

AGREEMENT FOR SERVICES OF INDEPENDENT CONTRACTOR
(Energy Services Contract—California Government Code Section 4217.12)

THIS AGREEMENT (hereafter Agreement) is made by and between the County of Santa Barbara, a political subdivision of the State of California (hereafter COUNTY) and Endelos Energy, Inc., having its principal place of business at 593 Avenue of the Flags, Suite #105, Buellton, California 93427, (hereafter called CONTRACTOR), wherein CONTRACTOR agrees to provide and COUNTY agrees to accept the services specified herein.

WHEREAS, the COUNTY desires to implement the County of Santa Barbara General Services Renewable Energy System Project to generate electricity, while saving electricity and natural gas, and the project will be installed at the County Betteravia Campus and Fire Station 12 facilities in order to bring the COUNTY closer to achieving Zero-Net Energy (ZNE);

WHEREAS, CONTRACTOR represents that it is specially trained, skilled, experienced, and competent to perform the special services required by COUNTY and COUNTY desires to retain the services of CONTRACTOR pursuant to the terms, covenants, and conditions herein set forth;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. DESIGNATED REPRESENTATIVE. Roy Hapeman at phone number (805) 568-3070 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Randy Arntson, CFO, at phone number (805) 886-4788 is the authorized representative for CONTRACTOR. Changes in designated representatives shall be made only after advance written notice to the other party.

2. NOTICES. Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first class mail, postage prepaid, or otherwise delivered as follows:

To COUNTY: Roy Hapeman Energy Manager
 General Services
 1105 Santa Barbara Street
 Santa Barbara, Ca. 93101

To CONTRACTOR: Endelos Energy, Inc
 Marvin R. Arntson, President/CEO
 593 Avenue of the Flags, Suite #105
 Buellton, California 93427

Or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail, shall be deemed to be received five (5) days following their deposit in the U.S. mail. This Notices section shall not be construed as meaning that either party agrees to service of process except as required by applicable law.

3. SCOPE OF SERVICES. CONTRACTOR agrees to provide services to COUNTY in accordance with EXHIBIT A attached hereto and incorporated herein by reference.

4. TERM. CONTRACTOR shall commence performance in accordance with scope of work and end performance upon completion, but no later than JUNE 30, 2021 unless otherwise directed by COUNTY or unless earlier terminated.

5. COMPENSATION OF CONTRACTOR. CONTRACTOR shall be paid for performance under this Agreement in accordance with the terms of EXHIBIT B attached hereto and incorporated herein by reference. Billing shall be made by invoice, which shall include the contract number assigned by COUNTY and which is delivered to the address given in Section 2 NOTICES above following completion of the increments

identified on EXHIBIT B. Unless otherwise specified on EXHIBIT B, payment shall be net thirty (30) days from presentation of invoice.

6. INDEPENDENT CONTRACTOR. It is mutually understood and agreed that CONTRACTOR (including any and all of its officers, agents, and employees), shall perform all of its services under this Agreement as an independent contractor as to COUNTY and not as an officer, agent, servant, employee, joint venture, partner, or associate of COUNTY. Furthermore, COUNTY shall have no right to control, supervise, or direct the manner or method by which CONTRACTOR shall perform its work and function. However, COUNTY shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions hereof. CONTRACTOR understands and acknowledges that it shall not be entitled to any of the benefits of a COUNTY employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers' compensation and protection of tenure. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save COUNTY harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security withholding and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to the COUNTY or to this Agreement.

7. STANDARD OF PERFORMANCE. CONTRACTOR represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement.

Accordingly, CONTRACTOR shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which CONTRACTOR is engaged. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession. CONTRACTOR shall correct or revise any errors or omissions, at COUNTY'S request without additional compensation. Permits and/or licenses shall be obtained and maintained by CONTRACTOR without additional compensation.

8. DEBARMENT AND SUSPENSION. CONTRACTOR certifies to COUNTY that it and its employees and principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, state, or county government contracts. CONTRACTOR certifies that it shall not contract with a subcontractor that is so debarred or suspended.

9. TAXES. CONTRACTOR shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under this Agreement and shall make any and all payroll deductions required by law. COUNTY shall not be responsible for paying any taxes on CONTRACTOR's behalf, and should COUNTY be required to do so by state, federal, or local taxing agencies, CONTRACTOR agrees to promptly reimburse COUNTY for the full value of such paid taxes plus interest and penalty, if any. These taxes shall include, but not be limited to, the following: FICA (Social Security), unemployment insurance contributions, income tax, disability insurance, and workers' compensation insurance.

10. CONFLICT OF INTEREST. CONTRACTOR covenants that CONTRACTOR presently has no employment or interest and shall not acquire any employment or interest, direct or indirect, including any interest in any business, property, or source of income, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONTRACTOR further covenants that in the performance of this Agreement, no person having any such interest shall be employed by CONTRACTOR. CONTRACTOR must promptly disclose to COUNTY, in writing, any potential conflict of interest. COUNTY retains the right to waive a conflict of interest disclosed by CONTRACTOR if COUNTY determines it to be immaterial, and such waiver is only effective if provided by COUNTY to CONTRACTOR in writing.

11. OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY. COUNTY shall be

the owner of the following items incidental to this Agreement upon production, whether or not completed: all data collected, all documents of any type whatsoever, all photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials, and any material necessary for the practical use of such items, from the time of collection and/or production whether or not performance under this Agreement is completed or terminated prior to completion. CONTRACTOR shall not release any of such items to other parties except after prior written approval of COUNTY.

Unless otherwise specified in Exhibit A, CONTRACTOR hereby assigns to COUNTY all copyright, patent, and other intellectual property and proprietary rights to all data, documents, reports, photos, designs, sound or audiovisual recordings, software code, inventions, technologies, and other materials prepared or provided by CONTRACTOR pursuant to this Agreement (collectively referred to as "Copyrightable Works and Inventions"). COUNTY shall have the unrestricted authority to copy, adapt, perform, display, publish, disclose, distribute, create derivative works from, and otherwise use in whole or in part, any Copyrightable Works and Inventions. CONTRACTOR agrees to take such actions and execute and deliver such documents as may be needed to validate, protect and confirm the rights and assignments provided hereunder. CONTRACTOR warrants that any Copyrightable Works and Inventions and other items provided under this Agreement will not infringe upon any intellectual property or proprietary rights of any third party. CONTRACTOR at its own expense shall defend, indemnify, and hold harmless COUNTY against any claim that any Copyrightable Works or Inventions or other items provided by CONTRACTOR hereunder infringe upon intellectual or other proprietary rights of a third party, and CONTRACTOR shall pay any damages, costs, settlement amounts, and fees (including attorneys' fees) that may be incurred by COUNTY in connection with any such claims. This Ownership of Documents and Intellectual Property provision shall survive expiration or termination of this Agreement.

12. NO PUBLICITY OR ENDORSEMENT. CONTRACTOR shall not use COUNTY's name or logo or any variation of such name or logo in any publicity, advertising or promotional materials. CONTRACTOR shall not use COUNTY's name or logo in any manner that would give the appearance that the COUNTY is endorsing CONTRACTOR. CONTRACTOR shall not in any way contract on behalf of or in the name of COUNTY. CONTRACTOR shall not release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the COUNTY or its projects, without obtaining the prior written approval of COUNTY.

13. COUNTY PROPERTY AND INFORMATION. All of COUNTY's property, documents, and information provided for CONTRACTOR's use in connection with the services shall remain COUNTY's property, and CONTRACTOR shall return any such items whenever requested by COUNTY and whenever required according to the Termination section of this Agreement. CONTRACTOR may use such items only in connection with providing the services. CONTRACTOR shall not disseminate any COUNTY property, documents, or information without COUNTY's prior written consent.

14. RECORDS, AUDIT, AND REVIEW. CONTRACTOR shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting principles. COUNTY shall have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. In addition, if this Agreement exceeds ten thousand dollars (\$10,000.00), CONTRACTOR shall be subject to the examination and audit of the California State Auditor, at the request of the COUNTY or as part of any audit of the COUNTY, for a period of three (3) years after final payment under the Agreement (Cal. Govt. Code Section 8546.7). CONTRACTOR shall participate in any audits and reviews, whether by COUNTY or the State, at no charge to COUNTY.

If federal, state or COUNTY audit exceptions are made relating to this Agreement, CONTRACTOR shall reimburse all costs incurred by federal, state, and/or COUNTY governments associated with defending against the audit exceptions or performing any audits or follow-up audits, including but not limited to: audit fees, court costs, attorneys' fees based upon a reasonable hourly amount for attorneys in

the community, travel costs, penalty assessments and all other costs of whatever nature. Immediately upon notification from COUNTY, CONTRACTOR shall reimburse the amount of the audit exceptions and any other related costs directly to COUNTY as specified by COUNTY in the notification.

15. INDEMNIFICATION AND INSURANCE. CONTRACTOR agrees to the indemnification and insurance provisions as set forth in EXHIBIT C attached hereto and incorporated herein by reference.

16. NONDISCRIMINATION. COUNTY hereby notifies CONTRACTOR that COUNTY's Unlawful Discrimination Ordinance (Article XIII of Chapter 2 of the Santa Barbara County Code) applies to this Agreement and is incorporated herein by this reference with the same force and effect as if the ordinance were specifically set out herein and CONTRACTOR agrees to comply with said ordinance.

17. NONEXCLUSIVE AGREEMENT. CONTRACTOR understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by CONTRACTOR as the COUNTY desires.

18. NON-ASSIGNMENT. CONTRACTOR shall not assign, transfer or subcontract this Agreement or any of its rights or obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign, subcontract or transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

19. TERMINATION

A. **By COUNTY.** COUNTY may, by written notice to CONTRACTOR, terminate this Agreement in whole or in part at any time, whether for COUNTY's convenience, for non-appropriation of funds, or because of the failure of CONTRACTOR to fulfill the obligations herein.

i. **For Convenience.** COUNTY may terminate this Agreement in whole or in part upon thirty (30) days written notice. During the thirty (30) day period, CONTRACTOR shall, as directed by COUNTY, wind down and cease its services as quickly and efficiently as reasonably possible, without performing unnecessary services or activities and by minimizing negative effects on COUNTY from such winding down and cessation of services.

ii. **For Non-appropriation of Funds.** Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by federal, state or COUNTY governments, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then COUNTY will notify CONTRACTOR of such occurrence and COUNTY may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, COUNTY shall have no obligation to make payments with regard to the remainder of the term.

iii. **For Cause.** Should CONTRACTOR default in the performance of this Agreement or materially breach any of its provisions, COUNTY may, at COUNTY's sole option, terminate or suspend this Agreement in whole or in part by written notice. Upon receipt of notice, CONTRACTOR shall immediately discontinue all services affected (unless the notice directs otherwise) and notify COUNTY as to the status of its performance. The date of termination shall be the date the notice is received by CONTRACTOR, unless the notice directs otherwise.

B. **By CONTRACTOR.** Should COUNTY fail to pay CONTRACTOR all or any part of the payment set forth in EXHIBIT B, CONTRACTOR may, at CONTRACTOR's option terminate this Agreement if such failure is not remedied by COUNTY within thirty (30) days of written notice to COUNTY of such late payment.

Upon termination, CONTRACTOR shall deliver to COUNTY all data, estimates, graphs, summaries, reports,

and all other property, records, documents or papers as may have been accumulated or produced by CONTRACTOR in performing this Agreement, whether completed or in process, except such items as COUNTY may, by written permission, permit CONTRACTOR to retain. Notwithstanding any other payment provision of this Agreement, COUNTY shall pay CONTRACTOR for satisfactory services performed to the date of termination to include a prorated amount of compensation due hereunder less payments, if any, previously made. In no event shall CONTRACTOR be paid an amount in excess of the full price under this Agreement nor for profit on unperformed portions of service. CONTRACTOR shall furnish to COUNTY such financial information as in the judgment of COUNTY is necessary to determine the reasonable value of the services rendered by CONTRACTOR. In the event of a dispute as to the reasonable value of the services rendered by CONTRACTOR, the decision of COUNTY shall be final. The foregoing is cumulative and shall not affect any right or remedy which COUNTY may have in law or equity.

20. SECTION HEADINGS. The headings of the several sections, and any Table of Contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

21. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

22. REMEDIES NOT EXCLUSIVE. No remedy herein conferred upon or reserved to COUNTY is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

23. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein.

24. NO WAIVER OF DEFAULT. No delay or omission of COUNTY to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to COUNTY shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of COUNTY.

25. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

26. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

27. COMPLIANCE WITH LAW. CONTRACTOR shall, at his sole cost and expense, comply with all County, State and Federal ordinances and statutes now in force or which may hereafter be in force with regard to this Agreement. The judgment of any court of competent jurisdiction, or the admission of CONTRACTOR in any action or proceeding against CONTRACTOR, whether COUNTY be a party thereto or not, that CONTRACTOR has violated any such ordinance or statute, shall be conclusive of that fact as between CONTRACTOR and COUNTY.

28. CALIFORNIA LAW. This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of Santa Barbara, if in state court, or in the federal district court nearest to Santa Barbara County, if in federal court.

29. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

30. AUTHORITY. All signatories and parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, CONTRACTOR hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which CONTRACTOR is obligated, which breach would have a material effect hereon.

31. SURVIVAL. All provisions of this Agreement which by their nature are intended to survive the termination or expiration of this Agreement shall survive such termination or expiration.

32. PRECEDENCE. In the event of conflict between the provisions contained in the numbered sections of this Agreement and the provisions contained in the Exhibits, the provisions of the Exhibits shall prevail over those in the numbered sections.

33. PREVAILING WAGES. If CONTRACTOR uses any COUNTY funded expenses for this project, prevailing wages will be required.

COUNTY hereby notifies CONTRACTOR that no contractor or subcontractor may be listed on a proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code § 1771.1(a)]; no contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code § 1725.5; and this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

CONTRACTOR shall pay prevailing wages to workers employed on this project as required by federal and state law. State of California prevailing wage rates as determined by the Director of Industrial Relations shall also be applicable pursuant to 8 CCR 16001, and may be accessed at: <http://www.dir.ca.gov/dlsr/pwd>. Current applicable State Prevailing Wage Rates are attached hereto as **Exhibit F.**

34. GUARANTEE BONDS. Before any performance under this Agreement, the CONTRACTOR shall provide the security required by statute for the payment of all workers and suppliers, and security for faithful performance of all terms and conditions of this Agreement, in an amount and form approved by COUNTY. The CONTRACTOR shall secure separate bonds for Solar and Lighting tasks. Both securities shall contain provisions which automatically increase amounts thereof and/or time of completion or both for all change orders, extensions and additions to the work provided pursuant to this Agreement.

For solar and lighting tasks, the "Faithful Performance Bond" shall be in the sum of 100% of the amount of this Agreement and the "Payment Bond – Public Works" shall be in the sum of 100% of the amount of this Agreement for each task. CONTRACTOR and its surety will execute payment and performance bonds substantially in the form of those attached hereto as **Exhibit D,** which bonds shall be incorporated herein by this

reference.

Both the payment and performance bonds shall each be executed by one and only one surety. That Surety shall be admitted and listed in the Insurance Organizations Authorized by the Insurance Commissioner to Transact Business of Insurance in the State of California for the current year, and shall be further authorized by the commissioner to issue surety insurance.

35. INJURY AND ILLNESS PREVENTION PROGRAM. Per Cal-Osha Regulations and the State of California, "California Code of Regulations," Title 8. "Industrial Relations," the Contractor shall have an implemented Injury and Illness Prevention Program. The Injury and Illness Prevention Program shall also include as a minimum:

- A. Safety Manual
- B. Jobsite Checklist
- C. Equipment Safety Checklist
- D. Tailgate Safety Meetings
- E. Permit Application and Job Notification Form (Construction, Demolition, Trenches, Excavation, Building, Structures, Falsework, Scaffolding) Form Cal/OSHA S-691 (Current Revision Date)

A copy of your company's Injury and Illness Prevention Program shall be returned to the County with your executed contract documents.

36. FORCE MAJEURE. CONTRACTOR shall promptly notify COUNTY in writing of any delay or anticipated delay in CONTRACTOR's performance of this Agreement due to a Force Majeure Excused Event, and the reason for and anticipated length of the delay. If reasonably feasible, CONTRACTOR shall deliver such notice within forty-eight (48) hours of when CONTRACTOR becomes aware of such delay. CONTRACTOR shall be excused for any delays or defaults in the performance of its obligations under this Agreement that are the result of a Force Majeure Excused Event or any other event outside the reasonable control of CONTRACTOR. CONTRACTOR shall be entitled to a reasonable extension of time for delays due to a Force Majeure Excused Event; provided that any Force Majeure Event that prevents performance, or is reasonably expected to prevent performance, for more than 120 days shall entitle either Party to terminate this Agreement. Any Time Change or Price Change shall be documented by a written Change Order.

"Force Majeure Excused Event" shall mean, and be limited to, those events listed below and occurring in or having an effect on the State of CALIFORNIA, which are outside of the asserting Party's control that materially and adversely affect the performance of a Party (other than payment obligations) hereunder: acts or war (whether declared or undeclared), riots, civil insurrections, sabotage or terrorism, blockade, embargo, earthquake, hurricanes, cyclones, floods, volcanic eruption, landslide, famine, plague, epidemic, war, Government decreed official state of emergency, or organized labor union strikes. A "Force Majeure Excused Event" shall further include any delays in utility interconnect work or receipt of utility approvals to interconnect beyond an allowance period of thirty (30) days upon mechanical completion of the Project. A "Force Majeure Excused Event" shall not include:

The occurrence of any manpower or materials shortages, except if such shortage results from an act, event, or condition which constitutes a Force Majeure Excused Event, which shall include late delivery of materials provided by COUNTY to CONTRACTOR; Equipment failures unless caused by a Force Majeure Excused Event, which shall include failures of materials provided by COUNTY to CONTRACTOR; Any delay, default, or failure (direct or indirect) in obtaining materials or of any Subcontractor or any other delay, default, or failure (financial or otherwise) of a Subcontractor, except if such delay, default, or failure results from an act, event, or condition that constitutes a Force Majeure Excused Event. Any failure by CONTRACTOR to obtain and/or maintain any permit that it is required to obtain or maintain.

Force Majeure Excused Events shall not excuse a Party (i) if the failure to perform or delay is due to the non-performing Party's fault, negligence or lack of diligence; (ii) to the extent that the Force Majeure Excused Event was caused or provoked by the asserting Party or (iii) where the Party asserting a Force Majeure Excused Event fails to fulfill its obligations as soon as reasonably possible after such Force Majeure Excused Event has been eliminated or has ceased to prevent the affected Party from fulfilling its obligations.

If the Parties do not agree that a Force Majeure Excused Event has occurred, the burden of proof shall rest with the asserting Party.

The CONTRACTOR shall, at its sole expense, use its best efforts to avoid and minimize delay and shall keep the COUNTY promptly informed of any event which may delay performance of the Work. In a case of a continuing cause of delay, only one Notice shall be necessary. Nothing contained herein shall preclude the CONTRACTOR from holding any other contractor(s), subcontractor(s), or entity responsible for unreasonable or unjustifiable delays incurred by the CONTRACTOR caused by such other contractor, subcontractor, or entity. The CONTRACTOR's full compliance with the requirements of this Article shall be a condition of receiving any Change and the CONTRACTOR's failure to comply with these requirements shall constitute a waiver of any right to a Change or any other claim. Nothing within this Article shall prevent the either Party from exercising its termination or suspension rights under this CONTRACTOR.

37. PAYMENTS NOT ACCEPTANCE. No certificate given or payments made under this Contract shall be evidence of the performance of this Contract, either wholly or in part, against any claim upon CONTRACTOR. Final payment for the work performed under this Contract shall not be made until the lapse of 10 working days (ten) days after the Notice of Completion of said work has been filed for record and no payment shall be construed to be acceptance of any defective work or improper materials. CONTRACTOR agrees that the payment for final quantities due under this Contract and the payment of amounts due for any work in accordance with any amendments of this Contract, shall release the County of Santa Barbara from any and all claims or liabilities on account of work performed under this Contract or any amendments thereof. In addition to guarantees required elsewhere, CONTRACTOR shall and does hereby guarantee all workmanship and material to be free of defects and fit for the purposes intended for a period of one year from and after both the date of acceptance of the work and the recordation of the Notice of Completion by the COUNTY, and CONTRACTOR shall repair or replace any or all work and material, together with any other portions of the work which may be displaced in so doing, that in the opinion of the Engineer, is or becomes defective during the period of said guarantee without expense whatsoever to the COUNTY.

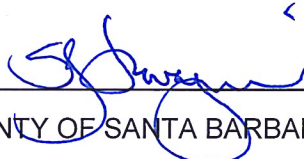
38. OBLIGATIONS CONTINGENT ON COUNTY'S FUNDING. COUNTY and CONTRACTOR acknowledge and agree that the obligations and commitments of each party are contingent on County's funding the project in the amount of \$4,336,751.00 by June 30th, 2018. County shall make good faith efforts to obtain funding.

39. DISPUTE RESOLUTION. Disputes arising in claims by the CONTRACTOR shall be handled pursuant to Public Contract Code section 9204, a copy of which is attached hereto as Exhibit E and incorporated by reference.

IN WITNESS WHEREOF, the parties have executed this Agreement for Services of Independent Contractor between the County of Santa Barbara and Endelos Energy, Inc. to be effective on the date executed by COUNTY.

COUNTY OF SANTA BARBARA

STEVE LAVAGNINO, CHAIR,
BOARD OF SUPERVISORS

By: 

COUNTY OF SANTA BARBARA

ATTEST:

MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: 

Deputy

CONTRACTOR:

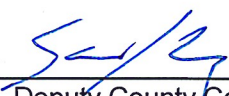
ENDELOS ENERGY, INC.
MARVIN R. ARNTSON, CEO

By: 

Tax ID: 33-0857418

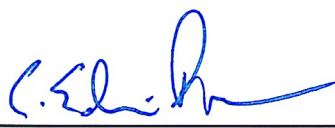
License Classification: CA C-10 767787

**APPROVED AS TO
FORM: MICHAEL C.
GHIZZONI COUNTY
COUNSEL**

By: 

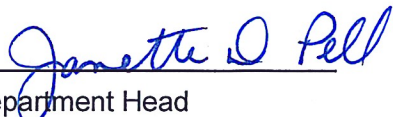
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

By: 

Deputy

RECOMMENDED FOR APPROVAL:
JANETTE D. PELL, DIRECTOR
GENERAL SERVICES DEPARTMENT

By: 

Department Head

APPROVED AS TO FORM:
RAY AROMATORIO,
RISK MANAGER

By: 

Risk Manager

COUNTY OF SANTA BARBARA

STEVE LAVAGNINO, CHAIR,
BOARD OF SUPERVISORS

By: _____

COUNTY OF SANTA BARBARA

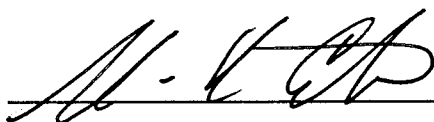
ATTEST:

MONA MIYASATO
COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By: _____
Deputy

CONTRACTOR:

ENDELOS ENERGY, INC.
MARVIN R. ARNTSON, CEO

By:  _____

Tax ID: 33-0857418

License Classification: CA C-10 767787

**APPROVED AS TO
FORM:** MICHAEL C.
GHIZZONI COUNTY
COUNSEL

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:
BETSY SCHAFFER, CPA, CPFO
AUDITOR-CONTROLLER

By: _____
Deputy

RECOMMENDED FOR APPROVAL:
JANETTE D. PELL, DIRECTOR
GENERAL SERVICES DEPARTMENT

By: _____
Department Head

APPROVED AS TO FORM:
RAY AROMATORIO,
RISK MANAGER

By: _____
Risk Manager

EXHIBIT A

STATEMENT OF WORK

Summary of Scope: CONTRACTOR shall design, procure, deliver, and install renewable energy systems (solar photovoltaic Hybrid Micro Grid, equipment upgrades, energy saving equipment, lighting, etc.) to enable the identified buildings to achieve near ZNE(Zero Net Energy).

CONTRACTOR shall comply with and perform all contractor requirements set forth in ALL sections of COUNTY's Request for Proposals RFP 7001(RFP) and CONTRACTOR's proposal and any associated documents submitted to COUNTY in response to RFP 7001, which are incorporated herein by this reference. All specifications, plans, drawings, and details, if any, including but not limited to specifications for each project type on the RFP, the lighting audit, any items mentioned in the mandatory pre-proposal conference, and all cost terms in this document and any and all attached documents to this Agreement and the RFP are incorporated herein by reference, and the CONTRACTOR will perform the work under this Agreement in accordance with said documents. All parts, equipment, structures, designs and supplies in this project shall meet or exceed the requirements set in the RFP.

CONTRACTOR will complete the work under this Agreement within 18 (eighteen) months of this Agreement being signed by COUNTY.

CONTRACTOR shall be responsible for all costs of the renewable energy systems including, but not limited to, planning, design, any and all permitting that may be required (Project shall require County Permit), engineering, labor, materials, parts, delivery, installation, commissioning, relocation of items as necessary to allow CONTRACTOR to complete the work, after hours/holiday work as may be necessary, site preparation, boring, grading, transportation, relocation, removal, storage, trenching, all lighting, (all lighting, fixtures, parts, sensors, wiring, converting, communications, etc., and items not included in lighting audits), upgrading/ addition to existing (utility services, distribution panels, wires, transformers, breakers, disconnects, fuses, equipment, etc.), circumventing underground obstacles, circumventing above ground obstacles, equipment research and installation requirements, disposal fees (dump, hazardous material, transportation, etc) relays, wire, conduits, electrical boxes, collectors, inverters, steel, batteries concrete, lights, bracing, lugs, Polaris connectors, junction boxes, paint, blocks, connectors, switch gear, transformers, disconnects, panels, sub-meters, CTs(current transformer), PTs(potential transformer) , breakers, backup generators, lifts, backup water, fencing, system requirements, automatic transfer switches, security, equipment, components, moving furniture / desks / equipment / vehicles / plants / rocks / dirt / items for any reason, applying/collecting rebates for the County, complying with all codes (Title 24, Title 24 part 6, Title 24 part 11, Title 20, CalGreen I&II, requirements for ADA(Americans with Disabilities), Building, Safety, County, City of Santa Maria, State, etc.), warranties costs, PG&E(Pacific Gas &Electric) /SCE(Southern California Edison) Rule 21, all requirements stated in the RFP(request for proposal), all items

mentioned in the mandatory pre-proposal conference and all costs and terms included in this document and all the attached documents, everything mentioned in the scope of work.

CONTRACTOR shall not use more than 15% of the parking lot at each location during COUNTY work hours, and shall ensure that the remainder of the parking lot(s) are kept accessible and available for COUNTY parking purposes during COUNTY work hours. CONTRACTOR shall grade and put down and maintain road base/gravel on the open Betteravia lot for County staff parking over flow equal to the amount of space displaced by construction.

CONTRACTOR will install the solar PV system consisting of Heliene Panels, SMA Inverters, and SimpliPhi Energy Storage Systems, a 767kW AC (871 kW DC) solar , 850kWh Battery AC system designed to completely Micro Grid power the four Betteravia Campus buildings and Fire Station 12 while charging at 80% DOD. The SimpliPhi Energy Storage Systems for Peak Shaving and Micro gridding. The CONTRACTOR will install solar carports to cover approximately 320 parking spaces. The CONTRACTOR will install solar arrays that consist of rectangular single and double cantilever solar arrays with the main foundation support columns positioned in the center location of the parking spaces. The CONTRACTOR will install support columns foundations that are drilled concrete caisson that are designed to support the solar arrays weight. The CONTRACTOR will install inverters located on the top of the support columns and which will convert the Solar DC power to 480V three phase AC electric. The CONTRACTOR will add electrical 480v to 208v step down transformer and disconnects to 10 inverter for the easy installation of future electric vehicle charging stations. The CONTRACTOR will utilize directional boring such that it eliminates the need for trenching the conduit pathways from building to building. The CONTRACTOR will install solar carport arrays lower leading edge at a height of at least 15 feet to accommodate public safety vehicle such as fire trucks. The CONTRACTOR will install the solar carport structure using galvanized Steel beams and columns. The CONTRACTOR will install islanding, behind the meter Energy Storage Systems (ESS), Off Grid & Battery Backup (Micro Grid). The CONTRACTOR will provide (road base/ gravel) and grade temporary parking at the Betteravia open lot for the 15% of parking spots they are using. CONTRACTOR will keep it graded for County employee parking during the project construction. CONTRACTOR will clean up any mud that comes off the new temporary parking during construction. CONTRACTOR will provide security and is financially responsible for every part of the project until it is signed over and accepted by the COUNTY.

The CONTRACTOR will replace all the interior lighting fixtures along with all the exterior lighting fixtures and poles with high efficient LED lighting to save electricity and reduce the number of solar panels needed. CONTRACTOR will install sensor controls for each light for maximum efficiency.

Contractor will replace only the shop roof (the part housing the fire trucks only) under the new solar panels at Fire station 12 with similar to existing roof system plus a full peel and stick underlayment covering that shop's entire roof only.

CONTRACTOR will complete all work items, tasks, and support needed for installing and ensuring

the operation of the Betteravia Campus and Fire station 12 Turn-Key ZNE System, including but not limited to the following: (See the RFP for detailed specification)

- Project/Construction Management
- PG&E Generation Interconnection
- All Solar SCE, PGE, and battery rebates administration
- CSI Compliance in all aspect of the project
- All labor and insurances
- Engineering
 - Civil – soil survey, watershed etc.
 - Structural – Foundation ground screw, racking, fencing, etc.
 - Electrical – solar, inverter, transformer, surge protection, power correction batteries, switchgear etc.
 - PG&E / SCE Engineering - Rule 21 Interconnection
 - Plan check, Permits, etc.
 - Includes Creation and Submittal of all Permit Drawings, Construction Details, and Engineering Calculations. All products to be used on the project will be submitted to the COUNTY and permit department if required, prior to project commencement
 - Includes project management, scheduling, over-site, quality control and assurance procedures
 - Includes final commissioning and hand-over to involve coordination meeting with the COUNTY and Contractor at job start, job completion, and as required during project duration
 - Includes all Engineering, Drawings, and Details for Electrical components, as required for Permit and National Electrical Code
 - Includes Engineering, Drawings, and Details for Structural and Mechanical components, as required for Permit
 - AS-BUILT drawings
- Over Current Protection
- Wiring / Cabling
 - Procure & Install all interior conduits to be Electrical Metallic Tubing (EMT)
 - All conduit below 8', or exposed to damage, will be Rigid Galvanized Steel Tubing (RGS conduit, "Galvanized Rigid Steel" conduit) per NEC
 - Procure & Install All Exterior Conduits shall be Rain Tight Galvanized Rigid Steel Tubing (RGS conduit, "Galvanized Rigid Steel" conduit) per NEC.
 - Inverter Wiring and anchorage included, all wiring terminations and testing
 - All ground supports, and protection
 - Includes all Voltage Test Reports
 - All terminations
- Distribution and Power
 - Procure & Installation of Combiner Boxes and associated supports

- Installation of Inverters and batteries Pads, placement, and associated mounting equipment
- Installation and Commissioning of Inverters ,batteries and generators
- Commission and test the micro grid including islanding the buildings for at least 2 hours.
- Procure & Install all Electrical hardware and support materials
- Includes appropriately sized midget fuses for combiners
- Construction
 - Civil – soil excavation, watershed etc
 - Structural – Foundation, racking, etc
 - Electrical – solar, batteries, surge protection, power correction, lights, switchgear etc
 - PG&E and SCE Rule 21 Interconnection
- System Commissioning, PG&E and SCE/CSI Certification & Full Operation
- On-site System Training - 10 Days Classroom & 5 Years field training as needed
 - SMA Inverter Training
- CSI Compliant Warranty and Equipment Warranties will be provided by the CONTRACTOR and defective equipment will be replaced by CONTRACTOR at no cost to COUNTY, as follows:
 - 20 Year Heliene Solar PV Module Warranty
 - SMA Inverter Twenty 20 year Warranty Plus
 - SMA TL30000 Inverter On-site Spares Kit
 - Standard Ten (10) year warranty as required by California Solar Initiative (CSI)
 - Balance of Systems (switchgear, wiring, racking, combiner boxes etc)
 - System Installation Workmanship
- Electric Power shut downs:
 - Will be kept to a minimum with a one week notice not to exceed 5 (five) hours maximum on a day the General Services determines
 - Electrical outage only permitted when approved by the County at night and on weekends.
- All personnel that are on site will fill out the Sheriff and Probation Department Security form and comply with all Sheriff and Probation Department Rules
 - All personnel will wear the same uniform shirt/vest as approved by the Sheriff and Probation Departments.
 - Contractor to properly identify and badge all employees on site.

Summary of Installation Requirements for Turn-Key ZNE Systems: (See RFP for detailed specification) CONTRACTOR will provide, install, and commission all parts, including but not limited to the following major parts, for the Turn-Key Renewable Energy System Project. Equivalent products of below-listed name brand items may be used if prior written approval is obtained from the COUNTY. Note: The inventory below (is subject to change based off of engineering and parts availability) will be finalized after the Formal Engineering Design Phase of this Contract has been completed.

Facility: Betteravia buildings - A, B, C, D: East Lakeside Parkway, Santa Maria, California 93455.

- Engineering Design and Complete Electrical, Mechanical, Structural, and Civil Drawing Package required for all Permits. Upon Completion of Engineering Design the inventory below will be finalized with County
- PV solar arrays total a Minimum size A/C 740kw (Seven hundred forty) with estimated generation of 1,438,502 kWh AC in year one.
 - 17 Single Cantilevered Solar carports located per Building A, B, C, D Distributed Generation layout in Betteravia parking lot.
 - 3 Double Cantilevered Solar carports located per Building A, B, C, D Distributed Generation layout in Betteravia parking lot.
 - 2,436 Heliene 345W MONO Panels with painted galvanized carports per RFP (Bolted only, No Screws in or on carports or panels)(All hardware will be stainless steel and tamper resistant)
 - 4 lithium SimpliPhi 200kWh Battery Energy Storage Systems (for of total of 800kwh at 80% DOD) (not toxic and recyclable) with peak shaving, and islanding software and functions at the Betteravia Campus.
 - 96 – V1000 Series String Power Optimizers 1000-volt PV systems
 - 28 SMA 3000TL-US String Inverters with monitoring systems (1000V max string) with Peak shaving technology
 - 4 Endelos Energy PowerRanger Power Factor Correction equipment. One each for Building A, B, C, D Solar Electrical interconnection.
 - 10 Electrical disconnects for future Electric Vehicle stations (NEMA4 3phase 100amp fused disconnect) 208V
 - 7 Square D PM5560 Submeters connected to the County Network
 - 7 CITEL MDS750E meter level surge protectors (one at each utility meter panel)
 - 28 MNSPD1000 AC inverter side level surge protectors
 - 56 MNSPD1000 DC inverter side level surge protectors
 - Net electric meter usage for first year of 0 (Zero) kWh or less per meter. (See RFP)
 - ATSS for each building to Microgrid together and connect to the SS generator.
- All intrusive work done when COUNTY is not at work (County work time is 7am to 6:00pm Monday through Friday).
- Battery Backup - Peak demand shaving

- CONTRACTOR will replace ALL existing interior and exterior lighting with PG&E rebate-able LED lighting with rebate-able sensors and timers consistent with the Lighting Audit. COUNTY will not be moving furniture/desks/interior/items/etc. to accommodate CONTRACTOR. CONTRACTOR will move such items if necessary to perform the work, provided however that it will return the items to their original condition and location when the relocation is no longer necessary for the work. CONTRACTOR will replace all external and interior lighting to new LED.
 - 2078 interior LED Light fixtures (Lithonia 2BLT4 48LHE ADSM MVOLT EZ1 LP840 N80EMG _RES7N_LATC) with earthquake safety wire
 - 134 exterior LED Light fixtures with sensors with new light poles upgrades
 - 22 Exit and Emergency Bug eye lights
 - Full Wireless Networking control Platform with Enterprise reporting using nLight Air TM
- 100 roof top 21 inch solar tubes with diffusers (Solatube 330 DS)
- Copper wire only , No aluminum wire of any kind for any reason

Fire Station 12, 5330 Calle Real, Goleta, 93110

- Engineering Design and Complete Electrical, Mechanical, Structural, and Civil Drawing Package required for all Permits. Upon Completion of Engineering Design the inventory below will be finalized with County
- Off Grid / Micro Grid Test that last for 48 hours.
- PV solar arrays total a Minimum size A/C 27kw (twenty seven) with estimated generation of 45,545 kWh AC in year one.
 - 88 Helene 345W MONO Panels roof mounted on County approved mounts
 - 30 –Tigo Panel Power Optimizers
 - SimpliPhi AccESS System DC Coupled containing: 2 - GS8028-01 OutBack inverters with rapid shutdown FWPV6-FH600-SDA , RSd-afci
 - 5 - FM100-300vdc OutBack Charge Controllers
 - 3 - GS OutBack load centers,
 - AC distribution panel, DC buss and fusing, Ferrite cores as defined by General services, wire, conduit, and etc.
 - 1 – ATS for the entire station
 - 1 Mate3s,1 hub 10.3, battery monitor, Optics RE, connected to the County network
 - 1 Square D PM5560 Submeters connect to the County Network
 - 1 Endelos Energy PowerRanger Power Factor Correction equipment.
 - 1 CITEL MDS750E meter level surge protector
 - 9 MNSPD AC inverter side level surge protector
 - 15 MNSPD DC inverter side level surge protectors
 - Net electric meter usage for first year of 0 (Zero) kWh or less per meter. (See RFP)

- 1 lithium SimpliPhi 50kWh Battery Energy Storage System at 80% DOD(depth of discharge) (not toxic and recyclable) with peak shaving, and islanding software and functions on Fire Station 12 with Peak shaving technology

CONTRACTOR will replace ALL existing interior and exterior lighting with SCE rebate-able LED lighting with rebate-able sensors and timers consistent with the Lighting Audit. COUNTY will not be moving furniture/desks/interior/items/etc to accommodate CONTRACTOR. CONTRACTOR will move such items if necessary to perform the work, provided however that the items will be returned to their original condition and location when the relocation is no longer necessary for the work. CONTRACTOR will replace all external and interior lighting to new LED.

- 57 interior LED Light upgrades including 5 new LED wraps (LITHONIA # LBL4-3000LM-80CRI-40K); 4 new LED strips (Lithonia# L8548-EX-213-N1-40K); 4 LED recessed can kits (Lithonia# 6BPMW L7XRLED HL LED 40K), and various screw based LED retrofits
- 4 exterior LED Light fixtures with sensors
- 2 Exit LED lights and 4 Emergency LED Bug eye lights
- Full Wireless Networking control Platform with Enterprise reporting using nLight Air™
- 8 roof top 21 inch solar tubes with diffusers (Solatube 330 DS)
- Copper wire only , No aluminum wire of any kind for any reason

EXHIBIT B
PAYMENT ARRANGEMENTS
Periodic Compensation at Selected Milestones

A. For CONTRACTOR services to be rendered under this contract, CONTRACTOR shall be paid a total contract amount, including cost reimbursements, not to exceed \$4,336,751.00. This agreement is contingent on funding and a Notice to Proceed by the Director of General Services or the County Representative. The COUNTY is not responsible for any payments or reimbursements prior to the Notice to Proceed. The COUNTY has the right to cancel this contract if no funding source is established.

B. Payment for services and/or reimbursement of costs shall be made upon CONTRACTOR's satisfactory performance, based upon the scope and methodology contained in **EXHIBIT A** as determined by COUNTY.

C. Upon completion of the work for each milestone and/or delivery to COUNTY of item(s) specified below, CONTRACTOR shall submit to the COUNTY DESIGNATED REPRESENTATIVE an invoice or certified claim on the County Treasury for the service performed in accomplishing each milestone. These invoices or certified claims must cite the assigned Board Contract Number. COUNTY REPRESENTATIVE shall evaluate the quality of the service performed and/or item(s) delivered and if found to be satisfactory shall initiate payment processing. COUNTY shall pay invoices or claims for satisfactory work within 30 days of presentation.

RFP #7001 PROJECT - MILESTONE PROGRESS PAYMENTS					
PROGRESS PAYMENT MILESTONE	TOTAL COMPLETED	County Hold-back 5%	TOTAL INVOICE	INVOICE DATE	
				Signed Contract Date Plus months	Payment Dates
1 - Mobilization & Preliminary Engineering Design Review	\$ 350,000.00	\$ 17,500	\$ 332,500	1	1/2/2020
2 - Zero-Net-Energy Material Procurement					
2.A - LED Lighting Material Delivery	\$ 301,691.50	\$ 15,085	\$ 286,607	2	2/15/2020
2.B - Solar PV Material Delivery	\$ 620,000.00	\$ 31,000	\$ 589,000	3	3/3/2020
2.C - Solar Tubes Material Delivery	\$ 65,000.00	\$ 3,250	\$ 61,750	3	3/14/2020
2.D - Batteries Bank Material Delivery	\$ 650,000.00	\$ 32,500	\$ 617,500	5	6/2/2020
3 - Final Engineering Design Review	\$ 75,000.00	\$ 3,750	\$ 71,250	3	3/15/2020
4 - LED Lighting Installations Complete	\$ 341,482.00	\$ 17,074	\$ 324,408	6	7/1/2020
5 - Solar Tubes Installation Complete	\$ 87,000.00	\$ 4,350	\$ 82,650	6	7/15/2020
6 - Solar Systems Site Construction					
6.A - Firestations 12 Roofing & Solar System Installation	\$ 100,000.00	\$ 5,000	\$ 95,000	6	7/12/2020
6.B - Firestations 12 Solar System Commissioning	\$ 5,000.00	\$ 250	\$ 4,750	6	7/15/2020
6.C - Betteravia Solar Carport Excavation Started	\$ 590,526.00	\$ 29,526	\$ 561,000	5	7/15/2020
6.D - Betteravia Solar Carport Structure Complete	\$ 535,050.00	\$ 26,753	\$ 508,298	8	9/15/2020
6.E- Betteravia Solar PV Module Install Complete	\$ 175,000.00	\$ 8,750	\$ 166,250	12	12/1/2020
6.F Betteravia Battery Bank and controls Install Complete	\$ 336,751.00	\$ 16,838	\$ 319,913	12	12/2/2020
6.G- Betteravia Solar PV Interconnection & Commissioning	\$ 35,000.00	\$ 1,750	\$ 33,250	12	12/10/2020
6.H - Solar Site Commissioning	\$ 25,000.00	\$ 1,250	\$ 23,750	12	12/15/2020
8 - Project Complete Sign Off	\$ 44,250.00	\$ 2,213	\$ 42,038	12	12/22/2020
Total to Date:	\$ 4,336,750.50	\$ 216,838	\$ 4,119,914		
County 5% Hold-Back - FINAL PAYMENT:				\$ 216,838	13
TOTAL PROJECT (All Buildings) + Project 5% Contingency			\$ 4,336,751		

The final milestone payment above shall not be made until all services have been completed (Plus 45 days) and item(s) as specified in **EXHIBIT A** have been delivered and found to be satisfactory.

D. COUNTY's failure to discover or object to any unsatisfactory work or billings prior to payment will not constitute a waiver of COUNTY's right to require CONTRACTOR to correct such work or billings or seek any other legal remedy.

EXHIBIT C

STANDARD INDEMNIFICATION AND INSURANCE PROVISIONS

INDEMNIFICATION

A. **Indemnification pertaining to other than Design Professional Services:** CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, judgments and/or liabilities arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person or entity and for any costs or expenses (including but not limited to attorneys' fees) incurred by COUNTY on account of any claim except where such indemnification is caused by the active negligence, sole negligence, or willful misconduct of the COUNTY.

B. **Indemnification pertaining to Design Professional Services:** CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless COUNTY and its officers, officials, employees, agents and volunteers from and against any and all claims, actions, losses, damages, costs, expenses (including but not limited to attorneys' fees), judgments and/or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONTRACTOR and its employees, subcontractors, or agents in the performance of services under this Agreement, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of the COUNTY.

NOTIFICATION OF ACCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

CONTRACTOR shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

CONTRACTOR shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

A. **Minimum Scope and Limit of Insurance**
Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), with limit no less than \$2,000,000 per accident for bodily injury and property damage.
3. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Professional Liability:** Insurance appropriate to the CONTRACTOR'S profession, with limit of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. **Contractors' Pollution Legal Liability and/or Asbestos Legal Liability:** *(if project involves environmental hazards)* with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the CONTRACTOR maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

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

1. **Additional Insured** – COUNTY, its officers, officials, employees, agents and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used).
2. **Primary Coverage** – For any claims related to this Agreement, the CONTRACTOR's insurance coverage shall be primary insurance as respects the COUNTY, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, agents or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.
3. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
4. **Waiver of Subrogation Rights** – CONTRACTOR hereby agrees to waive rights of subrogation which any insurer of CONTRACTOR may acquire from CONTRACTOR by virtue of the payment of any loss. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation** in favor of the COUNTY for all work performed by the CONTRACTOR, its employees, agents and subcontractors. This provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer.
5. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. At the option of the COUNTY, either: the CONTRACTOR shall cause the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the COUNTY, its officers, officials, employees, agents and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
6. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
7. **Verification of Coverage** – CONTRACTOR shall furnish the COUNTY with proof of insurance, original certificates and amendatory endorsements as required by this Agreement. The proof of insurance, certificates and endorsements are to be received and approved by the COUNTY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The CONTRACTOR shall furnish evidence of renewal of coverage throughout the term of the Agreement. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
8. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.

9. **Subcontractors** – CONTRACTOR shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and CONTRACTOR shall ensure that COUNTY is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

10. **Claims Made Policies** – If any of the required policies provide coverage on a claims-made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of COUNTY.

EXHIBIT D

BONDS



IDAHO
MONTANA
OREGON
WASHINGTON
paynewest.com

March 15, 2018

County of Santa Barbara
Mr. Roy Hapeman, Energy Manager
1105 Santa Barbara Street, Courthouse E Wing 2nd Floor,
Santa Barbara, California 93101

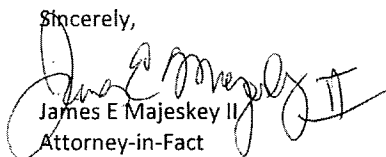
**RE: Taylor International Corp
Zero-Net Energy Renewable Energy System**

Dear Roy:

We have had the pleasure of providing the insurance and surety support for Taylor International Corp for the past fifteen years. Taylor International Corp currently enjoys a normal program of \$70 million single projects and \$100 million in aggregate cost to complete. Larger project and program as underwritten on a case by case basis. Their surety is The Guarantee Company of North America.

It is my understanding that this project is expected to be less than \$5 million which well within the normal program range for Taylor International Corp. I am sure that when you select Taylor International Corp. as your contractor you will find them to be professional and proactive in completing your project.

Sincerely,



James E Majeskey II
Attorney-in-Fact

EXHIBIT E
(Public Contract Code § 9204)

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)

(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)

(1)

(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)

(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail

or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.