

**REQUEST FOR QUALIFICATIONS AND PROPOSALS  
TO PROVIDE ENERGY EFFICIENCY INVESTMENT GRADE AUDIT AND  
IMPLEMENTATION OF RELATED CONSERVATION MEASURES  
FROM ENERGY SERVICES COMPANY (ESCO)**

**RECEIPT OF STATEMENTS OF QUALIFICATIONS AND PROPOSALS.** One wet-signed hard copy and one electronic copy on a flash drive will be received at the office with a cover letter addressed to:

**Oakland Unified School District  
Department of Facilities Planning and Management  
Kenya Chatman, Executive Director of Facilities  
955 High Street  
Oakland, CA 94601**

**NO LATER THAN: March, 27, 2025 (no later than 2:00 p.m. Pacific Time)**

**CONTRACT ADMINISTRATION:** All questions relative to this Contract shall be directed to the following District representatives no later than the date/time indicated in the Procurement Schedule. No telephone calls will be accepted; email questions only: Kenya Chatman at [kenya.chatman@ousd.org](mailto:kenya.chatman@ousd.org) and Juanita Hunter at [Juanita.hunter@ousd.org](mailto:Juanita.hunter@ousd.org) and cc: to Colland Jang at [colland.jang@ousd.org](mailto:colland.jang@ousd.org)

**MINIMUM QUALIFICATIONS**

Proposer must be accredited as an Energy Services Company (ESCO) and/or Energy Services Provider (ESP) by the National Association of Energy Services Companies (NAESCO).

**LOCAL, SMALL LOCAL, AND SMALL LOCAL RESIDENT BUSINESS ENTERPRISE PROGRAM:**

The District has waived the full requirements of the Local Business Utilization Policy. However, a minimum local business utilization requirement of 30% is applicable for this project. Firms must meet the entire 15% SLBE/SLRBE or more requirement and can utilize up to 15% LBE participation.

The District requests the proposing firm complete the Local Business Utilization Affirmation Worksheet (see Exhibit B) outlining the ESCO's approach.

The full version of OUSD's Local Business Utilization Policy (BP 7115) can be found at the following link:

<https://www.ousd.org/facilities-planning-management/opportunities/lbu-policy>

**FULL OPPORTUNITY**

The District hereby affirmatively ensures that Disadvantaged Business Enterprises ("DBE"), Small Local Business Enterprise ("SLBE"), Small Emerging Local Business Enterprise ("SELBE") and Disabled Veterans Business Enterprise ("DVBE") firms shall be afforded full opportunity to submit qualifications in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, disability, gender, transgender status,

political affiliation, or religion in any consideration leading to the award of contract. No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award.

**DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) AND PROJECT LABOR AGREEMENT**

The scope of work may be subject to the District’s Project Labor Agreement (PLA).

Consultants whose scope of work is subject to SB 854 (Public Work Reform) shall register and renew annually with the California Department of Industrial Relations (DIR). DIR shall administer and enforce minimum requirements for contractors bidding and working on public works projects for compliance with prevailing wages, maintaining workers’ compensation coverages, holding applicable licenses, verifying no delinquent unpaid or penalty assessments to any employee or enforcement agency, and confirming no federal or state debarments.

Full version of OUSD’s latest Project Labor Agreement can be found at the following link:

<https://www.ousd.org/facilities-planning-management/opportunities/local-hiring/2021-project-labor-agreement-pla>

**PROCUREMENT SCHEDULE FOR REQUEST FOR PROPOSALS:**

The schedule for selection of the ESCO will be as follows:

District to issue Request for Qualifications and Proposals	March 7, 2025
Non-mandatory Pre-proposal Meeting (via Zoom)	March 13, 2025
Last day for ESCOs to submit questions (EOBD)	March 20, 2025
District to respond to questions via Addendum	March 24, 2025
Submission of Statements of Qualifications and Proposals	March 27, 2025
Board Approval of Agreement	June 4, 2025
Notice to Proceed issued to ESCO	June 5, 2025

The District reserves the right to amend this schedule for any reason.

**LETTER OF INTEREST**

A dated Letter of Interest must be submitted, including the legal name of the firm(s), address, telephone, email address(es) and fax numbers, and the name, title, and signature of the person(s) authorized to submit the Statement of Qualifications on behalf of the firm. The Letter of Interest should provide a brief statement of firm’s experience indicating the unique background and qualities of the firm, its personnel, and its sub-consultants, and what will make the firm a good fit for work in the District. The letter shall also include the following statements:

“[RESPONDENT’S NAME] received a copy of the District’s Agreement attached as **EXHIBIT D** to the RFQ/P. [RESPONDENT’S NAME] has reviewed the indemnity provisions in

**EXHIBIT D** and insurance requirements contained in the Agreement. If given the opportunity to contract with the District, [RESPONDENT'S NAME] has no objections to the use of the Agreement.”

If the respondent has any questions including questions about the form of agreement, it must submit in writing by the deadline for questions listed on the Schedule of Activities to allow the District review and to issue a written response in an Addendum to the RFQ/P.

Respondent shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract(s), nor that any such person will be employed in the performance of any/all contract(s) without immediate divulgence of this fact to the District.

## **BASIC SCOPE AND NEEDS OF THE CONTRACT:**

The Oakland Unified School District (the “District” or “OUSD”) seeks an Energy Services Company (ESCO) to maximize energy and related operational cost savings to pay for facility upgrades, improvements and services. These upgrades, improvements, and services will be implemented via an Energy Savings Performance Contract (ESPC).

The ESCO shall be qualified to conduct an Investment Grade Audit (“IGA”) and implement an ESPC to install Energy Conservation Measures (“ECMs”) to provide energy and maintenance cost-saving equipment and services. The purpose of this Contract is to focus on energy efficiency, sustainability, greenhouse gas reduction, equipment maintenance/repair, etc.

The ESCO, through its work under this Contract, shall support the District’s interest in improving the energy and water efficiency across their portfolio of facilities and maintaining the energy and water savings for the life of the Contract. The ESCO shall evaluate opportunities for electrification of fossil-fueled systems, wherever technically and financially feasible. The ESCO shall seek all available funding opportunities including federal and state funding and separate grant or rebate opportunities to support the guaranteed savings in funding the upfront and on-going project costs.

Facility upgrades, operational improvements, and on-going maintenance, management, and monitoring services will be funded through an ESPC, which:

- a. Incurs no initial capital costs but with an option for OUSD to provide initial capital if desired;
- b. Achieves significant long-term operating efficiencies, cost savings and/or carbon emission reduction;
- c. Provides an annual cost savings and performance guarantee over the term of the contract;
- d. Maintains improvements in, and consistent levels of, operational functionality;
- e. Realizes additional related benefits such as reduced maintenance needs, facility improvements, deferred maintenance, and occupant comfort;
- f. Maintains consistency with all applicable state and local codes and standards. Designs shall comply with all relevant building codes and shall meet or exceed any OUSD performance specifications provided;
- g. Maximizes financial benefits from participation in utility sponsored energy efficiency and demand response programs, as well as other Federal or State grant programs;
- h. The ESCO will include in the proposal, Investment Grade Audit, and subsequent Performance Contract, the cost for a Third-Party Consultant or internal staff to assist in the evaluation of the selected ESCO’s proposed cost-saving measures, and oversight during both implementation and the performance period.

## **PROJECT PHASES**

**Comprehensive Services:** It is the intent of OUSD to utilize a single ESCO to implement the comprehensive services described in each phase below.

**Phase 1 - Investment Grade Audit and Project Development:** The selected ESCO shall conduct a district-wide IGA to identify energy and operational savings measures, determine the cost and savings of each measure, and present a measurement and verification plan and

commissioning plan to verify the project savings. A project proposal shall present a comprehensive package of measures that can be financed through guaranteed savings over the proposed ESPC contract term. The District, at its sole option, shall choose the financing approach and contract term. The ESCO shall submit the IGA Report to the District for review and approval.

**Phase 2 – ESA/Financing:** The District reserves the right to evaluate all forms of financing and will determine financing structure, cost, and financial terms for the performance contract. When negotiations are concluded, the District may issue a Notice to Proceed (“NTP”). Through the Energy Services Agreement (ESA), the ESCO shall proceed to final design, construction, and commissioning of the improvement measures. The ESA shall define the final agreed upon list of measures, equipment, and labor costs, guaranteed cost savings, measurement & verification plans, and additional relevant information. The document shall identify equipment specifications and warranties and establish the schedule and responsibilities of the ESCO and the District.

**Phase 3 – Design, Implementation, and Commissioning:** Upon issuance of a Notice to Proceed, the ESCO shall continue the design process from the IGA phase and initiate construction. The ESCO shall work continuously with its sub-contractors for each ECM to provide interim design plans, design drawings, and equipment submittals to OUSD for review. Designs shall comply with adopted building codes and receive required permits. Design charrette(s) shall be held with the ESCO and OUSD personnel, and submittal reviews at the 30%, 60%, and 95% levels shall be performed by the District, in addition to the review and approval steps included in the attached Major Capital Project Transmittal Sheet. The review process should be documented accordingly, so that the appropriate designs and related equipment match the final IGA scopes of work and meet the original ECM intent. During the IGA phase, the ESCO will provide a construction schedule which includes estimated completion dates for the following: ECM installation, commissioning (Cx), post-installation Measurement & Verification (M&V), punch list, and final acceptance. Throughout the implementation phase, this schedule shall be updated to reflect the actual progress towards final completion. Upon completion of the construction, but prior to Project Acceptance by the District, the ESCO shall verify via Cx that the design intent has been implemented. The District reserves the right to have its own representative witness all Cx activities, as well as review all plans, manuals, and reports related to this Project. Equipment submittals will be reviewed and compared to design and will be tested by the ESCO in the field to verify performance. When all ECMs are completed, the ESCO will issue a Final Completion Certification. This document is the formal notification to OUSD that the ESCO has completed all ECM tasks outlined in the ESA including installation, Cx, and post-install M&V. OUSD will have inspected the project and accepted resolution of any outstanding punch list items prior to this notice. The ESCO confirms through Final Completion that the project is providing cost savings sufficient to repay the investment. Acceptance of the Final Completion Certification by OUSD constitutes the date of completion of the construction period and the commencement of the performance period for the project and the term of the ESA.

**Phase 4 - Measurement and Verification:** The ESCO shall guarantee all project savings. Accordingly, the ESCO shall manage, measure, and monitor the cost savings measures implemented under the performance contract, and shall at least once per year prepare and provide a project M&V Report to OUSD which verifies the performance of the cost-savings

measures. The M&V Plan shall follow the latest established industry guidelines such as the guidelines presented by the International Performance Measurement and Verification Protocol (IPMVP) and the Federal Energy Management Program (FEMP).

**EVALUATION OF PROPOSALS, AND SELECTION OF THE ESCO:**

All proposals shall be reviewed to verify the Proposer has met the RFP submission requirements. Proposals that have not followed the rules, do not meet minimum content, requirements, qualifications, and quality standards, take unacceptable exceptions to the RFP or to OUSD General Conditions, or are non-responsive to the requirements in this RFP, will be eliminated from further consideration.

Proposals determined to have met the RFP requirements will be reviewed and evaluated by the evaluation team. As a part of this review, OUSD may require proposing firm(s) or organization(s) to clarify the information submitted. This clarification process may be conducted through written or electronic correspondence or through an interview with the evaluation team.

Responsive Proposers found to be most qualified to perform the services required, based upon the listed criteria may be required to participate in interviews with the evaluation team as part of the evaluation process. The purpose of the interview is to give “Finalists” an opportunity to demonstrate their unique attributes, ability to perform the scope of work defined in this RFP, and clarify outstanding issues. It is in the proposing firm’s best interests to submit a thorough and complete proposal and not depend on the interview process to provide additional information. All firms selected for an interview will be notified of the proposed interview date(s) at least one week in advance. Any interview shall be virtual.

From among the Finalist Proposers, OUSD may select one firm to enter into final proposal negotiations for the RFP award.

The OUSD Evaluation Team will make its evaluation based on the criteria below.

**POINT SCORING SCHEDULE**

	<b>Evaluation Criteria</b>	<b>Points</b>
A	Proposer Qualifications and References	125
B	Team Qualifications	100
C	Technical Approach	125
D	Financial Approach	50
E	Pricing	50
F	Value Add	50
	Points:	500

## **EVALUATION CRITERIA**

Proposals will be reviewed, evaluated, and scored in accordance with the point schedule for all evaluation criteria noted below. See Exhibit C for further detail.

### **A. Proposer Qualifications and References: 125 Points**

- Number of years the company has been involved in the energy-efficiency related business
- Number of years the company has offered Energy Savings Performance Contracting
- Number of performance contracting projects completed by the company in the 5 years immediately preceding the date of this RFP
- Experience with projects of similar size, scope or type of work expected to be required of OUSD.
- Financial soundness and expected stability of the company
- Quality of provided project references

### **B. Team Qualifications: 100 Points**

- Provide an organization chart and the resumes (up to one page each) for each of the key project personnel to confirm that they have the necessary professional qualifications and experience for the work to be performed.

### **C. Technical Approach: 125 Points**

- Investment Grade Audit approach
- Measurement and Verification approach
- Commissioning approach
- Operations & Maintenance approach
- Handling of Savings Shortfalls
- Development and Implementation Approach

### **D. Financial Approach: 50 Points**

- Approach to supporting past clients in exploring the pros, cons, and other key considerations of various financing strategies commonly employed for Energy Savings Performance Contracts
- Recommendations for OUSD to consider in evaluating potential financing vehicles for an Energy Services Agreement (ESA)
- Past experience capturing utility rebates, tax incentives, and/or grants on behalf of customers

### **E. Pricing: 50 Points**

- Project Cost Breakdown
- Investment Grade Audit Fee
- Self-Performed Work Fees
- Annual Costs and Fees
- Contingency
- Equipment/Labor Cost Competition
- Open Book Pricing

### **F. Value Add: 50 Points**

Improvements to the learning and working environment, improvements to the living environment, green building considerations, greenhouse gas reductions, alignment with other school district goals, teaching opportunities, and student engagement opportunities.

**EXHIBIT A**

**TECHNICAL FACILITY PROFILE**

Exhibit A can be found at the following link:

[https://drive.google.com/drive/folders/1cSAgK6-7FnX5wwcg1Hd\\_-52xXJ9HI43u](https://drive.google.com/drive/folders/1cSAgK6-7FnX5wwcg1Hd_-52xXJ9HI43u)

Access to granted upon request.



**EXHIBIT B**

**LOCAL BUSINESS UTILIZATION AFFIRMATION WORKSHEET**

ESCO: \_\_\_\_\_

The ESCO affirms that it will commit to achieve OUSD’s Local Business Utilization (LBU) goal of 30% participation. Included in our proposal is a detailed narrative and strategy describing how the ESCO intends to meet or exceed the District’s LBU goal of 30% participation.

The narrative shall describe previously implemented methods used for successful local business utilization and shall be inclusive of at least one relevant California K-12 example.

The narrative shall include our LBU strategy, but not limited, to the following:

- Identified Joint-Venture partnership agreements at the prime and sub level
- An outline of small and local firms with planned partnership
- Areas and/or scopes that have been identified as carve out opportunities for small, local partners
- Other identified opportunities for local and small local utilization

The submitted narrative and strategy will be scored and awarded up to 5 additional points by the District’s LBU Consultant.

For reference: The full version of OUSD’s Local Business Utilization Policy (BP 7115) can be found at the following link:

<https://www.ousd.org/facilities-planning-management/opportunities/lbu-policy>

Signature: \_\_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / 2025

## EXHIBIT C

### PROPOSAL CONTENT AND FORMAT

The requirements and format listed below shall be included in the Respondent's proposal. Failure to provide a complete proposal or inability to meet requirements listed below may result in exclusion from consideration.

Each section will include a page limit. Proposals will be scored based on the Proposer's professional merit. Custom graphics, marketing content, excessive formatting, and irrelevant photos are strongly discouraged and will not be considered as part of evaluation. Relevant photos of referenced past/current projects will not be counted towards the page limits indicated in the sections below and may be included.

The Respondent's proposal shall include the following sections:

#### **Cover Letter**

Include a cover letter indicating that the Respondent's proposal is in response to this RFP and that the information included in the proposal is accurate. All cover letters **MUST** be signed. Include the Proposer's primary contact information for this proposal including name, address, phone number, website, and email address. We will direct all RFP related correspondence to the email address listed in this section **(one page max)**.

#### **A. Proposer Qualifications**

##### **i. Performance Contracting overview**

Provide a stand-alone overview **(maximum of one page)** to present an overview of your company. Briefly describe your Company's expertise in the following market sectors:

- K-12 School Districts in California
- Other State Government Agencies
- Cities/Counties
- Other Relevant Agencies

Higher value will be placed on local/state experience in the above sectors.

##### **ii. Project History and References**

Briefly describe your company's expertise in K-12 facilities.

Project Data and References – Up To Five (5) Recent Projects **(one page per project)**:

- Provide the details of up to five (5) recent projects your firm completed. Only include projects that have at least one year of documented performance data, are currently in repayment, are currently under contract with your firm, and can be used as references. Include the following information, at minimum, for each project.

- Projects listed should be of similar size, scope or type of work expected to be required of OUSD and successfully completed in the five (5) years immediately preceding the date of this RFP.

<b>Project Data and References</b>
Project Name
Facility Type and Use
Project Size: <ul style="list-style-type: none"> <li>• Number of Buildings</li> <li>• Total Square Footage</li> </ul>
Types of Measures: <ul style="list-style-type: none"> <li>• Energy, water, waste, maintenance (include % savings for each type)</li> <li>• Any deep retrofits (over 50% savings)</li> <li>• Benefits to the Agency</li> <li>• Unique technologies or approaches (if applicable), including those that promote stewardship or work/study opportunities.</li> </ul>
Project Cost: Installed Project Costs
Project Cost: Financed Amount
Guaranteed Annual Savings (\$)
Financing/Funding: <ul style="list-style-type: none"> <li>• Sources</li> <li>• Name of finance company</li> <li>• Financing Term (years)</li> <li>• Company's role in securing financing</li> </ul>
Project Schedule: <ul style="list-style-type: none"> <li>• Audit Start and Acceptance Date</li> <li>• Construction Start and End Dates (Notice to Proceed; Notice of Substantial Completion; Final Completion)</li> <li>• Guarantee Period Start and End Dates</li> <li>• Describe if project was completed on schedule or delayed</li> </ul>
Measurement and Verification <ul style="list-style-type: none"> <li>• Methods, Protocols</li> <li>• % of stipulated savings</li> </ul>
Project Personnel: <ul style="list-style-type: none"> <li>• List all ESCO personnel associated with this project (limit to those who may be assigned to a project) and their roles and responsibilities (only list those who may be assigned to a project).</li> </ul>
Contact Information: <ul style="list-style-type: none"> <li>• Provide two relevant references (preferably one administrator and one facility/ maintenance supervisor). Include title, current phone numbers and email addresses.</li> </ul>
Agency's stated criteria for success <ul style="list-style-type: none"> <li>• Top 3 outcomes of the project, process and results (e.g., kWh/kW saved).</li> </ul>

- Expected performance of maintenance measures.
- Comments on any special features, services, conditions, creative approaches, special requirements.

### **iii. Experience and Expertise**

History and Focus of Company and Employees

Limit your response to **no more than one page** for this section (History and Focus of Company). **One additional page** may be included for partnering firms' qualifications.

- **Structure and Evolution of the Firm:** List any other names for company's business. Provide any other information, only if deemed necessary.
- **Years in the Energy Business:** State the number of years the company has been involved in the energy-efficiency related business.
- **Involvement in Performance Contracting.**
- **State the number of years the company has offered Energy Savings Performance Contracting services.**
- **State the number of project professionals (energy engineers, project managers, etc.) in your firm that are directly involved in the performance contracting and energy efficiency or renewable energy business.**
- **Number of Performance Contracting Projects Completed:** State the number of performance contracting projects completed by the company.

### **iv. General Scope of Services**

The purpose of this section is to ensure the firm has the qualifications to provide the full scope of ESPC services. Provide a brief discussion (**five pages max**) for the scope of services below to illustrate the company's technical capabilities in each area.

- **Buildings and Energy Systems**
- **Energy Conservation Measures:** This discussion may include, but should not be limited to: lighting and lighting controls, building envelope and weatherization, HVAC equipment upgrades, building automation / energy management control systems, retro-commissioning, central plants, HVAC system optimization, air/water-side distribution upgrades, electrical system upgrades, and similar measures.
- **Operational Savings Measures:** This discussion may include reducing or eliminating maintenance costs, training and educational programs for staff or occupants, and other similar measures.
- **Electrification:** This discussion may include the firm's overall approach to electrification of buildings and proposed benefits.
- **Renewables:** This discussion may include the firm's overall approach to installation and management of renewable energy assets.
- **Project Development and Implementation (one page max)**

- Equipment and subcontractor procurement, bidding, and compliance with DVBE requirements.
- Construction management.
- Commissioning of projects and retro-commissioning of existing buildings.
- Project management.
- Cost Controls.
- Standards of comfort (company guidelines on light levels, space temperatures, ventilation rates, etc. in typical government facilities).
- Hazardous materials identification and abatement, recycling, or disposal (including asbestos).
- Performance guarantees
- Insurance per contract requirements.
- Equipment warranties, and warranty management.
- Approach to financing and/or facilitating the financing. local sub-contractors, vendors, and suppliers.
- Describe how you propose to involve OUSD in the evaluation and selection of sub-contractors and proposed equipment/materials.
- If the Offeror is a team or joint venture, the names and addresses of the team or individual members of the joint venture, and copies of any joint venture or teaming agreements shall be provided. If the Offeror is a team the teaming agreement should include intention, expectations, roles and responsibility of the ESCO, roles and responsibility of the teaming partner, why the parties are teaming, division of the work and percentages. If the Offeror is a team or a Joint Venture of multiple companies, the Evaluation Committee will consider the experience of each member of the team or Joint Venture in light of their role in the proposed team or Joint Venture.

#### **v. Financial Capability**

Describe the financial soundness and expected stability of the company, including the financial ability to serve OUSD related to this RFP.

- Financial Reports
- Provide a Federal Tax Identification Number.
- Profitability: Demonstrate that the Offeror is financially stable and has been in business, providing a similar service for at least the last three (3) years. The offeror shall provide proof of a positive balance sheet and profitable business operations for two (2) of the previous three (3) years.
- Bonding
- Ability to obtain the necessary bonding for the work required by OUSD related to this RFP.

- Current bonding rating.
- Current bonding capacity.
- Amount or percentage of bonding capacity currently obligated.
- Confirmation that the company is bondable for 100% of a payment bond on a project.
- Confirmation that the Offeror is bondable for 100% of a performance bond on a project.
- Letter from a licensed surety as evidence of ability to bond for payment and performance.

#### **vi. Insurance**

Ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the company and all the subcontractors of the Company from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by OUSD.

### **B. Team Qualifications**

Provide an organization chart and the resumes (**up to one page each**) for each of the key project personnel to confirm that they have the necessary professional qualifications and experience for the work to be performed.

### **C. Technical Approach**

Limit responses for this section to **no more than 15 pages** (excluding sample M&V plan and report).

#### **i. Investment Grade Audit Approach**

Briefly summarize your overall approach to IGA development. Be prepared to provide a sample Investment Grade Audit report for an ESPC project that your firm implemented in a public facility, including detailed energy/water savings and economic calculations (excluding equipment cut sheets) and samples of tables, and supporting calculations. This is intended to allow reviewers to conduct a reasonable analysis of your company's auditing methodology. Please be judicious regarding the volume of information submitted. The sample audit is not required at this time.

#### **ii. Measurement and Verification Approach**

Briefly summarize your overall approach to Measurement and Verification including your approach to developing the M&V Plan & M&V Report. Include a brief overview of a sample M&V plan and M&V report.

As an appendix to your response, provide a sample Measurement and Verification Plan & Report from a performance contracting project implemented by your company. The sample M&V plan and report do not count toward page limits for this section.

### **iii. Commissioning Approach**

Briefly summarize your overall approach to Commissioning. Include a brief overview of your sample Commissioning Plan and provide a copy of a Commissioning Plan from a previous performance contracting project.

### **iv. Operations & Maintenance approach**

Briefly summarize your approach to Operations and Maintenance. Include a brief overview of your sample Operations and Maintenance Plan. As an appendix to your response, provide a sample Operations & Maintenance Plan from a performance contracting project implemented by your firm. OUSD may, if it is deemed beneficial, require the selected ESCO to provide all maintenance of replaced equipment over the contract term. Please describe your firm's technical, management, and financial approach to this scenario. Also describe how your firm would approach a scenario in which OUSD would take full or partial responsibility for maintenance of replaced equipment over the contract term.

### **v. Handling of Savings Shortfalls**

Address any savings shortfalls that occurred previously (provide up to 5 examples) and describe how they were resolved. Include contact information, including point of contact name; title; organization; email; and direct phone number; for each client involved.

### **vi. Development and Implementation Approach**

Provide a review and analysis of the data and information provided in the Technical Facility Profile Exhibit A for the representative sample of buildings. Provide a projected schedule and recommended approach to the IGA and the Implementation Phases. Describe your project management plan, communication plan, ability to scale, potential obstacles, and how your approach will resolve those issues and ensure a successful outcome for this project.

## **D. Financial Approach**

Provide an overview of your approach to supporting past clients in exploring the pros, cons, and other key considerations of various financing strategies commonly employed for Energy Savings Performance Contracts.

Describe past experience capturing utility rebates, tax incentives, and/or grants on behalf of customers.

Provide recommendations for OUSD to consider in evaluating potential financing vehicles for an Energy Services Agreement (ESA).

## **E. Pricing**

Each responding company shall provide its proposed maximum cost for performing an IGA as well as schedules illustrating proposed maximum project markups, overhead and profit markups, and fees for pre-defined categories. See below for a description of required Cost and Pricing Information.

**i. Project Cost Breakdown**

In the table below, provide your company’s proposed Maximum Percentage of Total Project Price for each category listed. This format is required and must be completed in its entirety. Use only the categories shown. Ranges are not acceptable.

Also, clearly describe how incidental and ancillary work will be charged (e.g., billed hourly, billed as a markup of equipment and labor costs). Incidental and ancillary work includes jobsite safety, security, cleanliness and sanitation, limited demolition, and other incidental work that is necessary to ensure that all work is completed in a timely manner.

If a submittal is from a joint venture partnership, include proposed maximum allowable markups in the schedule format for each participating company.

	<b>MAXIMUM MARKUPS</b>
<b>Project Budget</b>	<b>Percent of Total Project Price</b>
A Subcontractor Costs (Contractor Costs to ESCO)	N/A
B Other Direct Purchases of Equipment, Material, Supplies, etc	
C Total of Hard Costs	$c = a + b$
D Project Development	
E Design/Engineering	
F Project Management	
G Permits	
H Performance Bond	
I Payment Bond/Insurance	
J Commissioning	
K Measurement & Verification	
L Training	
M Contingency	
N Warranty Service	
O <b>Total of ESCO Fees</b>	$o = \text{sum}(d:n)$
P Overhead	
Q Profit	
R <b>PROJECT PRICE SUB TOTAL w/OH &amp;P</b>	$r = c + o + p + q$

**Assumptions for Cost Markup Table Above:**

Rows D - N are calculated as a percent of Row C  
 Rows P & Q are calculated as a percent of the sum of Rows C & O

**ii. Investment Grade Audit Fee (Maximum)**

Identify your fixed fee to conduct the Investment Grade Audit and Project Development Proposal, on a cost per square foot basis:



	Proposed Fixed cost per sf
Investment Grade Audit and Project Proposal	\$/sf

**iii. Self-Performed Work Fees**

In the table below, provide the position descriptions and hourly rates (with Overhead and Profit applied) for labor and services as performed by your company. The purpose of this is to enable confirmation through open book pricing.

Position Description	Hourly Rate
Project Development Manager	\$xx.xx
Lead Project Engineer	\$xx.xx
Project Engineer	\$xx.xx
Construction Manager	\$xx.xx
Construction Superintendent	\$xx.xx
Operations & Maintenance Manager	\$xx.xx
Measurement & Verification Manager	\$xx.xx
HVAC Skilled Trades Professional	\$xx.xx
Electrical Skilled Trades Professional	\$xx.xx

**iv. Annual Costs and Fees (Maximum)**

For each category describe how that annual cost is determined, how the fee is charged to the project and when it is applied. Markups on fees are not allowable.

- **Measurement and Verification – Annual Fee:** The Measurement and Verification Services cost is the annual cost for the services necessary after acceptance of the project to annually verify the Energy Performance Contract guarantees. The cost for the guarantee is based upon the M&V option utilized, the risk of savings failure, the field time to measure building performance, and the time to document and present the report.
- **Warranty:** Warranty is the burdened labor cost associated with time anticipated to be expended by ESCO staff in supporting their direct purchase equipment warranties; and/or equipment provided by subcontractors. This warranty cost may also include costs for extended equipment warranties in those cases where the required/specified equipment warranty is longer than the equipment warranty offered by the manufacturer.
- **Other:** Describe any other fees and how they will be determined.

Category of Service Fees	Estimated % of Annual Cost Savings
--------------------------	------------------------------------

Annual Service Fees	
Measurement & Verification	
Maintenance	
Equipment Performance Monitoring	
Annual Training	
Warranty Management	
<b>Total</b>	

**v. Contingency**

Describe your company’s typical level of contingency budget for lighting, electrical, mechanical, controls projects, and other projects and how it proposes to apply contingency to cover changes in work scope and subcontractor change orders. Note that all unused contingency funds will revert to OUSD or be applied to additional work scope through a change order approved by OUSD.

**vi. Equipment/Labor Cost Competition**

Describe your company’s process to solicit bids on equipment/labor or to ensure price/cost competition and the best value for OUSD.

**vii. Open Book Pricing**

Open book pricing is required. Describe your company’s approach to open book pricing and the method for maintaining cost accounting records on authorized work performed under actual costs for labor and material, or other basis requiring accounting records.

**F. Value Add**

Briefly describe how your approach to Performance Contracting delivers best value for the investment. Describe any utility rebates or other financial incentives or grants you can potentially provide and/or facilitate.

**G. Exceptions and Confidential Information**

All exceptions to the RFP or OUSD terms and conditions must be listed on an item-by-item basis and cross-referenced with the RFP document. If there are no exceptions, Proposer must expressly state that no exceptions are taken. Please Note: Taking exceptions to proposal requirements or OUSD General Provisions may render a Proposer’s proposal non-responsive and rejected from further consideration.

**H. Definitions and Acronyms**

**Buyer** Purchasing employee responsible for distributing all proposal documents and receiving all questions, issues, and concerns in written form. Refer to the front page of the document for specific contact information

**Commissioning** A comprehensive quality assurance process, overseen by a qualified commissioning authority or qualified third-party Consultant. Systematic, thoroughly documented and collaborative process ensures system

components are designed, installed, functionally tested, and capable of operating at peak performance through their lifecycle, and will achieve the energy, water and maintenance savings stated in the approved project documents.

OUSD	Oakland Unified School District
ESCO	Energy Service Company. Organization/individual submitting a proposal in response to this RFP.
ESPC	Energy Savings Performance Contract
Evaluation Committee	An independent committee, established by OUSD to review proposals submitted in response to this RFP, score the proposals and recommend a Supplier(s) for Agreement award
Investment Grade Audit (IGA)	The investment-grade audit carefully analyzes energy, water, and operating cost savings measure (ECM) estimates and implementation and maintenance costs and should examine the interactive and/or synergistic impacts of various savings measures. It also addresses benefits including, but not limited to, savings in energy usage, water usage, maintenance, materials, labor, as well as the potential labor savings through increased productivity and decreased absenteeism. The financial analysis should clearly delineate the costs and benefits of the Project including first cost, simple payback period, net present value, and internal rate of return. This audit also provides objective and professional evaluation of internal control through financial, operational and compliance audits.
M&V	Measurement and Verification. Those scientific, operational, or other methods and protocols used to validate that the Project's stated savings and/or cost reductions are achieved.
May	Indicates something that is not mandatory but permissible
Open Book Pricing	Respondent will fully disclose all costs, including all costs of subcontractors and vendors. The ESCO will maintain cost accounting records on authorized work performed showing actual costs for labor and materials.
Respondent	A prospective Supplier submitting a proposal
RFP	Request for Proposal
Shall/Must/Will	Indicates a mandatory requirement. Failure to meet mandatory requirement may result in rejection of a proposal as non-responsive
Should	Indicates something that is recommended, but not mandatory. If the Respondent fails to provide in its proposal the recommended

information, OUSD may, at its sole option, ask the Respondent to provide the information, or evaluate the proposal without the information

Subcontractor

Third party, not directly employed by OUSD, who will, if the Respondent is selected, provide services in connection with the Agreement anticipated by the RFP

Supplier

Individual or firm(s) selected to perform the Scope of Work

Third-Party  
Consultant

Individual/firm hired to work on behalf of OUSD to assist OUSD as necessary to review proposed energy, water and/or operating savings for the performance contract project and may provide post-implementation review of Project savings measurement and verification results reported by the ESCO. Although the listed duties are not meant to be all-inclusive, whatever roles the consultant fills will be advisory only.

Work

The provision or furnishing of goods and/or services as indicated throughout the entire RFP document

## EXHIBIT D

### INVESTMENT GRADE AUDIT AGREEMENT (SPECIMEN)

This Investment Grade Audit Agreement (the "Contract") is made and entered into as of this day of \_\_\_\_\_, at \_\_\_\_\_, in the County of \_\_\_\_\_, State of \_\_\_\_\_, by and between \_\_\_\_\_ ("ESCO"), having its principal offices at \_\_\_\_\_, and \_\_\_\_\_ ("Owner") having principal offices at \_\_\_\_\_, for the purpose of identifying certain energy and water cost saving equipment upgrades, and identifying other services designed to save energy for the Owner's property and buildings, known as \_\_\_\_\_, located at \_\_\_\_\_ (the "Project Site(s)").

#### W I T N E S S E T H

WHEREAS, This Contract was created to obtain a Investment Grade Audit of a facility from a private energy service company (ESCO).

WHEREAS, ESCO has submitted a ESCO Response, in response to Owner's Request for Proposals (RFP), pertaining to the discovery, engineering, procurement, installation, financing, savings guarantee, maintenance and monitoring of energy and water saving measures at Owner's facilities; and

WHEREAS, Owner has selected ESCO to provide the services described herein; and

WHEREAS, Owner desires to enter into a Contract to have ESCO perform an Investment Grade Audit and Project Proposal to determine the feasibility of entering into an **Energy Services Agreement** to provide for installation and implementation of energy and water saving measures at Owner's facilities.

WHEREAS, if energy and water saving measures are determined to be feasible, and if the amount of savings can be reasonably sufficient to cover all costs, as defined by Owner, associated with an Energy Savings Performance Contracting project, the parties intend to negotiate an Energy Services Agreement under which the ESCO will design, procure, install, implement, maintain and monitor such energy and water saving measures. However, this intent does not commit Owner to entering into such Energy Services Agreement.

THEREFORE, the parties agree as follows:

#### **1. Investment Grade Audit Report**

ESCO agrees to perform a Investment Grade Audit in accordance with the Scope of Work described below in **Exhibit D-1**. ESCO agrees to complete the Investment Grade Audit and tender to Owner a final report within X calendar days from the execution of this Contract.

Owner agrees to assist the ESCO in performing the Investment Grade Audit in accordance with the Scope of Work described below. Owner agrees to work diligently to provide full and accurate information. ESCO agrees to work diligently to assess validity of information provided and to confirm or correct the information as needed. The parties contemplate that this will be an iterative process and that Owner will have a reasonable amount of time to review and determine acceptance before issuing the **Notice of Acceptance (Exhibit D-2:**

## **Notice of Acceptance of Investment Grade Audit Report).**

ESCO agrees to offer an **Investment Grade Audit Report** with a package of energy and water saving measures and with details as specified in the Scope of Work in **Exhibit D-1**.

### **2. Compensation to ESCO**

ESCO shall be compensated as follows:

- a. **Payment through Performance Contract.** Owner shall have no payment obligations under this contract if ESCO and Owner execute an Energy Services Agreement within Number of Days – 120 days suggested, allowing sufficient time for contract negotiation, attorney review, and Owner processing days, after issuance of the **Notice of Acceptance (Exhibit D-2: Notice of Acceptance of Investment Grade Audit Report)** of the final **Investment Grade Audit Report**, in which case the fee indicated in section 2(b) below shall be incorporated into ESCO's project costs in the Energy Services Agreement and paid through the project's funding mechanisms.
- b. **Non-Execution of ESA.** If Owner and ESCO do not Execute an Energy Services Agreement within 120 days as provided for in **Subsection 2(a), above, and if ESCO's Investment Grade Audit Report does not meet the parameters of subsection 2(c) below**, then Owner shall pay to ESCO a sum not to exceed Dollar Amount in Words (\$ dollar amount) based on a maximum of square footage to be audited gross square feet at cost per square foot per square foot of audited square-footage, as per **Exhibit D-4: Pricing for Project**. Owner shall only pay for square-footage actually audited. Areas deemed by ESCO not to be audited will not be charged to Owner.
- c. **Project With Insufficient Savings.** Owner shall have no payment obligations under this Contract in the event that ESCO's final **Investment Grade Audit Report** does not contain a package of energy and water saving measures which, if implemented and as meeting terms of **Exhibit D-1: Scope of Work, (b) Guidelines and Requirements**, will provide Owner with cash savings sufficient to fund Owner's payments of all costs and fees associated with the Energy Services Agreement, including 1) the fee associated with the Investment Grade Audit, 2) all monthly payments on a lease purchase agreement to finance the measures, 3) any annual fees for monitoring and maintenance incurred by the ESCO, and 4) all fees related to the Owner's 3<sup>rd</sup> Party Representative. Should the ESCO determine at any time during the Investment Grade Audit that savings cannot be attained to meet these terms, the Investment Grade Audit will be terminated by written notice by the ESCO to Owner. In this event this Contract shall be cancelled and Owner shall have no obligation to pay, in whole or in part, the amount specified in this **Section 2(a)**.

### **3. Scope of Work**

The Investment Grade Audit shall be performed as described in **Exhibit D-1: Scope of Work**.

### **4. Termination**

This Contract may be terminated at any time as described below by:

#### **a. Termination for Default/Cause**

##### **1) Default.**

If the ESCO refuses or fails to timely perform any of the provisions of this contract, with such diligence as will ensure its completion within the time specified in this contract, the procurement officer may notify the ESCO in writing of the non-performance, and if not promptly corrected within the time specified, such officer may terminate the ESCO's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. The ESCO shall continue performance of the contract to the

extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services elsewhere.

2) ESCO's Duties

Notwithstanding termination of the contract and subject to any directions from the procurement officer, the ESCO shall take timely, reasonable and necessary action to protect and preserve property in the possession of the ESCO in which the purchasing Owner has an interest.

3) Compensation

Payment for completed services delivered and accepted by Owner shall be at the contract price. Owner may withhold amounts due to the ESCO as the procurement officer deems to be necessary to protect Owner against loss because of outstanding liens or claims of former lien holders and to reimburse the Owner for the excess costs incurred in procuring similar goods and services.

4) Excuse for Nonperformance or Delayed Performance

The ESCO shall not be in default by reason of any failure in performance of this contract in accordance with its terms if such failure arises out of acts of God; acts of the public enemy; acts of the State and any governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. Upon request of the ESCO, the procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the ESCO's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the purchasing Owner.

5) Erroneous Termination for Default

If after notice of termination of the ESCO's right to proceed under the provisions of this clause, it is determined for any reason that the ESCO was not in default under the provisions of this clause, or that the delay was excusable, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the termination for convenience clause.

**b. Termination for Convenience**

1) Termination

The Owner may, when the interests of the Owner so require, terminate this contract in whole or in part, for the convenience of the Owner. The Owner shall give written notice of the termination to the ESCO specifying the part of the contract terminated and when termination becomes effective. This in no way implies that the purchasing Owner has breached the contract by exercise of the Termination for Convenience Clause.

2) ESCO's Obligations

The ESCO shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the ESCO will stop work to the extent specified. The ESCO shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The ESCO shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Owner may direct the ESCO to assign the ESCO's right, title, and interest under terminated orders or subcontracts to the purchasing Owner. The ESCO must still complete and deliver to the purchasing Owner the work not terminated by the Notice of Termination and may incur obligations as are necessary to do so.

3) Compensation

- a) The ESCO shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data bearing on such claim. If the ESCO fails to file a termination claim within 90 days from the effective date of

termination, the Owner may pay the ESCO, if at all, an amount set in accordance with subparagraph C of this Section.

- b) The Owner and the ESCO may agree to a settlement provided the ESCO has filed a termination claim supported by cost or pricing data and that the settlement does not exceed the total contract price plus settlement costs, reduced by payments previously made by the purchasing Owner, the proceeds of any sales of supplies and manufactured materials made under agreement, and the contract price of the work not terminated.
- c) Absent complete agreement, under subparagraph B of this Section, the Owner shall pay the ESCO the following amounts, provided the payments agreed to under subparagraph B shall not duplicate payments under this subparagraph:
  - (1) Contract prices for supplies or services accepted under the contract;
  - (2) Costs incurred in preparing to perform the terminated portion of the work plus a fair and reasonable profit on such portion of the work (such profit shall not include anticipatory profit or consequential damages) less amounts paid to or to be paid for accepted supplies or services; provided, however, that if it appears that the ESCO would have been sustained a loss if the entire contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss.
  - (3) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to the ESCO's obligations paragraph of this clause. These costs must not include costs paid in accordance with subparagraph B of this Section.
  - (4) The reasonable settlement costs of the ESCO including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the terminated portion of this contract.
  - (5) The total sum to be paid the ESCO under this subparagraph C shall not exceed the total contract price plus settlement costs, reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph B, and the contract price of work not terminated.
- d) Cost claimed or agreed to under this section shall be in accordance with applicable sections of the State Procurement Code.

**c. Available Funds – Contingency - Remedies**

The Owner is prohibited by law from making fiscal commitments beyond the term of its current fiscal period. Therefore, ESCO's compensation is contingent upon the continuing availability of Owner appropriations.. Payments pursuant to this contract shall only be made from available funds encumbered for this Contract, and the Owner's liability for such payments shall be limited to the amount remaining of such encumbered funds. If Owner or federal funds are not appropriated, or otherwise become unavailable to fund this Contract, the Owner may immediately terminate the Contract in whole or in part without further liability in accordance with the Termination for Cause subsection of the Remedies section of this Contract. All payments are subject to the general Remedies section of this Contract.

**5. Insurance**

Before commencing any Work under this Contract, ESCO shall file with Owner certificates of insurance evidencing the coverage's as specified below



- a. It is agreed and understood ESCO shall maintain in full force and effect adequate commercial general liability insurance and property damage insurance, as well as workmen's compensation and employer's liability insurance pursuant to the State insurance requirements as defined below.
- b. The ESCO shall obtain, and maintain at all times during the term of this Agreement, insurance in the following kinds and amounts.
  - 1) Standard Workers' Compensation and Employer's Liability as required by State statute, including occupational disease, covering all employees at the work site.
  - 2) General Liability (minimum coverage)
    - a) Combined single limit of \$600,000 written on an occurrence basis.
    - b) Any aggregate limit will not be less than \$1,000,000.
    - c) The ESCO must purchase additional insurance if claims reduce the annual aggregate below \$600,000.
  - 3) Automobile Liability (minimum coverage) in the amount of \$600,000 combined single limit
  - 4) The Owner shall be named as an additional insured on each commercial general liability policy.
  - 5) The insurance shall include provisions preventing cancellation without 30 calendar days prior written notice, by certified mail to the Principal Representative
  - 6) ESCO shall be responsible for all claims, damages, losses or expenses, including attorney's fees, arising out of or resulting from the performance of the Services contemplated in this Contract, provided that any such claim, damage, loss or expense is caused by any negligent act, error or omission of ESCO, any Consultant or associate thereof, or anyone directly or indirectly employed by ESCO. ESCO shall submit a Certificate of Insurance at the signing of this Contract and also any notices of Renewal of said Policy as they occur.

#### **6. Energy Services Agreement**

The Parties intend to negotiate an Energy Services Agreement under which the ESCO will design, install and implement energy and water saving measures which the Parties have agreed to, and provide certain maintenance and monitoring services. However, nothing in this Contract should be construed as an obligation on any of the Parties to execute such a contract. The terms and provisions of such an Energy Services Agreement will be set forth in a separate contract.

#### **7. Extent of Agreement**

- a. This Contract represents the entire and integrated agreement between Owner and ESCO and supersedes all prior negotiations, representations or agreement, either written or oral. This Contract may be amended only by written instrument signed by the Owner.
- b. The Owner and ESCO understand and agree the attachment and exhibits hereto are and shall be an integral part of this Contract and the terms and provisions thereof are hereby incorporated, made a part of and shall supplement those recited herein. In the event of any conflict, or variance, the terms and provisions of this printed Agreement shall supersede, govern and control.

#### **8. Term**

The term of this Contract will become effective upon approval by the Controller and acceptance by the Principal Representative. The term shall end number of days plus 15 days to allow for processing of check (suggest 135 days) after signing of the **Notice of Acceptance (Exhibit D-2: Notice of Acceptance of Investment Grade Audit Report)** of the Final Investment Grade Audit Report by the Principal Representative.

**9. Order of Precedence**

In the event of conflict or inconsistency between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. State Special Provisions *These Special Provisions are required for State Owner/Owner projects.*
2. **Request for Proposal Documentation & Response by ESCO**
3. Contract - general terms and conditions
4. Other exhibits or attachments

**10. Owner's Special Provisions**

1. **Exhibit E-1:** Fingerprinting Notice and Acknowledgement for Contracts Other than Construction Contracts
2. **Exhibit E-2:** Fingerprinting Notice and Acknowledgement for Construction Contracts

**THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT**

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto subscribe their names to this Contract on the date first written above.

Owner

By \_\_\_\_\_

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

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

ESCO

By \_\_\_\_\_

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

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

## **EXHIBIT D-1**

### **INVESTMENT GRADE AUDIT SCOPE OF WORK**

#### **1. Detailed Task List**

The following scope will be conducted in intervals with review milestone points/submissions at the 30%, 60%, 90%, and 100% levels of completion. The entire Investment Grade Audit Scope fo Work shall be completed within X calendar days of the date of execution of the Investment Grade Audit Agreement (IGAA). An ECM Matrix (or similar document approved by Owner) will be used in the presentations to facilities and management teams for decision-making and approval. This includes estimated cost, savings, simple payback and expected M&V Methodology for each individual measure, while emphasizing the performance of all measures as a whole.

#### **1.1 30% Phase - Assessment of Needs and Opportunities**

##### **Collect General Facility Information**

Owner agrees to work diligently to furnish ESCO, upon request, accurate and complete data and information, as available. Owner will allow ESCO reasonable access to facility staff to ensure understanding of existing systems and opportunities. Owner shall have final approval of ESCO access. Upon notice to ESCO, Owner may, but shall not be required to, conduct the task to collect utility information from utilities in order to reduce ESCO time and expense.

The ESCO shall collect data and background information from Owner concerning facility operation and energy and water use, including any changes to operation, energy and water use anticipated within the next 5 years. ESCO agrees to work diligently to assess validity of information provided and to confirm or correct the information as needed. Where information is not readily available from Owner, ESCO will make a diligent effort to collect such information through the facility inspection, staff interviews, and utility companies.

Collect the following information for the past 36-month period (where reasonably available):

##### **General Facility Information**

- Building list with square footage and age (including age of major remodels or additions)
- Construction data of buildings and major additions including building envelope, window specifications/performance and roof/wall assembly.
- General use of facility

##### **Utility Information**

- Utility company invoices
- Most recent energy supply contracts for determination of baseline cost analysis

##### **Sub Meter Information**

- Historical thermal and electrical sub meter data if available

##### **Equipment and Facility Information**

- Equipment Descriptions: Descriptions of all major energy and water consuming or energy and water saving equipment
- Facility Descriptions: Description of any structural or building use changes
- Past Changes: Record of any improvements or modifications related to energy, water or operational efficiencies that have been installed during the past three years
- Future Plans: Description of current or future plans regarding building or equipment modifications

- Drawings and Specifications: Drawings, as reasonably available (may include mechanical, plumbing, electrical, building automation and temperature controls, structural, architectural, modifications and remodels).
- Original construction submittals and factory data (specifications, pump curves, etc.), as reasonably available.
- Floor plans
- Hazardous materials inspection records

#### Operations Information

- Occupancy schedules
- Typical building/facility usage information
- Description of current energy management procedures
- Description of current operational practices
- Operating engineer logs, maintenance work orders, etc., as available
- Records of maintenance expenditures on energy or water-using equipment, including service contracts
- Existing issues with comfort levels, controls or equipment reliability.

*Any estimations and/or assumptions made during IGA development shall be agreed to by all parties.*

#### **Inventory Existing Systems and Equipment**

Compile an inventory based on a physical inspection of the major electrical and mechanical systems at the Facility, including:

- Cooling systems and related equipment
- Heating and heat distribution systems
- Automatic temperature control systems and equipment
- Air distribution systems and equipment
- Outdoor ventilation systems and equipment
- Kitchen and associated dining room equipment, if applicable
- Exhaust systems and equipment
- Domestic Hot water systems
- Electric motors 5 HP and above, transmission and drive systems. Although motors under 5HP may not be inventoried, options for upgrading these motors shall still be considered (ECM type motors, etc.).
- Interior and exterior lighting
- Laundry equipment, if applicable
- Water consumption end uses, such as restroom fixtures, water fountains, irrigation, etc.
- Other major energy using systems, if applicable
- Existing on-site generation/distributed generation systems/assets
- Renewable energy systems.

Address the following considerations:

- The loads, proper sizing, efficiencies or hours of operation for each system; (Where measurement costs, facility operating or climatic conditions necessitate, engineering estimates may be used, but for large fluctuating loads with high potential savings, appropriate measurements are required unless waived by Owner).
- Current operating condition for each system;
- Remaining useful life of each system;
- Feasible replacement systems
- Hazardous materials and other environmental concerns

- Please note that the ESCO will not be responsible for removal of existing hazardous materials (ex: asbestos).

Use data loggers and conduct interviews with facility operation and maintenance staff regarding systems operation, occupancy patterns and problems with comfort levels or equipment reliability.

### **Establish Baseline**

#### Estimate Loads

- Estimate loads, usage and/or hours of operation for all major end uses of total facility consumption including: lighting, heating, cooling, motors (fans and pumps), plug loads, kitchen equipment, water, and other major energy and water using equipment.
- Where loading or usage are highly uncertain (including variable loads such as cooling), ESCO will use its best judgment, use of existing EMCS capabilities for trend data, or measurements from data loggers. ESCO should not assume that equipment run hours equal the operating hours of the building(s) or facility staff estimates.

#### Estimate Baseline Usage

- Examine utility supply contracts and utility rate structure applicable to each building.
- If building-specific utility data is not available or not useful, then provide other means (for example sub meters and/or data loggers) to establish baseline consumption. Establish base year and/or baseline consumption.
- Present base year and/or baseline consumption in terms of energy or water units (kWh, kW, ccf, Therms, gallons, or other units used in bills), in terms of dollars, and in terms of dollars per square foot.
- Describe the process used to determine the base year and/or baseline consumption and demand (averaging, selecting most representative contiguous 12 months, or sampling; sampling may include temporary sub meters or data loggers where needed).
- Consult with facility personnel to account for any anomalous schedule or operating conditions on billings or equipment conditions that could skew the base year and/or baseline representation.
- ESCO will (as best as possible) account for periods of time when equipment was broken or malfunctioning in calculating the base year or baseline definition period.

#### Reconcile Estimates

- Reconcile annual end-use estimated consumption and demand with the metered data collected during the IGA phase and extrapolated to reflect the annual base year consumption. The purpose of this is to place reasonable limits on potential savings.
- Reconcile the annual end use estimated consumption with the annual Base Year consumption to within 5% for electricity (kWh), fossil fuels and water.
- Reconcile the contribution to electric peak demand for each end use within 5% of the annual Base Year peak.
- The “miscellaneous” category shall not be more than 5%.
- This reconciliation will place reasonable “real-world” limits on potential savings.

#### Baseline Adjustments

- Propose adjustments to the baseline for energy and water saving measures that will be implemented in the future.
- Baseline adjustments may be made only with advance approval by Owner.

## **1.2 60% Phase - Initial Analysis of Measures**

### **Identify Potential Measures**

Interviews: Interview the facility manager and a sampling of maintenance staff, subcontractors and occupants of each building regarding:

- Facility operation, including energy management and operating procedures
- Equipment maintenance problems
- Comfort problems and requirements
- Equipment reliability
- Projected equipment needs
- Occupancy and use schedules for the facility and specific equipment.
- Facility improvements – past, planned and desired
- Other project sustainability goals, metrics or standards (i.e. LEED, ENERGY STAR, Net Zero Energy, etc.)

Surveys: Survey major energy and water-using equipment, including:

- lighting (indoor and outdoor)
- heating and heat distribution systems
- cooling systems and related equipment
- automatic temperature control systems and equipment
- air distribution systems and equipment
- outdoor ventilation systems and equipment
- exhaust systems and equipment
- domestic hot water systems
- electric motors
- transmission and drive systems
- electrical transformers
- special systems (kitchen/dining equipment, etc.)
- renewable energy systems
- Other energy using systems
- water consuming systems (restroom fixtures, water fountains, irrigation systems, etc.)
- plug loads

Perform "late-night" surveys outside of normal business hours or on weekends to confirm building system and occupancy schedules, if deemed necessary by Owner,

**Assess potential measures:**

Consider the following for each system:

- Comfort and maintenance problems
- Energy use, loads, proper sizing, efficiencies and hours of operation
- How the measures work together (i.e. lighting upgrades can introduce less heat which requires less space cooling)
- Current operating condition
- Remaining useful life
- Feasibility of system replacement and replacement costs
- Owner's future plans for equipment replacement or building renovations
- Facility operation and maintenance procedures that could be affected
- Capability to monitor equipment or system performance and verify savings

List Measures: Develop a preliminary list of potential energy and water saving measures.

- List all potential opportunities that will be considered for the ESPC.
- Consider technologies in a comprehensive approach including, but not limited to: lighting systems, heating/ventilating/air conditioning equipment and distribution systems, controls systems, building envelope, motors, kitchen equipment, pools, renewable energy systems, other special equipment, irrigation systems, and water saving devices.
- Identify measures which appear likely to be cost effective and therefore warrant detailed analysis

Evaluate Measures:

- Estimate the cost, savings and life expectancy of each proposed measure.
- Conduct a preliminary analysis of potential measures using life cycle cost analysis and examining the value of non-energy benefits of specific measures

### **Present Findings**

- Submit the preliminary findings and list of measures to Owner based on the agreed upon schedule.
- Meet with Owner to present preliminary findings prior to thorough analysis.
- Describe how the project economics, savings, and financials will meet Owner's terms for completing the IGA phase. Discuss assessment of energy use, savings potential, and project opportunities. Owner shall have the option to reject calculations of savings, potential savings allowed, or project recommendations or request recalculations of savings, potential savings allowed, or related to project recommendations.
- Develop a list of recommended measures with Owner for further analysis.

### **1.3 90% Phase - Further Analysis for Investment Grade Audit**

Further estimate the cost, savings and life expectancy of each proposed measure.

#### **Savings Analysis**

- Follow the methodology of ASHRAE or other nationally-recognized authority following the engineering principle(s) identified for each retrofit option
- Utilize assumptions, projections and baselines which best represent the true value of future energy or operational savings. Include accurate marginal costs for each unit of savings at the time the audit is performed, documentation of material and labor cost savings, adjustments to the baseline to reflect current conditions at the facility, calculations which account for the interactive effects of the recommended measures.
- Use best judgment regarding the employment of instrumentation and recording durations so as to achieve an accurate and faithful characterization of energy use
- Provide analysis methodology, supporting calculations and assumptions used to estimate savings.
- Manual calculations should disclose essential data, assumptions, formulas, etc. so that a reviewer could replicate the calculations based on the data provided
- For savings estimates using computer simulations, Company shall provide access to the program and all inputs and assumptions used, if requested by Owner.
- Provide detailed calculations for any rate savings proposals
- Provide detailed supporting calculations for any proposed maintenance savings
- Estimate any environmental costs or benefits of the proposed ECMs (e.g. disposal costs, avoided emissions, water conservation, etc.)
- Specify Facility operations and maintenance procedures which will be affected by the installation/implementation of the proposed ECMs.
- Establish standards of comfort for each building which will be discussed and agreed to by all parties and included in the IGA report.

#### **Inflation & Escalation Rates**

Any general inflation rates and/or escalation rates will be pre-approved by Owner and mutually agreed upon. Escalation rates shall be justified and at a minimum based on DOE's Energy Escalation Rate Calculator (EERC) based on Energy Information Administration (EIA) energy price projections. A calculator may be used to determine the maximum value as developed by the National Institute of Standards and Technology (NIST) and the US Department of Energy's

Federal Energy Management Program (FEMP). The energy escalation calculation tool can be found at the following website (<https://pages.nist.gov/eerc/>). Owner may authorize ESCO to utilize additional resources to further vet escalation values.

### **Cost Estimates**

Provide detailed estimates of costs associated with the installation, implementation and commissioning of each of the ECMs proposed in the Audit including breakouts for labor, materials, and equipment. Markups and fees must be consistent with those presented in **ESCO's RFP Response and those documented in Exhibit D.**

Provide estimates of monthly and/or costs associated with sustaining the project performance including breakouts for maintenance fees, measurement and monitoring fees, and training fees.

### **Measurement and Verification Plan**

- Provide a final draft measurement and verification plan for each proposed ECM
- Develop a measurement and verification plan for each measure
- Follow additional guidelines for analysis and report preparation given below.
- ESCO will use best industry standards for M&V plan development. At a minimum IPMVP shall be used and additional standards including FEMP M&V guidelines should be considered.

### **Commissioning Plan**

- Provide a preliminary commissioning plan for the proposed ECMs.

### **Operations and Maintenance Plan**

- Develop a preliminary Operations and Maintenance Plan.

### **Training Plan**

- Develop a preliminary Training Plan for proposed ECMs.

## **1.4 100% Phase - Final Investment Grade Audit Report**

The final Investment Grade Audit Scope of work shall be completed within 180 days of the date of execution of this Contract.

### **Investment Grade Audit Report**

The Investment Grade Audit report includes:

#### **Overview**

- Contact information
- Executive Summary
- Description of the facility, measures evaluated, analysis methodology, results
- Summary table presenting the cost and savings estimates for each measure and for the project as a whole.
- Summary table of recommended energy and water saving measures, including total and itemization for each measure of total design and construction cost, annual maintenance



costs, the first year cost avoidance (in dollars and energy units), simple payback and equipment service life

- Any cost savings due to changes to utility rates or commodity costs due to changes in metering, commodity procurement, etc.
- Summary of annual energy and water use and costs by fuel type and costs of existing or base year condition
- Calculation of energy and cost savings expected if all recommended measures are implemented, and total percentage savings of total facility energy cost.
- Description of the existing facility, mechanical and electrical systems
- Summary description of measures, including estimated costs and savings for each as detailed above
- Summary of recommended Owner related actions (i.e. internal occupant energy reduction programs or competitions, plug load reduction measures, procurement recommendations- laptops not desktops, etc.)
- Discussion of measures considered but not investigated in detail
- Summary of the value beyond energy cost savings (i.e. improvement to learning environment, student engagement, campus sustainability goals, greenhouse gas reduction, employee retention and recruiting benefits, employee productivity benefits, etc.). Qualitative at a minimum, quantitative would be best.
- Conclusions and recommendations

#### Baseline and/or base year energy use

- Description and itemization of current billing rates, including schedules and riders.
- Summary of all utility bills for all fuel types and water.
- Identification and definition of base year consumption and description of how established
- Provide detail on baseline adjustments, if any, as approved by Owner.
- Reconciliation of estimated end use consumption (i.e. lighting, cooling, heating, fans, plug loads, etc.) with base year (include discussion of any unusual findings)

#### Description of each operational, energy and water saving measure

##### Written description

- Existing conditions
- Description of equipment to be installed and how it will function
- Detailed descriptions for each measure including analysis method, supporting calculations (submitted in appendices), results, proposed equipment and implementation issues, including a discussion of facility operations and maintenance procedures that will be affected by installation/implementation.
- Plan for installing or implementing the recommendation.
- Discussion of the conclusions, observations and caveats regarding cost and savings calculations.

##### Savings calculations

- Base year energy use and cost
- Post-retrofit energy use and cost
- Savings calculations including analysis methodology, supporting calculations and assumptions used.
- Annual savings calculations. The cost savings for all energy saving measures must be estimated for each year during the contract period. Savings must be able to be achieved each year (cannot report average annual savings over the term of the contract).

- Savings calculations must be limited to savings allowed by Owner as described above.
- Percent cost-avoidance projected
- Description and calculations for any proposed rate changes
- Explanation of how savings interactions between retrofit options is accounted for in calculations.
- Operation and maintenance savings, including detailed calculations and description. Ensure that maintenance savings are only applied in the applicable years and only during the lifetime of the particular equipment.
- If computer simulation is used, include a short description and state key input data and software used. If requested by Owner, access will be provided to the program and all assumptions and inputs used, and/or printouts shall be provided of all input files and important output files and included in the Financial Grade Operational Audit with documentation that explains how the final savings figures are derived from the simulation program output printouts
- If manual calculations are employed, formulas, assumptions and key data shall be stated.
- Conclusions, observations, caveats

#### Cost estimate

- A detailed narrative of the construction scope of work and open book pricing model that builds up the cost to a total fixed-firm price. Include all anticipated costs associated with installation and implementation. Provide specifications for major mechanical components as well as detailed lighting and water fixture counts.
- Engineering/design costs
- ESCO/vendor estimates for labor, materials, and equipment; include special provisions, overtime, etc., as needed to accomplish the work with minimum disruption to the operations of the facilities.
- Permit costs
- Construction management fees
- Environmental costs or benefits (disposal, avoided emissions, handling of hazardous materials, etc.)
- Note that all markups and fees stated in **Exhibit D-4** shall be used in the cost estimates, unless otherwise documented and justified due to change in scope or size of project or other unforeseen circumstances agreed to by Owner in writing.
- Conclusions, observations, caveats
- Other cost categories as defined above under “markups” in Section 3b above.

#### Other

- Estimate of average useful service life of equipment
- Preliminary commissioning plan
- Preliminary measurement and verification plan, following the current version of the International Performance Measurement and Verification Protocol (IPMVP), explaining how savings from each measure is to be measured and verified (description of Option A, B, C, or D will be implemented for the measure).
- Discussion of impacts that facility would incur after contract ends. Consider operation and maintenance impacts, staffing impacts, budget impacts, etc., and identify who is responsible for maintenance.
- Compatibility with existing energy management control and/or building automation systems.

- Complete appendices that document the data used to prepare the analyses. Describe how data were collected.

Report Submissions and Review Process (recommended but can be modified based upon IGA development tracking).

- 30% IGA Report (shall be completed within X calendar days after execution of this Contract). Facility descriptions (general, envelope, lighting, HVAC, controls, water); baseline lighting and water audit; equipment inventories; baseline EMS trending and data logger measurements (if completed, acceptable to submit at 60% report). This is to be submitted after the Scope of Work in Section 1.1 of this document is completed.
- 60% IGA Report (shall be completed within X calendar days after execution of this Contract) – Used as a scoping document to outline potential ECMs that will be feasible to include in performance contract and those that will not; high-level cost and savings analysis; draft pro forma/financial models; draft M&V plan; submission of supporting data including EMS trending analyses and data logger results; baseline energy simulation model (if applicable) input files and output reports.  
This is to be submitted after the Scope of Work in Section 1.2 of this document is completed.
- 90% IGA Report (shall be completed within X calendar days of the date of execution of this Contract) – Baseline energy and water consumption/cost analysis per site and per building; utility consumption allocation by end-use; building EUI and other performance metrics; Executive summary with ECM list economics and pro forma; facility descriptions; energy and water analysis; ECM section with detail descriptions existing conditions and proposed upgrades; final M&V plan; final ECM costs following open-book pricing model; final ECM savings analyses – spreadsheet models or energy models (input and outputs if applicable); appendices for supporting data including EMCS trending data. This is to be submitted after the Scope of Work in Section 1.3 of this document is completed.
- 100% IGA Report, which shall incorporate all necessary engineering, economic, financial, and overall scope of work changes, as well as all Owner and 3<sup>rd</sup> Party comment resolutions, shall be completed within X calendar days of the execution of this Contract. This is to be submitted after the Scope of Work in Section 1.4 of this document is completed.

After each report submission, Owner's Representative shall have ten (10) working days of focused review of reports and generate comments and questions in a formal comment document. This is submitted to ESCO for review and response. A conference call then takes place to review any comments needing further discussion and resolution. ESCO has built in, sufficient time in the agreed to schedule to complete this process.

**EXHIBIT D-2**

**NOTICE OF ACCEPTANCE OF INVESTMENT GRADE AUDIT REPORT**

Notice of Acceptance

Date of Notice \_\_\_\_\_

Notice is hereby given that **Owner** accepts the Investment Grade Audit and Project Development Proposal by ESCO, as contemplated in **Section 2 of the Investment Grade Audit \ Contract** dated \_\_\_\_\_.

Owner Name \_\_\_\_\_

By \_\_\_\_\_

Date

When completely executed, this form is to be sent by certified mail to the ESCO by Owner Name.

SPECIMEN

### EXHIBIT D-3

#### SAVINGS MEASUREMENT AND VERIFICATION PLAN

The M&V plan will be developed per the most recent IPMVP guidelines for M&V of annual guaranteed savings. This plan and report shall be thoroughly reviewed by Owner and its 3rd Party Owner's Representative. Energy-related cost savings shall be measured and/or calculated as specified in the savings M&V Plan. Upon acceptance of construction by Owner, an annual M&V Report shall be provided to Owner for the previous performance year to provide verification of savings. The M&V report shall be submitted within 60 days of the anniversary of the performance period Commencement Date.

In the event the Energy and Cost Savings achieved during such guarantee year are less than the Guaranteed Energy and Cost Savings as defined in the agreed to Savings Guarantee, the ESCO shall pay the Owner an amount equal to the shortfall. The ESCO shall remit such payments to the Owner within an agreed upon time frame (in days) of written notice by the Owner of such monies due. The ESCO shall also be obligated to remedy the ECM deficiencies causing the shortfall at no cost to the Owner.

Prepare the M&V Plan as outlined below.

#### List of Processes and Tables:

##### **Risk, Responsibility and Performance Matrix. M&V Plan and Savings Calculation Methods**

- Proposed Annual Savings Overview
- Site Use and Savings Overview (Optional)
- M&V Plan Summary
- Schedule of Verification Reporting Activities
- Proposed Annual Savings For ECM
- Expected Year 1 Savings for ECM

#### **Risk, Responsibility and Performance Matrix.**

The ESCO shall complete and include the matrix below to summarize the allocation of responsibility for key items related to M&V.

#### **RISK, RESPONSIBILITY AND PERFORMANCE MATRIX**

RESPONSIBILITY/DESCRIPTION	CONTRACTOR PROPOSED APPROACH
<b>1. Financial</b>	
<b>a. Interest rates:</b> Neither the contractor nor the Owner has significant control over prevailing interest rates. Higher interest rates will increase project cost, financing/project term, or both. The timing of the TO signing may impact the available interest rate and project cost.	
<b>b. Construction costs:</b> The contractor is responsible for determining construction costs and defining a budget. In a fixed-price design/build contract, the Owner assumes little responsibility for cost overruns. However, if construction estimates are significantly greater than originally assumed, the contractor may find that the project or measure is no longer viable and drop it before TO award. In any design/build contract, the Owner loses some design control. <b>Clarify design standards and the design approval process (including changes) and how costs will be reviewed.</b>	

<p><b>c. M&amp;V confidence:</b> The Owner assumes the responsibility to determine the confidence that it desires to have in the M&amp;V program and energy savings determinations. The desired confidence will be reflected in the resources required for the M&amp;V program, and the ESCO must consider the requirement prior to submittal of the final proposal. <b>Clarify how project savings are being verified (e.g., equipment performance, operational factors, energy use) and the impact on M&amp;V costs.</b></p>	
<p><b>d. Energy Related Cost Savings:</b> The Owner and the contractor may agree that the project will include savings from <i>recurring</i> and/or <i>one-time</i> costs. This may include one-time savings from avoided expenditures for projects that were appropriated but will no longer be necessary. Including one-time cost savings before the money has been appropriated may involve some risk to the Owner. Recurring savings generally result from reduced O&amp;M expenses or reduced water consumption. These O&amp;M and water savings must be based on actual spending reductions. <b>Clarify sources of nonenergy cost savings and how they will be verified.</b></p>	
<p><b>e. Delays:</b> Both the contractor and the Owner can cause delays. Failure to implement a viable project in a timely manner costs the Owner in the form of lost savings, and can add cost to the project (e.g., construction interest, re-mobilization). <b>Clarify schedule and how delays will be handled.</b></p>	
<p><b>f. Major changes in facility:</b> The Owner controls major changes in facility use, including closure. <b>Clarify responsibilities in the event of a premature facility closure, loss of funding, or other major change.</b></p>	
<p><b>2. Operational</b></p>	
<p><b>a. Operating hours:</b> The Owner generally has control over operating hours. Increases and decreases in operating hours can show up as increases or decreases in “savings” depending on the M&amp;V method (e.g., operating hours multiplied by improved efficiency of equipment vs. whole-building/utility bill analysis). <b>Clarify whether operating hours are to be measured or stipulated and what the impact will be if they change.</b> If the operating hours are stipulated, the baseline should be carefully documented and agreed to by both parties.</p>	
<p><b>b. Load:</b> Equipment loads can change over time. The Owner generally has control over hours of operation, conditioned floor area, intensity of use (e.g., changes in occupancy or level of automation). Changes in load can show up as increases or decreases in “savings” depending on the M&amp;V method. <b>Clarify whether equipment loads are to be measured or stipulated and what the impact will be if they change.</b> If the equipment loads are stipulated, the baseline should be carefully documented and agreed to by both parties.</p>	
<p><b>c. Weather:</b> A number of energy efficiency measures are affected by weather. Neither the contractor nor the Owner has control over the weather. Should the Owner agree to accept risk for weather fluctuations, it shall be contingent upon aggregate payments not exceeding aggregate savings. <b>Clearly specify how weather corrections will be performed.</b></p>	
<p><b>d. User participation:</b> Many energy conservation measures require user participation to generate savings (e.g., control settings). The savings can be variable and the contractor may be unwilling to invest in these measures. <b>Clarify what degree of user participation is needed and utilize monitoring and training to mitigate risk.</b> If performance is stipulated, document and review assumptions carefully and consider M&amp;V to confirm the capacity to save (e.g., confirm that the controls are functioning properly).</p>	
<p><b>3. Performance</b></p>	
<p><b>a. Equipment performance:</b> The contractor has control over the selection of equipment and is responsible for its proper installation, commissioning, and performance. The contractor has responsibility to demonstrate that the new improvements meet expected performance levels including specified equipment capacity, standards of service, and efficiency. <b>Clarify who is responsible for initial and long-term performance, how it will be verified, and what will be done if performance does not meet expectations.</b></p>	

<p><b>b. Operations:</b> Performance of the day-to-day operations activities is negotiable and can impact performance. However, the contractor bears the ultimate risk regardless of which party performs the activity. <b>Clarify which party will perform equipment operations, the implications of equipment control, how changes in operating procedures will be handled, and how proper operations will be assured.</b></p>	
<p><b>c. Preventive Maintenance:</b> Performance of day-to-day maintenance activities is negotiable and can impact performance. However, the contractor bears the ultimate risk regardless of which party performs the activity. <b>Clarify how long-term preventive maintenance will be assured, especially if the party responsible for long-term performance is not responsible for maintenance (e.g., contractor provides maintenance checklist and reporting frequency). Clarify who is responsible for performing long-term preventive maintenance to maintain operational performance throughout the contract term. Clarify what will be done if inadequate preventive maintenance impacts performance.</b></p>	
<p><b>d. Equipment Repair and Replacement:</b> Performance of day-to-day repair and replacement of contractor-installed equipment is negotiable, however it is often tied to project performance. The contractor bears the ultimate risk regardless of which party performs the activity. <b>Clarify who is responsible for performing replacement of failed components or equipment replacement throughout the term of the contract.</b> Specifically address potential impacts on performance due to equipment failure. Specify expected equipment life and warranties for all installed equipment. Discuss replacement responsibility when equipment life is shorter than the term of the contract.</p>	

## M&V PLAN AND SAVINGS CALCULATION METHODS OUTLINE

Fill in the following tables or provide equivalent information.

### PROPOSED ANNUAL SAVINGS OVERVIEW

[Include all applicable fuels/commodities for project, e.g., electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

ECM	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)**	Total energy and water cost savings, Year 1 (\$/yr)	Other energy-related O&M cost savings, Year 1 (\$/yr)	Total cost savings, Year 1 (\$/yr)
Total savings									
<b>First Year Guaranteed Cost Savings: \$</b>									

Notes

\*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

MBtu=10<sup>6</sup> Btu.

\*\*If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).

### SITE USE AND SAVINGS OVERVIEW

	Total energy savings (MBtu/yr)	Electric energy savings (kWh/yr)	Electric demand savings (kW/yr)*	Natural gas savings (MBtu/yr)**	Water savings (gallons/yr)	Other energy savings (MBtu/yr)**

Total proposed project savings						
Usage for entire site**						
% Total site usage saved						
<b>Project square footage (KSF)</b>						
Total site square footage (KSF)						
% Total site area affected						
<b>Notes</b>						
MBtu=10 <sup>6</sup> Btu						
*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.						
**If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).						
***Define usage period.						
KSF = 10 <sup>3</sup> square feet.						

### M&V PLAN SUMMARY

ECM No.	ECM Description	M&V Option Used*	Summary of M&V Plan

\*M&V options include A, B, C, and D of the International Performance Measurement and Verification Protocol (IPMVP).

### SCHEDULE OF VERIFICATION REPORTING ACTIVITIES

Item	<sup>a</sup> Recommended time of submission	<sup>a</sup> Owner's review and acceptance period
Post-Installation Report	30 to 60 days after acceptance	30 days
Annual Report	30 to 60 days after annual performance period	30 days

<sup>a</sup>Times are recommended based on industry practice; modify as needed.

### PROPOSED ANNUAL SAVINGS FOR EACH ECM

[Include all applicable fuels/commodities for project, such as: electric energy, electric demand, natural gas, fuel oil, coal, water, etc.]

	Total energy use (MBtu/yr)	Electric energy use (kWh/yr)	Electric energy cost, Year 1 (\$/yr)	Electric demand* (kW/yr)	Electric demand cost, Year 1 (\$/yr)	Natural gas use (MBtu/yr)**	Natural gas cost, Year 1 (\$/yr)	Water use (gallons/yr)	Water cost, Year 1 (\$/yr)	Other energy use (MBtu/yr)**	Other energy cost, Year 1 (\$/yr)	Other energy-related O&M costs, Year 1 (\$/yr)	Total costs, Year 1 (\$/yr)
Baseline use													
Post-installation use													
Savings													

#### Notes

\*Annual electric demand savings (kW/yr) is the sum of the monthly demand savings.

MBtu = 10<sup>6</sup> Btu.

\*\*If energy is reported in units other than MBtu, provide a conversion factor to MBtu for link to cost schedules (e.g., 0.003413 MBtu/kWh).



## ECM-SPECIFIC M&V PLAN AND SAVINGS CALCULATION METHODS

### Develop section for each ECM.

- Summarize the scope of work, location, and how cost savings are generated. Describe source of all savings including energy, water, O&M, and other (if applicable).
- Specify the M&V guideline and option used from the International Performance Measurement and Verification Protocol (IPMVP).
- Provide an overview of M&V Activities for ECM. Explain intent of M&V plan, including what is being verified.
- Provide an overview of savings calculations methods for ECM. Provide a general description of analysis methods used for savings calculations.

### Proposed Energy and Water Savings Calculations and Methodology

- Provide detail description of analysis methodology used. Describe any data manipulation or analysis that was conducted prior to applying savings calculations.
- Detail all assumptions and sources of data, including all stipulated values used in calculations.
- Include equations and technical details of all calculations made. (Use appendix and electronic format as necessary.) Include description of data format (headings, units, etc.).
- Details of any savings or baseline adjustments that may be required.
- Detail energy and water rates used to calculate cost savings. Provide post-acceptance performance period energy and water rate adjustment factors.
- Detail proposed savings for this energy conservation measure for post-acceptance performance period. Include table - Proposed Annual Savings for Each ECM.

### Operations and Maintenance Cost Savings

- Provide justification for O&M cost savings. Describe how savings are generated. Detail cost savings calculations.
- Provide post-acceptance performance period other cost savings adjustment factors.

### Details of other savings (if applicable)

- Provide justification for cost savings. Describe how savings are generated. Detail cost savings calculations.
- Provide post-acceptance performance period other cost savings adjustment factors.

### Post-Installation M&V Activities - Describe the intent of post-installation verification activities, including what will be verified.

- Describe variables affecting post-installation energy or water use. Include variables such as weather, operating hours, set point changes, etc. Describe how each variable will be quantified, i.e., measurements, monitoring, assumptions, manufacturer data, maintenance logs, engineering resources, etc.
- Define key system performance factors characterizing the post-installation conditions such as lighting intensities, temperature set points, etc.
- Define requirements for Owner witnessing of measurements if different than whole project data requirements.
- Provide details of post-installation data to be collected, including: Parameters to be monitored, Details of equipment to be monitored (location, type, model, quantity, etc.), Sampling plan, including details of usage groups and sample sizes, Duration, frequency, interval, and seasonal or other requirements of measurements, Monitoring equipment to be used, Installation requirements for monitoring equipment, Calibration requirements/procedures, Expected accuracy of measurements/monitoring equipment, Quality control procedures to be used, Form of data to be collected (.xls, .csvs, etc.), Sample data collection forms (optional)
- Detail data analysis to be performed.

### **Post-Acceptance Performance Period Verification Activities**

- Describe variables affecting post-acceptance performance period energy or water use. Include variables such as weather, operating hours, set point changes, etc. Describe how each variable will be quantified, i.e., measurements, monitoring, assumptions, manufacturer data, maintenance logs, engineering resources, etc.
- Define key system performance factors characterizing the post-acceptance performance period conditions. Include factors such as comfort conditions, lighting intensities, temperature set points, etc.
- Describe the intent of post-acceptance performance period verification activities – what will be verified.
- Provide detailed schedule of post-acceptance performance period verification activities and inspections.
- Define requirements for Owner witnessing of measurements if different than whole project data requirements.
- Provide details of post-acceptance performance period data to be collected, including: Parameters to be monitored, Details of equipment to be monitored (location, type, model, quantity, etc.), Sampling plan, including details of usage groups and sample sizes, Duration, frequency, interval, and seasonal or other requirements of measurements, Monitoring equipment to be used, Installation requirements for monitoring equipment, Calibration requirements/procedures, Expected accuracy of measurements/monitoring equipment, Quality control procedures to be used, Form of data to be collected (.xls, .csv, etc.), Sample data collection forms (optional)
- Detail data analysis to be performed.
- Define O&M and repair reporting requirements. Detail verification activities and reporting responsibilities of Owner and contractor on operations and maintenance items. Define reporting schedule.

**EXHIBIT D-4**

**PROJECT PRICING**

The below schedule is a deliverable that summarizes the pricing structure and the proposed project costs and price. ESCO shall complete this chart as a project deliverable as described in **Exhibit D-1– Scope of Work**

**Cost Markups**

		<b>RFP MARKUPS</b>	<b>FINAL PROJECT MARKUPS &amp; TOTAL COSTS</b>	
	<b>Project Budget</b>	<b>Maximum Percentage</b>	<b>Percent of Total Project Price</b>	<b>Price/Cost</b>
a	Subcontractor Costs (Contractor Costs to ESCO)	N/A		
b	Other Direct Purchases of Equipment, Material, Supplies (Supplier Costs to ESCO)			
c	<b>Total of Hard Costs</b>		$c = a + b$	
d	Project Development			
e	Design/Engineering			
f	Project Management			
g	Permits			
h	Performance Bond			
i	Payment Bond			
j	Commissioning			
k	Measurement & Verification			
l	Training			
m	Contingency			
n	Warranty Service			
o	<b>Total of Hard Costs &amp; ESCO Fees</b>		$o = c + \text{sum}(d:n)$	
p	Overhead			
q	Profit			
r	<b>PROJECT PRICE SUB TOTAL w/OH &amp; P</b>		$r = o + p + q$	

**Assumptions for Cost Markup Table Above**

Rows D - N are calculated as a percent of Row C  
Rows P & Q are calculated as a percent of Row O

**Annual Fees**

<b>First Year Annual Service Fees</b>	<b>Maximum Percent of Annual Savings</b>	<b>Final Annual Service Fee</b>
Measurement & Verification		
On-going Training		
Operations & Maintenance		
OTHER		
OTHER		

**Audit Fee**

Below is the fee to conduct the Investment Grade Audit and Project Development Proposal, on a cost per square foot basis and total price.

<b>AUDIT FEES</b>			
a	Investment Grade Audit	\$0.X/SQFT	
b	Total Square Feet (SQFT)	YYY	
c	Total Price for IGA	\$ZZZ	$c = a \times b$

319-697/7223446.1

**EXHIBIT E-1**

**FINGERPRINTING NOTICE AND ACKNOWLEDGEMENT**  
**FOR CONTRACTS OTHER THAN CONSTRUCTION CONTRACTS**

(Education Code Section 45125.1)

Other than business entities performing construction, reconstruction, rehabilitation, or repair who have complied with Education Code section 45125.2, business entities entering into contracts with the District must comply with Education Code sections 45125.1. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. The following information is provided simply to assist such entities with compliance with the law:

1. You (as a business entity) shall ensure that each of your employees who interacts with pupils outside of the immediate supervision and control of the pupil's parent or guardian or a school employee has a valid criminal records summary as described in Education Code section 44237. (Education Code §45125.1(a).) You shall do the same for any other employees as directed by the District. (Education Code §45125.1(c).) When you perform the criminal background check, you shall immediately provide any subsequent arrest and conviction information it receives to the District pursuant to the subsequent arrest service. (Education Code §45125.1(a).)
2. You shall not permit an employee to interact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Education Code section 45122.1. (Education Code §45125.1(e).) See the lists of violent and serious felonies in *Attachment A* to this Notice.
3. Prior to performing any work or services under your contract with the District, and prior to being present on District property or being within the vicinity of District pupils, you shall certify in writing to the District under the penalty of perjury that neither the employer nor any of its employees who are required to submit fingerprints, and who may interact with pupils, have been convicted of a felony as defined in Education Code section 45122.1, and that you are in full compliance with Education Code section 45125.1. (Education Code §45125.1(f).) For this certification, you shall use the form in *Attachment B* to this Notice.
4. If you are providing the above services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.1, above. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. The District shall determine whether an emergency or exceptional situation exists. (Education Code §45125.1(b).)
5. If you are an individual operating as a sole proprietor of a business entity, you are considered an employee of that entity for purposes of Education Code section

45125.1, and the District shall prepare and submit your fingerprints to the Department of Justice as described in Education Code section 45125.1(a). (Education Code §45125.1(h).)

I, as \_\_\_\_\_ *[insert "owner" or officer title]* of \_\_\_\_\_ *[insert name of business entity]*, have read the foregoing and agree that \_\_\_\_\_ *[insert name of business entity]* will comply with the requirements of Education Code §45125.1 as applicable, including submission of the certificate mentioned above.

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

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

Signature: \_\_\_\_\_

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

## **EXHIBIT E-1 - ATTACHMENT A**

### **Violent and Serious Felonies**

Under Education Code sections 45122.1 and 45125.1, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.
- (15) Assault with the intent to commit a specified felony, in violation of

Section 220.

- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug,



as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

**EXHIBIT B - ATTACHMENT B**

**Form for Certification of Lack of Felony Convictions**

*Note: This form must be submitted by the owner, or an officer, of the contracting entity before it may commence any work or services, and before it may be present on District property or be within the vicinity of District pupils.*

Entity Name: \_\_\_\_\_  
Date of Entity’s Contract with District: \_\_\_\_\_  
Scope of Entity’s Contract with District: \_\_\_\_\_

I, \_\_\_\_\_ [insert name] , am the \_\_\_\_\_ [insert “owner” or officer title] for \_\_\_\_\_ [insert name of business entity] (“Entity”), which entered a contract on \_\_\_\_\_, 20\_\_, with the District for \_\_\_\_\_.

I certify that (1) neither the Entity, nor any of its employees who are required to submit fingerprints and who may interact with pupils, have been convicted of a felony as defined in Education Code section 45122.1; and (2) the Entity is in full compliance with Education Code section 45125.1, including but not limited to each employee who will interact with a pupil outside of the immediate supervision and control of the pupil’s parent or guardian having a valid criminal background check as described in Education Code section 44237.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: \_\_\_\_\_, 20\_\_

Signature: \_\_\_\_\_  
Typed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Entity: \_\_\_\_\_

## EXHIBIT E-2

### FINGERPRINTING NOTICE AND ACKNOWLEDGMENT FOR CONSTRUCTION CONTRACTS (Education Code Section 45125.2)

Business entities entering into contracts with the Owner for the construction, reconstruction, rehabilitation or repair of a facility may comply with Education Code section 45125.2, in which case it would not have to comply with Section 45125.1. If such an entity is not compliant with Section 45125.2, then it must comply with Section 45125.1. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. Therefore, the following information is provided simply to assist you with compliance with the law:

1. The Owner has determined that your employee(s), or you as a sole proprietor, will have more than limited contact with students, therefore the law requires that you must use one or more of the following methods to ensure the safety of pupils (Education Code §45125.2(a)):
  - a. Install a physical barrier at the worksite to limit contact with pupils.
  - b. If you are not a sole proprietorship, have one of your employees, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony (see *Attachment A* to this Notice and Acknowledgement), continually monitor and supervise all of your employees. For the Department of Justice to so ascertain, your employee may submit fingerprints to the Department of Justice pursuant to Education Code section 45125.1(a).
  - c. Arrange, with Owner's approval, for surveillance of your employees by Owner's personnel.

Prior to commencing the Work, you shall submit the Independent Contractor Student Contact Form (see *Attachment B* to this Notice and Acknowledgement) to the Owner, which will indicate which of the above methods you will use.

2. If you are providing services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.2, above. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. Owner shall determine whether an emergency or exceptional situation exists. (Education Code §45125.2(d).)
3. If you use one or more of the three methods in Section 1 (above), you are not required to comply with Education Code section 45125.1. (Education Code §45125.2(b).)

I have read the foregoing and agree to comply with the requirements of this notice and Education Code sections 45125.1 and 45125.2 as applicable.

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

\_\_\_\_\_  
Signature

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

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

## **EXHIBIT E-2 - ATTACHMENT A**

### **Violent and Serious Felonies**

Under Education Code section 45125.2, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.

- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant

personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

**EXHIBIT E-2 - ATTACHMENT B**

**INDEPENDENT CONTRACTOR STUDENT CONTACT FORM  
FOR CONSTRUCTION CONTRACTS**

*Note: This form must be submitted by Contractor before it may commence any work.*

Contractor Firm Name: \_\_\_\_\_  
Supervisor/Foreman Name: \_\_\_\_\_  
Start Date: \_\_\_\_\_  
Completion Date: \_\_\_\_\_  
Location of Work: \_\_\_\_\_  
Hours of Work: \_\_\_\_\_  
Length of Time on Grounds: \_\_\_\_\_  
Number of Employees on the Job: \_\_\_\_\_

I am an owner or officer of Contractor authorized to sign this document on behalf of Contractor. Contractor acknowledges that the Owner has determined that Contractor's employees, or that Contractor as a sole proprietor, will have more than limited contact with students. Therefore, in order to comply with Education Code section 45125.2, Contractor will use the following methods to ensure student safety (check at least one):

- A physical barrier will be installed at the worksite to limit contact with pupils.
- Contractor is not a sole proprietorship, and its employees will be continually monitored and supervised by one of its employees who has not been convicted of a violent or serious felony.

Name of Supervising Employee:

\_\_\_\_\_

Date of Department of Justice verification that supervising employee has not been convicted of a violent or serious felony:

\_\_\_\_\_

Name of employee who is the custodian of the Department of Justice verification information:

\_\_\_\_\_

- The Owner has agreed that Contractor's employees, or Contractor as sole proprietor, will be surveilled by Owner's personnel.



If Contractor does not comply with the requirements of Education Code section 45125.2, then Contractor will comply with the requirements of Education Code section 45125.1.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

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

Signature: \_\_\_\_\_

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

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

Contractor: \_\_\_\_\_