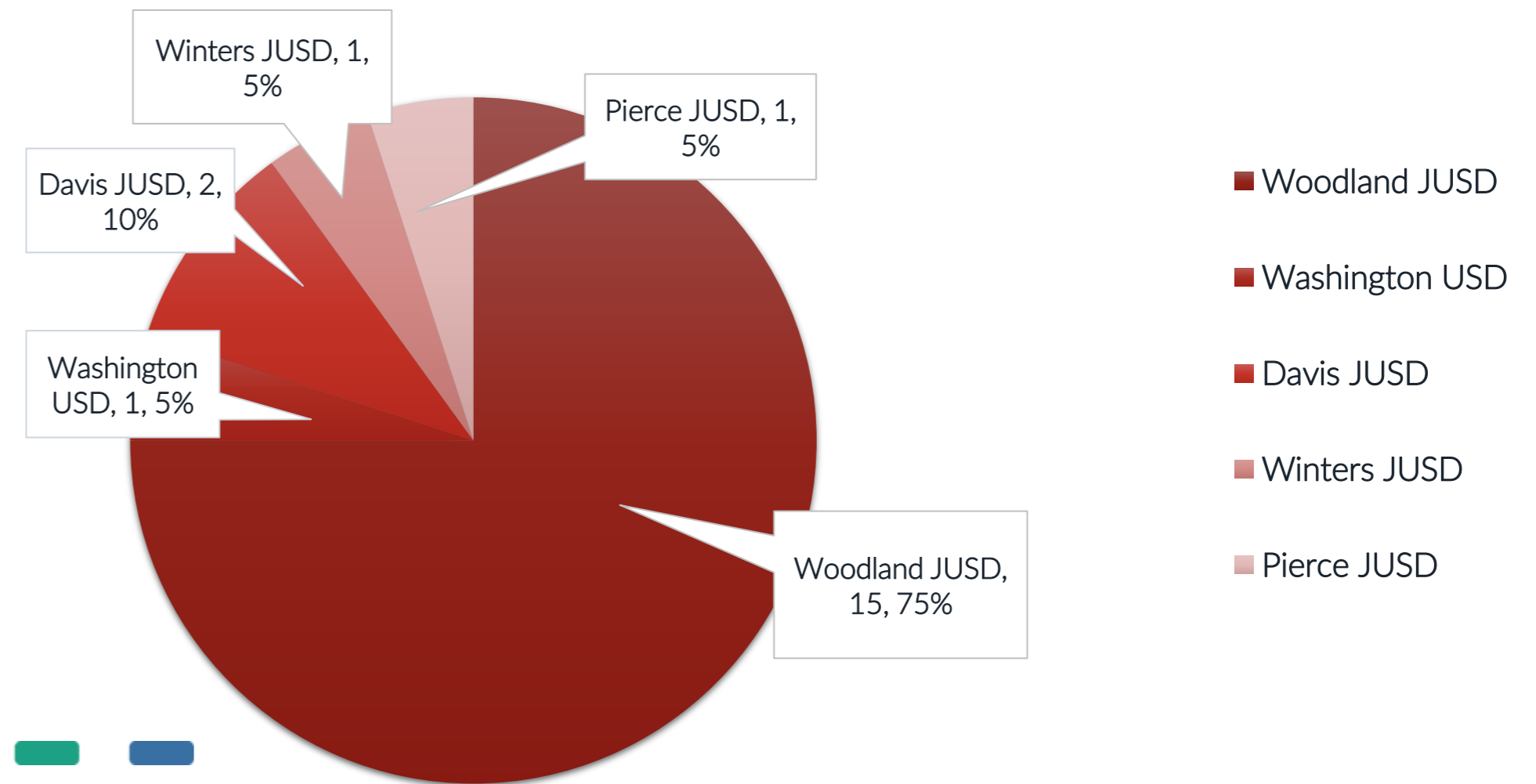


Gender  
Attendance Period: 01/22/24 - 02/16/24

(Data is pulled from the Aeries attendance dashboard on the final day of the attendance period and may not reflect total enrollments for the reporting period.)



School District of Residence  
(Data is based on ending enrollment for the attendance month)



# THANK YOU

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### **9. 3. 2023-2024 -Third Quarterly Report on Williams Uniform Complaints for YCOE Schools**

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#### **Description**

Statutory changes to the Williams Settlement as stated in California Education Code 35186 (d) require that a school district report summarized data on the nature and resolution of all Uniform Complaints every quarter to the county superintendent of schools and the governing board of the school district. Further, the summaries must be publicly reported every quarter at a regularly scheduled meeting of the governing board of the school district. The report must include the number of complaints by the general subject area with the number of resolved and unresolved complaints. The complaints and written responses must be available as public records. Education Code 35186 (a) states that a school district shall use the Uniform Complaint process it has adopted as required by Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. The 20-21 YCOE Fourth Quarter on Williams Uniform Complaints Education Code 35186 is attached.

#### **Recommendation**

For Information.

#### **Supporting Documents**



Q3\_YCBE\_UCP

#### **Contact Person**

Heather Schlaman, Coordinator, Language and Literacy will present this item.

## Quarterly Report on *Williams* Uniform Complaints

[Education Code § 35186(d)]

District: Yolo County Office of Education

Person completing this form: Heather Schlaman Title: Coordinator, Language and Literacy

Quarterly Report Submission Date:  
(check one)

- October 2023
- January 2024
- April 2024
- July 2024

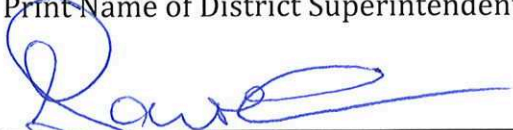
Date for information to be reported publicly at governing board meeting: April 9<sup>th</sup> 2024

Please check the box that applies:

- No complaints were filed with any school in the district during the quarter indicated above.
- Complaints were filed with schools in the district during the quarter indicated above. The following chart summarizes the nature and resolution of these complaints.

General Subject Area	Total # of Complaints	# Resolved	# Unresolved
<b>Textbooks and Instructional Materials</b>	0		
<b>Teacher Vacancy or Misassignment</b>	0		
<b>Facilities Conditions</b>	0		
<b>TOTALS</b>	0		

Garth Lewis  
Print Name of District Superintendent

  
Signature of District Superintendent

3/29/24  
Date



## 9. 4. Monthly Board Financial Report

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### Description

Per request of the County Board of Education, attached is the current financial report for March 2024.

### Recommendation

For information.

### Supporting Documents

 April 2024

### Contact Person

Veronica Coronado, Associate Superintendent, Administrative Services, will present this item on behalf of Gustavo Aguilera, Director, Internal Fiscal Services.

OBJECT NUMBER	DESCRIPTION	ADOPTED BUDGET	BUDGET ADJUSTMENTS	CURRENT BUDGET	INCOME/EXPENSE	BUDGET BALANCE	BUDGET % USED
REVENUE DETAIL							
	REVENUE LIMIT SOURCES :	16,474,243.00	4,162,528.65	20,636,771.65	8,854,128.92	11,782,642.73	42.90
	FEDERAL REVENUES :	1,146,648.00	490,478.24	1,637,126.24	518,856.62	1,118,269.62	31.69
	OTHER STATE REVENUES :	5,120,484.00	872,445.34	5,992,929.34	3,507,809.48	2,485,119.86	58.53
	OTHER LOCAL REVENUES :	10,743,111.00	1,300,926.06	12,044,037.06	3,188,741.16	8,855,295.90	26.47
* TOTAL YEAR TO DATE REVENUES	* *	33,484,486.00 *	6,826,378.29 *	40,310,864.29 *	16,069,536.18 *	24,241,328.11 *	39.86
EXPENDITURE DETAIL							
	CERTIFICATED SALARIES :	6,737,281.00	623,501.91	7,360,782.91	4,837,220.44	2,523,562.47	65.71
	CLASSIFIED SALARIES :	9,653,285.00	195,769.61	9,849,054.61	6,507,211.17	3,341,843.44	66.06
	EMPLOYEE BENEFITS :	7,967,238.00	46,459.57-	7,920,778.43	4,356,250.94	3,564,527.49	54.99
	BOOKS AND SUPPLIES :	1,165,502.00	575,668.72	1,741,170.72	485,759.80	1,255,410.92	27.89
	SERVICES, OTHER OPER. EXPENSE:	8,180,450.00	2,336,673.22	10,517,123.22	4,716,768.52	5,800,354.70	44.84
	CAPITAL OUTLAY :	1,426,082.00	2,032,509.37	3,458,591.37	62,252.17	3,396,339.20	1.79
	DIRECT SUPPORT/INDIRECT COSTS:	989,797.00-	172,598.81-	1,162,395.81-	487,446.87-	674,948.94-	41.93
* TOTAL YEAR TO DATE EXPENDITURES	* *	34,140,041.00 *	5,545,064.45 *	39,685,105.45 *	20,478,016.17 *	19,207,089.28 *	51.60
OTHER FINANCING SOURCES ( USES )							
	INTERFUND TRANSFERS - IN :	472,777.00	472,216.32-	560.68	.00	560.68	0.00
	INTERFUND TRANSFERS - OUT :	588,163.00-	588,161.64	1.36-	.00	1.36-	0.00
	CONTRIB.- RESTRICTED PROGRAMS:	.00	.00	.00	.00	.00	NO BDGT
* TOTAL YEAR TO DATE OTHER FINANCING	* *	115,386.00-*	115,945.32 *	559.32 *	.00 *	559.32 *	0.00

**10. SUGGESTED FUTURE AGENDA ITEM(S)**

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**Description**

- Update on EL RISE - Future meeting
- Status of Juvenile Hall - Cost and How many students (Requested by Trustee Moreno at Board Retreat)

**11. ADJOURNMENT**

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