

COLLEGE OF THE SEQUOIAS COMMUNITY COLLEGE DISTRICT
Board of Trustees Meeting
July 12, 2021

ENERGY CONSERVATION PROJECT AND ENERGY SERVICES CONTRACT (Resolution No. 2021-15)

8

Status: Action – Public Hearing (Roll Call Vote)

Presented by: Byron Woods
Dean, Facilities

Issue

District administration has been evaluating the benefits of installing a 300kW AC solar photovoltaic (PV) carport at its Hanford College Center for \$2,194,402. Under Government Code section 4217.10, in order to enter into an energy service contract with the District's approved energy service company, the Board of Trustees must approve a resolution authorizing the energy conservation project plans and acknowledging the proposed net cost savings of \$3,457,975 over 25 years.

Background

The District entered into an agreement with Compass Energy Solutions in May 2020 as the District's Energy Services Company. On behalf of the District, Compass Energy Solutions issued a competitive Request for Qualifications/Proposal Process. A comprehensive review of the vendors' proposed design and installation services for a photovoltaic (PV) carport system was completed, and contract agreements with Compass Energy Solution will be presented to the Board of Trustees. Under provisions of government code subsection 4217.10 the District is authorized to enter into an energy service contract agreement for an energy conservation facility provided that certain findings are made by the District's Board of Trustees in connection with such an energy service contract. Those findings are present herein to the Board in resolution 2021-16.

Recommended Action

It is recommended that the Board of Trustees approve Resolution Number 2021-15.

**FINDINGS REGARDING ENERGY CONSERVATION
PROJECT AND AUTHORIZATION TO ENTER INTO
ENERGY SERVICES CONTRACT WITH
COMPASS ENERGY SOLUTIONS
(GOVERNMENT CODE §§4217.10)**

RESOLUTION NO. 2021-15

WHEREAS, the District is a public agency as that term is defined in Government Code §4217.11(j).

WHEREAS, the provisions of Government Code §§4217.10 authorizes a public agency to enter into an energy service contract for an energy conservation facility upon terms in the best interest of the District, provided that certain findings are made by the District's Board of Trustees in connection with such an energy service contract.

WHEREAS, the scope of an energy conservation facility under Government Code §§4217.11 includes alternate energy equipment for production or conversion of energy from alternate sources as a primary fuel source, including solar.

WHEREAS, District Staff has evaluated implementation of energy conservation measures at the District's Hanford College Center to meet electrical power requirements and to reduce on-going operational expenses for securing electrical power through Southern California Edison (SCE).

WHEREAS, District Staff have evaluated a variety of different alternative means of implementing energy conservation measures at the Hanford College Center.

WHEREAS, District Staff has concluded that energy conservation facilities consisting of a photovoltaic (PV) solar shade structure electrical generating system utilizing solar power installed in parking areas of the District's Hanford College Center provides the District with the most suitable energy conservation facilities.

WHEREAS, District staff has determined that a 300kW AC fixed-tilt carport design photovoltaic system, consisting of two carport structures, one covering a double row of parking stalls in the Hanford student parking lot and the other a single row on the south side of staff parking lot of the Hanford College Center provides the District with the best value when electrical power generation and installation costs are considered.

WHEREAS, District Staff and Compass Energy Solutions has engaged in a competitive Request for Qualifications/Proposal Process and undertook a comprehensive review of potential responsive vendors, their proposed design and installation services for photovoltaic solar generating equipment and systems based on the following criteria of: (a) prior public agency photovoltaic energy generating system design and installation; (b) existing staff and operational resources sufficient to complete procurement and installation photovoltaic energy operating equipment; (c) client satisfaction; (d) sufficient financial capacity; (e) willingness to commit resources to assist in developing specific scope of an energy conservation facility; and (f) competitive pricing.

WHEREAS, District Staff has identified Compass Energy Solutions as meeting the criteria set forth above.

WHEREAS, the photovoltaic energy generating facility is anticipated to generate electrical power to serve the Hanford College Center resulting in operational cost savings to the District by reduction of electrical power purchases from SCE.

WHEREAS, public notice of the Board of Trustees consideration of this Resolution was posted at least two (2) weeks in advance of the date of the public meeting of the Board of Trustees to consider this Resolution.

NOW THEREFORE, the following Resolution is adopted.

RESOLVED, that the Board of Trustees finds that the anticipated cost to the District to design and construct a 300kW AC fixed-tilt carport design photovoltaic system, consisting of two carport structures at the Hanford College Center is less than the cost for the District to obtain electrical service from SCE to serve this campus.

FURTHER RESOLVED, that the written agreement entitled "Energy Services Agreement" attached to this Resolution as Exhibit A incorporates terms and conditions and establishes the requirements for the photovoltaic energy generating facilities at the Hanford College Center, which are in the best interests of the District; therefore, the Board of Trustees authorizes the District and Compass Energy Solution to enter into a Design-Build Energy Services Agreement for the Hanford College Center Photovoltaic (PV) Carport System in the amount of \$2,194,402 with an net cost savings of \$3,457,975 over 25 years.

On the motion of _____ and seconded by

_____. ROLL CALL:

AYES ____

NOES ____

ABSTAIN ____

The foregoing Resolution is adopted by the Board of Trustees of the Sequoias Community College District at a regularly scheduled meeting of the Board of Trustees this 12th day of July, 2021.

Secretary to the Board of Trustees

ENERGY SERVICES AGREEMENT

BY AND BETWEEN

College of the Sequoias (Customer)

AND

Compass Energy Solutions (CES)

THIS AGREEMENT, entered into this 13th day of July, 2021, ("Agreement") by and between COLLEGE OF THE SEQUOIAS (COS), in accordance with California Government Code Section 4217.10-4217.18, having its principal place of business at 915 S. Mooney Blvd. Visalia, CA 93277, (hereinafter referred to as "Customer") and COMPASS ENERGY SOLUTIONS (CES), [Compass Energy Solutions, LP, a Virginia Limited Partnership], having its principal place of business at 1811 Huguenot Rd. Suite 206 Midlothian, VA 23113 (hereafter referred to as "Compass Energy Solutions"). The signatories of this Agreement will be collectively referred to as the "Parties".

WHEREAS, Customer wishes Compass Energy Solutions to install equipment at those of Customer's facilities described in Attachment A (the "Property") and Compass Energy Solutions wishes to so install equipment and take such actions;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Parties hereby agree as follows:

SECTION 1 - Scope of Work

- (a) CES shall furnish all labor, materials and equipment to perform all work required for the completion of the Scope of Work set forth in Attachment B, as such Scope of Work and such Attachment may be modified in accordance with this Agreement (the "System") at the Property. The System shall include installation of equipment and all services provided as described in Attachment B. Ownership and title of the System and all its components thereof shall be transferred to Customer upon acceptance of the installation. Total investment is \$2,194,402.
- (b) CES shall be responsible for disposal of all non-hazardous equipment and materials rendered useless as a result of the installation of the System. Customer shall arrange for the disposal of PCB-contaminated ballasts, if any, rendered useless as a result of the installation of the System. Customer acknowledges that the basic scope of work does not require CES to accumulate, remediate, handle, store, treat, transport, encapsulate, dispose of, or arrange for the disposal of, any hazardous substance or material, no matter how defined, whether by Federal, State or local law or regulation. Any such work shall be contracted for by means of a Change to this contract under Section under Section 6.
- (c) CES shall comply with and obtain at its expense all licenses and permits required by Federal, State and local law in connection with the installation of the energy conservation measures ("ECMs") of the System. Notwithstanding the foregoing, Customer shall be responsible for all taxes arising from or in connection with Customer's participation in this Agreement and the benefits to Customer hereunder. Customer shall reimburse CES for any taxes, permits or fees not in effect on the date of this Agreement, but for which CES may become liable during the Term of this Agreement.

SECTION 2 - Compensation and Payment

- (a) During the period beginning on the date of execution of this Agreement and continuing through the Date of Substantial Completion with respect to each Phase, Customer will make monthly progress payments to CES based upon the portion of the project completed at the end of each month, as respectively provided for in each separate Attachment G which relates to the Phase for which payment is being made. Following the end of each month, during each construction period of this project, CES will provide a list in sufficient detail to reasonably identify the ECMs installed during that month. Thereafter, a Delivery and Acceptance Certificate in the form attached hereto as Attachment E-1 will be executed by Customer during each month of the construction period for each Phase with respect to the ECMs or portion thereof, installed during the prior month. A final Delivery and Acceptance Certificate (Attachment E-2) shall be executed by Customer upon Substantial Completion of the installation of the ECM's with respect to each Phase. Customer shall not unreasonably withhold or delay the execution of any Delivery and Acceptance Certificate, which shall be deemed approved by CES if Customer has not taken action with respect to any Certificate within ten (10) days of its receipt thereof. For the purposes of this Agreement the term "Substantial Completion" shall mean that the subject ECM has been demonstrated by CES to be operating in a manner consistent with its manufacturer's intended use.
- (b) Amounts not paid to CES on the date specified in Attachment D shall accrue interest at the rate of one percent (1%) per month.

SECTION 3 - Security

Ownership of and title to the ECMs referenced in each Delivery and Acceptance Certificate (Attachment E-1) will automatically transfer to the Customer upon both: (a) the delivery of each such Delivery and Acceptance Certificate and Attachment E-1 by Customer to, the execution and delivery of which shall not be unreasonably withheld or delayed, and (b) completion of all Customer's payment obligations to CES.

SECTION 4 - Schedule

The Schedule for this Agreement shall begin on the date first written above and is reflected in Attachment G. Customer shall evidence the commencement of CES's period of performance by issuing to CES a Notice to Proceed in a form substantially similar to Attachment F.

SECTION 5 - Right of Entry

Customer and CES shall mutually plan the scheduling of the work. Customer shall provide CES, and its employees, agents and subcontractors, full access to the Property for the purpose of fulfilling CES's obligations under this Agreement during the entire performance period.

SECTION 6 - Change in Work

CES may propose changes in the Scope of Work described in Attachment B, including without limitation the types or quantities of ECMs to be installed, substantially in the form of Attachment D, the Change Order Form. Customer shall not unreasonably withhold or delay approval of such change orders provided that the intent of the change is consistent with the original Scope of Work.

SECTION 7 - Warranties

CES warrants that the installation services it performs will be performed consistent with good and workmanlike practices and that such work will be free from defects in materials and workmanship for a period of one (1) year. Any manufacturer's warranties shall be assigned to Customer to the extent allowed by the manufacturer. CES DOES NOT WARRANT THAT THE SYSTEM WILL ACHIEVE ANY SPECIFIC LEVEL OF ENERGY SAVINGS. EXCEPT AS PROVIDED ABOVE, CES MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED, INCLUDING WITHOUT LIMITATION

WARRANTIES OF MERCHANTABILITY, OR SUITABILITY FOR A PARTICULAR PURPOSE REGARDING (i) THE SYSTEM, ANY PORTION OF THE SYSTEM, OR SERVICES SUPPLIED BY CES HEREUNDER TO (ii) THE SYSTEM OR ANY PORTION THEREOF ACQUIRED BY THE CUSTOMER UNDER THIS AGREEMENT.

SECTION 8 - Customer Role

- (a) Customer shall be responsible for the handling, transportation and disposal of all hazardous wastes in strict accordance with local, State and Federal regulations. CES's Scope is predicated on the viability of this project without the requirement for removal, encapsulation, or abatement of any hazardous substances or wastes (including asbestos). In the event CES, its subcontractors, agents, or vendors encounter hazardous waste or substances (including asbestos) during performance of the work, it shall take no action but shall notify Customer of the presence of the hazardous waste or substance, and await Customer's direction as to how to proceed.
- (b) Protection. Customer shall at all times act reasonably to protect the ECMs from damage, theft or injury to the same extent and in the same manner in which it protects its other property.
- (c) Storage: Customer will provide reasonable rent free space for CES, or any of its subcontractors, to mobilize and store its supplies, tools and equipment during installation of the ECMs or other activities by CES within the Property pursuant to this Agreement for which such storage may be required. Said storage space shall be provided with locking capacity acceptable to CES. Only CES, or any of CES's subcontractors, and the Customer's assigned personnel shall have access to the storage. Customer assumes no responsibility nor will Customer provide any additional security for the storage provided.

SECTION 9 - Defaults by Customer and CES

- (a) Customer shall be in default under this Agreement upon the occurrence of any of the following:
 - (i) Customer fails to pay when due any amount to be paid under this Agreement and such failure continues for a period of ten (10) days after notice of overdue payment;
 - (ii) Customer fails to perform or meet any of its required duties or obligations under this Agreement and fails to cure such failure and the effects of such failure within thirty (30) days of receipt of notice of default, unless such failures and effects cannot be completely cured within thirty (30) days after said written notice, in which case a default shall exist only if Customer does not commence and diligently pursue to cure such failure and effects as soon as possible;
 - (iii) Customer goes into receivership, or makes an assignment for the benefit of creditors whether voluntary or involuntary, or a petition is filed by or against the Customer under any bankruptcy, insolvency or similar law and such petition is not dismissed within sixty (60) days; or
- (b) CES shall be in default under this Agreement upon the occurrence of the following:

CES fails to perform or meet any of its required duties or obligations under this Agreement and fails to cure such failure or effects of such failure within thirty (30) days of receipt of written notice of default, unless such failure or effects cannot be completely cured within thirty (30) days after said written notice, in which case a default shall exist only if CES does not commence and diligently pursue to cure such failure as soon as possible.

SECTION 10 - Remedies for Defaults

- (a) In the event Customer defaults under this Agreement, CES may:
 - (i) may bring actions for any remedies available at law or in equity or other appropriate proceedings for the recovery of direct damages, (including amounts past due), and/or bring an action in equity for specific performance; and
 - (ii) without recourse to legal process, CES may terminate this Agreement by delivery of written notice of termination.
- (b) In the event CES defaults under this Agreement, Customer may terminate this Agreement and bring an action in law for direct damages.

SECTION 11 - Dispute Resolution

- (a) In the event of a dispute, controversy, or claim arising under or related to this Agreement, Customer shall deliver a written notice setting forth in reasonable detail the matter in question to CES. Any complaint or dispute which cannot be settled by negotiation between the Parties within sixty (60) days of such notice may upon the request of either party be submitted to mediation then arbitration pursuant to paragraph (b).
- (b) Any dispute, controversy, or claim arising out of or relating to this Agreement, or any breach or alleged breach thereof, shall, upon the request of any party, if not resolved under (a) above, be submitted to and settled by arbitration or mediation in conformance with the applicable commercial rules of the American Arbitration Association. Mediation shall be utilized prior to arbitration as the method to resolve a dispute. Any arbitration award rendered shall be final and conclusive on the parties, and a judgment therein may be entered only in a state or federal court having jurisdiction. The expense of mediation or arbitration shall be borne equally by the parties, provided that each party shall pay for and bear the cost of its own experts, evidence, and counsel.
- (c) No request for mediation, arbitration or pending arbitration shall suspend or otherwise affect the Customer's obligation to timely pay any applicable invoices submitted by CES as provided in Section 2 .

SECTION 12 - Reserved

SECTION 13 - Indemnification

Each party shall indemnify and hold harmless the other party, its directors, officers, agents and employees from and against all damages, penalties, loss, claims, demands, suits, causes of action or expense (including reasonable attorney's fees) arising by reason of bodily injury or damage to third parties or their property to the extent caused by the physical negligence or willful act of the indemnifying party or any party for which it is legally responsible and not caused by the negligence or willful act of the indemnified party or any party for which it is legally responsible.

SECTION 14 - Limitation of Liability

- (a) Except to the extent the Termination Amount (if any) may be found to include such amounts, without limitation, neither party shall be liable to the other for any consequential, indirect, special or incidental damages, whether based upon warranty, negligence, strict liability, contract, by operation of law, or otherwise.
- (b) Notwithstanding any other provision of this Agreement, CES's, its officers, employees, agents, affiliates, or subcontractors' aggregate liability in contract, tort, or otherwise, without limitation, under this Agreement, shall in all cases be limited to the sum of the payments to be received by CES under Section 2 of this Agreement.

SECTION 15 - Insurance

- (a) Without limiting any of its obligations or liabilities under this Agreement, CES shall provide and maintain at its expense the following insurance coverages where reasonable market availability for such insurance exists:
 - (i) Workers' Compensation and Employer's Liability Insurance.
 - (ii) Comprehensive General Liability Insurance, including contractual: Bodily Injury per person, \$1 million; Bodily Injury per occurrence, \$1 million; Property Damage per occurrence, \$1 million; Personal Injury per occurrence, \$1 million.
 - (iii) Comprehensive automobile liability (including owned, non-owned and hired automotive equipment): Bodily Injury per person, \$1 million; Bodily Injury per occurrence, \$1 million; Property Damage per occurrence, \$1 million.
- (b) Without limiting any of its obligations or liabilities under this Agreement, Customer will, at its expense, maintain at all times during the Term of this Agreement, fire and extended coverage, public liability and product damage insurance with respect to the System and all its components thereof in such amounts, covering such risks, and with such insurers as shall be satisfactory to CES. CES shall be designated a named additional insured on such policies, and its interests shall be primary to any insurance it procures.

SECTION 16 - Agreement Interpretation and Performance

The interpretation and performance of this Agreement, and the interpretation and enforcement of the rights of the Parties hereunder, shall be in accordance with and controlled by the laws of the Commonwealth of VIRGINIA. In the event of any ambiguity or conflict in meaning, the terms of this Agreement shall not be construed against the drafting Party based upon that Party's having drafted this Agreement. All lawsuits commenced under this Agreement shall be brought in that State Court having jurisdiction over matters arising in the county in which this contract shall be performed.

SECTION 17 - Privileged and Proprietary Information

CES's systems, means, cost, and methodologies of evaluating, implementing, accomplishing and determining energy savings and the terms of the Agreement for this Project shall be considered privileged and proprietary information. Customer shall use the same level of effort to protect and safeguard such information as it employs to safeguard its own confidential information. Customer shall not disclose such proprietary information without the express written consent of an officer of CES unless required to do so by statute or regulation. When any request for disclosure of such information is made under any applicable freedom of information law ("FOIL"), Customer will provide prompt verbal and written notice to CES such that CES will have the opportunity to timely object under FOIL should it desire to object to such disclosure of that information in whole or in part. In the event that Customer is required to make a filing with any agency or other governmental body, which includes such information, Customer shall notify CES and cooperate with CES in order to seek confidential treatment of such information included within any such filing or, if all such information cannot be protected from disclosure, to request that Customer be permitted to redact portions of such information, as CES may designate, from that portion of said filing which is to be made available to the public.

SECTION 18 - Severability

In the event that any clause or provision of this Agreement or any part thereof shall be declared invalid by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Agreement.

SECTION 19 - Assignments and Subcontracting

- (a) CES may elect to use subcontractors of its selection in meeting its obligations hereunder.
- (b) CES shall not assign this Agreement in whole or in part to any other party without first obtaining the consent of Customer, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, CES may assign, without obtaining the consent of Customer, its rights and obligations under this Agreement in whole or in part to any affiliated or associated company of CES and its rights under this Agreement to any financial institution, lender or investor in connection with a leasing or financing arrangement for the System. CES will notify Customer thirty (30) days prior to any such assignment.

SECTION 20 - Waiver

The failure of either Party, at any time or times, to enforce any right or obligation with respect to any matter arising in connection with this Agreement shall not constitute a waiver as to future enforcement of that right or obligation, or any other right or obligation under this Agreement.

SECTION 21 - Force Majeure

(a) If either Party shall be unable to carry out any part of its obligations under this Agreement (except Customer's obligation to make payments when due) due to causes beyond its control ("Force Majeure"), including but not limited to an act of God, strikes, lockouts or other industrial disturbances, acts of public enemies, orders or restraints of any kind of the government of the United States or any state or any of their departments, agencies, or officials, or any other civil governmental, military or judicial authority, war, blockage, insurrection, riot, sudden action of the elements, fire, explosion, flood, earthquake, storms, drought, landslide, or explosion or nuclear emergency, this Agreement shall remain in effect but the affected Party's obligations shall be suspended for a period equal to the disabling circumstances, provided that:

- (i) the non-performing Party gives the other Party prompt written notice describing the particulars of the Force Majeure, including but not limited to the nature of the occurrence and its expected duration, and continues to furnish timely regular reports with respect thereto during the period of Force Majeure;
 - (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
 - (iii) no obligations of either Party that arose before the Force Majeure causing the suspension of performance are excused as a result of the Force Majeure;
 - (iv) the non-performing Party uses reasonable efforts to remedy its inability to perform; and
 - (v) the Term of this Agreement, at CES's option, shall be extended for a period equal to the number of days that the Force Majeure prevented the non-performing Party from performing.
- (b) Any decision by Customer to close or change the use of the facilities at the Property shall not constitute a Force Majeure excusing Customer's performance under this Agreement.

SECTION 22 - Contract Documents

- (a) Upon execution of this Agreement by both Parties, this Agreement will become the complete and exclusive statement of the agreement between the Parties and supersedes all proposals, prior agreements and all other communication, oral or written, between the Parties relating to the subject matter of this Agreement.

- (b) Headings are for the convenience of reference only and are not to be construed as a part of the Agreement.
- (c) In addition to any other legal effect intended by the signature of Customer on this Agreement, such signature also constitutes representation by Customer that the individual signing on behalf of Customer is authorized to bind Customer as provided under this Agreement.

SECTION 23 – Independent Contractor

Nothing in this Agreement shall be construed as reserving to Customer any right to exercise any control over or to direct in any respect the conduct or management of business or operations of CES's on the Property. The entire control or direction of such business and operations shall be in and shall remain in CES, subject only to CES's performance of its obligations under this Agreement. Neither CES nor any person performing any duties or engaged in any work on the Property on behalf of CES shall be deemed an employee or agent of Customer.

The Customer and CES are independent of one another and shall have no other relationship relating to or arising out of this Agreement. Neither Party shall have or hold itself out as having the right or authority to bind or create liability for the other by its intentional or negligent act or omission, or to make any contract or otherwise assume any obligation or responsibility in the name of or on behalf of the other Party.

SECTION 24 - Notices

All notices and other communication under this Agreement (other than regularly scheduled monthly payments) shall be deemed properly given upon receipt if delivered in person or sent by registered mail, return receipt requested and postage prepaid, addressed as follows:

To CES:

Compass Energy Solutions LP

Attention: Fred Ghahramani, President & CEO

To CUSTOMER:

Attention: Ron Ballesteros-Perez, Vice President

Either Party may change such address from time to time by written notice to the other Party.

SECTION 25 -Third Party Beneficiaries

Except as may be specifically provided for in this Agreement, the Parties hereto do not intend to create any rights for, or grant any remedies to, any third party beneficiary of this Agreement.

SECTION 26 - Representations and Warranties

Each Party warrants and represents to the other that:

- (a) It has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Agreement and perform its obligations hereunder;
- (b) Its execution, delivery, and performance of this Agreement have been duly authorized by, or are in accordance with, as to CES, its organic instruments and, as to Customer, by all requisite municipal, board, or other action and are not in breach of any applicable law, code or regulation; this Agreement has been duly executed and delivered by the signatories so authorized, and constitutes each Party's legal, valid and binding obligation;

(c) Its execution, delivery, and performance of this Agreement shall not result in a breach or violation of, or constitute a default under, any agreement, lease or instrument to which it is a party or by which it or its properties may be bound or affected; and

(d) It has not received any notice, nor to the best of its knowledge is there pending or threatened any notice of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially adversely affect its ability to perform hereunder.

(e) The persons executing this Agreement are fully authorized by law to do so.

(f) In addition, Customer warrants and represents to CES that Customer has obtained or shall obtain all necessary governmental, legal, administrative and any other approval necessary for it to enter into this Agreement.

SECTION 27 - Notifications of Governmental Action - Occupational Safety and Health

The Parties agree to notify each other as promptly as is reasonably possible upon becoming aware of an inspection under, or any alleged violation of, the Occupational Safety and Health Act or any other provision of federal, state or local law, relating in any way to the undertakings of either Party under this Agreement.

SECTION 28 - References

Unless otherwise stated all references to a particular Attachment or to Attachments herein are to the referenced Attachment or Attachments which are attached to this Agreement and all such referenced Attachments are incorporated by reference within this Agreement. All references herein to a Section shall refer to a Section of this Agreement unless this Agreement specifically provides otherwise.

SECTION 29 - Approval

This Agreement shall not be executory until all necessary State or local approvals are obtained.

IN WITNESS WHEREOF, the duly authorized officers or representatives of the Parties have set their hand on the date first written above with the intent to be legally bound.

CUSTOMER

Compass Energy Solutions

(Name)_____

(Name)_____

(Title)_____

(Title)_____

Date:_____

Date:_____

ATTACHMENTS:

ATTACHMENT A - PROPERTY DESCRIPTION

ATTACHMENT B – DESCRIPTION OF THE SYSTEM

ATTACHMENT C – SCHEDULE OF PAYMENTS

ATTACHMENT D – CHANGE ORDER FORM

ATTACHMENT E-1, E-2 - DELIVERY AND ACCEPTANCE CERTIFICATES

ATTACHMENT F – NOTICE TO PROCEED

ATTACHMENT G – PERFORMANCE SCHEDULE

ATTACHMENT A

PROPERTY DESCRIPTION

The following facilities, areas and operations at the Customer's facilities are included in the Scope of Work detailed in Attachment B and, for the purposes of this Agreement, constitute the Property:

- Hanford Educational Center Parking lot – Hanford, CA

ATTACHMENT B

DESCRIPTION OF THE SYSTEM

The following pages provide a description of the System to be installed by CES at the Property. Installation of the System is subject to change if CES discovers unforeseen conditions at the Property that render its preliminary analysis of the Property inaccurate.

**SCOPE OF WORK FOR
INSTALLATION OF Photovoltaic Power System
COLLEGE OF THE SEQUOIAS
HANFORD EDUCATIONAL CENTER
ENERGY CONSERVATION MEASURE
at
Hanford, CA**

PHOTOVOLTAIC POWER GENERATION SYSTEM

CES conducted a detailed review of College of the Sequoias (COS) Hanford Educational Center building facilities' electrical distribution system, mechanical/electrical energy end-use, SCE electric utility tariff, electric demand and energy usage consumption pattern, building infrastructure and parking lot layout. The goal being to determine the best esthetically suitable and most economical photovoltaic design, matching the electrical demand and load profile of the campus and SCE's electric meters.

CES has concluded the analysis and design phase and is recommending installing a Solar Port structure Photo Voltaic system on parking lot 2, located at the North East corner of campus off of Learning Center Drive, at the Hanford Educational Center, 925 13th Street Hanford CA. We are recommending carport structure photovoltaic of approximately 300kW AC to offset the current electrical demand and usage. CES is offering a DSA pre-approved structural design to reduce and streamline DSA approval process and cost. CES has investigated and maximized the amount of area to be used for the proposed system, hence, better business strategy to maximize the investment dollars while adding shaded carports, electric charging stations, and LED under canopy lighting for staff and student parking on the NE side of the campus.

CES offers a turnkey installation of a photovoltaic (PV) system. This PV system will be comprised of an array of photovoltaic panels and electrical equipment components generating a peak net Alternating Current (AC) electrical output of approximately 300kW CEC-AC combined. The project investment is \$2,194,402 and will address the Hanford peak energy consumption.

System Rated Output		Investment
DC-STC (kW)	AC-CEC (kW)	
326	300	\$2,194,402

OUR SERVICE INCLUDES BUT NOT LIMITED TO THE FOLLOWING

1. Site investigation
2. SCE current rate analysis
3. Photovoltaic engineering
4. Photovoltaic system design to meet zone specific requirements.
5. Identification and protection of existing services
6. Competitive bidding process
7. Qualification, selection and negotiation of subcontractors.
8. Construction management
9. Start-up and commissioning
10. Measurement and Verifications (M&V)
11. Monitoring system training
12. CES one year and manufacturers equipment

The PV system will be an outstanding example of state-of-the-art photovoltaic system design and construction. It will be attractive, fully automatic, safe, and reliable; require minimum maintenance and operation. This system investment represents exceptional financial return on the investment. Any applicable energy rebate(s) will further enhance the economics of this worthy project.

HANFORD EDUCATION CENTER PV PROJECT TURNKEY SYSTEM INCLUDES

INCLUSIONS:

TURN-KEY ENGINEERING, PROCUREMENT AND INSTALLATION FOR SOLAR PV SYSTEMS:

- RACKING - SOLAR SUPPORT STRUCTURES
- HOT DIP GALVANIZED STEEL COLUMNS/BEAMS FOR SOLAR SUPPORT STRUCTURES
- 30" X 24" EXPOSED PIERS (FOR ALL SOLAR SUPPORT STRUCTURES)
- (768) QCELLS 430W G8 PANELS OR EQUAL
- (6) SOLECTRIA 60KW/TL STRING INVERTERS OR EQUAL
- UNDER CANOPY LED LIGHTING TO DELIVER 3 FOOT CANDLES PER SQ FOOT INCLUDES PHOTOMETRIC STUDY TO ENSURE CODE COMPLIANCE
- AlsoEnergy DATA ACQUISITION SYSTEM(S)
- MEASUREMENT AND VERIFICATION STUDY – 3RD PARTY
- CONSTRUCTION SUPERVISION AND MANAGEMENT OF ALL TRADES AND SUBS
- SITE TEMPORARY FENCING AND SERVICES
- ALL SOLAR RELATED BALANCE OF SYSTEMS.
- TESTING AND COMMISSIONING + DOCUMENTATION
- REMOVAL OF LIGHT POLES WHERE SOLAR STRUCTURES WILL BE
- REMOVAL OF TREES AS NEEDED WHERE SOLAR STRUCTURES WILL BE
- SAW CUTTING AND PATCH WORK AS NEEDED
- MOBILIZATION/DEMOBILIZATION
- CLOSE OUT AND CLEAN UP.
- PERMIT FEES (AHJ/DSA)
- UTILITY INTERCONNECTION AND ASSOCIATED DOCUMENTS PROCESSING
- C-TRAINS FOR ON-SITE STORAGE DURING CONSTRUCTION
- 10 YEAR LIMITED WORKMANSHIP WARRANTY
- 25 SOLAR MODULES LINEAR PERFORMANCE WARRANTY
- 20 YEAR WARRANTY FOR SOLECTRIA INVERTERS
- PREVAILING WAGE LABOR
- PAYMENT AND PERFORMANCE BONDS
- THREE (3) YEARS OF PANEL CLEANING
- COORDINATION WITH SCE TO APPLY FOR NEM-A GENERATION CREDITS FOR TWO SMALLER METERS AT HANFORD

EXCLUSIONS

- ADDITIONAL STRUCTURAL DESIGN, ENGINEERING AND CONSTRUCTION, IF NEEDED
- ADDITIONAL ADA REQUIREMENTS IMPOSED BY DSA
- ANY ADDITIONAL DSA PERMIT REQUIREMENTS FEE (STRUCTURAL ENGINEERING AND FEE)
- ACTUAL COST OF SCE TIME-OF-USE METER, COS PAYS DIRECTLY TO SCE
- DSA INSPECTOR FEE
- CARPORT PRICING IS BASED UPON CGS GEOTECH REPORT DATED JULY 26, 2016. IN THE EVENT THAT A NEW OR UPDATED REPORT IS REQUIRED BY DSA, THE NEW REPORT WILL BE FURNISHED BY OTHERS. DUE TO THE GEOTECH REPORT BEING MORE THAN ONE YEAR OLD, THE OWNER SHALL PROCURE AN UPDATE LETTER FROM CGS BEFORE PROCUREMENT COMMENCES.
- TEMPORARY ELECTRICAL POWER

QUALIFICATIONS

- THE MATERIALS SPECIFIED IN THIS PROPOSAL ARE CSI COMPLIANT.
- STRUCTURAL DESIGN, ENGINEERING AND CONSTRUCTION, IF NEEDED
- ALL WORK IS BASED ON NORMAL WORKING HOURS

PROJECT COMPLETION SCHEDULE

A preliminary project completion timeline is six months. A detailed project schedule will be developed and provided following a Notice to Proceed.

WARRANTIES

- Compass Energy Solutions–10-year warranty on workmanship of installation including material and labor. Surety warranty is standard 1 year.
- Modules – QCell modules have a 25-year limited power output warranty plus a 12-year limited PV module warranty on materials.
- Inverters – 20-year manufacture warranty
- Carport Structures –1 year warranty
- Monitoring–10-year warranty on hardware and web-based monitoring will be provided. COS is responsible for maintaining high speed internet connection.

GENERAL ITEMS

We will provide equipment submittals for review and approval prior to ordering any new equipment, and we will provide monitoring system training and Operation & Maintenance Manuals as part of the closeout package at the completion of the PV installation.

ATTACHMENT C**SCHEDULE OF PAYMENTS****Compass Energy Solutions****Project: College of the Sequoias PV project****Payment Schedule****July 13, 2021**

Payments Schedule	% of Project	Dollar Amount	Invoice Date
Total Project Cost	100%	\$ 2,194,402	
MOBILIZATION			
Total Mobilization	25.0%	\$ 521,170	08/13/21
Less 5% retention			
PROGRESS 1			
Total Progress 1 @ 60%	40.0%	\$ 833,873	10/31/21
Less 5% retention			
PROGRESS 2			
Total Progress 2 @ 100%	35.0%	\$ 729,639	01/15/22
Less 5% retention			
PROGRESS 3			
Retention	5.0%	\$ 109,720	4/1/22
TOTAL PAYMENT			
Total Payment	100.0%	\$ 2,194,402	
Including Retention			

ATTACHMENT D

CHANGE ORDER FORM

(Request & Agreement for Change in Plans and/or Specifications and/or Contract)

Change Request No. _____

Customer: _____

Department: _____

Project No. _____ Contract No. _____ Site: _____

Title: _____

I. REQUEST

Date: _____

(a) Requested by _____ Of _____

(b) Description of change _____

II. CES's AGREEMENT

For all costs involved in this change including extensions of time herein requested CES proposes to perform the work described in accordance with the provisions of the subject Agreement and certifies that the attached cost data is accurate, complete and current, and mathematically correct.

Payment shall be made on the basis of:

Cost Plus Basis
"not-to-exceed"
(Computed in accordance with provisions
of this Agreement)

If necessary, attach detailed estimates and breakdown for above in accordance with change order instruction. A claim for work performed under protest may be submitted in writing.

An extension of contract time of _____ calendar days to _____ is requested.

COMPASS ENERGY SOLUTIONS _____ by _____ Date: _____

CUSTOMER APPROVAL:

Date: _____

Customer _____	Contract Award _____	Previous Additions \$ _____
By: _____	Previous Deductions _____	Net Total \$ _____
Title: _____	Total _____	This Change \$ _____
		\$ _____

ATTACHMENT E-1

DELIVERY AND ACCEPTANCE CERTIFICATE

UPON SUBSTANTIAL COMPLETION

Customer hereby acknowledges receipt of that portion of the Energy Efficiency Measures (the "ECMs") described in the applicable Attachment B to the Energy Services Agreement (the "Agreement") between Customer and CES, as fully installed and in good working condition, which are listed and attached hereto. Customer hereby accepts the ECMs listed hereto after full inspection thereof as satisfactory for all purposes of the Agreement. Customer agrees to make the required payment(s) to CES as set forth in Section 2 and Attachment C of the Agreement.

Date Accepted by Customer: _____

Accepted for: **Customer**

Accepted by: _____

Name: _____

Title: _____

Note: ECMs to which this Delivery and Acceptance Certificate relates is attached hereto as Schedule E - 1.

ATTACHMENT E-2

FINAL DELIVERY AND ACCEPTANCE CERTIFICATE UPON SUBSTANTIAL COMPLETION

Customer hereby acknowledges receipt of all Energy Efficiency Measures (the "ECMs") described in the applicable Attachment B to the Energy Services Agreement (the "Agreement") between Customer and CES, as fully installed and in good working condition. Customer hereby accepts the ECMs listed hereto after full inspection thereof as satisfactory for all purposes of the Agreement. Customer agrees to make the required payment(s) to CES as set forth in Section 2 and Attachment C of the Agreement.

Date Accepted by Customer: _____

Accepted for: **Customer**

Accepted by: _____

Name: _____

Title: _____

Note: ECMs to which this Delivery and Acceptance Certificate relates is attached hereto as Schedule E-2.

ATTACHMENT F NOTICE TO PROCEED

NOTICE TO PROCEED

Compass Energy Solutions

President

Subject: Notice to Proceed

Dear Mr. Ghahramani:

In accordance with Section 4 of our Energy Services Agreement dated July 13, 2021, the Customer hereby submits to CES this **Notice to Proceed** in relation to the Scope of Services defined in the aforementioned Agreement, Attachment B.

Sincerely,

CUSTOMER

(Name)

Date: _____

ATTACHMENT G
PERFORMANCE SCHEDULE

COS HANFORD CAMPUS ENERGY CONSERVATION/GENERATION AND PARKING IMPROVEMENT

DESCRIPTION	AMOUNT
(A) CES Proposed Design & Delivery Cost:	\$2,194,402
(B) Other costs (contingency):	\$0
(C) Local Taxes (included)	\$0
Sub Total:	\$2,194,402
Deduct estimated rebate from utility:	0
Total Net Cost After Incentives:	2,194,402
Assumed Financing Rate Used in column (E) of Table Below (Indicate %):	0
Assumed Annual Rate of Escalation in Energy Costs Used in column (A) of Table Below:	.06
Assumed Annual Rate of Escalation in Operational Costs Used in column (B) of Table Below:	.02

Year	(A) Estimated Annual Energy Savings	(B) Estimated Annual Operational Costs	(C) Estimated Annual Rebate	(D) Estimated Annual Savings (A) - (B) + (C)	(E) Annual Debt Service (15Years)	(F) Cumulative Annual Cash Flow
1	108,000	0	0	108,000	0	108,000
2	114,480	0	0	114,480	0	222,480
3	121,349	0	0	121,349	0	343,829
4	128,630	10,000	0	118,630	0	462,459
5	136,348	10,200	0	126,148	0	588,606
6	144,528	10,404	0	134,124	0	722,730
7	153,200	10,612	0	142,588	0	865,318
8	162,392	10,824	0	151,568	0	1,016,886
9	172,136	11,041	0	161,095	0	1,177,981
10	182,464	11,262	0	171,202	0	1,349,183
11	193,412	11,487	0	181,925	0	1,531,108
12	205,016	11,717	0	193,300	0	1,724,407
13	217,317	11,951	0	205,366	0	1,929,774
14	230,356	12,190	0	218,166	0	2,147,940
15	244,178	12,434	0	231,744	0	2,379,684
16	258,828	12,682	0	246,146	0	2,625,830
17	274,358	12,936	0	261,422	0	2,887,252
18	290,819	13,195	0	277,625	0	3,164,876
19	308,269	13,459	0	294,810	0	3,459,686
20	326,765	13,728	0	313,037	0	3,772,723
21	346,371	14,002	0	332,368	0	4,105,091
22	367,153	14,282	0	352,870	0	4,457,961
23	389,182	14,568	0	374,614	0	4,832,575
24	412,533	14,859	0	397,673	0	5,230,249
25	437,285	15,157	0	422,128	0	5,652,377
Total:	5,925,367	272,990	0	5,652,377	0	5,652,377

Notes:
 Analysis based on no financing project
 Expected life of 300 KW AC at each campus electrical system is 25 to 30 years
 Panel cleaning for 3 years is included
 Carport life expectancy is 40 years
 Electric rate escalation is assumed to be 6% annually
 Blended on-peak, partial peak and off-peak rate avoidance is 20 c/kwh

"Our proposed 300 KW AC-CEC electric power generation is designed to first offset, as closely as possible, the energy usage at the largest TOU meter. The additional energy produced will be credited and will contribute to reducing electric cost at the two other two smaller TOU meters through SCE's NEM-A Program. We are applying a realistic, yet conservative 1800 hours of effective electric power generation to arrive at weighted average annual KWH production. Considerations are given to efficiency of the solar panels, inverters rated efficiency, wiring material and length, Joule and Ohm's Laws and Visalia area of sun Irradiance, temperature, climate and other laboratory and natural factors. The expected average annual energy production is calculated to be 540,000 KWH. Assuming a blended utility rate of 20 cents per KWH (GS II tariff), considering summer peak/mid peak and winter mid peak time of use rates. The average annual energy cost savings is calculated to be approximately \$108,000. Keeping in mind the environmental nature of solar projects and equipment degradation factors."

Savings Calculations: 300kW AC-CEC x 1800 hours x \$0.20kWh rate = \$108,000 annual savings

