Special Governing Board Agenda

CABRILLO UNIFIED SCHOOL DISTRICT

District Office Governing Board Room, 498 Kelly Avenue, Half Moon Bay, California 94109

Thursday, November 21, 2019 • Closed Session 6:00 PM • Open Session 7:00 PM

The Governing Board will meet for Closed Session to discuss labor negotiations, student discipline, personnel matters, litigation, and other matters as provided under California state law as set forth on the agenda below. Following Closed Session, the Board reconvenes to Public Session. Adjournment of the Public Session will be no later than 10:00 PM for all regular and special meetings, unless extended by a majority vote of the Board. Writings relating to a board meeting agenda item that are distributed to at least a majority of the Board members less than 72 hours before the noticed meeting, and that are public records not otherwise exempt from disclosure, will be available for inspection at the District administrative offices, 498 Kelly Avenue, Half Moon Bay, CA. Such writings may also be available on the District's website. (Government Code 54957.5b).

Individuals who require special accommodations (Spanish interpreter, accessible seating, documentation in accessible format, etc.) should contact the Administrative Assistant to the Superintendent at (650) 712-7112 no later than 48 hours preceding the meeting.

IF YOU WISH TO ADDRESS THE BOARD OF EDUCATION

Please submit a "Request to Address the Board" slip to the Administrative Assistant to the Superintendent prior to the introduction of the item. For meeting facilitation, please submit the slip at your earliest possible convenience. Upon recognition by the President of the Board, please come to the podium and identify yourself prior to speaking. The Governing Board reserves the right to limit speaking time to three (3) minutes or fewer per individual. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four (4) minutes.

Closed Session Items: may be addressed under Public Comment on Closed Session Topics.
Non Agenda and Consent Items: may be addressed under Public Comments.
Agenda Items: may be addressed after the conclusion of the staff presentation on the item.

Open Board meeting held in the District Office Board Room may be recorded and broadcast.

1. CALL TO ORDER – 6:00 PM

2. ROLL CALL / QUORUM

___ Ms. Sophia Layne, President
___ Ms. Kimberly Hines, Vice President
___ Ms. Lizet Cortes, Clerk to the Governing Board
___ Ms. Mary Beth Alexander, Member
___ Ms. Freya McCamant, Member

3. COMMENTS FROM THE PUBLIC RELATED TO ITEMS ON THE CLOSED SESSION AGENDA

4. RECESS TO CLOSED SESSION

a. Pupil Personnel/Student Matters (Education Code §35146).

The Board may hear expulsion cases and consider the requests from students for re-admittance following expulsion. Also, the Board may review student disciplinary reports, exemption requests, and other student related matters that are regarded to be confidential according to Education Code. The Education Code requires closed session in these cases to prevent disclosure of confidential student record information.

b. Public Employee Discipline/Dismissal/Release (Government Code §54954.5, §54957).

c. Conference with Legal Counsel – Anticipated Litigation (Government code §54956.9).

Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of Government Code § 54956.9

d. Public Employee Evaluations – Superintendent (Government Code §54954.5, §54957)

5. RECONVENE OPEN SESSION – 7:00 PM

Report action from Closed Session: if applicable.

6. PLEDGE OF ALLEGIANCE

7. ADOPTION OF AGENDA AS PRESENTED / AMENDED

8. COMMENTS FROM THE PUBLIC RELATED TO ITEMS NOT ON THIS AGENDA

9. DISCUSSION ITEMS

a. Receive Financial Overview Update and Revised List of Potential Cut Recommendations

9.a Board Memo Financial Overview Update.pdf (p. 4)

9.a.1 Financial Overview Update 112119 v3.pdf (p. 5)

10. ACTION ITEMS

a. Authorization to Change from the San Mateo County Schools Insurance Group to the Alameda County Schools Insurance Group for the Purchase of Dental and Vision Insurance, and Authorize the Superintendent or Designee to Sign all Agreements

10.a Dental and Vision Insurance Change Authorization.pdf (p. 61)

10.a.1 ACSIG Vision Self Funded Participation Agreement.pdf (p. 62)

10.a.2 ACSIG-EDGE Dental Self Funded Participation Agreement.pdf (p. 69)

b. Adopt Resolution No. 28-19 Approving Purchase of Solar Facilities from Solar City in Accordance with Provisions and Intent of Bond Measures to Increase Operational Efficiency and Maximize Cost Savings

10.b Board Memo Resolution Purchase of Solar Facilities.pdf (p. 77)

10.b.1 Resolution No. 28-19 Purchase of Solar Power Facilities.pdf (p. 78)

10.b.2 Buyout Statement Cunha.pdf (p. 80)

10.b.3 Solar Power Purchase Agreement (Commercial CA)-Cunha 2012.pdf (p. 81)

10.b.4 Buyout Statement HMBHS.pdf (p. 107)

10.b.5 Solar Power Purchase Agreement (Commercial CA)-HMBHS 2012.pdf (p. 108)

c. Adopt Resolution No. 29-19 Accepting Agreement for Termination of Lease and Quit Claim Deed

10.c Board Memo Resolution Agreement for Termination of Lease.pdf (p. 134)

10.c.1 Resolution No 29-19 Termination of Leases and Quit Claim Deed.pdf (p. 135)

10.c.2 18-103 Memorandum of Commencement Date- Executed by Blach.pdf (p. 137)

10.c.3 18-103 Agreement and Release of Any and All Claims- Executed by Blach.pdf (p. 138)

10.c.4 18-103 Termination Agreement and Quit Claim Deed- Executed by Blach.pdf (p. 141)

11. RETURN TO CLOSED SESSION (IF NECESSARY)

12. ADJOURNMENT OF THE MEETING

CABRILLO UNIFIED SCHOOL DISTRICT

498 Kelly Avenue, Half Moon Bay, California 94019 • 650 712-7100 • Fax 650 726-0279 • www.cabrillo.k12.ca.us

SUPERINTENDENT
Sean McPhetridge, Ed.D.

GOVERNING BOARD
Mary Beth Alexander
Lizet Cortes
Kimberly Hines
Sophia Layne
Freya McCamant

MEMORANDUM

MEETING DATE: November 21, 2019
TO: Members of the Governing Board
FROM: Sean McPhetridge, Ed.D., Superintendent
CATEGORY: Discussion
RECOMMENDATION: Receive Financial Overview Update and Revised List of Potential Cut Recommendations

BACKGROUND INFORMATION

Tonight staff will present an update to the Board and public on the background information of district spending and potential recommendations for budget cuts, district savings, and operational efficiencies. Because Measure I Parcel Tax prevailed with approximately 75% of voters voting affirmatively, the Board directed staff to bring back a revised list of potential budget cut recommendations since the original menu of $3.8 million of cuts is no longer required.

Please note the presentation will be uploaded once finalized and updated.

Financial Overview Update and Revised List of Potential Budget Cut Recommendations

November 21, 2019

Revised 11/20/2019

Objective of Presentation

Staff now present CUSD's financial overview update with a revised list of potential budget cuts/savings required for Board action to contain spending and maintain local control.

With an assumption the Measure I parcel tax has succeeded (~75% of yes votes as of November 15, 2019), staff are able to provide a smaller list of cuts of programs and services toward the goal of regaining a positive budget certification, with approximately $2.5 million dollars in cuts now required.

Financial Planning Process Overview

Robust process for decision-making ensures 'good' decisions and facilitates implementation

Identify decision and decision-maker	Gather inputs	Assess and decide	Communicate 'what' and 'why'	Implement
• Decision: Budget cuts to balance CUSD's budget must be presented by December 2019 • Decision-maker: Board to act on budget cuts recommended by staff	• District leadership • Bargaining group and PTO representatives • Community groups • County, FCMAT (e.g., standards and best practices)	• Superintendent recommendation based on staff presentations to Board (e.g., current existing district resources, future needs, and proposal for budget cuts)	• Superintendent, along with Board and District leadership, will work in Board meetings and other venues to explain budget cut decisions and rationale	• All employees and community members must ultimately come to understand the need for budget cuts in order for the district to remain solvent

Financial Planning Process - Timeline and Key Milestones

Short-term budget cut proposals presented for Board approval in December to meet SMCOE deadline; mid- to long-term strategic planning throughout 2020 to achieve fiscal solvency

SEP '19	OCT '19	NOV '19	DEC '19	JAN-MAR '20	APR '20+
Prepare	**Assess/ Consult**	**Discuss**	**Decide/ Inform**	**Implement**	**Implement/ Plan**
• Financial overview update and planning process (to accompany presentation on Unaudited Actuals)	• Resource analysis and assessment of essential needs for district operations • Inputs gathered for proposal on budget cuts to go to Board	• Analysis of parcel tax election results to see if additional cuts are required • Preliminary report on short-term budget cuts ahead	• Recommendation on actionable cuts required by SMCOE • Ongoing efforts to inform community and stakeholders of budget cuts	• Detailed work to implement budget restructure plan • Layoff notices • District restructure planning ongoing to achieve cuts	• Restructure planning and implementation ongoing in 2020 • Mid-term planning and long-term strategic planning to implement cuts
SMC Office of Education and FCMAT consult/oversight				**SMC Office of Education monitoring**	

Note: SMCOE = San Mateo County of Education. FCMAT = Fiscal Crisis and Management Assistance Team.

Principles of Change and Commitment to Basic Responsibilities

CUSD must maintain core instructional focus while also aligning and "right-sizing" our current operational arrangements to be financially sustainable and meet our needs ongoing

- A continued focus on student achievement (Local Control Accountability Plan)
- A partnership between student, family, school, district, and community
- A commitment to learn from the past and prepare for the future
- A need for sensitivity as budget cuts personally impact employees and families
- A commitment to empathy, growth mindset, and open minds during the process
- A goal to be data-driven, transparent, and inclusive in fact-finding, analysis, and decision-making, including consideration of impacts that result with budget cuts
- The Board is not taking action tonight after the recommendations are presented: actionable cuts/savings of at least $2.5 million must be decided by the Board in December in order for CUSD to regain solvency and retain our local control

Note: LCAP = Local Control Accountability Plan

Out of Scope for Today: Managing Expectations for Discussion

Potential opportunities requiring contract negotiations with our employee unions and/or significant time/effort to consider/prepare will be considered in 2020 for future savings

'Parking Lot'

- CUTA and CSEA contracts (e.g., class sizes, employee work days per year, calendar changes, salaries/benefits) are negotiated and outside our scope
- Changes in elementary school area boundaries, graduation requirements, and strategies to increase enrollment would also need further unpacking
- Restricted funds (e.g., preschool, adult school, construction funds, etc.) unless there are appropriate opportunities to shift costs from General Fund
- Sale/lease of capital assets (e.g., surplus real estate) requires more time also
- Significant new revenue opportunities and partnerships with benefactors and other contributing agencies will require additional time outside this discussion

Student Achievement is the Focus in Our LCAP's Four Core Areas

We will need continued focus on 'what' we do with improvements in 'how' we achieve it

Local Control Accountability Plan (LCAP) Goal Highlights

- **Literacy**
  - Students on track early (by third grade) for future learning
- **College and career readiness**
  - Well-rounded students - academic, social-emotional, physical domains
  - Ready for adult life, citizenship, and choice of college/career pathways
- **Family engagement**
  - Partnership
  - Inclusion
- **School safety and climate**
  - Emergency preparedness
  - Inclusion

Note: Local Control Accountability Plan

An Enemy to System Improvement: “We’ve always done it that way.”

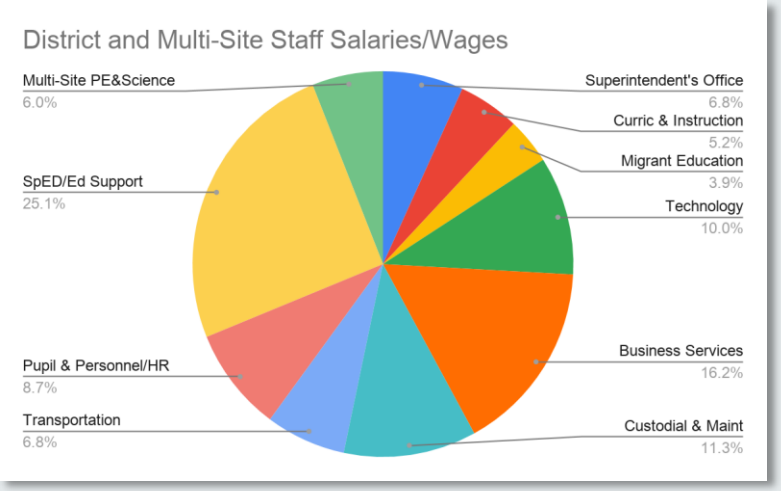
Best practices represent potential opportunities for us to improve results and reduce costs.

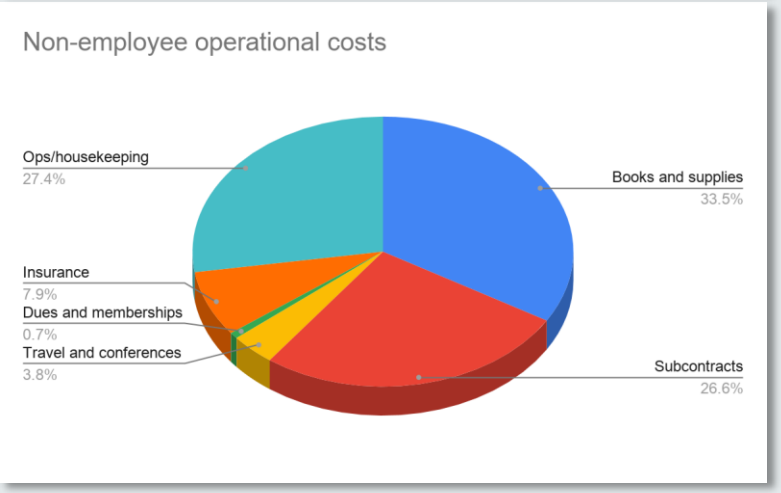
Topic	Best practices as opportunities for program improvements and savings
Technology and other operational upgrades can bring efficiencies and cost savings to us	Becoming more cost-effective and user-friendly (e.g., software improvements, phone upgrades, utility procurement improvements, solar energy investments, and strategic cost savings in insurance and other service providers) helps us to reduce maintenance/service costs and to add student/family/employee benefits
Existing arrangements and taken-for-granted procedures/programs must be reviewed now	Some existing arrangements (e.g., non-contractual employee stipends, staffing, meal program or transportation or class offerings, and other “standard practices”) offer unclear benefits for their cost; updating the CUSD Facilities Master Plan will help realize additional maintenance/custodial efficiencies (energy savings, etc.)
Updates to curricula and existing practices are required for us to continuously improve our focus on learning	Some initiatives underway (e.g., MTSS, dyslexia assessments, ELD Master Plan, others) are investments that can help yield intervention savings for us over time; we can also focus on increased early childhood education efforts to help us maintain an equity lens, decrease downstream intervention costs, and help attract families back to CUSD to help address the trend of declining enrollment

Note: MTSS = Multi-Tiered Systems of Support. ELD = English Language Development.

Current Budget - District Office and Services (across all sites)

Careful review underway to identify opportunities for savings with minimal classroom impact





- **District Office (incl. multi-site staff) salaries/wages*: $4.1M/year**
  - Current “freeze” on backfilling most retirements/resignations
  - Reviewing additional administrator and DO positions (e.g., webmaster, IT network specialist, SPED/mental health, maintenance, custodial, transportation, TOSAs, and overtime)
- **All employee benefits (District Office/All Sites): $10.7M/year**
  - Reviewing employee health plan options to maintain services to employees but lower district costs; total (employer + employee) pension contributions are fixed by CA law and thus unalterable
- **Services/fees**: **$6.7M/year**
  - Reviewing district operations now for savings; subcontracts; membership dues; redundant software; use of specific site/department budgets/consultants; unused technology

Note: Interfund transfers (e.g., annual ~$100K interfund transfer from General Fund to Food Services fund, as typical of many school districts) not shown. Benefits and services/fees based on Unaudited Actuals reported September 12, 2019. *Spending estimates are based on total employee salaries/wages specific to site (including externally-funded jobs employed by CUSD) and enrollment as of September 2019; does not include employee benefits (e.g., health plans, pensions, training/services), district staffing (e.g., transportation, custodial/maintenance) and other services (e.g., books/supplies).

Revised Potential Cuts/Savings from District Office/Services

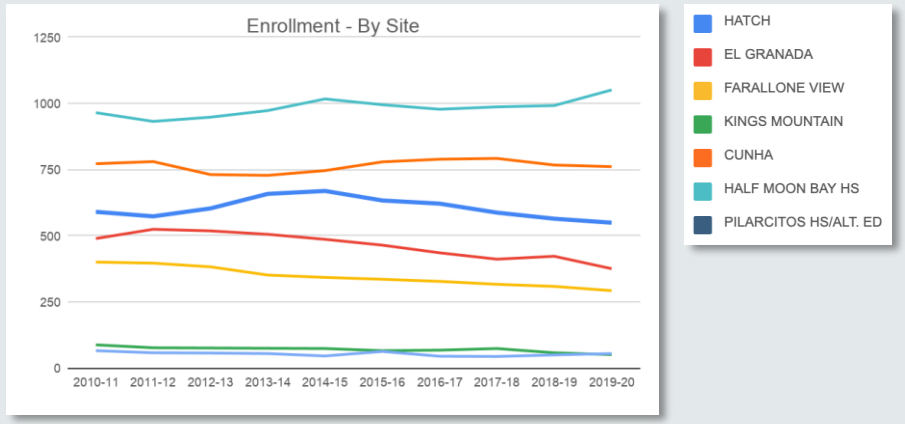
- Director of Categorical Programs ($155K, 1 FTE)
- District Custodial Supervisor ($70K, 1 FTE)
- District Network Specialist ($105K, 1 FTE)
- Behavior Intervention Coordinator ($75K, 1 FTE)
- District transportation is reduced ($130K, 2 FTE)
- 5 psychologists reduced to 4 ($100K, 1 FTE)
- Custodian reduction in force ($130K, 2 FTE)
- District broadcasting ended ($16K, .2 FTE)
- District webmaster contract suspended ($15K)
- ACSA dues no longer reimbursed ($11K)
- Summer cleaning contract not continued ($62K)
- Panorama contract not renewed ($12K)
- School Loop contract not renewed, but additional Infinite Campus functions added instead ($14K)
- Charge for breakfast if F&R ineligible ($20K)
- Pay off district solar lease with bond ($100K)
- School-linked service contractor cut ($100K)
- Lower dental/vision insurance costs ($60K)
- Lower workers comp insurance costs ($80K)
- Save energy costs with water conservation, LED lighting replacement, solar, etc. ($200K)
- CUSD facilities rental fees collected ($150K)

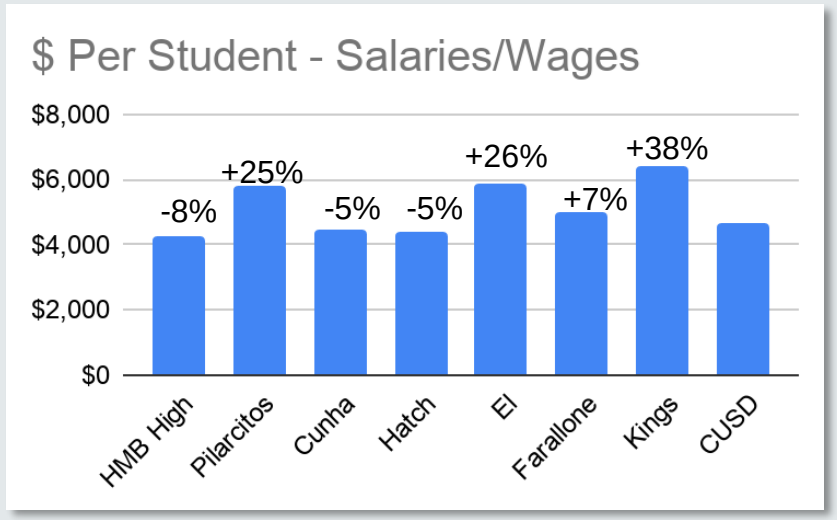
Note: this revised list of cuts/savings from the District Office and district services restored the HR Technician and added a reduction of one of the district behavior intervention coordinators after review and consultation with district staff. Cuts or savings provided is still around $1.6M.

TOTAL SAVINGS ~ $1.6 MILLION

Current Budget – Overview of School Site Spending

Enrollment continues declining, and per student spending varies by school site and by size





- Overall district enrollment has been declining annually and more steeply at CUSD elementary schools; overall decline may accelerate or continue due to ongoing local socioeconomic challenges (e.g., cost of living, agriculture industry decline), per statewide trends; CUSD contracted with a demographer using Measure M funds to help with our Facilities Master Plan update and our ongoing review to help inform our true school configuration needs ahead

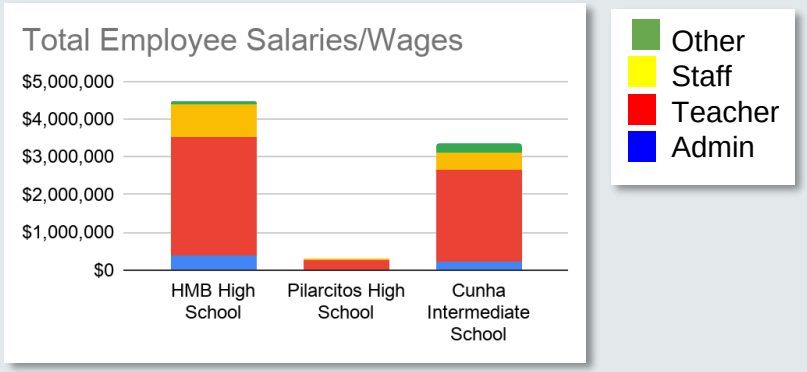
- Per student spending (employee salaries/wages)* varies
  - KMES: lower class sizes, fewer classrooms
  - EGES: includes required Special Education program
  - Pilarcitos HS: lower class sizes, fewer classrooms

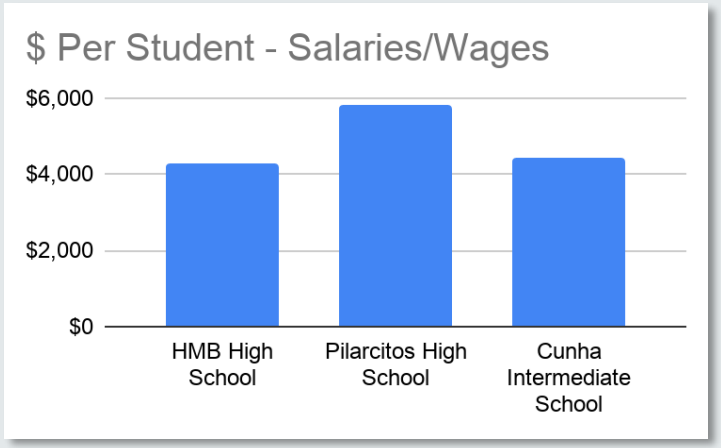
*Spending estimates are based on review of total employee salaries/wages specific to site (including externally-funded jobs employed by CUSD) and current enrollment data as of September 2019; analysis does not include employee benefits (e.g., health plans, pensions, training/services), district staffing (e.g., transportation, custodial/maintenance) and other services/outgo (e.g., books/supplies).

Current budget - Intermediate School and High Schools

Potential opportunities to reduce administrative, program, and support staff expenditures

- Per student spending (employee salaries/wages) slightly higher at Cunha than HMBHS; Pilarcitos HS spending higher as continuation school (lower class sizes, few classrooms)





- Some programs…
  - Are not core and unaffordable (e.g., some stipends, Middle College program for few students, et cetera)
  - Potentially more cost-effective alternatives or a need to make cuts of programs that benefit a few students but demand resources that could be used for all
  - Software redundancies that could be addressed through ending a contract to allow for cost savings while still providing the same functionality otherwise
  - Potential external funding sources (e.g., helping fund athletics, music/arts, and other non-core programs with help from our local non-profit partners)

*Spending estimates based on total employee salaries/wages specific to site (including externally-funded jobs employed by CUSD) and enrollment as of September 2019; does not include employee benefits (e.g., health plans, pensions, training/other services), district staffing (e.g., transportation, custodial/maintenance) and other services/outgo (e.g., books/supplies).

Revised List of Cuts/Savings from Intermediate and High Schools

- Cunha Dean period eliminated or alternative funding source identified ($16K, .17 FTE)
- Campus Supervisors reduced, one FTE from each school site ($80K, 2 FTE)
- Summer online credit recovery program suspended, ELD and ESY still offered ($50K)
- HMBHS athletics reduced by 25% instead of by 50% as previously brainstormed ($55K)
- Cunha after-school sports eliminated, partnerships with other agencies to offer instead ($100K)
- Middle college program no longer to be offered to a very small number of students ($50K)
- Community liaisons and attendance clerks reduced 50% or jobs combined ($100K, 2.25 FTE)
- Tighter staffing (6-period day explored, low-enrolled classes not to be offered, etc.) ($300K)

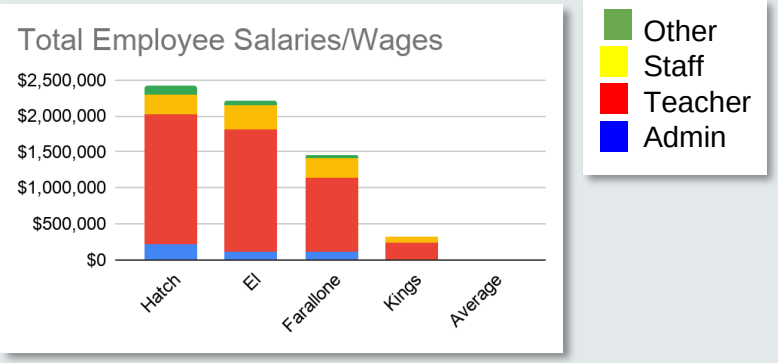
Note: This revised list removes former cuts of HMBHS Assistant Principal, HMBHS Counselor, Cunha Counselor, and 50% reduction of Librarian Technicians. The cut to HMBHS athletics has now been reduced from 50% to 25%. Previous cuts of $1.2 million are now reduced to $750K (approximately 40% lower than the original menu of proposed cuts to intermediate/high schools).

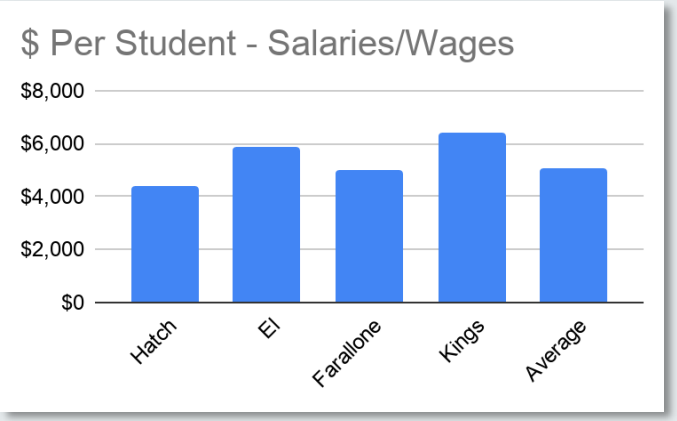
TOTAL SAVINGS ~ $750K

Current budget - Elementary Schools

Potential opportunities to find efficiencies, consolidate schools, and reduce other costs

- Per-student spending (employee salaries/wages) is notably higher at KMES (lower class sizes, fewer classrooms) and El Granada (specialized, mandated programs) than Hatch and Farallone View; highest student-to-teacher ratio at Hatch results in economy of scale





- Some programs…
  - Unclear/mixed benefits (e.g., redundancy in staffing that could be addressed through new job descriptions to achieve efficiencies of operations at school sites)
  - Potentially more cost-effective alternatives available
  - Potential external funding sources could help to restore cuts required of us now (e.g., 5th grade band)
  - Difficult decisions must be made to balance the needs of the district as a whole and to maintain local control

*Spending estimates based on total employee salaries/wages specific to site (including externally-funded jobs employed by CUSD) and enrollment as of September 2019; does not include employee benefits (e.g., health plans, pensions, training/other services), district staffing (e.g., transportation, custodial/maintenance) and other services/outgo (e.g., books/supplies).

Revised List of Potential Cuts/Savings from Elementary Schools

- Science specialist contribution eliminated or other funding source identified ($16K, .2 FTE)
- Kindergarten enrichment extra staffing eliminated, full-day K alternatives researched ($60K)
- 5th grade music enrichment staffing cut or alternative funding source identified ($30K, .3 FTE)
- Community liaisons and attendance clerks reduced 50% or jobs combined ($100K, 2.25 FTE)
- Tighter staffing (combo classes offered at each campus whenever necessary, etc.) ($200K)
- Closure of Kings Mountain Elementary ($162K in savings of extra teacher, support staff, etc.)

Note: this revised list reflects staff's recommendation that the consolidation of El Granada and Farallone View Elementary Schools be taken off the table as an unviable solution required only if the parcel tax had not prevailed. This revised list also restores the Assistant Principal position at Hatch Elementary School because of programmatic needs and larger enrollment of that campus. Previous cuts of $950K are now reduced to $560K (also around 40% less than first proposed).

TOTAL SAVINGS ~ $560K

Finding a Middle Ground Between Potential KMES Closure and Existing Arrangements: Toward Comparable Staffing at KMES

- The closure of Kings Mountain Elementary School is a controversial topic that was reviewed as a potential source of budget savings by the CUSD Financial Committee last year, but this is not a new topic of discussion for Cabrillo Unified School District and the Coastside community
- Yet one might consider that this need not be an either/or solution for the Board going forward
- Staff have heard that there is scrutiny and attention paid to this topic because the expense of staffing a school of fifty students with three full-time teachers feels unfair to the rest of the Coastside community with schools staffed at a 24:1 student-to-teacher contractual size limit
- With this factor identified and considered, it could be argued that other operational costs of the school can be justified as comparable and that only this issue presents the closure argument
- Other arguments made by advocates for continued operation of KMES include respecting a geographic community of 16 students and families having access to a neighborhood school and providing others with the ability to actively choose a mixed-grade small school alternative
- So the Board and public might well consider splitting the difference, keeping KMES open with a requirement it be staffed at 24:1 using a K/1/2 and 3/4/5 multi-age classroom structure or its own site-devised arrangement following a 24:1 district-wide staffing ratio like our other schools

Providing School Enrollment Choices to Moonridge Families: Applying the “Triple Bottom Line” for Coastside/CUSD Benefit

- Since posting this presentation earlier this week, staff have since met with Moonridge families to discuss providing them the option now to choose to enroll at their local neighborhood school
- Of the Moonridge families present who were surveyed on Monday 11/18, 89% indicated they would prefer the option of being able to have their children attend Hatch Elementary School
- Staff heard the decision to bus Moonridge children to Farallone View Elementary School was made years ago because of some crowding and demographic concerns then present at Hatch
- However, declining enrollment in CUSD means there is now room there for more students
- The “triple bottom line” is used to provide three factors we can apply to make decisions about organizational performance: Is it good for people? Good for the planet? Good for prosperity?
- We have pointed out this year we find it unfair that Moonridge students have to spend so much time on a bus in the mornings and afternoons to get to a school so far away from their homes
- After hearing from Moonridge families (people), and acknowledging CUSD can take buses off the road for environmental responsibility (planet) while lowering district costs (prosperity), staff recommend allowing Moonridge families to choose to enroll at Hatch Elementary School and changing the enrollment boundary so those families officially have the right to that option

Overview of Revised List of Potential Cuts and Other Information

- With Measure I parcel tax funding of $1.6 million, CUSD staff have been able to provide a smaller list of cuts, reducing the original list of approximately $3.8 million to $2.9 million now
- Staff have now proposed restoring positions considered crucial to school or district operations
- Some of the potential cuts still remain for Board discussion: the Board directed staff to bring back a smaller list of cuts and to provide some more information and details about some cuts
- Staff have provided job descriptions of community relations assistants and attendance clerks in the appendix of the presentation for Board consideration, as had been requested by the Board
- Staff have also presented some additional data on the configuration and demographics of the elementary schools to answer some Board questions about how Kings Mountain staffing and enrollment compare to that of El Granada, Farallone View, and Hatch Elementary Schools
- Staff have also provided some requested data on the number of students in our schools who are socioeconomically challenged, English Language Learners, and of Latino descent
- Ultimately this revised and abbreviated list of cuts provides CUSD with budget reductions required to achieve district fiscal solvency and restore CUSD to a positive budget certification

TOTAL CUTS/SAVINGS ~ $2.9M

Some Things to Consider and Keep in Mind Going Forward

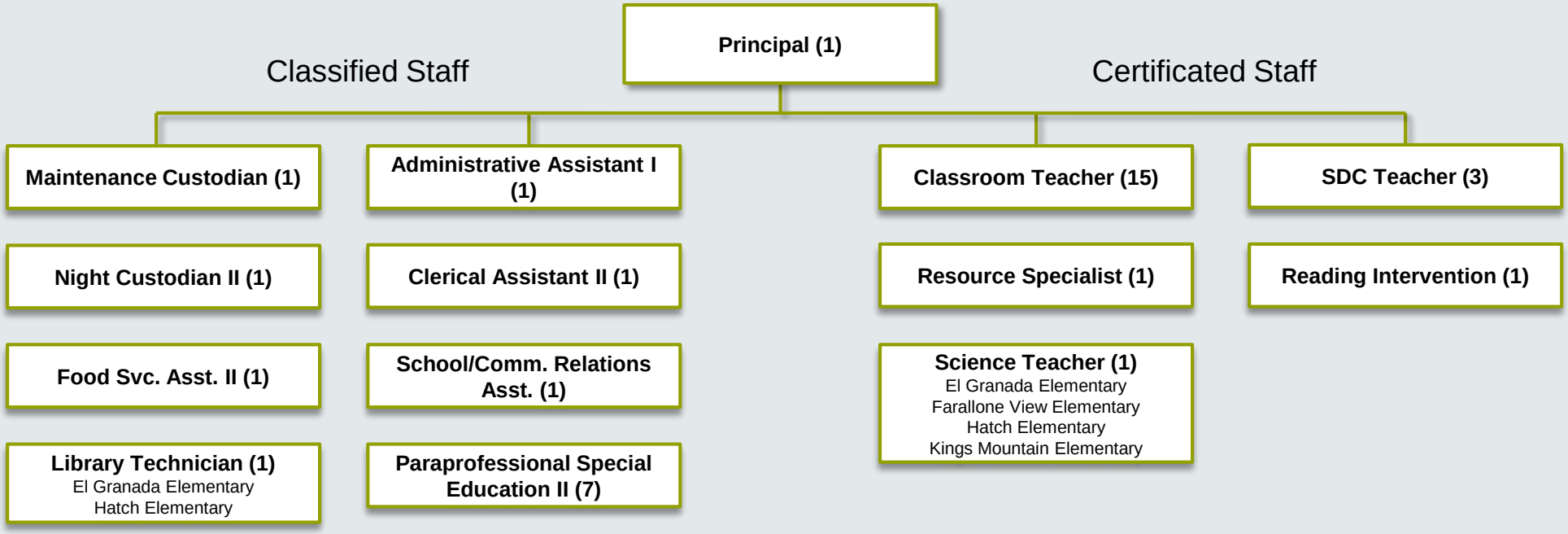
- CUSD and all other school districts continue to struggle with increasing pension contributions California legislators imposed on us, so there may be more cuts required of us in the future
- According to economic analysts and state legislators, we are overdue for another recession
- CUSD must prioritize responsible use of funds from its bonds to help modernize and rebuild both El Granada and Farallone Elementary Schools as our neediest campuses now, and CUSD must also use bonds to make economically and environmentally sustainable decisions that will free up needed monies from our general fund through lowering our operational costs
- CUSD must try to negotiate with our employee bargaining representatives to help us achieve additional savings and improved services to students and families while also factoring in the need we have to provide raises to employees as incentives for their recruitment and retention
- CUSD needs to design and implement civic partnerships for services to our students that are no longer affordable to us on our own: these partnerships include our Athletic Boosters, Boys and Girls Club of the Coastside, Cabrillo Education Foundation, and the City of Half Moon Bay
- CUSD will continue to work at implementation of Board-approved cuts throughout the year, and cuts will be re-evaluated for their viability and as impacted by changing funding conditions

“Big Picture” Themes Considered in Budget Cut Process

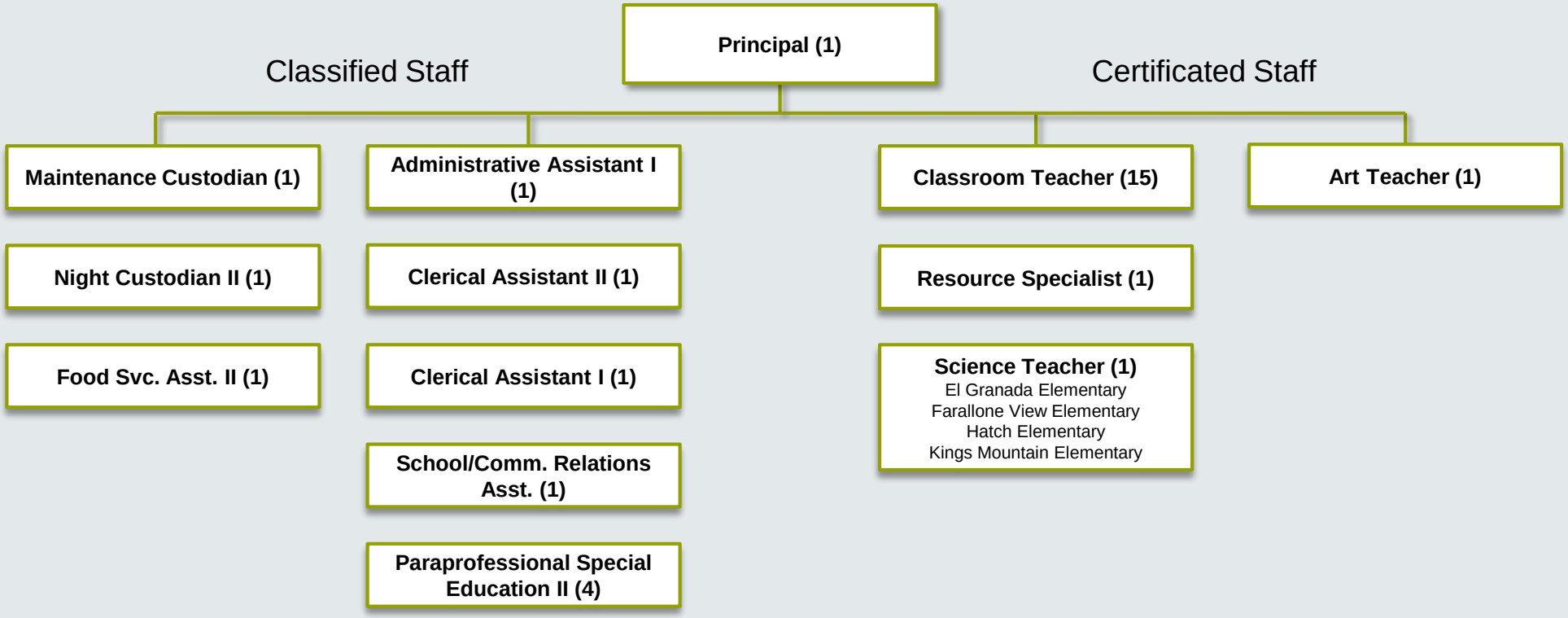
- Cuts must be significant (approximately $2.5 million with parcel tax passing to regain positive budget certification, remain solvent, maintain local control, and avoid takeover by County Office of Education)
- Contractual and legal obligations require that available cuts cannot be made now to class sizes, and thus a majority of budget cuts and savings recommended by staff still protect basic classroom services
- Budget cuts now recommended address overstaffing, “nice to have” vs. “need to have” services, inefficiencies and redundancies, and programs/staff not considered to be core operational requirements
- That said, we acknowledge budget cuts will impact staff as this will require layoffs: in a school district, over 80% of expenses are in staffing, wages, and benefits, and budget cuts of this magnitude mean jobs
- We want to reassure families and staff that ongoing work will be done to re-evaluate and restore cuts if and when the district receives information regarding any state or federal budget increases going forward
- Budget cuts provided now exceed the minimum $2.5 million and allow for some cushion if the Board decides to either restore some of the cuts or make a full $2.9 million in cuts to allow for some savings that could be used for CUSD salary increases that are required for the school district to be able to recruit and retain highly qualified staff who are faced with increased costs of living and housing in the Bay Area

Appendix 1: Organizational Charts

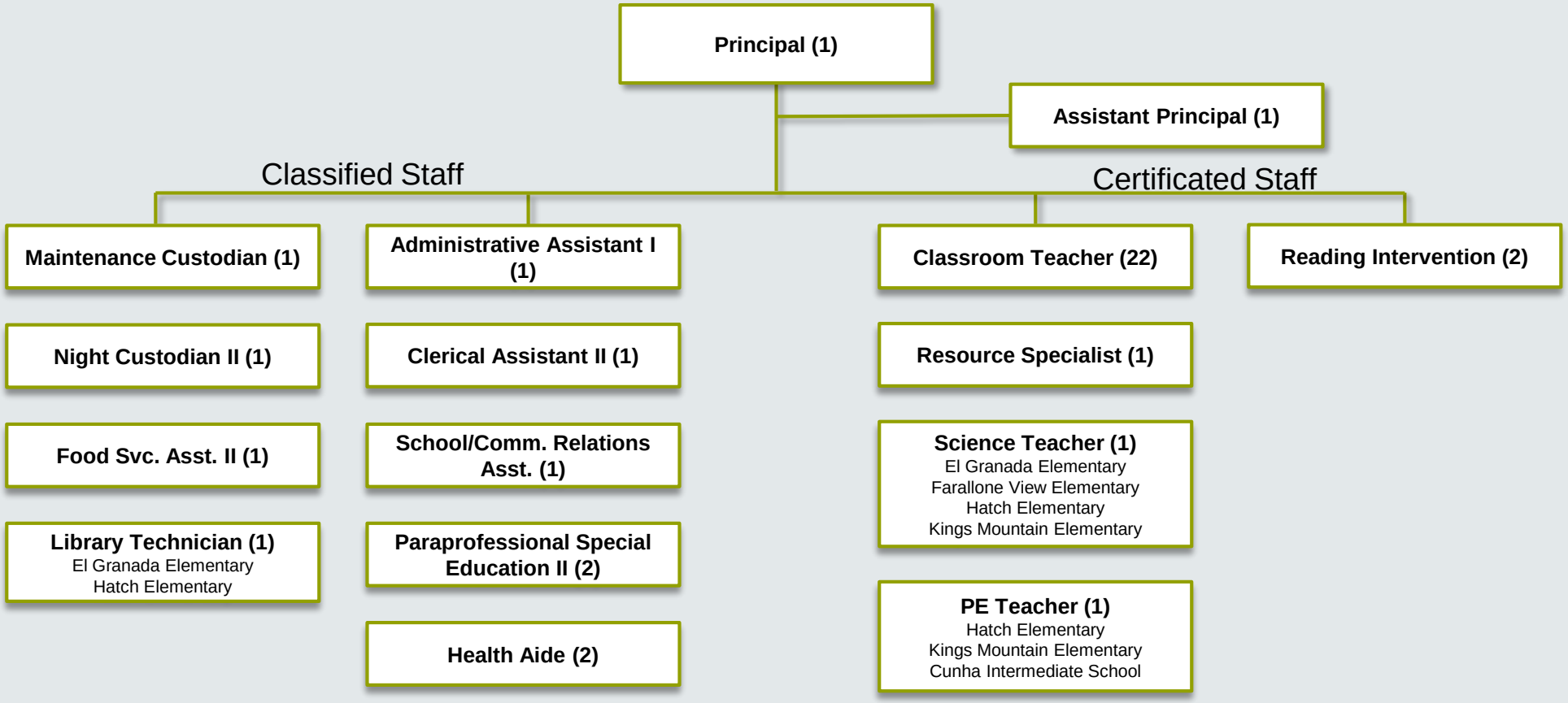
CABRILLO UNIFIED SCHOOL DISTRICT
El Granada Elementary School



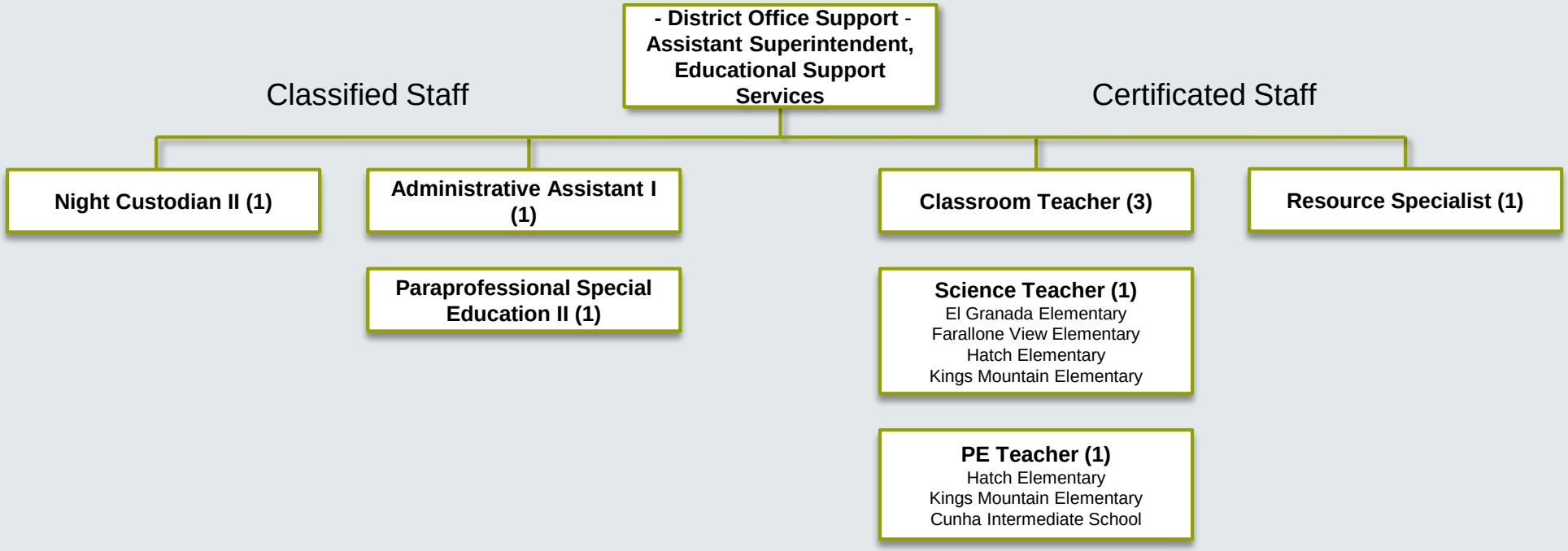
CABRILLO UNIFIED SCHOOL DISTRICT
Farallone View Elementary School



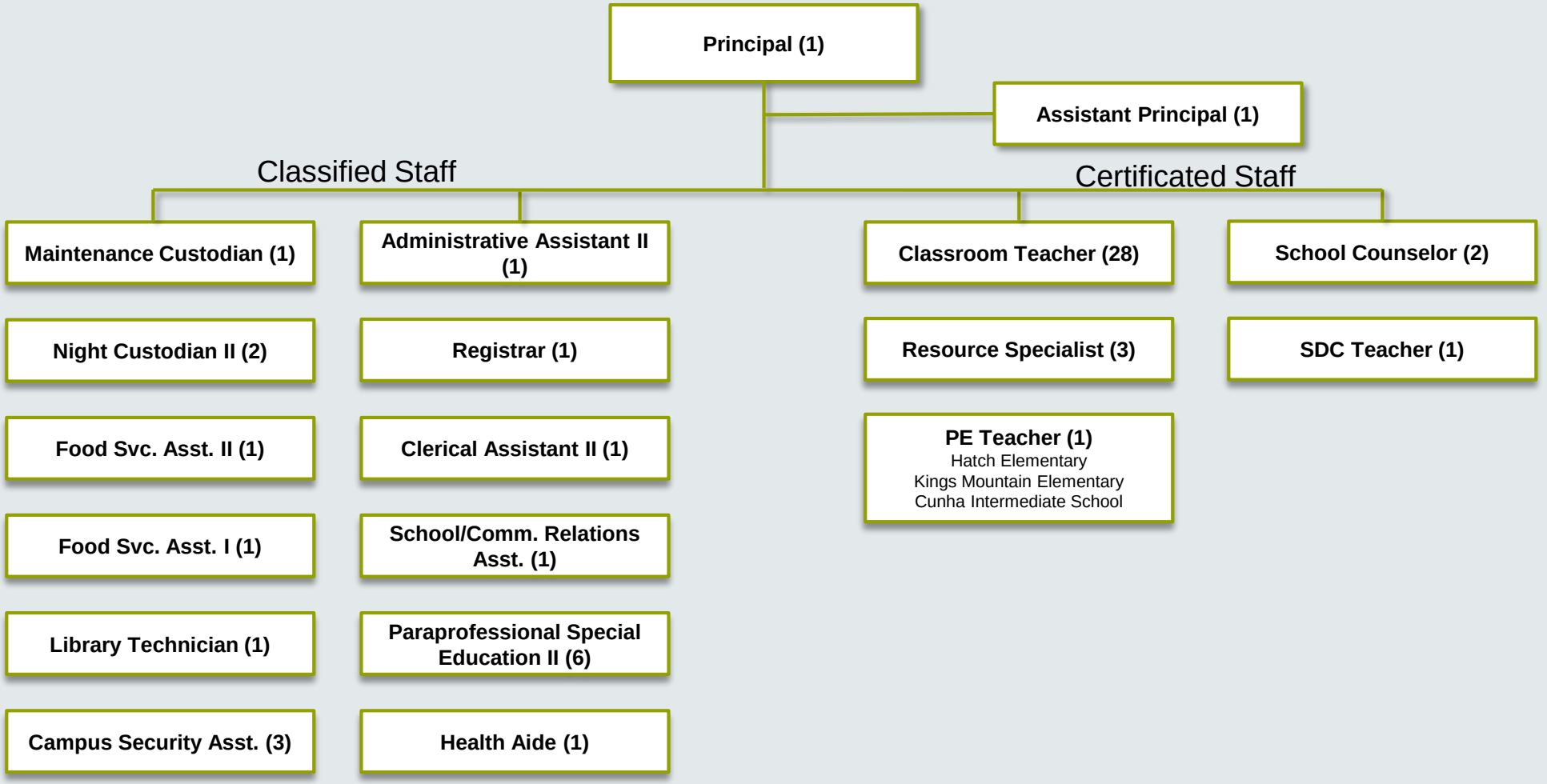
CABRILLO UNIFIED SCHOOL DISTRICT
Hatch Elementary School



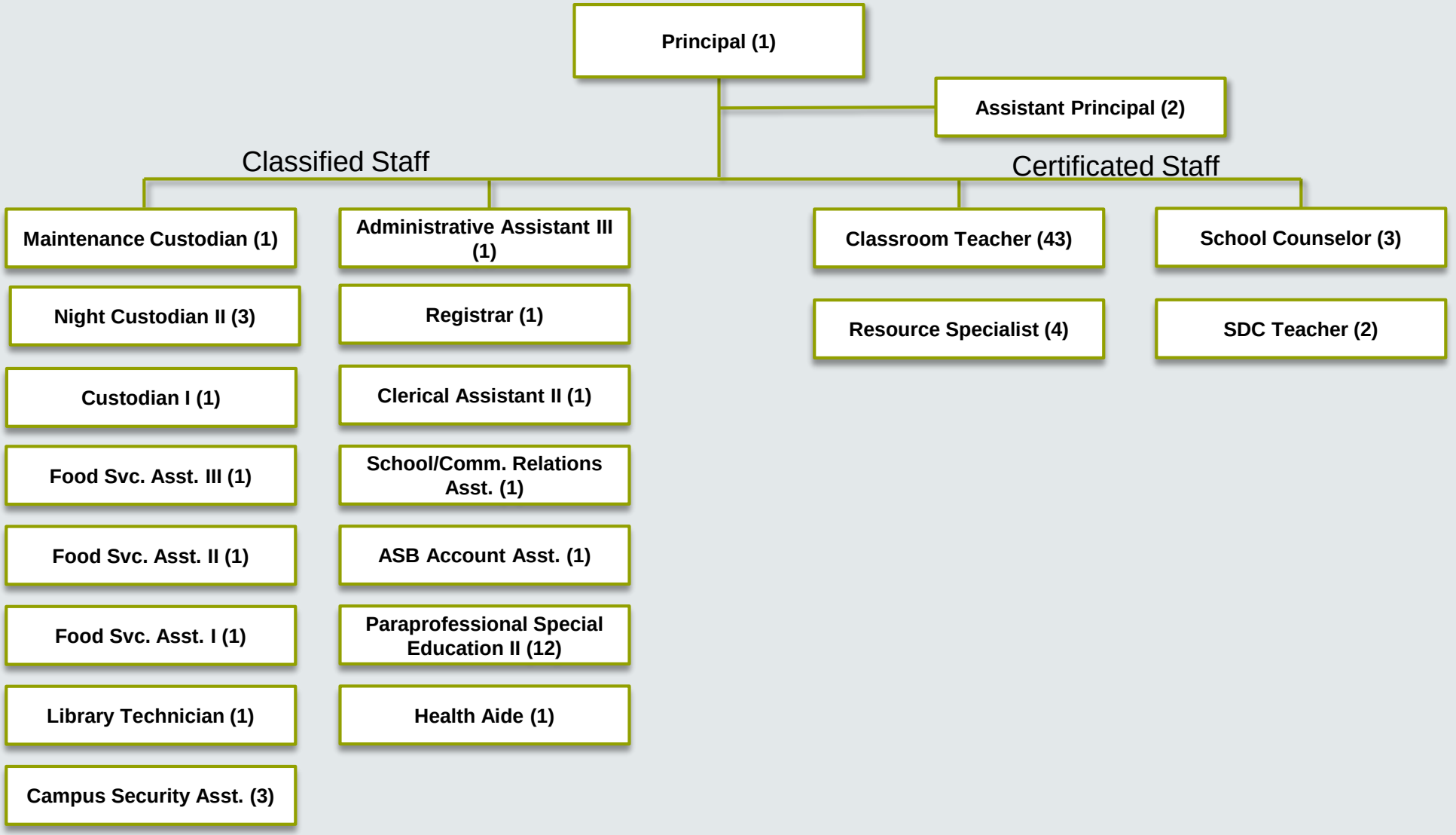
CABRILLO UNIFIED SCHOOL DISTRICT
Kings Mountain Elementary School



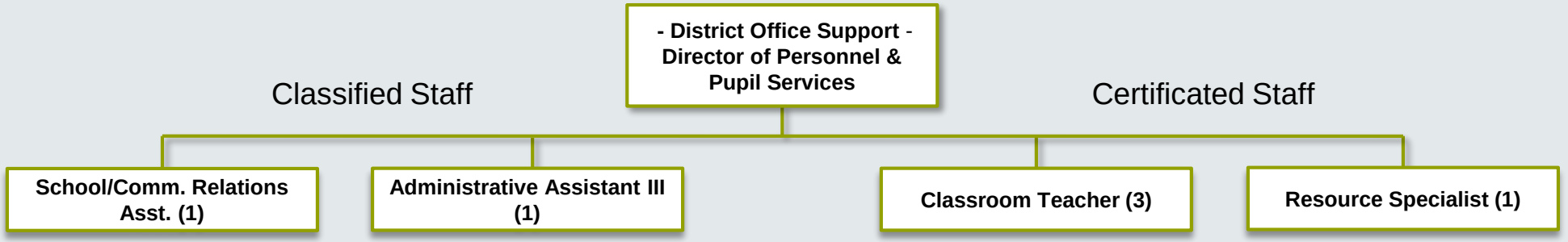
CABRILLO UNIFIED SCHOOL DISTRICT
Cunha Intermediate School



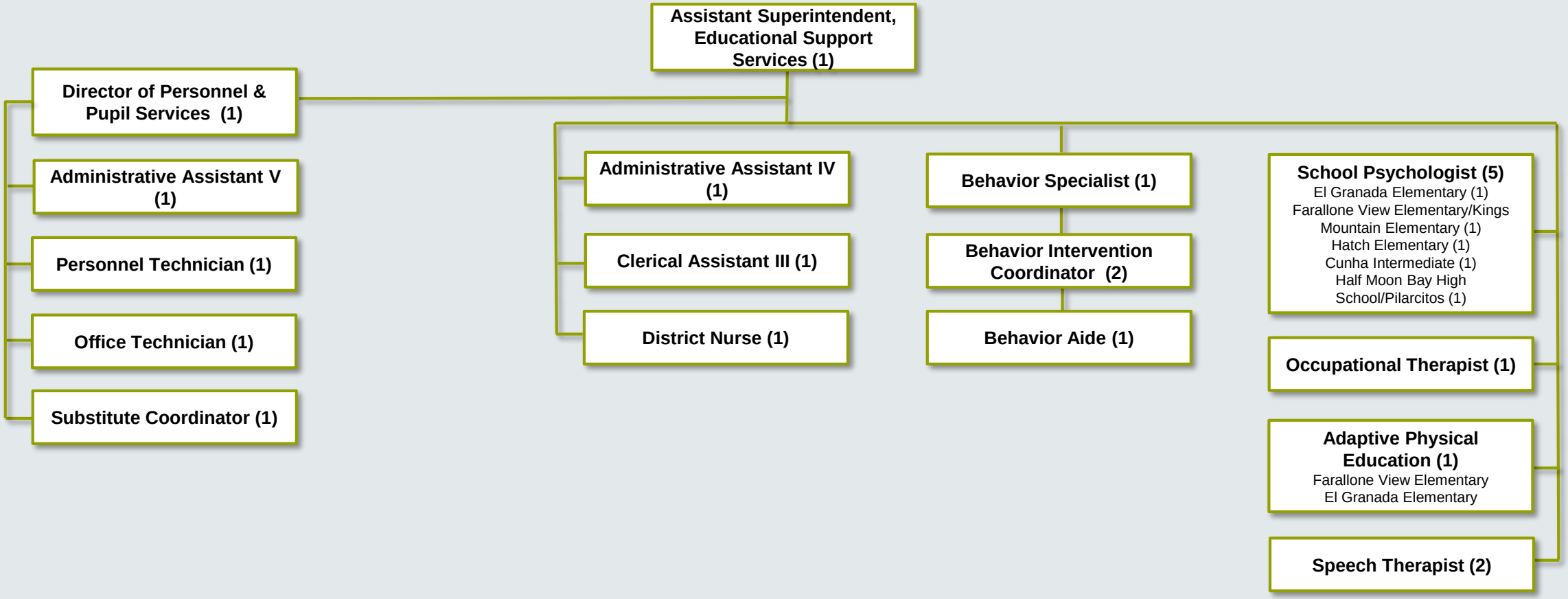
CABRILLO UNIFIED SCHOOL DISTRICT
Half Moon Bay High School



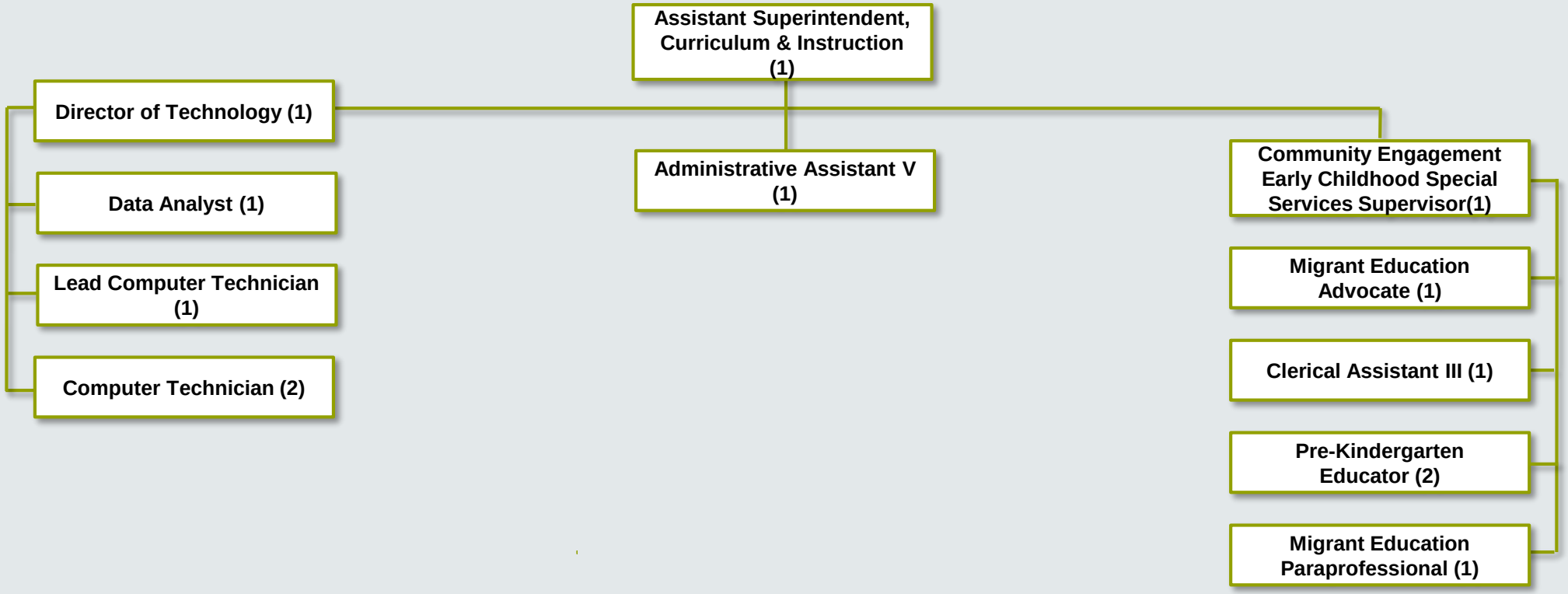
CABRILLO UNIFIED SCHOOL DISTRICT
Pilarcitos Continuation High School / Alternative Education



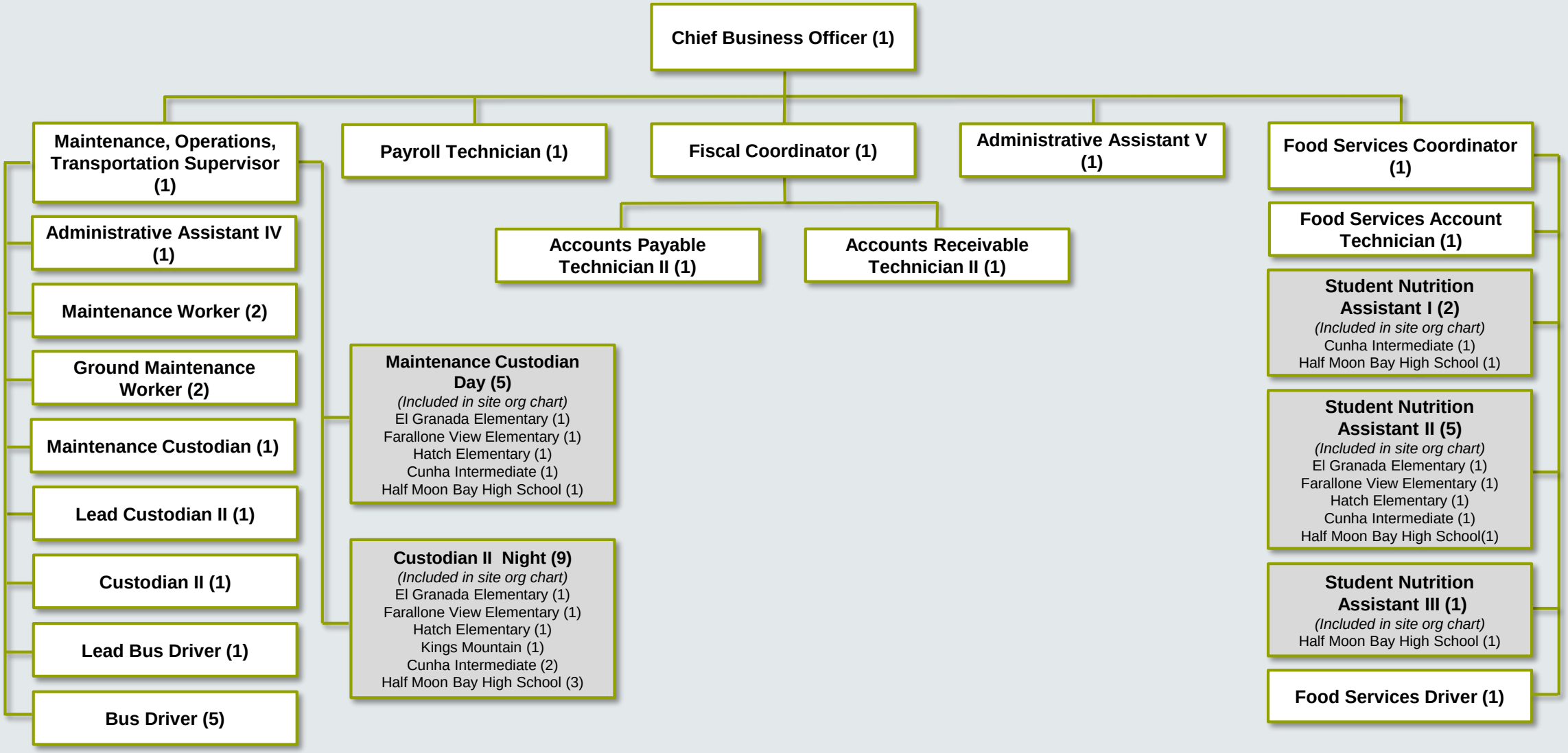
CABRILLO UNIFIED SCHOOL DISTRICT
Educational Support Services



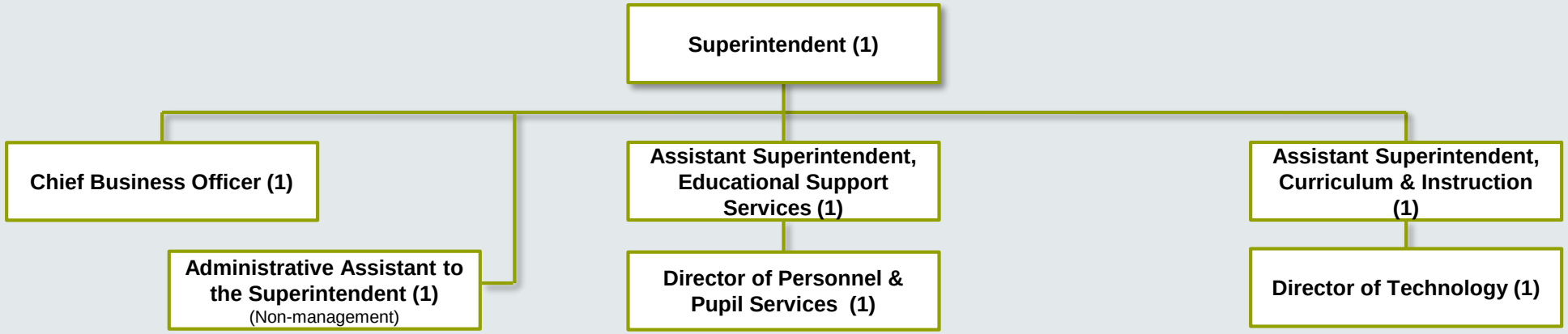
CABRILLO UNIFIED SCHOOL DISTRICT
Curriculum & Instruction



CABRILLO UNIFIED SCHOOL DISTRICT
Business Services



CABRILLO UNIFIED SCHOOL DISTRICT
Executive Cabinet



Appendix 2: School/Community Relations Assistant & Clerical Assistant (Attendance Clerk) Job Descriptions

CABRILLO UNIFIED SCHOOL DISTRICT

CLASS TITLE: SCHOOL/COMMUNITY RELATIONS ASSISTANT

BASIC FUNCTION:

Under the direction of a school principal, communicate with parents, teachers and administrators regarding attendance and other issues regarding identified students; provide assistance to school families and promote student and parent involvement in school and District programs, services and activities; translate a variety of communications.

REPRESENTATIVE DUTIES:

ESSENTIAL DUTIES:

- Advise parents and students regarding regular attendance, providing information concerning school rules and regulations; make referrals to appropriate school and District programs and services
- Communicate school concerns such as truancy, attitude, health issues to parents and community concerns to school; assist parents in communicating individual concerns in meetings with Principal or others
- Promote parent and child participation in school by assuring dissemination of information; provide both parent and child with identifiable reference source and encourage parent involvement in school activities and classes
- Assist administrators, teachers and others by translating verbal conversations and written communications
- Administer language proficiency tests to limited and non-English speaking students
- Make home visits to provide information to parents, investigate home situations and explain rules, regulations, procedures and forms; refer local resources to parents as necessary
- Contact police agencies, probation officers, social service organizations and others to exchange information and discuss concerns regarding individual students
- Translate for parent/teacher conferences; translate for various school communications including notices, phone calls, official school documents, letters and others; translate report cards and comments as needed
- Prepare and maintain records, reports and documentation including home visit reports, translations, memoranda, correspondence and meeting notifications
- Attend workshops and conferences related to the needs and concerns of ethnic and minority groups

OTHER DUTIES:

- Assist office staff in various tasks such as attendance, immunizations, registration, phone calls and receiving visitors for identified students

KNOWLEDGE AND ABILITIES:

KNOWLEDGE OF:

- School attendance policies and procedures
- Cultural background of minority, ethnic and disadvantaged groups
- Correct oral and written usage of English and a designated second language
- Interpersonal skills using tact, patience and courtesy
- Telephone techniques and etiquette
- Applicable sections of State Education Code and other applicable laws
- Oral and written communication skills

ABILITY TO:

- Promote school/community relations
- Assist parents and students in resolving school/student related problems
- Read, write, translate and interpret English and a designated second language
- Promote parent and child participation in school
- Utilize a second designated language to communicate with students and parents both orally and in writing
- Assist administrators, teachers and others by translating verbal conversations and written communications
- Learn District organization, operations, policies and objectives
- Work independently with little direction
- Communicate effectively both orally and in writing
- Establish and maintain cooperative and effective working relationships with others
- Work effectively in a multi-ethnic setting
- Review situations and determine an effective course of action
- Work confidentially with discretion
- Read, interpret, apply and explain rules, regulations, policies and procedures
- Maintain records and prepare reports
- Type or input data at an acceptable rate of speed
- Plan and organize work

EDUCATION AND EXPERIENCE:

Any combination equivalent to: graduation from high school and two years experience working with the at risk population.

LICENSES AND OTHER REQUIREMENTS

- Valid California driver's license
- Incumbents are required to use personal vehicle and provide proof of insurance

WORKING CONDITIONS:

ENVIRONMENT:

- Classroom and students' home environment
- Driving a vehicle to conduct work

PHYSICAL ABILITIES:

- Dexterity of hands and fingers to operate office equipment
- Hearing and speaking to exchange information
- Walking to enter homes of students
- Reaching to retrieve and maintain files
- Seeing to read and assure accuracy to records and reports
- Ability to lift 40 pounds

CABRILLO UNIFIED SCHOOL DISTRICT

CLASS TITLE: CLERICAL ASSISTANT II

BASIC FUNCTION:

Under the direction of an assigned supervisor, perform a variety of clerical duties involving typing, filing and maintaining records or reports in support of a school or District function.

DISTINGUISHING CHARACTERISTICS:

Incumbents in the Clerical Assistant II class perform a variety of typing, filing and record-keeping duties requiring the proficient use of keyboard equipment. Clerical Assistant I incumbents perform routine and repetitive general clerical duties not requiring previous experience or proficiency in typing. The Clerical Assistant III incumbents perform specialized clerical duties or provide sole clerical support for an assigned function. Incumbents are required to exercise independent judgment and may be assigned lead duties.

REPRESENTATIVE DUTIES:

Operate a variety of office equipment, such as typewriter, calculator and copy machine and computer terminal as required. ***E***

Type letters, memoranda, bulletins, reports, schedules, lists, forms or other materials from straight copy or rough draft on a typewriter, word processor or computer equipment. ***E***

Type and perform other clerical duties for the assigned supervisor and other staff members as directed. ***E***

Maintain a variety of logs, records and files related to assigned office. ***E***

Distribute various forms and provide information and assistance to students, parents, the public and staff regarding their completion in an accurate and timely manner. ***E***

Answer telephones; take and relay messages; greet students and the public and provide routine information; direct inquiries to the appropriate person or office; make phone calls to request, provide or verify information as directed. ***E***

Perform clerical work such as posting records, making arithmetic computations and securing information from clearly indicated sources. ***E***

Schedule appointments and meetings; maintain various schedules and calendars. ***E***

Sort and distribute incoming U.S. and intra-District mail. ***E***

Maintain supply and material inventory of assigned area as required; order, receive and distribute materials, equipment and supplies as directed.

Assure the timely duplication and distribution of a variety of records, reports and other materials as directed.

Utilize a second designated language as assigned.

Perform related duties as assigned.

KNOWLEDGE AND ABILITIES:

KNOWLEDGE OF:
Modern office practices, procedures and equipment.
Record-keeping techniques.
Correct English usage, grammar, spelling, punctuation and vocabulary.
Telephone techniques and etiquette.
Interpersonal skills using tact, patience and courtesy.
Elementary first aid procedures.

ABILITY TO:
Perform a variety of clerical duties involving typing, filing and maintaining records or reports in support of a school or District function.
Perform clerical duties such as filing, duplications, typing and maintaining records.
Learn and apply laws, rules, regulations involved in assigned clerical activities.
Make arithmetic calculations quickly and accurately.
Understand and follow oral and written directions.
Type at 40 words net per minute from clear copy.
Operate a variety of office equipment including computer terminal as required.
Meet schedules and time lines.
Maintain records and prepare reports.
Communicate effectively both orally and in writing.
Work cooperatively with others.
Complete work with many interruptions.

EDUCATION AND EXPERIENCE:

Any combination equivalent to: graduation from high school and one year clerical experience.

LICENSE AND OTHER REQUIREMENTS:

Some positions in this class may be required to utilize oral and written abilities in second designated language.

WORKING CONDITIONS:

ENVIRONMENT: Office environment; subject to constant interruptions.

PHYSICAL ABILITIES: Dexterity of hands and fingers to operate a computer and office equipment, sitting or standing for extended periods of time, hearing and speaking to exchange information on the telephone or in person, vision to read documents, reaching horizontally and above the shoulders to retrieve files and supplies, and lifting objects weighing up to 20 pounds.

HAZARDS: Possible contact with blood and other body fluids when providing first aid.

Appendix 3: Responsibilities of Cunha Dean Position

Cunha Intermediate School Dean of Students (.17 FTE)

The Dean of Students works cooperatively with the principal, vice-principal, counselors, nurse, staff, students, and parents towards helping promote a positive school climate. The main role of the Cunha Dean of Students is to support the school in creating a safe environment and an atmosphere of support for at-risk students. As a professional educator and as part of the Cunha faculty, the Dean of Students understands and responds to the challenges presented by today's diverse student population.

The Cunha Dean of Students provides proactive leadership to engage all stakeholders in the delivery of academic programs and services to help support students' academic achievement, personal development, and social development. The goal of this position is to create opportunities to close the achievement gap for at-risk students.

Cunha represents a diverse community with diverse backgrounds. The Dean will work with culturally diverse families and communities. The Dean will make a strong commitment to strengthening community engagement and communication with the District's diverse populations so we can support students who may become at risk academically, socially, or emotionally.

The Dean of Students works with a high level of independence and professional discretion under the general supervision of the principal.

Cunha Intermediate School Dean Duties and Responsibilities

- Assists in the development, implementation, and evaluation of intervention programs that address the needs of at-risk students. Develops and codifies the school's process and procedures that are to be followed in order to help these students succeed.
- Assists in the development, implementation, and evaluation of intervention programs that address the needs of ELD students. Develops and codifies the school's process and procedures that are to be followed in order to help these students succeed.
- Chairs the weekly Student Intervention Team (SIT) meetings with district staff and site-based professionals.
- Serves as a resource for building staff, administrators, and parents in working with students to create a positive school climate and helping students develop a positive self-image.
- Participates or leads development of Cunha's positive behavior support systems and development of intervention strategies.
- Attends meetings of parents and other groups when necessary or as needed according to the school's procedures.
- Provides supervision for lunchtime non-leadership activities. These may include small group tutoring, in-house monitoring, or engaging in community building and/or relationship development activities.
- Works with the principal to establish a safe and secure learning environment for students.
- Participates in administrative meetings and training to improve administrative skills; maintains current knowledge of the district's adopted curriculum.
- Performs other reasonable duties as assigned.

Appendix 4:
Student Demographics and Enrollment Data

2017-2018

CDE Dataquest Data

Demographics - Race (2017-2018)

School	Enrollment	African American not Hispanic	American Indian or Alaska Native	Asian	Filipino	Hispanic or Latino	Pacific Islander	White not Hispanic	Two or More Races	None Reported (Ethnicity)
Non-public non-sectarian schools	9	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (11.1%)	0 (0.0%)	7 (77.8%)	1 (11.1%)	0 (0.0%)
Alvin S. Hatch Elementary	587	1 (0.2%)	1 (0.2%)	5 (0.9%)	7 (1.2%)	331 (56.4%)	0 (0.0%)	229 (39.0%)	13 (2.2%)	0 (0.0%)
El Granada Elementary	404	1 (0.2%)	0 (0.0%)	8 (2.0%)	2 (0.5%)	250 (61.9%)	2 (0.5%)	127 (31.4%)	10 (2.5%)	4 (1.0%)
Farallone View Elementary	317	1 (0.3%)	0 (0.0%)	4 (1.3%)	1 (0.3%)	132 (41.6%)	0 (0.0%)	158 (49.8%)	20 (6.3%)	1 (0.3%)
Half Moon Bay High	995	5 (0.5%)	4 (0.4%)	14 (1.4%)	14 (1.4%)	491 (49.3%)	1 (0.1%)	438 (44.0%)	25 (2.5%)	3 (0.3%)
Kings Mountain Elementary	73	1 (1.4%)	1 (1.4%)	2 (2.7%)	1 (1.4%)	13 (17.8%)	0 (0.0%)	49 (67.1%)	6 (8.2%)	0 (0.0%)
Manuel F. Cunha Intermediate	792	2 (0.3%)	0 (0.0%)	16 (2.0%)	8 (1.0%)	426 (53.8%)	1 (0.1%)	302 (38.1%)	34 (4.3%)	3 (0.4%)
Pilarcitos Alternative High (Continuation)	30	0 (0.0%)	1 (3.3%)	0 (0.0%)	0 (0.0%)	24 (80.0%)	0 (0.0%)	4 (13.3%)	1 (3.3%)	0 (0.0%)
District Total:	**3,207**	**11 (0.3%)**	**7 (0.2%)**	**49 (1.5%)**	**33 (1.0%)**	**1,668 (52.0%)**	**4 (0.1%)**	**1,314 (41.0%)**	**110 (3.4%)**	**11 (0.3%)**

*Data obtained from most recent CDE publish on Dataquest 2017-2018 (https://dq.cde.ca.gov/dataquest/)

Demographics - Specific Student Subgroups (2017-2018)

School	English Learners	Fluent-English-Proficient Students	Students Redesignated FEP	Graduates (prior year)	UC/CSU Elig Grads (prior year)	Dropouts (prior year, grade 9-12)
Non-public non-sectarian schools	1 (11.1 %)	0 (0.0 %)	0 (0.0 %)	0	0	0
Alvin S. Hatch Elementary	243 (41.4 %)	28 (4.8 %)	18 (7.1 %)	0	0	0
El Granada Elementary	171 (42.3 %)	31 (7.7 %)	28 (14.7 %)	0	0	0
Farallone View Elementary	100 (31.5 %)	13 (4.1 %)	16 (15.2 %)	0	0	0
Half Moon Bay High	95 (9.5 %)	355 (35.7 %)	61 (46.6 %)	237	135	3
Kings Mountain Elementary	4 (5.5 %)	1 (1.4 %)	0 (0.0 %)	0	0	0
Manuel F. Cunha Intermediate	160 (20.2 %)	214 (27.0 %)	53 (30.3 %)	0	0	0
Pilarcitos Alternative High (Continuation)	14 (46.7 %)	8 (26.7 %)	2 (11.1 %)	16	1	8
District Total:	**788 (24.6 %)**	**650 (20.3 %)**	**178 (20.3 %)**	**253**	**136**	**11**

*Data obtained from most recent CDE publish on Dataquest 2017-2018 (https://dq.cde.ca.gov/dataquest/)

Specific Student Subgroups & Staff Data (2017-2018)

School	FTE Administrators	FTE Pupil Svs	FTE Teachers	# Classified Staff	Pupil Teacher Ratio	Free or Reduced Price Meals	Enrollment Used for Meals
Non-public non-sectarian schools	n/a	n/a	n/a	n/a	n/a	0	9
Alvin S. Hatch Elementary	2	2	23.3	8.99	25.3	273 (46.5%)	587
El Granada Elementary	1	0.5	19.6	15.28	20.6	197 (48.8%)	404
Farallone View Elementary	1	1.5	15.5	9.38	20.6	112 (35.3%)	317
Half Moon Bay High	3	2.9	42.4	22.22	23.5	345 (34.7%)	995
Kings Mountain Elementary	0.6	0	3.9	2.78	19.2	3 (4.1%)	73
Manuel F. Cunha Intermediate	2	2	34.4	16.98	23	321 (40.5%)	792
Pilarcitos Alternative High (Continuation)	0.5	0	1.5	1.5	20	20 (66.7%)	30
District Total:	16.1	15.9	140.6	117	22.8	1,271 (39.6%)	3,207

*Data obtained from most recent CDE publish on Dataquest 2017-2018 (https://dq.cde.ca.gov/dataquest/)

2018-2019

CALPADS Data
(Missing Classified data which is not available through CALPADS)

2018-19 Demographics - Race

School	Enrollment	African American not Hispanic	American Indian or Alaska Native	Asian	Filipino	Hispanic or Latino	Pacific Islander	White not Hispanic	Two or More Races	None Reported (Ethnicity)
Non-public non-sectarian schools	9	0 (0.0%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	3 (33.33%)	0 (0.0%)	5 (55.56%)	1 (11.11%)	0 (0.0%)
Alvin S. Hatch Elementary	563	0 (0.0%)	0 (0.0%)	5 (0.89%)	11 (1.95%)	321 (57.02%)	0 (0.0%)	210 (37.3%)	16 (2.84%)	0 (0.0%)
El Granada Elementary	409	1 (0.24%)	0 (0.0%)	4 (0.98%)	2 (0.49%)	233 (56.97%)	2 (0.49%)	150 (36.67%)	16 (3.91%)	1 (0.24%)
Farallone View Elementary	306	2 (0.65%)	0 (0.0%)	5 (1.63%)	1 (0.33%)	123 (40.2%)	0 (0.0%)	157 (51.31%)	18 (5.88%)	0 (0.0%)
Half Moon Bay High	1001	3 (0.30%)	2 (0.2%)	15 (1.5%)	16 (1.6%)	508 (50.75%)	1 (0.10%)	418 (41.76%)	34 (3.4%)	4(0.4%)
Kings Mountain Elementary	57	1 (1.75%)	0 (0.0%)	2 (3.51%)	1 (1.75%)	7 (12.28%)	0 (0.0%)	39 (68.42%)	7 (12.28%)	0 (0.0%)
Manuel F. Cunha Intermediate	765	1 (0.13%)	0 (0.0%)	12 (1.57%)	7 (0.92%)	405 (52.94%)	1 (0.13%)	299 (39.08%)	39 (5.10%)	1 (0.13%)
Pilarcitos Alternative High (Continuation)	42	0 (0.0%)	0 (0.03%)	0 (0.0%)	0 (0.0%)	26 (61.9%)	0 (0.0%)	16 (38.1%)	0 (0.0%)	0 (0.0%)
District Total:	**3,152**	**8**	**2**	**43**	**38**	**1,626**	**4**	**1,294**	**131**	**6**

*Data obtained from most recent CALPADS for 2018-2019 (calpads.org)

2018-19 Demographics - Specific Student Subgroups

School	English Learners	Fluent-English-Proficient Students	Students Redesignated FEP	Graduates	UC/CSU Elig Grads	Dropouts (prior year, grade 9-12)
Non-public non-sectarian schools	1	0	0	1	1	0
Alvin S. Hatch Elementary	234	12	20	0	0	0
El Granada Elementary	142	6	25	0	0	0
Farallone View Elementary	95	2	2	0	0	0
Half Moon Bay High	77	16	35	268	244	2
Kings Mountain Elementary	1	1	0	0	0	0
Manuel F. Cunha Intermediate	137	7	37	0	0	0
Pilarcitos Alternative High (Continuation)	14	0	3	21	13	8
District Total:	**701**	**44**	**122**	**290**	**258**	**10**

Data obtained from most recent CALPADS for 2018-2019 (calpads.org)

2018-19 Specific Student Subgroups & Staff Data

School	FTE Administrators	FTE Pupil Svs	FTE Teachers	# Classified Staff	Pupil Teacher Ratio	Free or Reduced Price Meals	Enrollment Used for Meals
Non-public non-sectarian schools	n/a	n/a	n/a	n/a	n/a	0	0
Alvin S. Hatch Elementary	2	1	22.8	8.99	25.3	183	602
El Granada Elementary	1	0.5	19	15.28	20.6	134	431
Farallone View Elementary	1	2.5	12	9.38	20.6	79	311
Half Moon Bay High	3	2.9	42.9	22.22	23.5	241	1010
Kings Mountain Elementary	0.6	0	3.4	2.78	19.2	3	58
Manuel F. Cunha Intermediate	2	3.4	30.53	16.98	23	214	787
Pilarcitos Alternative High (Continuation)	0.5	0	2.2	1.5	20	9	49
District Total:	10.1	10.3	132.83	117	22.8	871	3,249

Data obtained from most recent CALPADS for 2018-2019 (calpads.org)

Appendix 5:
2019 PTO Contribution Survey

CUSD PTO Leaders -2019

School	Budget*	Student*	Speading per student*
Cunha	$50,000	700	$72
El Granada	$106,000	420	$253
Farallone View	$100,000	300	$334
Hatch	$196,000	550	$357
Kings Mountain	$90,000	60	$1,500
HMBHS	$100,000	1,000	$100

** all figures are approximate*

Appendix 6: Moonridge Neighborhood Parent Survey

Administered During Budget Meeting Held at Moonridge Housing on 11/18/2019

Moonridge Families attending Farallone View Elementary

28 students families responded the survey out of **59** students enrolled at FV that is **47.5%**

24 are interested in attending another school other than FV

1 interested in EG

2 prefer to stay at FV

1 does not have a car

Survey Questions

1. Would you be interested in attending a school closer to your home?

   86% Yes

2. If given the choice to attend the school of your choice (without transportation), which school would you choose?

   89% Hatch
   7% Farallone View
   4% El Granada

Survey Questions

3. Would you be interested in staying at Farallone View without transportation?

   93% Not interested

4. Do you plan on relocating for the 2019-2020 school year?

   18% Yes

Appendix 7:
SamTrans Route 17

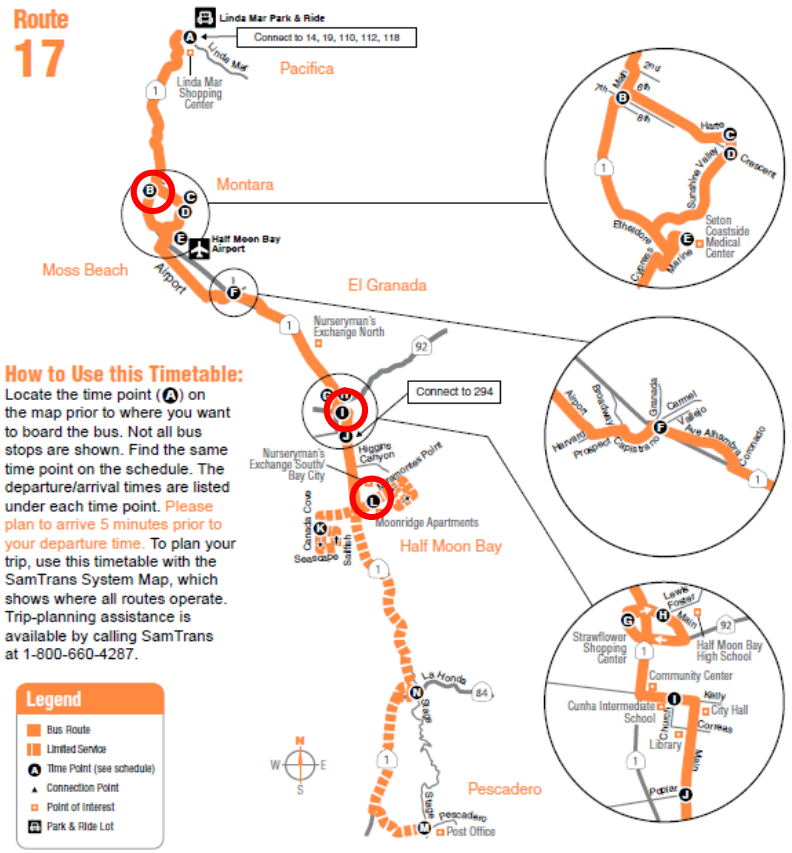
PM Route – School to Moonridge

AM Route – Moonridge to School

Weekdays to Miramontes

Linda Mar Park & Ride (A)	Main/ 7th (B)	Crescent/ Sunshine Valley (D)	Seton Coastside Medical Center (E)	Alhambra/ Vallejo (F)	Main/ Lewis Foster (H)	Strawflower Shopping Center (G)	Main/ Lewis Foster (H)	Kelly/ Church (I)	Main/ Poplar (J)	Canada Cove (K)	Miramontes/ Moonridge Stage/ Pescadero Creek (L)	(M)
—	—	—	—	—	5:51	5:54	—	5:59	6:02	—	6:09	6:28
6:18	6:25	6:31	—	6:44	6:54	6:57	—	7:02	7:05	—	7:12	—
7:15	7:22	7:29	—	7:42	7:53	7:57	—	8:02	8:05	—	8:12	—
8:06	8:13	8:19	—	8:31	8:42	8:45	—	8:49	8:51	8:56	8:59	—
9:18	9:25	9:31	—	9:43	9:53	9:57	—	10:01	10:03	—	10:10	—
10:18	10:26	10:32	—	10:44	10:53	10:57	—	11:01	11:03	11:09	11:12	—
11:16	11:24	11:30	—	11:42	11:52	11:56	—	**12:01**	**12:03**	—	**12:10**	—
12:16	**12:24**	—	**12:27**	**12:39**	—	**12:51**	**12:52**	**12:58**	**1:00**	**1:05**	**1:08**	—
1:16	**1:24**	—	**1:27**	**1:39**	—	**1:51**	**1:52**	**1:58**	**2:00**	—	**2:06**	—
2:18	**2:27**	—	**2:31**	**2:43**	—	**2:58**	**3:00**	**3:08**	**3:10**	**3:16**	**3:19**	—
3:20	**3:29**	—	**3:33**	**3:45**	—	**3:59**	**4:01**	**4:08**	**4:10**	—	**4:16**	—
4:13	**4:22**	—	**4:26**	**4:38**	—	**4:52**	**4:53**	**5:00**	**5:02**	**5:08**	**5:11**	—
5:16	**5:24**	—	**5:28**	**5:38**	—	**5:51**	**5:52**	**5:58**	**6:00**	—	**6:06**	**6:26**
6:16	**6:24**	—	**6:28**	**6:38**	—	**6:51**	**6:52**	**6:58**	**7:00**	—	**7:06**	—
7:19	**7:27**	—	**7:30**	**7:41**	—	**7:52**	**7:53**	**7:58**	**8:00**	—	**8:06**	—
8:19	**8:27**	—	**8:30**	**8:41**	—	**8:51**	**8:52**	**8:57**	**8:59**	—	**9:05**	—

AM - light type. **PM - bold type.**
Bus is not considered late until 5 minutes past scheduled time. Not all stops shown.
Please call 1-800-660-4287 for other bus stops.



Weekdays to Linda Mar Park & Ride

Stage/ Pescadero Creek (M)	Hwy 84/ Stage (N)	Miramontes/ Moonridge (L)	Canada Cove (K)	Main/ Poplar (J)	Kelly/ Church (I)	Main/ Lewis Foster (H)	Strawflower Shopping Center (G)	Main/ Lewis Foster (H)	Alhambra/ Vallejo (F)	Seton Coastside Medical Center (E)	Sunshine Valley/ Harte (C)	Main/ 7th (B)	Linda Mar Park & Ride (A)
—	—	—	—	—	—	5:30	5:34	—	5:42	5:51	—	5:56	6:04
—	—	6:03	—	6:09	6:11	6:13	6:17	—	6:25	6:34	—	6:39	6:47
6:40	6:49	7:04	—	7:10	7:12	7:14	7:18	—	7:26	7:35	—	7:40	7:48
—	—	8:04	—	8:10	8:13	8:16	8:20	—	8:29	8:38	—	8:43	8:51
—	—	9:00	9:03	9:10	9:13	9:16	9:20	—	9:29	9:38	—	9:43	9:51
—	—	10:04	—	10:10	10:13	10:16	10:21	—	10:30	10:39	—	10:44	10:52
—	—	11:00	11:03	11:09	11:13	11:16	11:21	—	11:30	11:39	—	11:44	11:52
—	—	11:59	—	**12:05**	**12:10**	—	**12:15**	**12:17**	**12:28**	—	**12:40**	**12:44**	**12:54**
—	—	**12:56**	**12:59**	**1:05**	**1:09**	—	**1:16**	**1:17**	**1:29**	—	**1:41**	**1:46**	**1:55**
—	—	**1:59**	—	**2:05**	**2:10**	—	**2:17**	**2:19**	**2:31**	—	**2:43**	**2:48**	**2:58**
—	—	**2:55**	**2:58**	**3:05**	**3:11**	—	**3:19**	**3:21**	**3:36**	—	**3:48**	**3:53**	**4:02**
—	—	**3:59**	—	**4:05**	**4:09**	—	**4:16**	**4:18**	**4:32**	—	**4:44**	**4:50**	**4:59**
—	—	**4:55**	**4:58**	**5:05**	**5:09**	—	**5:16**	**5:18**	**5:32**	—	**5:44**	**5:50**	**5:59**
—	—	**6:00**	—	**6:06**	**6:09**	—	**6:14**	**6:16**	**6:28**	—	**6:40**	**6:45**	**6:54**
6:35	**6:45**	**7:00**	—	**7:06**	**7:09**	—	**7:14**	**7:16**	**7:28**	—	**7:40**	**7:45**	**7:54**
—	—	**8:00**	—	**8:06**	**8:09**	—	**8:14**	**8:15**	**8:26**	—	**8:38**	**8:44**	**8:53**

AM - light type. **PM - bold type.**
Bus is not considered late until 5 minutes past scheduled time. Not all stops shown.
Please call 1-800-660-4287 for other bus stops.

Thank you!

CABRILLO UNIFIED SCHOOL DISTRICT

498 Kelly Avenue, Half Moon Bay, California 94019 • 650 712-7100 • Fax 650 726-0279 • www.cabrillo.k12.ca.us

SUPERINTENDENT
Sean McPhetridge, Ed.D.

GOVERNING BOARD
Mary Beth Alexander
Lizet Cortes
Kimberly Hines
Sophia Layne
Freya McCamant

MEMORANDUM

MEETING DATE: November 21, 2019
TO: Members of the Governing Board
FROM: Sean McPhetridge, Ed.D., Superintendent
CATEGORY: Action
RECOMMENDATION: Authorization to change from the San Mateo County Schools Insurance Group to the Alameda County Schools Insurance Group for the purchase of Dental and Vision Insurance, and Authorize the Superintendent or Designee to Sign all Agreements

BACKGROUND INFORMATION

We currently purchase our dental insurance (Delta Dental) and our vision insurance (VSP) through the San Mateo County Schools Insurance Group (SMCSIG). After reviewing other options, we have found that we can save about $55,000 per year by purchasing the same coverage through the Alameda County Schools Insurance Group (ACSIG).

The difference between these groups are as follows. In SMCSIG, all district members are pooled together to develop a rate. In ACSIG, each district experience determines the rate for that member. Based on the last five years of claim history, our experience is better than the average district in San Mateo County.

In the ACSIG plan, we would be self-funded for insurance coverage. We pay our actual claims for the year and an administrative fee. Although some years are higher and some lower, the fluctuation in claims from year to year is minimal, since the plan benefits have limits on the maximum payouts.

FINANCIAL IMPACT

Savings to the general fund are forecasted to the $55,000, and these saving are included in the district's budget cuts/savings recommendations.



ACSIG VISION GROUP
SELF-FUNDED PARTICIPATION AGREEMENT

Whereas, CABRILLO UNIFIED SCHOOL DISTRICT (hereinafter called "Participating Member") has established a self-funded vision plan, and whereas Participating Member will be enlisting the services of Alameda County Schools Insurance Group (hereinafter called "ACSIG") as a Participating Member of the Vision Program and whereas Participating Member agrees that ACSIG has entered into an Administrative Services Agreement with VSP in order to provide eligibility data, forwarding of payments for claims and administrative costs, and to act as a single contract source for all Participating Members who heretofore would have otherwise provided these services independently and directly to VSP; therefore, Participating Member desires to enter into a Participation Agreement (Agreement) with ACSIG, effective JANUARY 1, 2020 under the following terms and conditions:

I. COVERAGE

A. Coverage under this program shall be identical to coverage being provided in the individual plans from which the district is transferring.

B. A district may elect to alter their level of benefits. Should such changes result in an increase in the scope of coverage, ACSIG will adjust the premium rate to reflect this increased risk.

II. MEMBER RESPONSIBILITIES

A. Eligibility Listings

Participating Member will provide complete eligibility listings and enrollment information to ACSIG or its designated entity, along with any necessary changes to employee status (additions, deletions, changes of family status) prior to the 20th day of the month prior to month for which the transactions are effective.

B. Payments for Claims and Administrative Services

1. On a mutually agreed upon day, the Participating Member will transmit to ACSIG the full amount of Vision Benefits Liability as determined by ACSIG from VSP's claim payments report, plus the claims administration expense agreed to by VSP and ACSIG, by check or by deposit, or by

using other agreed upon methods, that will be deposited into the trust account designated by ACSIG.

2. The Participating Member will pay for services of ACSIG the amount shown in the fee Schedule attached hereto. ACSIG will invoice the Participating Member on a combined basis with B.1. (above), or individually, and shall be paid by the 15th day of the month for which the enrollment applies. Each following month's invoice will reflect monthly activity including additions or deletions for the previous month's eligibility.

C. COBRA Eligible Members

Participating Member shall be responsible for its employees and/or dependents that may elect to maintain benefits under federal or state COBRA provisions. All letters, notifications, election forms and payment tracking required by COBRA and related laws, shall be provided by the Participating Member. Eligible COBRA employees and/or dependents shall be reported to ACSIG in the same manner as other eligible employees, with the Participating Member maintaining the responsibility of tracking the various time limits of eligibility.

III. PAYMENT TO VSP

A. ACSIG will collect payment for VSP's claims and administrative charges from Participating Members and remit a single payment for claims charges and administrative charges to VSP on a mutually agreed upon schedule.

B. ACSIG agrees to allow the Participating Member access to its books and records upon reasonable request.

C. Representation to VSP. ACSIG will designate appropriate representatives to act as the contacts with VSP for information dissemination.

D. Continuing Administration. ACSIG or its designated entity, will respond to all inquiries regarding enrollment and payment of charges.

IV. TERM OF CONTRACT AND WITHDRAWAL

A. The term of this Agreement shall commence on JANUARY 1, 2020 and continue through SEPTEMBER 30, 2020 or upon cessation of the ACSIG contract with VSP, whichever is earlier. The Agreement will renew for one year periods of time on OCTOBER 1st of each subsequent year subject to the cancellation provisions of the Agreement. Claims and administration costs that are incurred during the term of this contract are the responsibility of the Participating Member.

B. Either party may cancel this Agreement by giving 90 days written notice prior to the OCTOBER 1st renewal date to the other party without cause, or upon

30 days notice if a breach of this agreement occurs and is unresolved within 15 days. Cause means a material breach of any provision of this Participation Agreement.

C. Should either party fail to meet the financial obligation of this Agreement, either party may cancel this Agreement by giving five (5) days notice. Any such cancellation shall be made pursuant to the notice provisions of this Agreement.

D. Participating Members will be given 30 days notice of a change in fee schedule.

V. DENTAL/VISION COMMITTEE

A. The Dental/Vision Committee shall be made up of members of the ACSIG Board of Directors and shall be responsible for matters relating to the administration and operation of the ACSIG program. The Committee shall be composed of a minimum of three representatives plus the ACSIG Executive Director.

VI. INDEMNIFICATION AND DISPUTE RESOLUTION

A. ACSIG, who is an independent contractor, shall not be liable for the payment of any unpaid claims or for denial of payment of any claims under the Plan. It is understood and agreed that in the absence of gross negligence the ACSIG will not be liable for any error in payment of claims and while the ACSIG will attempt to recover any such erroneous payment, it is not required to initiate legal process for recovery.

B. ACSIG shall use ordinary care and reasonable diligence in the performance of its duties under this Agreement but shall not be liable for any mistake in judgment or other action taken in good faith. In the performance of its duties under this Agreement, ACSIG agrees to indemnify the Participating Member and hold it harmless against any and all loss, damage, and expense resulting from or arising out of ACSIG's gross negligence or dishonest, fraudulent or criminal acts. ACSIG shall maintain adequate errors and omissions coverage.

C. The sole remedy for resolving any and all disputes arising with respect to or in connection with this Agreement, including any disputes regarding the cancellation or rescission of this Agreement, shall be arbitration as herein provided:

(1) All issues for arbitration shall be referred to three disinterested arbitrators, one being chosen by ACSIG one being chosen by the Participating Member and the third chosen by the aforesaid arbitrators. In the event that the first two arbitrators so chosen do not agree as to the third arbitrator within 30 days after both have been appointed as

arbitrators, the third arbitrator shall be chosen by the American Arbitration Association. Should either party hereto fail to choose its arbitrator within 30 days after receipt of written notice from the other party requesting it to do so, the requesting party shall name both arbitrators and they shall proceed in all respects as above stipulated. Each party shall present its case to the arbitrators within 30 days following the date of appointment of the third arbitrator.

(2) The arbitrators shall consider this Agreement an honorable engagement rather than merely a legal obligation, and they are relieved of all judicial formalities and may abstain from following the strict rules of law. The decision and award of the majority of the arbitrators shall be final and binding upon the ACSIG and the Participating Member. Judgment may be entered upon the award of arbitrators in any Court having jurisdiction.

(3) The arbitrators shall be active or retired (i) insurance agents or (ii) officers of insurance companies, and not under the control or management of either party to this Agreement. Arbitration shall take place in San Francisco, California, unless ACSIG and the Participating Member agree otherwise. The United States Federal Arbitration Act applies to this Agreement.

(4) Each party shall bear the expense of its own chosen arbitrator, and shall jointly and equally bear with the other the expense of the third arbitrator and of the arbitration. In the event that the two arbitrators are chosen by one party, as above provided, the expense of all the arbitrators and the arbitration shall be equally divided between the two parties.

(5) This Provision concerning arbitration shall survive the termination, cancellation or rescission of the Agreement.

VII. GENERAL PROVISIONS

A. ACSIG is and shall remain at all times an independent contractor with respect to the services being performed pursuant to this Agreement and shall not be considered or otherwise deemed to be an employee or agent of the Participating Member.

B. This Agreement is legally enforceable solely between ACSIG and Participating Member, and shall not be considered or otherwise deemed to create any rights or legal relationship between ACSIG and any participant or beneficiary under the Plan.

C. No waiver or modification of any terms of this Agreement shall be effective unless in writing and duly executed by the party to be charged therewith. Waiver of any breach hereof shall not operate as a waiver of any subsequent breach, nor may the same be asserted in any proceeding as an estoppel against the party asserting such subsequent breach.

D. This Agreement shall in all respects be governed by the laws of the State of California. Venue of any suit or other proceeding hereunder shall be properly placed in Alameda County and both parties waive any objection to venue of any such proceeding therein.

E. If any action be brought by either party to enforce or seek damages for breach of any provision of this Agreement, the prevailing party in such action, if there be a prevailing party, shall be entitled to recover, in addition to costs of suit, such reasonable attorneys' fees as the tribunal determining the action may award.

F. If any term, condition, or provision of this Agreement shall be found to be illegal or unenforceable to any extent for any reason, such provision shall be modified or deleted so as to make the balance of this Agreement, as modified, valid or enforceable to the fullest extent permitted by law.

G. Any notices or other communication required or permitted hereunder shall be in writing, and shall be deemed to have been given, upon being personally delivered, or two days after being placed in the United States mail, postage prepaid, addressed as follows: Alameda County Schools Insurance Group, P.O. Box 2487, Dublin, CA 94568.

IN WITNESS WHEREOF, the Participating Member, CABRILLO UNIFIED SCHOOL DISTRICT, and Alameda County Schools Insurance Group have caused this Agreement to be signed by duly authorized representatives on this _____ day of _____, 2019.

CABRILLO UNIFED SCHOOL DISTRICT

By: _____

Title: _____

By: _____

Title: _____

ALAMEDA COUNTY SCHOOLS INSURANCE GROUP

By: _____

Title: Kimberly Dennis, Executive Director

Appendix I

Fee Schedule

CABRILLO UNIFIED SCHOOL DISTRICT
SELF FUNDED VISION

1. ACSIG/VSP Administration is 12.5% of paid claims.

These fees are guaranteed from JANUARY 1, 2020 to SEPTEMBER 30, 2020.

All fees, as established by ACSIG and VSP, are subject to change on OCTOBER 1st of each year, and will be guaranteed for a 12 month period of time. Participating Member will be invoiced for such fees in accordance with the provisions of the Participation Agreement.

Appendix II

Ownership of Records

Any employer and employee lists furnished by participating member to ACSIG/EDGE are the sole property of the participating member and will be provided to ACSIG/EDGE only for the purpose of adjudicating claims and gathering statistical data for underwriting and related purposes. All reports, documents and claims data prepared specifically for participating member in connection with this Agreement shall be the property of the participating member. ACSIG/EDGE agrees that its use of such data will be restricted to such purposes and that ACSIG/EDGE will gain no proprietary interest in said lists, reports, documents and claims data because of its use. In the event of the expiration or termination of this agreement, ACSIG/EDGE shall, upon request, return all files to participating member except as may otherwise be agreed to in writing.



EDUCATIONAL DENTAL GROUP ENTERPRISE (EDGE)
SELF FUNDED PARTICIPATION AGREEMENT

Whereas, CABRILLO UNIFIED SCHOOL DISTRICT (hereinafter called "Participating Member") has established a self-funded dental plan, and whereas Participating Member will be enlisting the services of Alameda County Schools Insurance Group (hereinafter called "ACSIG") as a Participating Member of the Education Dental Group Enterprise (hereinafter called "EDGE"), and whereas Participating Member agrees that ACSIG/EDGE has entered into an Administrative Services Agreement with Delta Dental in order to provide eligibility data, forwarding of payments for claims and administrative costs, and to act as a single contract source for all Participating Members who heretofore would have otherwise provided these services independently and directly to Delta Dental; therefore, Participating Member desires to enter into a Participation Agreement (Agreement) with ACSIG/EDGE, effective JANUARY 1, 2020 under the following terms and conditions:

I. ACSIG/EDGE's Responsibilities

ACSIG/EDGE shall have the following responsibilities during the term of this Agreement:

A. Enrollment and Eligibility

ACSIG/EDGE, or its designated entity, will be responsible for initial and subsequent enrollment of each Participating Member of ACSIG/EDGE consistent with the eligibility provisions of the Dental Care Service Contract ("Delta Contract") issued to Participating Member. ACSIG/EDGE or its designated entity, will also provide Delta with a monthly list or tape of eligible employees of Participating Member on or before the 10th day of each month.

B. Eligibility Listings

ACSIG/EDGE, or its designated entity, will provide Participating Member with an individual listing of Enrolled Employees of Participating Member on, or about, the last day of the month covering eligibility for the following month.

C. Payment to Delta

ACSIG/EDGE will collect payment for Delta's claims and administrative charges and fees for ACSIG/EDGE's administration services from Participating Members and remit a single payment for claims charges and administrative charges to Delta on a mutually agreed upon schedule.

D. ACSIG/EDGE agrees to allow the Participating Member access to its books and records upon reasonable request.

E. Representation to Delta Dental. ACSIG/EDGE will designate appropriate representatives to act as the contacts with Delta Dental for information dissemination.

F. Continuing Administration. ACSIG/EDGE or its designated entity, will respond to all inquiries regarding enrollment and payment of charges.

G. ACSIG/EDGE will be required to maintain errors and omissions coverage of not less than $500,000.

II. Participating Member Responsibilities

A. Eligibility Listings

Participating Member will provide complete eligibility listings and enrollment information to ACSIG/EDGE or its designated entity, along with any necessary changes to employee status (additions, deletions, changes of family status) prior to the 20th day of the month prior to month for which the transactions are effective.

B. Payments for Claims and Administrative Services

1. On a mutually agreed upon day, the Participating Member will transmit to ACSIG/EDGE the full amount of Dental Benefits Liability as determined by ACSIG/EDGE from Delta Dental's claim payments report, plus the claims administration expense agreed to by Delta and ACSIG/EDGE, by check or by deposit, or by using other agreed upon methods, that will be deposited into the trust account designated by ACSIG/EDGE.

2. The Participating Member will pay for services of ACSIG/EDGE the amount shown in the fee Schedule attached hereto. ACSIG/EDGE will invoice the Participating Member on a combined basis with B.1. (above), or individually, and shall be paid by the 15th day of the month for which the enrollment applies. Each following month's invoice will reflect monthly activity including additions or deletions for the previous month's eligibility.

C. COBRA Eligible Members

Participating Member shall be responsible for its employees and/or dependents that may elect to maintain benefits under federal or state COBRA provisions. All letters, notifications, election forms and payment tracking required by COBRA and related laws, shall be provided by the Participating Member. Eligible COBRA employees and/or dependents shall be reported to ACSIG/EDGE in the same manner as other eligible employees, with the Participating Member maintaining the responsibility of tracking the various time limits of eligibility.

III. Term of Contract and Termination

A. The term of this Agreement shall commence on JANUARY 1, 2020 and continue through SEPTEMBER 30, 2020 or upon cessation of the ACSIG/EDGE contract with Delta Dental, whichever is earlier. The Agreement will renew for one year periods of time on OCTOBER 1st of each subsequent year subject to the cancellation provisions of the Agreement. Claims and administration costs that are incurred during the term of this contract are the responsibility of the Participating Member.

B. Either party may cancel this Agreement by giving 90 days written notice prior to the OCTOBER 1st renewal date to the other party without cause, or upon 30 days' notice if a breach of this agreement occurs and is unresolved within 15 days. Cause means a material breach of any provision of this Participation Agreement.

C. Should either party fail to meet the financial obligation of this Agreement, either party may cancel this Agreement by giving five (5) days notice. Any such cancellation shall be made pursuant to the notice provisions of this Agreement.

D. Participating Members will be given 30 days notice of a change in fee schedule.

IV. Fees

A. The fees as shown in Appendix I of this Agreement are guaranteed through the time period indicated in Appendix I or cessation of the contract between ACSIG/EDGE and Delta Dental, whichever is earlier.

B. Appendix I to this Agreement is hereby incorporated into the Agreement and is to be made a part of the Agreement.

V. Indemnification and Dispute Resolution

A. The ACSIG/EDGE, who is an independent contractor, shall not be liable for the payment of any unpaid claims or for denial of payment of any claims under the Plan. It is understood and agreed that in the absence of gross negligence the ACSIG/EDGE will not be liable for any error in payment of claims and while the ACSIG/EDGE will attempt to recover any such erroneous payment, it is not required to initiate legal process for recovery.

B. The ACSIG/EDGE shall use ordinary care and reasonable diligence in the performance of its duties under this Agreement but shall not be liable for any mistake in judgment or other action taken in good faith. In the performance of its duties under this Agreement, the ACSIG/EDGE agrees to indemnify the Participating Member and hold it harmless against any and all loss, damage, and expense resulting from or arising out of the ACSIG/EDGE's gross negligence or dishonest, fraudulent or criminal acts. The ACSIG/EDGE shall maintain adequate errors and omissions coverage.

C. The sole remedy for resolving any and all disputes arising with respect to or in connection with this Agreement, including any disputes regarding the cancellation or rescission of this Agreement, shall be arbitration as herein provided:

(1) All issues for arbitration shall be referred to three disinterested arbitrators, one being chosen by the ACSIG/EDGE one being chosen by the Participating Member and the third chosen by the aforesaid arbitrators. In the event that the first two arbitrators so chosen do not agree as to the third arbitrator within 30 days after both have been appointed as arbitrators, the third arbitrator shall be chosen by the American Arbitration Association. Should either party hereto fail to choose its arbitrator within 30 days after receipt of written notice from the other party requesting it to do so, the requesting party shall name both arbitrators and they shall proceed in all respects as above stipulated. Each party shall present its case to the arbitrators within 30 days following the date of appointment of the third arbitrator.

(2) The arbitrators shall consider this Agreement an honorable engagement rather than merely a legal obligation, and they are relieved of all judicial formalities and may abstain from following the strict rules of law. The decision and award of the majority of the arbitrators shall be final and binding upon the ACSIG/EDGE and the Participating Member. Judgment may be entered upon the award of arbitrators in any Court having jurisdiction.

(3) The arbitrators shall be active or retired (i) insurance agents or (ii) officers of insurance companies, and not under the control or management of either party to this Agreement. Arbitration shall take place in San Francisco, California, unless the ACSIG/EDGE and the Participating Member agree otherwise. The United States Federal Arbitration Act applies to this Agreement.

(4) Each party shall bear the expense of its own chosen arbitrator, and shall jointly and equally bear with the other the expense of the third arbitrator and of the arbitration. In the event that the two arbitrators are chosen by one party, as above provided, the expense of all the arbitrators and the arbitration shall be equally divided between the two parties.

(5) This Provision concerning arbitration shall survive the termination, cancellation or rescission of the Agreement.

VI. General Provisions

A. ACSIG/EDGE is and shall remain at all times an independent contractor with respect to the services being performed pursuant to this Agreement and shall not be considered or otherwise deemed to be an employee or agent of the Participating Member.

B. This Agreement is legally enforceable solely between ACSIG/EDGE and Participating Member, and shall not be considered or otherwise deemed to create any rights or legal relationship between ACSIG/EDGE and any participant or beneficiary under the Plan.

C. No waiver or modification of any terms of this Agreement shall be effective unless in writing and duly executed by the party to be charged therewith. Waiver of any breach hereof shall not operate as a waiver of any subsequent breach, nor may the same be asserted in any proceeding as an estoppel against the party asserting such subsequent breach.

D. This Agreement shall in all respects be governed by the laws of the State of California. Venue of any suit or other proceeding hereunder shall be properly placed in Alameda County and both parties waive any objection to venue of any such proceeding therein.

E. If any action be brought by either party to enforce or seek damages for breach of any provision of this Agreement, the prevailing party in such action, if there be a prevailing party, shall be entitled to recover, in addition to costs of suit, such reasonable attorneys' fees as the tribunal determining the action may award.

F. If any term, condition, or provision of this Agreement shall be found to be illegal or unenforceable to any extent for any reason, such provision shall be modified or deleted so as to make the balance of this Agreement, as modified, valid or enforceable to the fullest extent permitted by law.

G. Any notices or other communication required or permitted hereunder shall be in writing, and shall be deemed to have been given, upon being personally delivered, or two days after being placed in the United States mail, postage prepaid, addressed as follows: Alameda County Schools Insurance Group, P.O. Box 2487, Dublin, CA 94568.

IN WITNESS WHEREOF, the Participating Member, CABRILLO UNIFIED SCHOOL DISTRICT, and Alameda County Schools Insurance Group have caused this Agreement to be signed by duly authorized representatives on this _____ day of _____, 2019.

CABRILLO UNIFIED SCHOOL DISTRICT

By: _____

Title: _____

By: _____

Title: _____

ALAMEDA COUNTY SCHOOLS INSURANCE GROUP

By: _____

Title: ___Kimberly Dennis, Executive Director_____

Appendix I

Fee Schedule

CABRILLO UNIFIED SCHOOL DISTRICT
SELF FUNDED DENTAL

1. ACSIG/EDGE Eligibility fee is $0.60 for each employee per month of enrollment.
2. Delta Dental Administration rate is 5.84% of paid claims.

These fees are guaranteed from JANUARY 1, 2020 to SEPTEMBER 30, 2020.

All fees, as established by ACSIG/EDGE and Delta Dental, are subject to change on OCTOBER 1st of each year, and will be guaranteed for a 12 month period of time. Participating Member will be invoiced for such fees in accordance with the provisions of the Participation Agreement.

Appendix II

Ownership of Records

Any employer and employee lists furnished by participating member to ACSIG/EDGE are the sole property of the participating member and will be provided to ACSIG/EDGE only for the purpose of adjudicating claims and gathering statistical data for underwriting and related purposes. All reports, documents and claims data prepared specifically for participating member in connection with this Agreement shall be the property of the participating member. ACSIG/EDGE agrees that its use of such data will be restricted to such purposes and that ACSIG/EDGE will gain no proprietary interest in said lists, reports, documents and claims data because of its use. In the event of the expiration or termination of this agreement, ACSIG/EDGE shall, upon request, return all files to participating member except as may otherwise be agreed to in writing.

CABRILLO UNIFIED SCHOOL DISTRICT

498 Kelly Avenue, Half Moon Bay, California 94019 • 650 712-7100 • Fax 650 726-0279 • www.cabrillo.k12.ca.us

SUPERINTENDENT
Sean McPhetridge, Ed.D.

GOVERNING BOARD
Mary Beth Alexander
Lizet Cortes
Kimberly Hines
Sophia Layne
Freya McCamant

MEMORANDUM

MEETING DATE: November 21, 2019
TO: Members of the Governing Board
FROM: Sean McPhetridge, Ed.D., Superintendent
CATEGORY: Action
RECOMMENDATION: Adopt Resolution No. 28-19 Approving Purchase of Solar Facilities from Solar City/Tesla in Accordance with Provisions and Intent of Bond Measures to Increase Operational Efficiency and Maximize Cost Savings

BACKGROUND INFORMATION

On May 30, 2012, Cabrillo Unified School District ("the District") executed Power Purchase Agreements ("PPAs") with SolarCity/Tesla for the construction of solar power facilities at Cunha Intermediate School and Half Moon Bay High School. The District provided timely written notice to SolarCity/Tesla of our intent to terminate the PPAs and exercise the purchase options of both PPAs in October of 2019.

District contacted legal counsel who researched and determined that the buyout of the PPAs and the purchase of solar facilities at both school sites fit within the projects described in the bond project lists of either Measure S or Measure M, thus allowing the District to legitimately use proceeds of either bond to acquire and purchase said solar facilities.

Staff recommends that the Board takes action to adopt Resolution No. 28-19, Approving Purchase of Solar Facilities from Solar City in Accordance with Provisions and Intent of Bond Measures to Increase Operational Efficiency and Maximize Cost Savings. Attached is the resolution recommended for adoption.

FINANCIAL IMPACT

There is no financial impact to the general fund as this project is bond-funded. It is anticipated that there could be up to $100K in cost savings annually from the general found.

RESOLUTION NO. 28-19
BEFORE THE GOVERNING BOARD
OF THE CABRILLO UNIFIED SCHOOL DISTRICT
SAN MATEO COUNTY, CALIFORNIA

APPROVING CABRILLO UNIFIED SCHOOL DISTRICT'S PURCHASE OF OUR SOLAR POWER FACILITIES FROM SOLAR CITY/TESLA IN ACCORDANCE WITH THE PROVISIONS AND INTENT OF BOND MEASURES TO INCREASE OPERATIONAL EFFICIENCY AND MAXIMIZE COST SAVINGS

WHEREAS, on May 30, 2012, Cabrillo Unified School District ("the District") executed Power Purchase Agreements ("PPAs") with SolarCity/Tesla for the construction of solar power facilities at Cunha Intermediate School and Half Moon Bay High School; and

WHEREAS, SolarCity/Tesla then constructed photovoltaic systems for generation of solar electricity at the sites that would later become available for District purchase; and

WHEREAS, under each of the respective PPAs, SolarCity/Tesla maintains ownership of the solar facilities until the District exercises its purchase option for the solar facilities, minimizing savings potential of solar generation facilities for the District until such time; and

WHEREAS, each of the respective PPAs grants the District a purchase option for buyout of the solar facilities at the end of the sixth and tenth contract years; and

WHEREAS, the District has been mandated to cut between $1.75 million and $2.5 million to avoid takeover by the San Mateo County Office of Education and preserve local control; and

WHEREAS, purchasing the solar facilities from SolarCity/Tesla now provides the District an opportunity for cost savings in electricity costs annually and helps the District achieve a stated goal of construction bonds being used for construction of solar facilities, namely to help the District save operational costs of electricity while also contributing to environmental sustainability; and

WHEREAS, the District provided timely written notice to SolarCity/Tesla of our intent to terminate the PPAs and exercise the purchase options of both PPAs in October of 2019; and

WHEREAS, SolarCity/Tesla then provided the District with purchase option statements for each of the PPAs, outlining respective purchase prices and terms for acquisition of the aforementioned solar facilities ($1,559,324.82 plus tax for the Half Moon Bay High School facility and $852,926.41 plus tax for the Cunha Intermediate School facility); and

WHEREAS, the District contacted legal counsel who researched and determined that the buyout of the PPAs and the purchase of solar facilities at both school sites fit within the projects described in the bond project lists of either Measure S or Measure M, thus allowing the District to legitimately use proceeds of either bond to acquire and purchase said solar facilities; and

WHEREAS, the District now requests Board approval of buyout of both SolarCity/Tesla PPAs to use bond funds to maximize the cost savings of annual operational costs of the district;

NOW THEREFORE, BE IT RESOLVED that the Board hereby approves the purchase of aforementioned solar facilities and authorizes the District's superintendent or a designee to take such actions and execute such agreements and documentation necessary to effect the intent of this Resolution and effectuate buyout of these solar facilities from SolarCity/Tesla.

PASSED AND ADOPTED by the Governing Board of the Cabrillo Unified School District on the 21st day of November, 2019, by the following vote:

Mary Beth Alexander:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Lizet Cortes:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Kimberly Hines:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Sophia Layne:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Freya McCamant:	_____	Aye	_____	No	_____	Abstain	_____	Absent

Certified by:

_____
Lizet Cortes
Clerk to the Governing Board
Cabrillo Unified School District

Attest by:

_____
Sean McPhetridge, Ed.D.
Secretary to the Governing Board
Cabrillo Unified School District

Purchase Option Statement

Customer Name and Address	Installation Location	Date
USD Cabrillo **498 Kelly Avenue** **Half Moon Bay, CA 94019**	**600 Church Street** **Half Moon Bay, CA 94019**	**10/16/2019**

This statement reflects the total amount you need to pay to exercise the purchase option set forth in the agreement (the "Agreement") you entered into with Tesla related to the system (the "System") installed at the address above. This statement is effective as of 10/16/2019 and is good until 12/15/2019. Defined terms used in this Statement and not defined have the respective meanings set forth in the Agreement.

PURCHASE OPTION AMOUNT

Payment of the following amount will count as exercise of the purchase option and payment for the System if received by the close of business on the date indicated above:

Purchase Price:	$852,926.41
Tax on Purchase Price (if applicable):	$78,895.69
Other amounts or fees:	$0.00
Total Purchase Option Amount:	**$931,822.10**

If you have any questions please feel free to contact us at: (888) 765-2489

HOW TO PAY

Overnight Mail

All checks or money orders should be made payable to SOLARCITY LMC SERIES II, LLC

Attn: Billing Department

Address: 12832 S. Frontrunner Blvd., Draper, UT 84020

*Please note: Refer to the Agreement for ongoing maintenance and repair obligations after you have exercised this purchase option.

Copy Cunha.
mailed 6/6/12
original

SolarCity

Solar Power Purchase Agreement (Commercial CA)

This Solar Power Purchase Agreement (this "**Agreement**") is entered into by the parties listed below (each a "**Party**" and collectively the "**Parties**") as of the date signed by Seller below (the "**Effective Date**").

Purchaser:		**Seller:**	
Name and Address	**Cabrillo Unified School District** 498 Kelly Avenue Half Moon Bay, CA 94019 Attention: District Superintendent	Name and Address	**SolarCity Corporation** 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(650) 712-7112	Phone	(650) 638-1028
Fax	(650) 712-0279	Fax	(650) 560-6460
E-mail		E-mail	Contracts@solarcity.com
Facility Ownership	Purchaser owns the Facility		**Contractor's License Numbers** **CA:** CSLB 888104
Project Name	Cunha Intermediate School		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the "**System**") and installed at the Purchaser's facility described in **Exhibit 3** (the "**Facility**").

The exhibits listed below are incorporated by reference and made part of this Agreement.

Exhibit 1	Pricing Attachment
Exhibit 2	System Description, Delivery Point and License Area
Exhibit 3	Memorandum of License
Exhibit 4	Credit Information
Exhibit 5	General Terms and Conditions (*Revised December 11, 2009*)
Exhibit 6	Reserved
Exhibit 7	Reserved

Purchaser: Cabrillo Unified School District

Signature: Robert Gaskill

Printed Name: Robert Gaskill

Title: District Superintendent

Date: June 1, 2012

SolarCity Corporation

Signature: B. Kelly

Printed Name: BOB KELLY

Title: CFO

Date: 5-30-12

LEGAL APPROVED
INITIAL CW
DATE 5/30/12
SolarCity

SolarCity

Solar Power Purchase Agreement (Commercial CA)

This Solar Power Purchase Agreement (this "**Agreement**") is entered into by the parties listed below (each a "**Party**" and collectively the "**Parties**") as of the date signed by Seller below (the "**Effective Date**").

Purchaser:		**Seller:**	
Name and Address	**Cabrillo Unified School District** 498 Kelly Avenue Half Moon Bay, CA 94019 Attention: District Superintendent	Name and Address	**SolarCity Corporation** 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(650) 712-7112	Phone	(650) 638-1028
Fax	(650) 712-0279	Fax	(650) 560-6460
E-mail		E-mail	Contracts@solarcity.com
Facility Ownership	Purchaser owns the Facility		**Contractor's License Numbers** **CA:** CSLB 888104
Project Name	Cunha Intermediate School		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the "**System**") and installed at the Purchaser's facility described in **Exhibit 3** (the "**Facility**").

The exhibits listed below are incorporated by reference and made part of this Agreement.

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Exhibit 6	Reserved
Exhibit 7	Reserved

Purchaser: Cabrillo Unified School District

Signature: Robert Gaskill

Printed Name: Robert Gaskill

Title: District Superintendent

Date: June 1, 2012

SolarCity Corporation

Signature: B. Kelly

Printed Name: BOB KELLY

Title: CFO

Date: 5-30-12

LEGAL APPROVED
INITIAL GW
DATE 5/30/12
SolarCity

Exhibit 1
Pricing Attachment

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date.

2. **Additional Terms:** Up to two (2) Additional Terms of five (5) years each.

3. **Environmental Incentives and Environment Attributes Accrue to *Seller*.**

4. **Contract Price:**

Contract Year	$/kWh
1	$0.1570
2	$0.1631
3	$0.1695
4	$0.1761
5	$0.1830
6	$0.1901
7	$0.1975
8	$0.2052
9	$0.2132
10	$0.2215
11	$0.2302
12	$0.2392
13	$0.2485
14	$0.2582
15	$0.2682
16	$0.2787
17	$0.2896
18	$0.3009
19	$0.3126
20	$0.3248

Includes ACH invoicing. If manual invoicing is required, a $25 handling charge will be added to each invoice.

5. **Condition Satisfaction Date:** 180 days after the Effective Date

6. **Anticipated Commercial Operation Date:** 270 days after the Effective Date

7. **Outside Commercial Operation Date:** 365 days after the Effective Date

8. **Purchase Option:**

End of Contract Year	Option Price*
Buyout after year 6	$852,926.41
Buyout after year 10	$788,730.13
Buyout after year 20	Fair Market Value
Buyout after year 25 (if first Additional Term occurs)	Fair Market Value
Buyout after year 30 (if second Additional Term occurs)	Fair Market Value

*Buyer shall have the right to purchase the System at the greater of the price set forth above and the then current fair market value.

9. **Termination Value:**

Contract Year	Termination Value
1	$1,557,028.74
2	$1,400,713.93
3	$1,194,346.99
4	$1,028,816.21
5	$886,823.31
6	$740,558.14
7	$706,622.08
8	$691,025.82
9	$672,928.15
10	$652,145.80
11	$628,484.37
12	$601,737.70
13	$571,687.23
14	$538,101.29
15	$500,734.39
16	$459,326.43
17	$413,601.91
18	$363,269.07
19	$308,019.00
20	$247,524.68

10. **Rebate Variance:** All prices in this Agreement are calculated based on an upfront rebate of $0 and an ongoing incentive of $0.03/kWh for 5 years. If the actual rebate is lower than calculated, prices will be adjusted pro-rata to reflect the actual rebate received.

Exhibit 2

System Description, Delivery Point and License Area

1. **System Location:** 600 Church Street, Half Moon Bay, California 94019

2. **System Size (DC kW):** 181.44

3. **Expected First Year Energy Production (kWh):** 265,717

4. **Expected Structure:** Roof Mount and Solar Support Structure

5. **Expected Module(s):**

Manufacturer/Model	Quantity
Trina Solar:TSM-240PA05	756

6. **Expected Inverter(s):**

Manufacturer/Model	Quantity
Solectria Renewables:PVI82kW-480	1

7. **Includes:**

SolarCity Limited Warranty, installation of a solar energy system (includes: design, engineering, permitting, installation, monitoring, rebate application and paperwork processing for solar energy system), **prevailing wage construction.**

8. **Excludes:**

Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to customer or utility electrical infrastructure, payment bonds, performance bonds, tree removal, tree trimming (collectively "Exclusions"). If any additional development and/or construction cost arises from any exclusions, Solar City may request an amendment to the pricing in this Agreement; provided that Purchaser shall have no obligation to agree to such amendment. In the event that the Parties are unable to come to agreement on such amendment, SolarCity may terminate this Agreement without liability to either Party.

9. **Delivery Point and License Area:** SolarCity shall attach a schematic that contains the:

(i) array;

(ii) Delivery Point; and

(iii) access points needed to install and service System (bldg access, electrical room, stairs etc.)

RECORDING REQUESTED BY AND WHEN RECORDED, RETURN TO:
SolarCity Corporation
Legal Department
3055 Clearview Way
San Mateo, CA 94402

Facsimile: (650) 560-6460
Email: contracts@solarcity.com

(space above this line reserved for recorder's use)

Exhibit 3
MEMORANDUM OF LICENSE

THIS MEMORANDUM OF LICENSE is made and entered into this 30TH day of MAY, 2012, (the "Effective Date") by and between CABRILLO UNIFIED SCHOOL DISTRICT, whose address is 498 Kelly Avenue, Half Moon Bay, California 94019 ("**Licensor**"), and SOLARCITY CORPORATION, whose address is 3055 Clearview Way, San Mateo, CA 94402 ("**Licensee**").

A. Licensor is the owner of certain real property ("**Premises**"), located in the County of SAN MATEO, State of California, attached to this License as Exhibit A and incorporated herein by reference. The Cunha Intermediate School is located at 600 Church Street, Half Moon Bay, CA 94019 (the "Facility").

B. Licensor and Licensee have entered into a Solar Power Purchase Agreement dated on or about the Effective Date (the "**Agreement**") under which Licensee is selling to Licensor the energy generated by a photovoltaic electric generating system (the "**System**") located at the Facility. The Agreement is for a term of twenty (20) years, beginning on the Effective Date and ending on the twenty (20) year anniversary of the Commercial Operation Date with an option to extend the Agreement for up to two (2) extended terms of five (5) years each. Pursuant to the Agreement, Licensor has granted Licensee an irrevocable, non-exclusive license ("**License**") over portions of the Facility and the Premises (the "License Area") for the purposes and on the terms set forth in the Agreement.

Licensor and Licensee agree as follows:

1. Licensor hereby grants to Licensee the License over the Premises on and subject to the terms and conditions set forth in the Agreement which is incorporated herein by reference.

2. The term of the License begins on the Effective Date and continues until one hundred and twenty (120) days after the termination of the Agreement.

3. This Memorandum of License shall not be deemed to modify, alter or amend in any way the provisions of the License or the Agreement. In the event of any conflict between the terms of the License and/or the Agreement and this Memorandum, the terms of the License and/or the Agreement, as applicable, shall control.

The undersigned have executed this Memorandum of License as of the date first written above.

LICENSOR

CABRILLO UNIFIED SCHOOL DISTRICT

By: Robert Gaskill
Name: Robert Gaskill
Title: District Superintendent

LICENSEE

SOLARCITY CORPORATION

By: B. Kelly
Name: BOB KELLY
Title: CFO

State of California)
)
County of San Mateo)

On 1 June 2012, before me, Douglas James Winter, Notary Public, personally appeared Robert Gaskill, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

DOUGLAS JAMES WINTER
Commission # 1872415
Notary Public - California
San Mateo County
My Comm. Expires Dec 3, 2013

Signature of the Notary Public

State of California)
)
County of San Mateo)

On MAY 30, 2012, before me, THERESA FACTORA, Notary Public, personally appeared BOB KELLY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

THERESA A. FACTORA
Commission # 1973876
Notary Public - California
San Mateo County
My Comm. Expires Mar 30, 2016

Signature of the Notary Public

Exhibit A
To Memorandum of License

Legal Description of License Area

The License Area has a common address of 600 Church Street, Half Moon Bay, CA and is located on a portion of that certain real property located in the County of SAN MATEO, State of California described as follows:

[*TO BE INSERTED*]

End of Exhibit 3

Exhibit 4

Credit Information

Promptly following the execution of this Agreement Purchaser shall supply SolarCity with the following credit information:

APPLICANT'S INFORMATION							
Name Cabrillo Unified School District					**Tax ID**		
Previous & Other Names					**Website**		
Corporate Address 498 Kelly Avenue							
City, State, Zip Code Half Moon Bay, California 94019							
Phone Number				**Fax Number**			
Entity Type Check One:	**S-Corp**	**C-Corp**	**Partnership**	**Sole Prop**	**LLC**	**LLP**	**Other**
Property Address for Solar Installation 600 Church Street, Half Moon Bay			**State** CA		**Zip Code** 94019	**Owner Occupied?** YES	
Property Type		**Insurance Agent Name**		**Agent's Phone**	**Name of Landlord if Not Owner Occupied**		

Information Requested: Please submit the information required below via electronic format to commericalcredit@solarcity.com.

Corporate Records

- ☐ Copy of Articles of Incorporation, Partnership Agreement, Fictitious Name Statement or Organizational Formation Documents (if applicable).

Financial Statements

- ☐ Last three (3) years of CPA audited, reviewed, compiled statements (Balance Sheet, Income Statement, Cash Flow).

SolarCity may request that you provide additional documentation to complete the credit evaluation process. SolarCity will notify you if additional information is required.

The above information and any information attached is furnished to SolarCity and its affiliates ("Lender") in connection with the Application of credit for which you may apply or credit you may guarantee. You acknowledge and understand that the Lender is relying on this information in deciding to grant or continue credit or to accept a guarantee of credit. You represent, warranty and certify that the information provided herein is true, correct and complete. The Lender is authorized to make all inquires deemed necessary to verify the accuracy of the information contained herein and to determine your creditworthiness. You authorize any person or consumer-reporting agency to give the Lender any information it may have about you. You authorize the Lender to answer questions about its credit experience with you. Subject to any non-disclosure agreement between you and Lender, this form and any other information given to the Lender shall be the Lender's property.

If your application for business credit is denied you have the right to a written statement of the specific reason for the denial. To obtain the statement, please contact SolarCity at (650) 638-1028, San Mateo, CA 94402. You must contact us within 60 days from date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request.

NOTICE: The Federal Equal Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance programs; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Office of the Comptroller of the Currency, Customer Assistance Unit, 1301 McKinney Street, Suite 3450, Houston, Texas 77010-9050. SolarCity is an equal opportunity lender.

Signature Title Date

Exhibit 5

Solar Power Purchase Agreement General Terms and Conditions

Revised December 11, 2009

1. **Definitions and Interpretation**: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the "**Term**"). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified on **Exhibit 3** (the "**Delivery Point**"). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser's electric requirements at the Facility exceed the output of the System.

3. **Term and Termination**.

   a. **Initial Term.** The initial term ("**Initial Term**") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1**, unless earlier terminated as provided for in this Agreement. The "**Commercial Operation Date**" is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the Utility. This Agreement is effective as of the Effective Date and Purchaser's failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

   b. **Additional Terms.** If Purchaser has not exercised its option to purchase the System by the end of the Initial Term, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each an "**Additional Term**"). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party's offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.

4. **Billing and Payment**.

   a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Delivery Point at the $/kWh rate shown in **Exhibit 1** (the "**Contract Price**"). The monthly payment for such energy will be equal to the applicable $/kWh rate multiplied by the number of kWh of energy generated during the applicable month, as measured by the System meter.

   b. **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.

c. **Taxes.** Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric distribution system, including property taxes on the System; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser for reasons other than Force Majeure. For purposes of this Section 4(d), "**Taxes**" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.

d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net twenty (20) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the twenty (20) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) over the Prime Rate (but not to exceed the maximum rate permitted by law).

5. Environmental Attributes and Environmental Incentives.

Unless otherwise specified on **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, if engaged in commerce and/or trade, shall submit to Seller for approval any press releases regarding Purchaser's use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

"**Environmental Incentives**" means any and all credits, rebates, subsidies, payments or other incentives that relate to self–generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.

"**Governmental Authority**" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the California Public Utilities Commission), or any arbitrator with authority to bind a party at law.

"**Tax Credits**" means any and all (i) investment tax credits, (ii) production tax credits and (iii) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. **Conditions to Obligations.**

a. **Conditions to Seller's Obligations.**

Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date:

i. Completion of a physical inspection of the Facility and the property upon which the Facility is located (the "**Premises**") including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;

ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller's Financing Parties. "**Construction Agreement**" as used in this subsection means an agreement between SolarCity and a subcontractor to install the System;

iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;

iv. Receipt of all necessary zoning, land use and building permits;

v. Execution of all necessary agreements with the Utility for interconnection of the System to the Utility's electric distribution system; and

vi. Prior to Seller commencing construction and installation of the System, Purchaser shall give Seller proof of insurance for all insurance required to be maintained by Purchaser under this Agreement.

b. **Conditions to Purchaser's Obligations.**

i. Purchaser's obligations under this Agreement are conditioned on the occurrence of the Commercial Operation Date for the System on or before the Outside Commercial Operation Date (*See* **Exhibit 1**).

c. **Failure of Conditions.**

If any of the conditions listed in subsections a or b above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the parties are unable to negotiate new dates then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.

7. **Seller's Rights and Obligations.**

a. **Permits and Approvals.** Seller, with Purchaser's reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

i. any zoning, land use and building permits required to construct, install and operate the System; and

ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Utility's electric distribution system.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

b. **Standard System Repair and Maintenance.** Seller shall construct and install the System at the Facility. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement or the Site Lease (if applicable). Purchaser shall be responsible for any work done by others on any part of the System done by itself or at its direction unless Seller authorizes that work in advance in writing (such unauthorized parties being "Unauthorized Servicers"). Purchaser shall be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by itself or any Unauthorized Servicers. If the System requires repairs for which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or

Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.

c. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to material conditions at the Facility that are known by Purchaser and not disclosed to or otherwise known by Seller (or that could not have been known by Seller) or due to the inaccuracy of any information provided by Purchaser that was not known by Seller (or that could not have been known by Seller) and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.

d. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.

e. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.

f. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. However, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors. If a list of pre-approved contractors and subcontractors is desired, such list shall be scheduled on an appendix to this Exhibit. All contractors and subcontractors, other than those that may be scheduled on an appendix to this Exhibit, shall be subject to Purchaser's prior written consent, not to be unreasonably withheld.

g. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.

h. **Separate Warranty.**

i. The Limited Warranty that SolarCity will provide to Purchaser is a separate contract from this Agreement. No rights provided to Purchaser by the Limited Warranty may be asserted under this Agreement. No warranty is made in this Agreement. Therefore, any warranty claim must be made independently of this Agreement under the Limited Warranty and will not affect Purchaser's obligations under this Agreement.

ii. NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.

8. **Purchaser's Rights and Obligations.**

a. **Facility Access Rights.** Purchaser grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises as more particularly described in Exhibit A to **Exhibit 3** (the "**License Area**") for the purposes of (a)

installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to Purchaser's electric system at the Facility and/or to the Utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "**License Term**"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the License Area are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this agreement by either Party. Purchaser agrees that Seller may record a memorandum of license in substantially the same form attached hereto as **Exhibit 3** in the land records respecting the License.

b. **OSHA Compliance**. Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.

c. **Maintenance of Facility**. Purchaser shall, at its sole cost and expense, maintain the Facility in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the local utility grid at all times and will not permit cessation of electric service to the Facility from the local utility. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.

d. **No Alteration of Facility**. Purchaser shall not make any alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

e. **Outages**. Purchaser shall be permitted to be off line for two (2) full twenty-four (24) hour days (each, a "**Scheduled Outage**") per calendar year during the Term, during which days Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed two (2) days per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount in accordance with Section 4.

f. **Liens**. Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim.

g. **Security**. Purchaser shall be responsible for maintaining the physical security of the Facility and the System. . Purchaser will not conduct activities on, in or about the License Area or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. .

h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 7.h.i(h) against Purchaser.

i. **Data Line.** Purchaser shall provide Seller a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. If Purchaser fails to provide such high speed internet data line, or if such line ceases to function and is not repaired, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 4.

j. **Breakdown Notice.** Purchaser shall notify Seller within twenty-four (24) hours following the discovery by it of (A) any material malfunction in the operation of the System; or (B) any occurrences that could reasonably be expected to adversely affect the System. Purchaser shall notify Seller immediately upon (A) an interruption in the supply of electrical energy from the System; or (B) the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

9. **Change in Law.**

"Change in Law" means (i) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (ii) a change in any Environmental Attribute, Environmental Incentive or Tax Attribute which in the case of any of (i) or (ii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination

10. **Relocation of System.**

If Purchaser ceases to conduct business operations at and/or vacates the Facility or is prevented from operating the System at the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same Utility district as the terminated System or in a location with similar Utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new Purchaser, owner, lessor or mortgagee consents or releases required by Seller or Seller's Financing Parties in connection with the substitute facility. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. Seller shall remove the System from the vacated Facility prior to the termination of Purchaser's ownership, lease or other rights to use such Facility. Seller will not be required to restore the Facility to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to make an adjustment to

Exhibit 1 such that Purchaser's payments to Seller are the same as if the System were located at the original Facility. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

11. **Removal of System at Expiration.**

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition including the removal of System mounting pads or other support structures. In no case shall Seller's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of the System and shall be flashed and/or patched to existing roof specifications. Seller shall leave the Facility in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

12. **Measurement.**

Electricity delivered to the Facility shall be measured by the SolarGuard monitoring system installed and maintained by Seller as part of the System.

13. **Default, Remedies and Damages.**

a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed a **"Defaulting Party"** and each event of default shall be a **"Default Event"**:

(1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the other Party (the "**Non-Defaulting Party**") of such failure to pay ("**Payment Default**");

(2) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure with the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse affect on the Non-Defaulting Party resulting from the failure to cure the Default Event;

(3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

(4) Purchaser loses its rights to occupy and enjoy the Premises;

(5) a Party, or its guarantor, becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect; or

(6) Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. **Remedies.**

(1) Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.

(2) Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement or suspension of performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event. If Purchaser terminates this contract without cause prior to System Installation a $5,000 design cancellation fee shall also apply in addition to any other remedy available to Seller.

(3) Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):

A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (i) the termination value set forth in **Exhibit 1** (the "**Termination Value**") for such Contract Year, (ii) removal costs as provided in Section 13(b)(3)(C) and (iii) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of an Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Value set forth in **Exhibit 1** is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (i) the present value (using a discount rate of 9.5%) of the excess, if any, of the reasonably expected cost of electric energy from the Utility over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; (iii) any removal costs incurred by Purchaser, and (iv) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment (except for mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

14. **Representations and Warranties.**

a. **General Representations and Warranties.** Each Party represents and warrants to the other the following:

(1) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except

as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).

(2) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

b. **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller the following:

(1) License. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility.

(2) Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.

(3) Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated electricity requirements, is accurate in all material respects.

(4) Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

(5) No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

(6) Oregon Only: The electricity generated by the System will be used solely for commercial and business purposes. No portion of the electricity generated will be used for personal, family, household or agricultural purposes.

15. **System and Facility Damage and Insurance.**

a. **System and Facility Damage.**

(1) Seller's Obligations. If the System is damaged or destroyed other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (i) to pay for the cost of such restoration of the System or (ii) to purchase the System "AS-IS" at the greater of (A) then current fair market value of the System and (B) the sum of the amounts described in Section 13.b(3)A)(i) (using the date of purchase to determine the appropriate Contract Year) and Section 13.b(3)A)(iii).

(2) Intentionally Deleted.

b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

i. Seller's Insurance. Seller shall maintain (i) property insurance on the System for the replacement cost thereof, (ii) comprehensive general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, (iii) employer's liability insurance with coverage of at least $1,000,000 and (iv) worker's compensation insurance as required by law.

ii. Purchaser's Insurance. Purchaser shall maintain (i) comprehensive general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, (ii) employer's liability insurance with coverage of at least $1,000,000 and (iii) worker's compensation insurance as required by law.

c. **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled, terminated or materially altered, (ii) be written on an occurrence basis, (iii) with respect to the liability insurance policies, include the other Party as an additional insured as its interest may appear, (iv) include waivers of subrogation, (v) provide for primary coverage without right of contribution from any insurance of the other Party, and (vi) be maintained with companies either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide or otherwise reasonably acceptable to the other party.

d. **Certificates.** Within thirty (30) days after execution of this Agreement and upon the other Party's request and annually thereafter, each Party shall deliver the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

16. **Ownership; Option to Purchase.**

a. **Ownership of System.** Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises.

b. **Option to Purchase.** At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to (i) with respect to an option exercised at the end of the sixth (6th) or tenth (10th) Contract Years the ***greater*** of (A) the amount set forth at such time in the Purchase Option Price schedule in **Exhibit 1**, and (B) the Fair Market Value of the System, and (ii) with respect to an option exercised at the end of the Term or an Additional Term, the Fair Market Value of the System. The "**Fair Market Value**" of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

17. **Indemnification and Limitations of Liability.**

a. **General.** Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective

affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 14 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c).

b. **Notice and Participation in Third Party Claims**. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification**. Seller shall indemnify, defend and hold harmless all of Purchaser's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the License Area of any Hazardous Substance (as defined in Section 17(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the License Area or the Premises generally or any deposit, spill or release of any Hazardous Substance.

i. "**Hazardous Substance**" means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability**.

i. No Consequential Damages. Neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.

ii. Actual Damages. Except with respect to Seller's indemnification obligations for third party claims pursuant to Section 17(a), Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total of the payments for energy made by Purchaser under this Agreement (actual payments and projected payments in aggregate). The provisions of this Section (17)(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise.

18. **Force Majeure**.

a. "**Force Majeure**" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the

production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. Seller shall not be liable for any damage to the System or the Facility resulting from a Force Majeure event. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event (for the avoidance of doubt, under no circumstances shall Purchaser be required to make payment for energy not delivered pursuant to the terms of this Agreement).

d. If a Force Majeure event continues for a period of one hundred (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

19. **Assignment and Financing.**

a. **Assignment**. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement to any Financing Party, (ii) directly or indirectly assign this Agreement to an affiliate of Seller, (iii) assign this Agreement to any entity through which Seller is obtaining financing or capital for the System and (iv) assign this Agreement to any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee). Purchaser's consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

b. **Financing**. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from lenders or third parties ("**Financing Parties**") in connection with the installation, construction, ownership, operation and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties.

20. **Confidentiality and Publicity.**

a. **Confidentiality.** If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Purchaser's business (**"Confidential Information"**) to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, **"Representatives"**), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 20(a), except as set forth in Section 20(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 20(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 20(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 20(a), but shall be in addition to all other remedies available at law or in equity.

b. **Permitted Disclosures.** Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

21. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

22. **General Provisions**

a. **Choice of Law.** The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.

b. **Arbitration and Attorneys' Fees.** Any dispute arising from or relating to this Agreement shall be arbitrated in San Francisco, California. The arbitration shall be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent

jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

c. **Notices**. All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.

d. **Survival**. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 4 (Representations and Warranties), Section 7(h) (No Warranty), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 20 (Confidentiality and Publicity), Section 22(a) (Choice of Law), Section 22 (b) (Arbitration and Attorneys' Fees), Section 22(c) (Notices), Section 22 (g) (Comparative Negligence), Section 22(h) (Non-Dedication of Facilities), Section 22(j) (Service Contract), Section 22(k) (No Partnership) Section 22(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 22(n) (No Third Party Beneficiaries).

e. **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

f. **Right of Waiver**. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

g. **Comparative Negligence**. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

h. **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 11 of this Agreement.

i. **Estoppel**. Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and

conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

j. **Service Contract**. The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

k. **No Partnership**. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

l. **Full Agreement, Modification, Invalidity, Counterparts, Captions**. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

m. **Forward Contract**. The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

n. **No Third Party Beneficiaries**. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

End of Exhibit 5

Exhibit 6

RESERVED

End of Exhibit 6

Exhibit 7

RESERVED

End of Exhibit 7

Purchase Option Statement

Customer Name and Address	Installation Location	Date
USD Cabrillo **498 Kelly Avenue** **Half Moon Bay, CA 94019**	**Lewis Foster Dr,** **Half Moon Bay, CA 94019**	**10/16/2019**

This statement reflects the total amount you need to pay to exercise the purchase option set forth in the agreement (the "Agreement") you entered into with Tesla related to the system (the "System") installed at the address above. This statement is effective as of 10/16/2019 and is good until 12/15/2019. Defined terms used in this Statement and not defined have the respective meanings set forth in the Agreement.

PURCHASE OPTION AMOUNT

Payment of the following amount will count as exercise of the purchase option and payment for the System if received by the close of business on the date indicated above:

Purchase Price:	$1,559,324.82
Tax on Purchase Price (if applicable):	$144,237.55
Other amounts or fees:	$0.00
Total Purchase Option Amount:	**$1,703,562.37**

If you have any questions please feel free to contact us at: (888) 765-2489

HOW TO PAY

Overnight Mail

All checks or money orders should be made payable to SOLARCITY LMC SERIES II, LLC

Attn: Billing Department

Address: 12832 S. Frontrunner Blvd., Draper, UT 84020

*Please note: Refer to the Agreement for ongoing maintenance and repair obligations after you have exercised this purchase option.

copy HS mailed 6/6/12
original

SolarCity

Solar Power Purchase Agreement (Commercial CA)

This Solar Power Purchase Agreement (this "**Agreement**") is entered into by the parties listed below (each a "**Party**" and collectively the "**Parties**") as of the date signed by Seller below (the "**Effective Date**").

Purchaser:		**Seller:**	
Name and Address	**Cabrillo Unified School District** 498 Kelly Avenue Half Moon Bay, CA 94019 Attention: District Superintendent	Name and Address	**SolarCity Corporation** 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(650) 712-7112	Phone	(650) 638-1028
Fax	(650) 712-0279	Fax	(650) 560-6460
E-mail		E-mail	Contracts@solarcity.com
Facility Ownership	Purchaser owns the Facility		**Contractor's License Numbers** **CA:** CSLB 888104
Project Name	Half Moon Bay High School		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the "**System**") and installed at the Purchaser's facility defined and described in **Exhibit 3** (the "**Facility**").

The exhibits listed below are incorporated by reference and made part of this Agreement.

Exhibit 1	Pricing Attachment
Exhibit 2	System Description, Delivery Point and License Area
Exhibit 3	Memorandum of License
Exhibit 4	Credit Information
Exhibit 5	General Terms and Conditions (*Revised December 11, 2009*)
Exhibit 6	Reserved
Exhibit 7	Reserved

Purchaser: Cabrillo Unified School District

Signature: Robert Gaskill

Printed Name: Robert Gaskill

Title: District Superintendent

Date: June 1, 2012

SolarCity Corporation

Signature: B. Kelly

Printed Name: BOB KELLY

Title: CFO

Date: 5-30-12

LEGAL APPROVED
INITIAL
DATE 5/30/12

SolarCity

Solar Power Purchase Agreement (Commercial CA)

This Solar Power Purchase Agreement (this "**Agreement**") is entered into by the parties listed below (each a "**Party**" and collectively the "**Parties**") as of the date signed by Seller below (the "**Effective Date**").

Purchaser:		**Seller:**	
Name and Address	**Cabrillo Unified School District** 498 Kelly Avenue Half Moon Bay, CA 94019 Attention: District Superintendent	Name and Address	**SolarCity Corporation** 3055 Clearview Way San Mateo, CA 94402 Attention: Legal Department
Phone	(650) 712-7112	Phone	(650) 638-1028
Fax	(650) 712-0279	Fax	(650) 560-6460
E-mail		E-mail	Contracts@solarcity.com
Facility Ownership	Purchaser owns the Facility		**Contractor's License Numbers** **CA:** CSLB 888104
Project Name	Half Moon Bay High School		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the "**System**") and installed at the Purchaser's facility defined and described in **Exhibit 3** (the "**Facility**").

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Exhibit 6	Reserved
Exhibit 7	Reserved

Purchaser: Cabrillo Unified School District

Signature: Robert Gaskill

Printed Name: Robert Gaskill

Title: District Superintendent

Date: June 1, 2012

SolarCity Corporation

Signature: B. Kelly

Printed Name: BOB KELLY

Title: CFO

Date: 5-30-12

LEGAL APPROVED
INITIAL BW
DATE 5/30/12

Exhibit 1
Pricing Attachment

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date.

2. **Additional Terms:** Up to two (2) Additional Terms of five (5) years each.

3. **Environmental Incentives and Environment Attributes Accrue to *Seller*.**

4. **Contract Price:**

Contract Year	$/kWh
1	$0.1480
2	$0.1538
3	$0.1598
4	$0.1660
5	$0.1725
6	$0.1792
7	$0.1862
8	$0.1935
9	$0.2010
10	$0.2088
11	$0.2170
12	$0.2254
13	$0.2342
14	$0.2434
15	$0.2529
16	$0.2627
17	$0.2730
18	$0.2836
19	$0.2947
20	$0.3062

Includes ACH invoicing. If manual invoicing is required, a $25 handling charge will be added to each invoice.

5. **Condition Satisfaction Date:** 180 days after the Effective Date

6. **Anticipated Commercial Operation Date:** 270 days after the Effective Date

7. **Outside Commercial Operation Date:** 365 days after the Effective Date

8. **Purchase Option:**

End of Contract Year	Option Price*
Buyout after year 6	$1,559,324.82
Buyout after year 10	$1,435,521.76
Buyout after year 20 (if first Additional Term occurs)	Fair Market Value
Buyout after year 25 (if first Additional Term occurs)	Fair Market Value
Buyout after year 30 (if second Additional Term occurs)	Fair Market Value

*Buyer shall have the right to purchase the System at the greater of the price set forth above and the then current fair market value. Buyer shall have the right to purchase the System at the then current fair market value at the end of each Additional Term of five (5) years.

9. **Termination Value:**

Contract Year	Termination Value
1	$1,986,406.80
2	$1,812,880.34
3	$1,580,158.11
4	$1,394,756.06
5	$1,236,353.13
6	$1,072,301.93
7	$1,029,453.63
8	$1,007,504.72
9	$981,976.34
10	$952,605.63
11	$919,113.71
12	$881,204.87
13	$838,565.54
14	$790,863.38
15	$737,746.13
16	$678,840.65
17	$613,751.62
18	$542,060.39
19	$463,323.68
20	$395,925.83

10. **Rebate Variance:** All prices in this Agreement are calculated based on an upfront rebate of $0 and an ongoing incentive of $0.03/kWh for 5 years. If the actual rebate is lower than calculated, prices will be adjusted pro-rata to reflect the actual rebate received.

Exhibit 2

System Description, Delivery Point and License Area

1. **System Location:** Lewis Foster Drive, Half Moon Bay, California 94019

2. **System Size (DC kW):** 360

3. **Expected First Year Energy Production (kWh):** 527,367

4. **Expected Structure:** Solar Support Structure

5. **Expected Module(s):**

Manufacturer/Model	Quantity
Trina Solar:TSM-240PA05	1,500

6. **Expected Inverter(s):**

Manufacturer/Model	Quantity
SatCon Technology:PVS-500 (480 V)	1

7. **Includes:**

SolarCity Limited Warranty, installation of a solar energy system (includes: design, engineering, permitting, installation, monitoring, rebate application and paperwork processing for solar energy system), **prevailing wage construction.**

8. **Excludes:**

Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to customer or utility electrical infrastructure, payment bonds, performance bonds, tree removal, tree trimming (collectively "Exclusions"). If any additional development and/or construction cost arises from any exclusions, Solar City may request an amendment to the pricing in this Agreement; provided that Purchaser shall have no obligation to agree to such amendment. In the event that the Parties are unable to come to agreement on such amendment, SolarCity may terminate this Agreement without liability to either Party.

9. **Delivery Point and License Area:** SolarCity shall attach a schematic that contains the:

(i) array;

(ii) Delivery Point; and

(iii) access points needed to install and service System (bldg access, electrical room, stairs etc.)

RECORDING REQUESTED BY AND WHEN RECORDED, RETURN TO:
SolarCity Corporation
Legal Department
3055 Clearview Way
San Mateo, CA 94402

Facsimile: (650) 560-6460
Email: contracts@solarcity.com

(space above this line reserved for recorder's use)

Exhibit 3
MEMORANDUM OF LICENSE

THIS MEMORANDUM OF LICENSE is made and entered into this 30TH day of MAY, 2012, (the "Effective Date") by and between CABRILLO UNIFIED SCHOOL DISTRICT, whose address is 498 Kelly Avenue, Half Moon Bay, California 94019 ("**Licensor**"), and SOLARCITY CORPORATION, whose address is 3055 Clearview Way, San Mateo, CA 94402 ("**Licensee**").

A. Licensor is the owner of certain real property ("**Premises**"), located in the County of SAN MATEO, State of California, attached to this License as Exhibit A and incorporated herein by reference. The Half Moon Bay High School is located at Lewis Foster Drive, Half Moon Bay, CA 94019 (the "Facility").

B. Licensor and Licensee have entered into a Solar Power Purchase Agreement dated on or about the Effective Date (the "**Agreement**") under which Licensee is selling to Licensor the energy generated by a photovoltaic electric generating system (the "**System**") located at the Facility. The Agreement is for a term of twenty (20) years, beginning on the Effective Date and ending on the twenty (20) year anniversary of the Commercial Operation Date with an option to extend the Agreement for up to two (2) extended terms of five (5) years each. Pursuant to the Agreement, Licensor has granted Licensee an irrevocable, non-exclusive license ("**License**") over portions of the Facility and the Premises (the "License Area") for the purposes and on the terms set forth in the Agreement.

Licensor and Licensee agree as follows:

1. Licensor hereby grants to Licensee the License over the License Area on and subject to the terms and conditions set forth in the Agreement which is incorporated herein by reference.

2. The term of the License begins on the Effective Date and continues until one hundred and twenty (120) days after the termination of the Agreement.

3. This Memorandum of License shall not be deemed to modify, alter or amend in any way the provisions of the License or the Agreement. In the event of any conflict between the terms of the License and/or the Agreement and this Memorandum, the terms of the License and/or the Agreement, as applicable, shall control.

The undersigned have executed this Memorandum of License as of the date first written above.

LICENSOR

CABRILLO UNIFIED SCHOOL DISTRICT
By: Robert Gaskill
Name:
Title: Robert Gaskill
District Superintendent

LICENSEE

SOLARCITY CORPORATION
By: B. Kelly
Name: BOB KELLY
Title: CFO

State of California)
)
County of San Mateo)

On 1 June 2012, before me, Douglas James Winter, Notary Public, personally appeared Robert Gaskill, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

DOUGLAS JAMES WINTER
Commission # 1872415
Notary Public - California
San Mateo County
My Comm. Expires Dec 3, 2013

Signature of the Notary Public

State of California)
)
County of San Mateo)

On MAY 30, 2012, before me, THERESA FACTORA, Notary Public, personally appeared BOB KELLY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

THERESA A. FACTORA
Commission # 1973676
Notary Public - California
San Mateo County
My Comm. Expires Mar 30, 2016

Signature of the Notary Public

Exhibit A
To Memorandum of License

Description of License Area

The License Area has a common address of Lewis Foster Drive, Half Moon Bay, CA 94019 and is located on a portion of that certain real property located in the County of SAN MATEO, State of California described as follows:

[TO BE ATTACHED]

End of Exhibit 3

Exhibit 4

Credit Information

Promptly following the execution of this Agreement Purchaser shall supply SolarCity with the following credit information:

APPLICANT'S INFORMATION							
Name Cabrillo Unified School District					Tax ID		
Previous & Other Names					Website		
Corporate Address 498 Kelly Avenue							
City, State, Zip Code Half Moon Bay, California 94019							
Phone Number				Fax Number			
Entity Type Check One:	S-Corp	C-Corp	Partnership	Sole Prop	LLC	LLP	Other
Property Address for Solar Installation Lewis Foster Drive, Half Moon Bay			State CA		Zip Code 94019	Owner Occupied? YES	
Property Type		Insurance Agent Name		Agent's Phone	Name of Landlord if Not Owner Occupied		

Information Requested: Please submit the information required below via electronic format to commericalcredit@solarcity.com.

Corporate Records

- ☐ Copy of Articles of Incorporation, Partnership Agreement, Fictitious Name Statement or Organizational Formation Documents (if applicable).

Financial Statements

- ☐ Last three (3) years of CPA audited, reviewed, compiled statements (Balance Sheet, Income Statement, Cash Flow).

SolarCity may request that you provide additional documentation to complete the credit evaluation process. SolarCity will notify you if additional information is required.

The above information and any information attached is furnished to SolarCity and its affiliates ("Lender") in connection with the Application of credit for which you may apply or credit you may guarantee. You acknowledge and understand that the Lender is relying on this information in deciding to grant or continue credit or to accept a guarantee of credit. You represent, warranty and certify that the information provided herein is true, correct and complete. The Lender is authorized to make all inquires deemed necessary to verify the accuracy of the information contained herein and to determine your creditworthiness. You authorize any person or consumer-reporting agency to give the Lender any information it may have about you. You authorize the Lender to answer questions about its credit experience with you. Subject to any non-disclosure agreement between you and Lender, this form and any other information given to the Lender shall be the Lender's property.

If your application for business credit is denied you have the right to a written statement of the specific reason for the denial. To obtain the statement, please contact SolarCity at (650) 638-1028, San Mateo, CA 94402. You must contact us within 60 days from date you are notified of our decision. We will send you a written statement of reasons for the denial within 30 days of receiving your request.

NOTICE: The Federal Equal Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status or age (provided the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance programs; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is the Office of the Comptroller of the Currency, Customer Assistance Unit, 1301 McKinney Street, Suite 3450, Houston, Texas 77010-9050. SolarCity is an equal opportunity lender.

Signature Title Date

Exhibit 5

Solar Power Purchase Agreement General Terms and Conditions

Revised December 11, 2009

1. **Definitions and Interpretation**: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

2. **Purchase and Sale of Electricity.** Purchaser shall purchase from Seller, and Seller shall sell to Purchaser, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the "**Term**"). Electric energy generated by the System will be delivered to Purchaser at the delivery point identified on **Exhibit 3** (the "**Delivery Point**"). Purchaser shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Seller to Purchaser at the Delivery Point. Purchaser may purchase electric energy for the Facility from other sources if the Purchaser's electric requirements at the Facility exceed the output of the System.

3. **Term and Termination.**

   a. **Initial Term.** The initial term ("**Initial Term**") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1**, unless earlier terminated as provided for in this Agreement. The "**Commercial Operation Date**" is the date Seller gives Purchaser written notice that the System is mechanically complete and capable of providing electric energy to the Delivery Point. Upon Purchaser's request, Seller will give Purchaser copies of certificates of completion or similar documentation from Seller's contractor and the interconnection or similar agreement with the Utility. This Agreement is effective as of the Effective Date and Purchaser's failure to enable Seller to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

   b. **Additional Terms.** If Purchaser has not exercised its option to purchase the System by the end of the Initial Term, either Party may give the other Party written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each an "**Additional Term**"). Such notice shall be given, if at all, not more than one hundred twenty (120) and not less than sixty (60) days before the last day of the Initial Term or the then current Additional Term, as applicable. The Party receiving the notice requesting an Additional Term shall respond positively or negatively to that request in writing within thirty (30) days after receipt of the request. Failure to respond within such thirty (30) day period shall be deemed a rejection of the offer for an Additional Term. If both Parties agree to an Additional Term, the Additional Term shall begin immediately upon the conclusion of the Initial Term or the then current term on the same terms and conditions as set forth in this Agreement. If the Party receiving the request for an Additional Term rejects or is deemed to reject the first Party's offer, this Agreement shall terminate at the end of the Initial Term (if the same has not been extended) or the then current Additional Term.

4. **Billing and Payment.**

   a. **Monthly Charges.** Purchaser shall pay Seller monthly for the electric energy generated by the System and delivered to the Delivery Point at the $/kWh rate shown in **Exhibit 1** (the "**Contract Price**"). The monthly payment for such energy will be equal to the applicable $/kWh rate multiplied by the number of kWh of energy generated during the applicable month, as measured by the System meter.

   b. **Monthly Invoices.** Seller shall invoice Purchaser monthly, either manually or through ACH. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, (ii) the rates applicable to, and charges incurred by, Purchaser under this Agreement and (iii) the total amount due from Purchaser.

c. **Taxes.** Purchaser shall either pay or reimburse Seller for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric distribution system, including property taxes on the System; provided, however, Purchaser will not be required to pay or reimburse Seller for any taxes during periods when Seller fails to deliver electric energy to Purchaser for reasons other than Force Majeure. For purposes of this Section 4(d), "**Taxes**" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, transaction, and other taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Seller's revenues due to the sale of energy under this Agreement, which shall be Seller's responsibility.

d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net twenty (20) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the twenty (20) day period shall accrue interest at the annual rate of two and one-half percent (2.5%) over the Prime Rate (but not to exceed the maximum rate permitted by law).

5. **Environmental Attributes and Environmental Incentives.**

Unless otherwise specified on **Exhibit 1**, Seller is the owner of all Environmental Attributes and Environmental Incentives and is entitled to the benefit of all Tax Credits, and Purchaser's purchase of electricity under this Agreement does not include Environmental Attributes, Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Seller. Purchaser shall cooperate with Seller in obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. Purchaser shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions unless reimbursed by Seller. If any Environmental Incentives are paid directly to Purchaser, Purchaser shall immediately pay such amounts over to Seller. To avoid any conflicts with fair trade rules regarding claims of solar or renewable energy use, Purchaser, if engaged in commerce and/or trade, shall submit to Seller for approval any press releases regarding Purchaser's use of solar or renewable energy and shall not submit for publication any such releases without the written approval of Seller. Approval shall not be unreasonably withheld, and Seller's review and approval shall be made in a timely manner to permit Purchaser's timely publication.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives and Tax Credits. Purchaser and Seller shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, investment credits, emissions allowances, green tags, tradeable renewable credits and Green-e® products.

"**Environmental Incentives**" means any and all credits, rebates, subsidies, payments or other incentives that relate to self–generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.

"**Governmental Authority**" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the California Public Utilities Commission), or any arbitrator with authority to bind a party at law.

"**Tax Credits**" means any and all (i) investment tax credits, (ii) production tax credits and (iii) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. **Conditions to Obligations**.

a. **Conditions to Seller's Obligations**.

Seller's obligations under this Agreement are conditioned on the completion of the following conditions to Seller's reasonable satisfaction on or before the Condition Satisfaction Date:

i. Completion of a physical inspection of the Facility and the property upon which the Facility is located (the "**Premises**") including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;

ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Seller's Financing Parties. "**Construction Agreement**" as used in this subsection means an agreement between SolarCity and a subcontractor to install the System;

iii. Confirmation that Seller will obtain all applicable Environmental Incentives and Tax Credits;

iv. Receipt of all necessary zoning, land use and building permits;

v. Execution of all necessary agreements with the Utility for interconnection of the System to the Utility's electric distribution system; and

vi. Prior to Seller commencing construction and installation of the System, Purchaser shall give Seller proof of insurance for all insurance required to be maintained by Purchaser under this Agreement.

b. **Conditions to Purchaser's Obligations**.

i. Purchaser's obligations under this Agreement are conditioned on the occurrence of the Commercial Operation Date for the System on or before the Outside Commercial Operation Date (*See* **Exhibit 1**).

c. **Failure of Conditions**.

If any of the conditions listed in subsections a or b above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the parties are unable to negotiate new dates then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party without liability for costs or damages or triggering a default under this Agreement.

7. **Seller's Rights and Obligations**.

a. **Permits and Approvals**. Seller, with Purchaser's reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

i. any zoning, land use and building permits required to construct, install and operate the System; and

ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Utility's electric distribution system.

Purchaser shall cooperate with Seller's reasonable requests to assist Seller in obtaining such agreements, permits and approvals.

b. **Standard System Repair and Maintenance**. Seller shall construct and install the System at the Facility. During the Term, Seller will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, except for any repairs or maintenance resulting from Purchaser's negligence, willful misconduct or breach of this Agreement or the Site Lease (if applicable). Purchaser shall be responsible for any work done by others on any part of the System done by itself or at its direction unless Seller authorizes that work in advance in writing (such unauthorized parties being "Unauthorized Servicers"). Purchaser shall be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by itself or any Unauthorized Servicers. If the System requires repairs for

which Purchaser is responsible, Purchaser shall pay Seller for diagnosing and correcting the problem at Seller or Seller's contractors' then current standard rates. Seller shall provide Purchaser with reasonable notice prior to accessing the Facility to make standard repairs.

c. **Non-Standard System Repair and Maintenance.** If Seller incurs incremental costs to maintain the System due to material conditions at the Facility that are known by Purchaser and not disclosed to or otherwise known by Seller (or that could not have been known by Seller) or due to the inaccuracy of any information provided by Purchaser that was not known by Seller (or that could not have been known by Seller) and relied upon by Seller, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Seller. In such event, the Parties will negotiate such equitable adjustment in good faith.

d. **Breakdown Notice.** Seller shall notify Purchaser within twenty-four (24) hours following Seller's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Purchaser shall notify Seller immediately upon the discovery of an emergency condition affecting the System.

e. **Suspension.** Notwithstanding anything to the contrary herein, Seller shall be entitled to suspend delivery of electricity from the System to the Delivery Point for the purpose of maintaining and repairing the System and such suspension of service shall not constitute a breach of this Agreement; provided, that Seller shall use commercially reasonable efforts to minimize any interruption in service to the Purchaser.

f. **Use of Contractors and Subcontractors.** Seller shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement. However, Seller shall continue to be responsible for the quality of the work performed by its contractors and subcontractors. If a list of pre-approved contractors and subcontractors is desired, such list shall be scheduled on an appendix to this Exhibit. All contractors and subcontractors, other than those that may be scheduled on an appendix to this Exhibit, shall be subject to Purchaser's prior written consent, not to be unreasonably withheld.

g. **Liens and Payment of Contractors and Suppliers.** Seller shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Seller under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Seller is permitted by law to place on the Facility following non-payment by Purchaser of amounts due under this Agreement. Seller shall indemnify Purchaser for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges; provided, however, that Seller shall have the right to contest any such lien, so long as it provides a statutory bond or other reasonable assurances of payment that either remove such lien from title to the Facility and the Premises or that assure that any adverse judgment with respect to such lien will be paid without affecting title to the Facility and the Premises.

h. **Separate Warranty.**

i. The Limited Warranty that SolarCity will provide to Purchaser is a separate contract from this Agreement. No rights provided to Purchaser by the Limited Warranty may be asserted under this Agreement. No warranty is made in this Agreement. Therefore, any warranty claim must be made independently of this Agreement under the Limited Warranty and will not affect Purchaser's obligations under this Agreement.

ii. NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. The remedies set forth in this Agreement shall be Purchaser's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.

8. **Purchaser's Rights and Obligations.**

a. **Facility Access Rights.** Purchaser grants to Seller and to Seller's agents, employees and contractors an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the License Area as described in Exhibit 3 for the purposes of (a) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (b) performing all of Seller's obligations and enforcing all of Seller's rights set forth in this Agreement; and (c) installing, using and maintaining electric lines and equipment, including inverters and meters, necessary to interconnect the System to Purchaser's electric system at the Facility and/or to the Utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall comply with Education Code Section 45125.2(a)(1) or (a)(2) regarding pupil safety. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property. The term of the License shall continue until the date that is one hundred and twenty (120) days following the date of expiration or termination of this Agreement (the "**License Term**"). During the License Term, Purchaser shall ensure that Seller's rights under the License and Seller's access to the License Area are preserved and protected and shall not interfere with or permit any third parties to interfere with such rights or access. The grant of the License shall survive termination of this agreement by either Party.

b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.

c. **Maintenance of Facility.** Purchaser shall, at its sole cost and expense, maintain the Facility, other than the System, in good condition and repair. Purchaser will ensure that the Facility remains interconnected to the local utility grid at all times. Purchaser is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Purchaser's equipment that utilizes the System's outputs. Purchaser shall properly maintain in full working order all of Purchaser's electric supply or generation equipment that Purchaser may shut down while utilizing the System. Purchaser shall promptly notify Seller of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.

d. **No Alteration of Facility.** Purchaser shall not make any alterations or repairs to the Facility which may adversely affect the operation and maintenance of the System without Seller's prior written consent. If Purchaser wishes to make such alterations or repairs, Purchaser shall give prior written notice to Seller, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Seller the opportunity to advise Purchaser in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Purchaser shall be responsible for all damage to the System caused by Purchaser or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Purchaser's alterations and repairs, shall be done by Seller or its contractors at Purchaser's cost. All of Purchaser's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

e. **Outages.** Purchaser shall be permitted to be off line for two (2) full twenty-four (24) hour days (each, a "**Scheduled Outage**") per calendar year during the Term, during which days Purchaser shall not be obligated to accept or pay for electricity from the System; provided, however, that Purchaser must notify Seller in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed two (2) days per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Seller shall reasonably estimate the amount of electricity that would have been delivered to Purchaser during such excess Scheduled Outages or unscheduled outages and shall invoice Purchaser for such amount in accordance with Section 4.

f. **Liens.** Purchaser shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein. Purchaser shall immediately notify Seller in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Seller, and shall indemnify Seller against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim.

g. **Security.** Purchaser shall be responsible for maintaining the physical security of the Facility, other than the System. Purchaser will not conduct activities on, in or about the License Area or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.

h. **Insolation.** Purchaser understands that unobstructed access to sunlight ("**Insolation**") is essential to Seller's performance of its obligations and a material term of this Agreement. Purchaser shall not in any way cause and, where possible, shall not in any way permit any interference with the System's Insolation. If Purchaser becomes aware of any activity or condition that could diminish the Insolation of the System, Purchaser shall notify Seller immediately and shall cooperate with Seller in preserving the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Seller, that such injury may not be adequately compensated by an award of money damages, and that Seller is entitled to seek specific enforcement of this Section 7.h.i against Purchaser.

i. **Data Line.** Purchaser shall provide Seller a high speed internet data line during the Term to enable Seller to record the electric energy generated by the System. If Purchaser fails to provide such high speed internet data line, or if such line ceases to function and is not repaired, Seller may reasonably estimate the amount of electric energy that was generated and invoice Purchaser for such amount in accordance with Section 4.

j. **Breakdown Notice.** Purchaser shall notify Seller within twenty-four (24) hours following the discovery by it of (A) any material malfunction in the operation of the System; or (B) any occurrences that could reasonably be expected to adversely affect the System. Purchaser shall notify Seller immediately upon (A) an interruption in the supply of electrical energy from the System; or (B) the discovery of an emergency condition respecting the System. Purchaser and Seller shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Seller's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

9. **Change in Law.**

"**Change in Law**" means (i) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (ii) a change in any Environmental Attribute, Environmental Incentive or Tax Attribute which in the case of any of (i) or (ii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Seller's obligations hereunder and which has a material adverse effect on the cost to Seller of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Seller of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Purchaser from Seller of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Seller shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination

10. **Relocation of System.**

If Purchaser ceases to conduct business operations at and/or vacates the Facility or SolarCity is prevented from operating the System at the Facility prior to the expiration of the Term, Purchaser shall have the option to provide Seller with a mutually agreeable substitute premises located within the same Utility district as the terminated System or in a location with similar Utility rates and Insolation. Purchaser shall provide written notice at least sixty (60) days but not more than one hundred eighty (180) days prior to the date that it wants to make this substitution. In connection with such substitution, Purchaser shall execute an amended agreement that shall have all of the same terms as this Agreement except for the (i) Effective Date; (ii) License, which will be amended to grant rights in the real property where the System relocated to; and (iii) Term, which will be the remainder of the Term of this Agreement and such amended agreement shall be deemed to be a continuation of this Agreement without termination. Purchaser shall also provide any new Purchaser, owner, lessor or mortgagee consents or releases required by Seller or Seller's Financing Parties in connection with the substitute facility. Purchaser shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Seller in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Seller's Financing Parties in the System. Seller shall remove the System from the vacated Facility prior to the termination of Purchaser's ownership, lease or other rights to use such Facility. Seller will not be required to restore the Facility to its prior condition but shall promptly pay Purchaser for any damage caused by Seller during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Seller shall have the right to make an adjustment to

Exhibit 1 such that Purchaser's payments to Seller are the same as if the System were located at the original Facility. If Purchaser is unable to provide such substitute facility and to relocate the System as provided, any early termination will be treated as a default by Purchaser.

11. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement (provided Purchaser does not exercise its purchase option), Seller shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than ninety (90) days after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition including the removal of System mounting pads or other support structures. In no case shall Seller's removal of the System affect the integrity of Purchaser's roof, which shall be as leak proof as it was prior to removal of the System and shall be flashed and/or patched to existing roof specifications. Seller shall leave the Facility in neat and clean order. If Seller fails to remove or commence substantial efforts to remove the System by such agreed upon date, Purchaser shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Seller's cost. Purchaser shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal.

12. Measurement.

Electricity delivered to the Facility shall be measured by the SolarGuard monitoring system installed and maintained by Seller as part of the System.

13. Default, Remedies and Damages.

a. **Default.** Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed a "**Defaulting Party**" and each event of default shall be a "**Default Event**":

(1) failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within ten (10) days following receipt of written notice from the other Party (the "**Non-Defaulting Party**") of such failure to pay ("**Payment Default**");

(2) failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent reasonably necessary to cure the Default Event, if (i) the Defaulting Party initiates such cure with the thirty (30) day period and continues such cure to completion and (ii) there is no material adverse affect on the Non-Defaulting Party resulting from the failure to cure the Default Event;

(3) if any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

(4) Purchaser loses its rights to occupy and enjoy the Premises;

(5) a Party, or its guarantor, becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect; or

(6) Purchaser prevents Seller from installing the System or otherwise failing to perform in a way that prevents the delivery of electric energy from the System. Such Default Event shall not excuse Purchaser's obligations to make payments that otherwise would have been due under this Agreement.

b. **Remedies.**

(1) Remedies for Payment Default. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement. Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon five (5) days prior written notice to the Defaulting Party following the Payment Default.

(2) Remedies for Other Defaults. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement or suspension of performance of its obligations under this Agreement, upon five (5) days prior written notice to the Defaulting Party following the occurrence of the Default Event. Nothing herein shall limit either Party's right to collect damages upon the occurrence of a breach or a default by the other Party that does not become a Default Event.

(3) Damages Upon Termination by Default. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):

A. Purchaser. If Purchaser is the Defaulting Party and Seller terminates this Agreement, the Termination Payment to Seller shall be equal to the sum of (i) the termination value set forth in **Exhibit 1** (the "**Termination Value**") for such Contract Year, (ii) removal costs as provided in Section 13(b)(3)(C) and (iii) any and all other amounts previously accrued under this Agreement and then owed by Purchaser to Seller. The Parties agree that actual damages to Seller in the event this Agreement terminates prior to the expiration of the Term as the result of an Default Event by Purchaser would be difficult to ascertain, and the applicable Termination Value set forth in **Exhibit 1** is a reasonable approximation of the damages suffered by Seller as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

B. Seller. If Seller is the Defaulting Party and Purchaser terminates this Agreement, the Termination Payment to Purchaser shall be equal to the sum of (i) the present value (using a discount rate of 9.5%) of the excess, if any, of the reasonably expected cost of electric energy from the Utility over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (ii) all costs reasonably incurred by Purchaser in re-converting its electric supply to service from the Utility; (iii) any removal costs incurred by Purchaser, and (iv) any and all other amounts previously accrued under this Agreement and then owed by Seller to Purchaser. The Termination Payment shall not be less than zero.

C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Seller shall, at the sole cost and expense of the Defaulting Party, remove the equipment (except for mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

14. Representations and Warranties.

a. General Representations and Warranties. Each Party represents and warrants to the other the following:

(1) Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).

(2) Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

b. **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller the following:

(1) License. Purchaser has the full right, power and authority to grant the License contained in Section 8(a). Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Purchaser or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Purchaser is bound or that affects the Facility.

(2) Other Agreements. Neither the execution and delivery of this Agreement by Purchaser nor the performance by Purchaser of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Purchaser is a party or by which Purchaser or the Facility is bound.

(3) Accuracy of Information. All information provided by Purchaser to Seller, as it pertains to the Facility's physical configuration, Purchaser's planned use of the Facility, and Purchaser's estimated electricity requirements, is accurate in all material respects.

(4) Purchaser Status. Purchaser is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

(5) No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

(6) Oregon Only: The electricity generated by the System will be used solely for commercial and business purposes. No portion of the electricity generated will be used for personal, family, household or agricultural purposes.

15. **System and Facility Damage and Insurance.**

a. **System and Facility Damage.**

(1) Seller's Obligations. If the System is damaged or destroyed other than by Purchaser's gross negligence or willful misconduct, Seller shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Seller shall not be required to restore the System, but may instead terminate this Agreement, unless Purchaser agrees (i) to pay for the cost of such restoration of the System or (ii) to purchase the System "AS-IS" at the greater of (A) then current fair market value of the System and (B) the sum of the amounts described in Section 13.b(3)A)(i) (using the date of purchase to determine the appropriate Contract Year) and Section 13.b(3)A)(iii).

(2) Intentionally Deleted.

b. **Insurance Coverage.** At all times during the Term, Seller and Purchaser shall maintain the following insurance:

i. Seller's Insurance. Seller shall maintain (i) property insurance on the System for the replacement cost thereof, (ii) comprehensive general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, (iii) employer's liability insurance with coverage of at least $1,000,000 and (iv) worker's compensation insurance as required by law.

ii. Purchaser's Insurance. Purchaser shall maintain (i) comprehensive general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, (ii) employer's liability insurance with coverage of at least $1,000,000 and (iii) worker's compensation insurance as required by law.

c. **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance thirty (30) days (ten (10) days in the event of non-payment of premiums) written notice before the insurance is cancelled, terminated or materially altered, (ii) be written on an occurrence basis, (iii) with respect to the liability insurance policies, include the other Party as an additional insured as its interest may appear, (iv) include waivers of subrogation, (v) provide for primary coverage without right of contribution from any insurance of the other Party, and (vi) be maintained with companies either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide or otherwise reasonably acceptable to the other party; provided, however, purchaser may self insure through the San Mateo County Schools Insurance Group.

d. **Certificates.** Within thirty (30) days after execution of this Agreement and upon the other Party's request and annually thereafter, each Party shall deliver the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

16. **Ownership; Option to Purchase.**

a. **Ownership of System.** Throughout the Term, Seller shall be the legal and beneficial owner of the System at all times, including all Environmental Attributes, and the System shall remain the personal property of Seller and shall not attach to or be deemed a part of, or fixture to, the Facility or the Premises. Each of the Seller and Purchaser agree that the Seller is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code. Purchaser covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Purchaser shall provide a disclaimer or release from such lienholder. If Purchaser is the fee owner of the Premises, Purchaser consents to the filing of a disclaimer of the System as a fixture of the Premises in the office where real estate records are customarily filed in the jurisdiction where the Facility is located. If Purchaser is not the fee owner, Purchaser will obtain such consent from such owner. Purchaser agrees to deliver to Seller a non-disturbance agreement in a form reasonably acceptable to Seller from the owner of the Facility (if the Facility is leased by Purchaser), any mortgagee with a lien on the Premises, and other Persons holding a similar interest in the Premises.

b. **Option to Purchase.** At the end of the sixth (6th) and tenth (10th) Contract Years and at the end of the Initial Term and each Additional Term, so long as Purchaser is not in default under this Agreement, Purchaser may purchase the System from Seller on any such date for a purchase price equal to (i) with respect to an option exercised at the end of the sixth (6th) or tenth (10th) Contract Years the ***greater*** of (A) the amount set forth at such time in the Purchase Option Price schedule in **Exhibit 1**, and (B) the Fair Market Value of the System, and (ii) with respect to an option exercised at the end of the Term or an Additional Term, the Fair Market Value of the System. The **"Fair Market Value"** of the System shall be determined by mutual agreement of Purchaser and Seller; provided, however, if Purchaser and Seller cannot agree to a Fair Market Value within thirty (30) days after Purchaser has exercised its option, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System on an installed basis and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Purchaser must provide a notification to Seller of its intent to purchase at least ninety (90) days and not more than one hundred eighty (180) days prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable, and the purchase shall be complete prior to the end of the applicable Contract Year or the Initial Term or Additional Term, as applicable. Upon purchase of the System, Purchaser will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Seller shall have no further liabilities or obligations hereunder.

17. **Indemnification and Limitations of Liability.**

a. **General**. Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any third party claims relating to the breach of any representation or warranty set forth in Section 14 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c).

b. **Notice and Participation in Third Party Claims**. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification**. Seller shall indemnify, defend and hold harmless all of Purchaser's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the License Area of any Hazardous Substance (as defined in Section 17(c)(i)) to the extent deposited, spilled or otherwise caused by Seller or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the License Area or the Premises generally or any deposit, spill or release of any Hazardous Substance.

   i. "**Hazardous Substance**" means any chemical, waste or other substance (a) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (b) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (c) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (d) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (e) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability**.

   i. No Consequential Damages. Neither Party nor its directors, officers, shareholders, partners, members, agents and employees subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such.

   ii. Actual Damages. Except with respect to Seller's indemnification obligations for third party claims pursuant to Section 17(a), Seller's aggregate liability under this Agreement arising out of or in connection with the performance or non-performance of this Agreement shall not exceed the total of the payments for energy made by Purchaser under this Agreement (actual payments and projected payments in aggregate). The provisions of this Section (17)(d)(ii) shall apply whether such liability arises in contract, tort (including negligence), strict liability or otherwise.

18. **Force Majeure**.

a. "**Force Majeure**" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. Seller shall not be liable for any damage to the System or the Facility resulting from a Force Majeure event. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event (for the avoidance of doubt, under no circumstances shall Purchaser be required to make payment for energy not delivered pursuant to the terms of this Agreement).

d. If a Force Majeure event continues for a period of one hundred (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

19. Assignment and Financing.

a. **Assignment**. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, Seller may, without the prior written consent of Purchaser, (i) assign, mortgage, pledge or otherwise collaterally assign its interests in this Agreement to any Financing Party, (ii) directly or indirectly assign this Agreement to an affiliate of Seller, (iii) assign this Agreement to any entity through which Seller is obtaining financing or capital for the System and (iv) assign this Agreement to any person succeeding to all or substantially all of the assets of Seller (provided that Seller shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Seller's obligations hereunder by the assignee). Purchaser's consent to any other assignment shall not be unreasonably withheld if Purchaser has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

b. **Financing**. The Parties acknowledge that Seller may obtain construction and long-term financing or other credit support from lenders or third parties ("**Financing Parties**") in connection with the installation, construction, ownership, operation and maintenance of the System. Both Parties agree in good faith to consider and to negotiate changes or additions to this Agreement that may be reasonably requested by the Financing Parties; provided, that such changes do not alter the fundamental economic terms of this Agreement. The Parties also agree that Seller may assign this Agreement to the Financing Parties as collateral, and in connection with any such assignment, Purchaser agrees to execute a consent to assignment in customary form and reasonably acceptable to the Financing Parties.

20. **Confidentiality and Publicity.**

a. **Confidentiality.** If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Purchaser's business ("**ConfidentialInformation**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "**Representatives**"), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information), in each case whose access is reasonably necessary to the negotiation and performance of this Agreement. Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 20(a), except as set forth in Section 20(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 20(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 20(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 20(a), but shall be in addition to all other remedies available at law or in equity.

b. **Permitted Disclosures.** Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

21. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

22. **General Provisions**

a. **Choice of Law.** The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles.

b. **Arbitration and Attorneys' Fees.** Any dispute arising from or relating to this Agreement shall be arbitrated in San Francisco, California. The arbitration shall be administered by JAMS in accordance with its Comprehensive Arbitration Rules and Procedures, and judgment on any award may be entered in any court of competent

jurisdiction. If the Parties agree, a mediator may be consulted prior to arbitration. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

c. **Notices**. All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.

d. **Survival**. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 4 (Representations and Warranties), Section 7(h) (No Warranty), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limits of Liability), Section 20 (Confidentiality and Publicity), Section 22(a) (Choice of Law), Section 22 (b) (Arbitration and Attorneys' Fees), Section 22(c) (Notices), Section 22 (g) (Comparative Negligence), Section 22(h) (Non-Dedication of Facilities), Section 22(j) (Service Contract), Section 22(k) (No Partnership) Section 22(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 22(n) (No Third Party Beneficiaries).

e. **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

f. **Right of Waiver**. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Purchaser or Seller shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

g. **Comparative Negligence**. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

h. **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Seller is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Seller does not become subject to any such regulation. If the Parties are unable to agree upon such restructuring, Seller shall have the right to terminate this Agreement without further liability, and Seller shall remove the System in accordance with Section 11 of this Agreement.

i. **Estoppel**. Either Party hereto, without charge, at any time and from time to time, within five (5) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification; (ii) whether or not to the knowledge of any such party there are then existing any offsets or defenses in favor of such party against enforcement of any of the terms, covenants and

conditions of this Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

j. **Service Contract**. The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Purchaser will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

k. **No Partnership**. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

l. **Full Agreement, Modification, Invalidity, Counterparts, Captions**. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

m. **Forward Contract**. The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

n. **No Third Party Beneficiaries**. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

End of Exhibit 5

Exhibit 6

RESERVED

End of Exhibit 6

Exhibit 7

RESERVED

End of Exhibit 7

CABRILLO UNIFIED SCHOOL DISTRICT

498 Kelly Avenue, Half Moon Bay, California 94019 • 650 712-7100 • Fax 650 726-0279 • www.cabrillo.k12.ca.us

SUPERINTENDENT
Sean McPhetridge, Ed.D.

GOVERNING BOARD
Mary Beth Alexander
Lizet Cortes
Kimberly Hines
Sophia Layne
Freya McCamant

MEMORANDUM

MEETING DATE: November 21, 2019
TO: Members of the Governing Board
FROM: Sean McPhetridge, Ed.D., Superintendent
CATEGORY: Action
RECOMMENDATION: Adopt Resolution No. 29-19 Accepting Agreement for Termination of Leases and Quit Claim Deed

BACKGROUND INFORMATION

To close out the Lease-Leaseback agreement for the Cunha Building C Rehabilitation Project with Blach Construction, the Board must approve the resolution to terminate the lease and release Blach's interest in the District's property.

The final cost of the work that Blach performed was $11,991,297.24. This does not include inspection, testing, DSA fees, moving, storage, temporary classrooms, legal fees, furniture, and other repairs outside of Blach's contract.

The resolution authorizes the Superintendent or designee to sign all related documents to complete the close-out of the project.

FINANCIAL IMPACT

There is no financial impact to the general fund as this construction is bond-funded.

RESOLUTION NO. 29-19
BEFORE THE GOVERNING BOARD
OF THE CABRILLO UNIFIED SCHOOL DISTRICT
SAN MATEO COUNTY, CALIFORNIA

ACCEPTING AGREEMENT FOR TERMINATION OF LEASES AND QUIT CLAIM DEED

WHEREAS, Cabrillo Unified School District ("District") and Blach Construction Company ("Developer") entered into a Facilities Lease, dated as of September 14, 2017, as amended ("Facilities Lease") and a Site Lease, dated as of September 14, 2017 ("Site Lease") for the construction of certain improvements by the Developer at Cunha Intermediate School ("Project"), located at 600 Church Street, Half Moon Bay, California 94019 as described in Exhibit A to the Facilities Lease ("Project Site"); and

WHEREAS, under the terms of the Site Lease the District leased a portion of the Project Site to the Developer for the construction of the Project; and

WHEREAS, under the terms of the Facilities Lease the District leased back the Project from the Developer and is obligated to make lease payments to the Developer for the lease of the Project; and

WHEREAS, the District has paid its Project obligations in full which were secured by the lease payments payable under the Facilities Lease by making its final lease payment to the Developer, and the District has paid all other amounts due or to become due with respect to the Facilities Lease; and

WHEREAS, upon such payment in full, title to the Project leased under the Facilities Lease is to vest in the District, and the Facilities Lease and the Site Lease are to terminate immediately upon such payment; and

WHEREAS, the District and the Developer desire to unconditionally terminate the Facilities Lease, which pertains to the Project Site and to concurrently unconditionally terminate the related Site Lease, which also pertains to the Project Site; and

WHEREAS, the District and the Developer agree that the District has fulfilled its obligations under the Facilities Lease and that fee title to the Project and the Project Site leased thereby is to vest in the District;

NOW, THEREFORE, the Governing Board of the Cabrillo Unified School District hereby finds, determines, declares, orders, and resolves as follows:

Section 1. The above recitals are true and correct.

Section 2. The District hereby accepts and approves the Termination Agreement and Quit Claim Deed terminating the Facilities Lease and the Site Lease and conveying all of Developer's right, title and interest in the Project Site and the Project to the District.

Section 3. The District does hereby accept all of Developer's right, title and interest in the Project Site and the Project remised, released, quitclaimed and conveyed to the District by the Termination Agreement and Quit Claim Deed.

Section 4. The Superintendent, the Chief Business Official, and their respective designees are authorized to take all steps and sign all documents necessary to effect the intent of this resolution, including but not limited to the Termination Agreement and Quit Claim Deed and the Certificate of Acceptance of the real property and facilities located in San Mateo County, California, as more particularly described in the Termination Agreement and Quit Claim Deed.

PASSED AND ADOPTED by the Governing Board of the Cabrillo Unified School District on the 21st day of November, 2019, by the following vote:

Mary Beth Alexander:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Lizet Cortes:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Kimberly Hines:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Sophia Layne:	_____	Aye	_____	No	_____	Abstain	_____	Absent
Freya McCamant:	_____	Aye	_____	No	_____	Abstain	_____	Absent

_____
Lizet Cortes
Clerk to the Governing Board
Cabrillo Unified School District

Attest by:

_____
Sean McPhetridge, Ed.D.
Secretary to the Governing Board
Cabrillo Unified School District

MEMORANDUM OF COMMENCEMENT DATE

This MEMORANDUM OF COMMENCEMENT DATE is dated July 23 2019, and is made by and between Blach Construction Company ("Developer"), as Lessor, and the Cabrillo Unified School District ("District"), as Lessee.

1. Developer and District have previously entered into a Facilities Lease dated as of September 14, 2017, as amended (the "Lease") for the leasing by Developer to District of the Project Site and Project in Half Moon Bay, California, referenced in the Lease.

2. District hereby confirms the following:

A. That all construction of the Project required to be performed pursuant to the Facilities Lease has been completed by Developer in all respects;

B. That District has accepted and entered into possession of the Project and now occupies same; and

C. That the term for the Lease Payments under the Facilities Lease commenced on October 23, 2019 and will expire at 11:59 P.M. on October 23, 2020

THIS MEMORANDUM OF COMMENCEMENT DATE IS ACCEPTED AND AGREED on the date first indicated above.

CABRILLO UNIFIED SCHOOL DISTRICT	**BLACH CONSTRUCTION COMPANY**
By:_____	By: [signature]
Name: Sean McPhetridge	Name: Keith Craw
Title: Superintendent	Title: Vice President, Operations

AGREEMENT AND RELEASE OF ANY AND ALL CLAIMS

THIS AGREEMENT AND RELEASE OF CLAIMS ("Agreement and Release") IS MADE AND ENTERED INTO THIS 4th DAY OF November, 2019 by and between the Cabrillo Unified School District ("District") and Blach Construction Company ("Developer"), whose place of business is 2244 Blach Place, Suite 100, San Jose, California 95131.

RECITALS:

WHEREAS, District and Developer entered into a Facilities Lease and Site Lease for the following project: Cunha Building C Project ("Contract" or "Project") in the County of San Mateo, California.

WHEREAS, The Work under the Contract was completed on July 23rd, 2019 and a Notice of Completion was recorded with the County Recorder on November 1st, 2019.

NOW, THEREFORE, it is mutually agreed between District and Developer as follows:

AGREEMENT

1. Developer will only be assessed liquidated damages as detailed below:

Original Contract Value (Preconstruction Services)	$97,800.00
Increment 1 Guaranteed Maximum Price (Demolition)	$2,463,506.00
Increment 2 Guaranteed Maximum Price (Repairs)	$14,611,746.00
Deductive Credit	(-$5,181,754.76)
Modified Contract Value (Preconstruction, Demolition, Repairs, Credits)	**$11,991,297.24**
Payment to Date	(-$10,844,285.39)
Liquidated Damages	(-$0.00)
Loan Amount (To be paid as Lease Payment(s))	(-$800,000.00)
Payment Due Developer	**$347,011.85**

2. Subject to the provisions hereof, District shall forthwith pay to Developer the undisputed sum of Three Hundred Forty-Seven Thousand, Eleven and 85/100 Dollars ($347,011.85) under the Contract for Tenant Improvement Payments, less any amounts represented by any notice to withhold funds on file with District as of the date of such payment.

3. Developer acknowledges and hereby agrees that there are no unresolved or outstanding claims in dispute against District arising from the performance of work under the Contract, except for the claims described in Paragraph 4 and continuing obligations described in Paragraph 6. It is the intention of the parties in executing this Agreement and Release that this Agreement and Release shall be effective as a full, final and general release of all claims, demands, actions, causes of action, obligations, costs, expenses, damages, losses and liabilities of Developer against District and all of its respective agents, employees, trustees, inspectors, assignees, consultants and transferees, except for the Lease Payments under the Contract, any Disputed Claim that may be set forth in Paragraph 4 and the continuing obligations described in Paragraph 6 hereof.

4. The following claims are disputed (hereinafter, the "Disputed Claims") and are specifically excluded from the operation of this Agreement and Release: Not Applicable.

5. Consistent with California Public Contract Code section 7100, Developer hereby agrees that, in consideration of the payment set forth in Paragraph 2 hereof, Developer hereby releases and forever discharges District, all its agents, employees, inspectors, assignees, and transferees from any and all liability, claims, demands, actions, or causes of action of whatever kind or nature arising out of or in any way concerned with the Work under the Contract, except for the Lease Payments.

6. Guarantees and warranties for the Work, duty to defend, indemnify and hold harmless the District, and any other continuing obligation of Developer, shall remain in full force and effect as specified in the Contract Documents.

7. Except as provided for specifically herein, Developer hereby waives the provisions of California Civil Code section 1542 which provides as follows:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

8. The provisions of this Agreement and Release are contractual in nature and not mere recitals and shall be considered independent and severable. If any such provision or any part thereof shall be at any time held invalid in whole or in part under any federal, state, county, municipal, or other law, ruling, or regulations, then such provision, or part thereof, shall remain in force and effect to the extent permitted by law, and the remaining provisions of this Agreement and Release shall also remain in full force and effect, and shall be enforceable.

9. All rights of District shall survive completion of the Work or termination of Contract, and execution of this Release.

* * * CAUTION: THIS IS A RELEASE - READ BEFORE EXECUTING * * *

SCHOOL DISTRICT: Cabrillo Unified School District

Signature: _____

Print Name: _____

Title: _____

DEVELOPER: Blach Construction Company

Signature: _____

Print Name: Keith Crum

Title: Vice President Operations

END OF DOCUMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Dannis Woliver Kelley
275 Battery Street, Suite 1150
San Francisco, CA 94111
Attention: Deidree Y.M.K. Sakai, Esq.

(Recording Fee: Exempt under Section 6103 of the Government Code)

TERMINATION AGREEMENT AND QUIT CLAIM DEED

THIS TERMINATION AGREEMENT AND QUIT CLAIM DEED (this "Agreement") dated as of November 21, 2019, is entered by and between the CABRILLO UNIFIED SCHOOL DISTRICT, a political subdivision duly organized and existing under and by virtue of the laws of the State of California (the "District"), and BLACH CONSTRUCTION COMPANY (the "Developer").

WITNESSETH

WHEREAS, District and Developer entered into a Facilities Lease, dated as of September 14, 2017, as amended ("Facilities Lease") and a Site Lease, dated as of September 14, 2017 ("Site Lease") for the construction of certain improvements by the Developer at the District's Cunha Intermediate School ("Project"), located at 600 Church Street, Half Moon Bay, California 94019, as described in Exhibit A hereto and incorporated herein ("Project Site").

WHEREAS, under the terms of the Site Lease the District leased the Project Site to the Developer for the construction of the Project;

WHEREAS, under the terms of the Facilities Lease the District leased back the Project from the Developer and was obligated to make lease payments to the Developer for the lease of the Project;

WHEREAS, the District has paid its Project obligations in full which were secured by the lease payments payable under the Facilities Lease by making its final lease payment to the Developer and the District has paid all other amounts due or to become due with respect to the Facilities Lease; and

WHEREAS, upon such payment in full, title to the Project leased under the Facilities Lease is to vest in the District and the Facilities Lease and the Site Lease are to terminate immediately upon such payment;

NOW THEREFORE, in consideration of the mutual covenants herein contained and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Developer do hereby agree as follows:

1. Termination of Leases. The District and the Developer do hereby unconditionally terminate the Facilities Lease, which pertains to that certain real property defined above as the Project Site, as more particularly described in the Facilities Lease and incorporated herein by reference. The District and Developer concurrently unconditionally terminate the related Site Lease, which pertains to that certain real property defined above as the Project Site, as more particularly described in the Site Lease and incorporated herein by reference. The District and the Developer agree that the District has fulfilled its obligations under the Facilities Lease and fee title to the Project and the Project Site leased thereunder is to vest in the District. The Developer and its successors and assigns shall be released from all obligations and liabilities as to the Project Site, the Facilities Lease and the Site Lease, whether arising or accruing prior to or following the date hereof, except for warranty, guarantee and latent defect obligations to the District. The Facilities Lease and the Site Lease shall no longer have any force or effect.

2. Quitclaim. The Developer does hereby remise, release and forever quitclaim the Project Site and the Project to the District.

3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

4. Counterparts. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto and may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

ACCEPTED AND AGREED on the first date indicated above.

CABRILLO UNIFIED SCHOOL DISTRICT	**BLACH CONSTRUCTION COMPANY**
By: _____	By: _____
Name: Sean McPhetridge	Name: Keith Crow
Title: Superintendent	Title: Vice President, Operations

EXHIBIT "A"
PROPERTY DESCRIPTION

Attached is the Legal Description for:

Cunha Building C Project
600 Church Street
Half Moon Bay, CA 94019

The land referred to in this Report is situated in the County of San Mateo, City of Half Moon Bay, State of California, and is described as follows:

:

PARCEL ONE:

BEGINNING at the point of intersection of the Westerly line of Church Street (formerly Ocean Street) with the Westerly prolongation of the center line of Miramontes Street as shown on that certain map entitled "MAP OF SPANISHTOWN" filed in the office of the County Recorder of San Mateo County on January 22, 1884 in Book "A" of maps at page 53 and copied into Book 1 of Maps at page 60; thence from said point of beginning, along said Westerly line of Church Street, North 8° 00' 04" East 338.62 feet to the Southerly line of Kelly Street as shown on Record of Survey filed in the office of the County Recorder of San Mateo County on May 12, 1964 in Book 5 of Licensed Land Surveyors' Maps at page 127; thence along said Southerly line, North 81° 41' 03" West 508.75 feet; thence South 8° 00' 04" West 339220 feet to a 3/4 inch iron pipe monument set in the Westerly prolongation of the centerline of Miramontes Street; thence along said prolongation North 81° 44' 56" West 258.89 feet to the Easterly line of State Highway Route No. 56, as established by Deed to the State of California, recorded November 6, 1953 in Book 2495 of Official Records at page 701 (File No. 17686-L), Records of San Mateo County, California; thence along said Easterly line, South 7° 54' 19" West 810.29 feet to a concrete monument set on the property line common to the lands formerly of Manuel Cardoza Silva and the lands formerly of Marie Silva Dutra; thence along said common property line, North 82° 19' 09" East 795.90 feet to the Southerly prolongation of the Westerly line of Church Street; thence along said prolongation and continuing along said Westerly line of Church Street, North 8° 00' 04" East 591.81 feet to the point of beginning.

Being that certain 16.303 acre parcel of land shown on Record of Survey filed in the office of the County Recorder of San Mateo County on May 12, 1964 in Book 5 of Licensed Land Surveyors' Maps at page 127.

Excepting, however, therefrom the following described parcel:

Beginning at the Northwest corner of School House Lot, said point of beginning being on the Westerly prolongation of the Southerly line of Miramontes Street in said Spanishtown, and running thence from said point of beginning, along the Westerly prolongation of the Southerly line of said Miramontes Street, North 84° 30' West 149.50 feet; thence leaving said Southerly line, South 5° 30' West 673.97 feet to the Northerly line of a tract of land, now or formerly owned by Mrs. Hafford; thence along said Northerly line, North 79° 27' East 421.69 feet to the intersection of said Northerly line with the Southerly prolongation of the Westerly line of Ocean Street in said Spanishtown; thence along said prolongation and continuing along the Westerly line of said Ocean Street, North 5° 30' East 557.39 feet to the Southerly line of Miramontes Street; thence along said Southerly line, North 84° 30' West 255.75 feet to the point of beginning.

PARCEL TWO:

Commencing at a point on the Southwest corner Ocean and Miramontez Streets thence along the South side of Miramontez Street running West three chains, eighty seven and a half links, thence South at right angles five chains sixty and links, thence East at right angles along the North side of Correas Street three chains, eighty seven and a half links, thence North at right angles running along the West side of Ocean Street five chains, sixty one links to the point of beginning, conveying all of block twenty-seven (27) on Ryan Addition to Spanishtown being formerly a portion of the Miramontez Rancho and surveyed by A.S. Easton, the County Surveyor of San Mateo County.

A.P.N. 056-182-050-PTN J.P.N. 56-18-182-5 PTN

PARCEL THREE:

Beginning at the Northwest corner of School House Lot, said point of beginning being on the Westerly prolongation of the Southerly line of Miramontez Street in said Spanishtown, and running thence from said point of beginning along the Westerly prolongation of the Southerly line of said Miramontez Street North 84° 30' West 149.50 feet; thence leaving said Southerly line South 5° 30' West 673.97 feet to the Northerly line of a tract of land now or formerly owned by Mrs. Hafford; thence along said Northerly line North 79° 27' East 421.69 feet to the intersection of said Northerly line with the Southerly prolongation of the Westerly line of Ocean Street in said Spanishtown; thence along said prolongation and continuing along the Westerly line of said Ocean Street North 5° 30' East 258.13 feet to the Southerly line of said School House lot; thence along the Southerly and Westerly lines of said School House lot North 84° 30' West 255.75 feet and North 5° 30' East 299.26 feet to the point of beginning.

A.P.N. 056-182-050 PTN J.P.N. 56-18-182-5 PTN

PARCEL FOUR:

Portion of Miramontes Street, abandoned by the Board of Supervisors of the County of San Mateo on November 26, 1940, a copy of the Resolution of Abandonment having been recorded December 3, 1940 in Book 933 of Official Records at page 104 (File No. 6537-E), Records of San Mateo County, California, said portion being more particularly described as follows:

Beginning at a point on the Westerly line of Church Street, also known as Ocean Street, at the intersection thereof with the Northerly line of lands conveyed from Patrick Ryan to John Johnston by Deed dated August 1, 1866 and recorded in book 6 of Deeds at page 265, Records of San Mateo County, California; thence

along said last mentioned line North 5° 05' East 35 feet; thence leaving said Easterly line of Coast Highway, South 84° 30' 00" East 258.17 feet; thence North 5° 05' East 35 feet; thence South 84° 30' 00" East 510.75 feet to said Westerly line of Church Street; thence along said last mentioned line, South 5° 05' West 70 feet to the point of beginning.

A.P.N. 056-182-050 PTN J.P.N. 56-18-182-5 PTN

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT **CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)

On November 11, 2019 before me, Annem. Waltrip-Notary
Date *Here Insert Name and Title of the Officer*

personally appeared Keith Craw
Name(s) of Signer(s)

,

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

ANNE M. WALTRIP
Notary Public - California
Santa Clara County
Commission # 2306810
My Comm. Expires Oct 21, 2023

Signature anne m. Waltrip
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Termination agreement/Quit claim
Title or Type of Document: deed Document Date: _____
Number of Pages: 4 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____

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CERTIFICATE OF ACCEPTANCE

This Acceptance dated as of _____ ___, 20__, is executed by the CABRILLO UNIFIED SCHOOL DISTRICT, a public school district duly organized and existing under and by virtue of the laws of the State of California (the "District").

In consideration of the covenants contained in the Termination Agreement and Quit Claim Deed and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District hereby accepts that certain real property and facilities located in the County of San Mateo, California, as more particularly described in that certain Termination Agreement and Quit Claim Deed dated as of the date hereof, by and between the District and Blach Construction Company.

IN WITNESS WHEREOF, the District has executed this Acceptance as of the date first written above.

CABRILLO UNIFIED SCHOOL DISTRICT

By: _____
Name: Sean McPhetridge
Title: Superintendent

California All-Purpose Certificate of Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN MATEO)

On _____ ___, 20__, before me, _____, Notary Public, personally appeared Sean McPhetridge, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

_____
Signature of Notary Public