

## **Operations and Maintenance Agreement**

**THIS OPERATIONS AND MAINTENANCE AGREEMENT** ("Agreement") is made and entered into this on May 13, 2019 ("Effective Date"), by and between STE Electric dba Solar Technologies (referred to herein as "Contractor") and **San Rafael City Schools** ("District").

### **1. Scope of Work:**

**1.1.** The Contractor shall furnish all operations and maintenance services for the District's alternative energy systems, which include monitoring and performance reporting, as described in the attached **EXHIBIT A** ("Services" or "Work").

**1.2.** Contractor shall perform the Services at the following locations:

- **Glenwood Elementary School**, 25 W Castlewood Dr, San Rafael CA 94901
- **San Pedro Elementary School**, 498 Point San Pedro Rd, San Rafael, CA 94901

Each location is referenced as a "Site" and collectively as "Sites."

**1.3.** Contractor shall perform the Services covering all components of the net-metered solar photovoltaic canopy systems, designed, permitted, built, and commissioned in accordance with the terms of the Agreement for Design, Installation and Commissioning of Solar Photovoltaic System entered into by the parties on May 13, 2019 ("Design-Build Agreement"). Details on each system located at the Sites are set forth in the attached **EXHIBIT B**. For purposes of this Agreement, the systems detailed at **EXHIBIT B** are collectively referenced as "System."

**1.4.** Any "Extra Services" beyond the scope of work provided in **EXHIBIT A** shall only be provided by Contractor if so agreed in writing by and between the Contractor and District specifying the scope of such Extra Services and the terms upon which Contractor shall provide such Extra Services. Contractor's fees for Extra Services are provided at **EXHIBIT C**.

### **2. Term and Termination:**

**2.1.** This Agreement shall become effective on the Effective Date and shall remain effective, unless earlier terminated in accordance with the provisions of this Agreement, for an initial term of five (5) years. The initial term shall automatically renew for an additional five (5) year term (i.e., the renewal term) unless the District provides written notice of termination prior to the end of the initial term. At the conclusion of the renewal term, a minimum of three (3) additional five (5) year terms shall be offered to the District and District will accept the additional terms at its sole discretion. The initial term, renewal term, and any additional term thereafter are collectively referenced as "Term."

**2.2.** Either District or Contractor may immediately terminate this Agreement, by providing the other party with written notice, upon occurrence of any of the following events:

**2.2.1.** Failure of either party to perform any material obligation under this Agreement, which failure remains uncured after receipt of written notice specifying a default and providing an opportunity to cure other than any Force Majeure event.

**2.2.2.** Either party ceasing to carry on business or disposing of all or substantially all of its undertaking or assets.

**2.3.** District may, at any time, with or without reason, terminate this Agreement with thirty (30) days' notice, and compensate Contractor only for Services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of Services by Contractor. Notice shall be deemed given when received by the Contractor or no later than three (3) calendar days after the date of mailing, whichever is sooner.

**2.4.** The expiration or termination of this Agreement do not affect Contractor's obligation to perform on the warranties as provided under the ESA.

### **3. Fee and Payment:**

**3.1.** In consideration of the Services performed by Contractor under this Agreement during the initial 5-year term of this Agreement, District shall pay the Contractor a total not to exceed fee of Twenty-Five Thousand Seven Hundred Ninety-Two Dollars (\$25,792) ("Fee"). The Fee represents full consideration for the Services for the initial term of the Agreement, calculated based on a first-year cost of Four Thousand Eight Hundred Fifty-Eight Dollars (\$4,858) with a three percent (3.0%) annual escalator for a duration of the Term. Contractor shall pay and bear all costs associated with the performance of Services under this Agreement.

**3.1.1.** The Fee for any subsequent term(s) shall be calculated in the same manner, and the total compensation pursuant to this Agreement, in the event that all terms set forth in Section 2.1., *supra*, are utilized shall not exceed One Hundred Seventy-Seven Thousand, One Hundred Nineteen Dollars (\$177,119).

**3.2.** Contractor shall bill District for the Services rendered on an annual basis and shall ensure that each payment application contains the dates and specific Services rendered, along with the maintenance reports and annual performance review report described in **EXHIBIT A**. The District shall pay all undisputed sums due to Contractor within sixty (60) days after receipt of the invoice. Invoices shall be on a form and with a level of detail acceptable to the District.

**3.3.** Contractor shall not charge additional fees for standard payment methods including check, ACH, or credit card.

**3.4.** Any charges for Extra Services shall be paid by the District only to the extent that the claimed Extra Services were authorized as indicated herein and that the Extra Services have been satisfactorily completed to the District's approval. If any service is performed by Contractor without prior written authorization by District, District will not be obligated to pay for such service.

**4.** This Agreement incorporates by this reference the attached Terms and Conditions. Contractor, by executing this Agreement, agrees to comply with all the attached Terms and Conditions.

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5. This Agreement incorporates by this reference the Contract Documents attached hereto. Contractor, by executing this Agreement, agrees to comply with all obligations set forth in the Contract Documents. The Contract Documents include only the following documents, as indicated:

<input type="checkbox"/> Notice to Bidders	<input checked="" type="checkbox"/> Hazardous Materials Certification
<input type="checkbox"/> Instructions to Bidders	<input checked="" type="checkbox"/> Lead-Based Materials Certification
<input type="checkbox"/> Bid Form and Proposal	<input type="checkbox"/> Roofing Project Certification
<input type="checkbox"/> Bid Bond	<input checked="" type="checkbox"/> Insurance Certificates and Endorsements
<input checked="" type="checkbox"/> Terms and Conditions to Contract	<input type="checkbox"/> Performance Bond
<input type="checkbox"/> Non-collusion Declaration	<input type="checkbox"/> Payment Bond
<input type="checkbox"/> Designated Subcontractors List	<input checked="" type="checkbox"/> Specifications
<input type="checkbox"/> Request for Proposals	<input type="checkbox"/> Plans
<input type="checkbox"/> Notice to Proceed	<input checked="" type="checkbox"/> Exhibit A (Scope of Work)
<input checked="" type="checkbox"/> Prevailing Wage and Related Labor Requirements Certification	<input checked="" type="checkbox"/> Exhibit B (System Descriptions)
<input checked="" type="checkbox"/> Workers' Compensation Certification	<input checked="" type="checkbox"/> Exhibit C (Fees for Extra Services)
<input type="checkbox"/> Drug-Free Workplace Certification	<input type="checkbox"/> _____ [Other]
<input type="checkbox"/> Tobacco-Free Environment Certification	

6. Contractor shall not commence the Services under this Agreement until the Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required under the Terms and Conditions.

7. Inspection and acceptance of the Work shall be performed by the District and a representative from the District's consultant, Sage Renewables.

8. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, addressed as follows:

**District**

San Rafael City Schools  
ATTN: Dan Zaich  
310 Nova Albion Way  
San Rafael, California 94903  
PHONE: 415-492-3285

**Contractor**

STE Electric dba Solar Technologies  
ATTN: Jeff Parr  
14 Beta Court  
San Mateo, CA 94583  
PHONE: 831-359-4348

Any notice personally given or sent by email shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

**9.** Contractor shall guarantee all labor and material used in the performance of this Agreement for a period of one (1) year from the date of Contractor's performance of the Work relating thereto. In the event of a breach of warranty during the applicable warranty term, Contractor shall, upon reasonably prompt notice from the District of a valid warranty claim, at Contractor's sole option and expense, either repair or replace any defective parts and/or repair or re-perform any defective Work. Contractor shall have reasonable access to the Sites, subject to District's onsite rules and policies for visitors, and as necessary to perform its warranty obligations under this Agreement. Contractor's warranty obligations set forth herein do not reduce any of Contractor's warranty obligations under the ESA or Contractor's obligations to the District required by the Performance Guarantee Agreement.

**10.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

**11.** By signing this Agreement, Contractor certifies, under penalty of perjury, that all the information provided in the Contract Documents is true, complete, and correct.

[SIGNATURES ON NEXT PAGE.]

ACCEPTED AND AGREED on the date indicated below:

Dated: \_\_\_\_\_, 2019

**San Rafael City Schools**

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

Print Name: Dan Zaich

Print Title: Senior Director, Capital

Improvements

Address: 310 Nova Albion Way  
San Rafael, California 94903

Telephone: 415-492-3285

E-Mail: dzaich@srcs.org

Dated: \_\_\_\_\_, 2019

**STE Electric dba Solar Technologies**

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

Print Name: Jeff Parr

Print Title: President

License No.: 932914

Registration No.: 1000035324

Address: 14 Beta Court  
San Mateo, CA 94583

Telephone: 831-359-4348

E-Mail: jeff@solartechnologies.com

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**Information regarding Contractor:**

Type of Business Entity:

☐ Individual

☐ Sole Proprietorship

☐ Partnership

☐ Limited Partnership

☒ Corporation, State: California

☐ Limited Liability Company

☐ Other: \_\_\_\_\_

Contractor ID:

Employer Identification Number: 90-0451969

**NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Contractor to furnish the information requested in this section.**

## **TERMS AND CONDITIONS TO CONTRACT**

- 1. STANDARD OF CARE:** Contractor shall perform, diligently prosecute and complete the Work in a good and workmanlike manner, and in strict conformity with all Contract Documents.
- 2. SITE CONDITIONS:** District has provided to Contractor the Site Documents, as defined in the ESA. Contractor has made a reasonable visual examination of the Site and has relied on such visual examination and the Site Documents in defining the Scope of Work. If any variations to the Scope of Work become necessary due to a change in Site conditions or due to Site conditions not reasonably known or foreseeable to Contractor based on such visual examination or from the Site Documents, Contractor shall be entitled to a change order to equitably adjust the Fee in light of the changed or unknown conditions.
- 3. PERMITS, LICENSES AND REGISTRATION:** Contractor and all of its employees, agents, and subcontractors shall secure and maintain in force, at Contractor's sole cost and expense, all licenses, registration and permits as are required by law, in connection with the furnishing of materials, supplies, or services herein listed. At least two (2) weeks before any work by an employee is to be performed, Contractor will provide the District with the name and DIR registration number, and any other information necessary to fill out a PWC-100 form, for the Contractor and all subcontractors of all tiers. Contractor has an ongoing obligation to update the District should any information change.
- 4. LABOR, MATERIALS AND EQUIPMENT:** Contractor shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material necessary to furnish the services herein described, the services to be performed at such times and places as directed by and subject to the approval of the authorized District representative indicated in the Work specifications attached hereto. Unless otherwise specified, all materials shall be new and previously unused, and of the manufacturer's latest model or the best of their respective kinds and grades as noted or specified, and workmanship shall be of good quality.
- 5. INDEPENDENT CONTRACTOR STATUS:** While engaged in carrying out the Services of this Agreement, the Contractor is an independent contractor, and not an officer, employee, agent, partner, or joint venture of the District. Contractor shall be solely responsible for its own Workers' Compensation insurance, taxes, and other similar charges or obligations. Contractor shall be liable for its own actions, including its negligence or gross negligence, and shall be liable for the acts, omissions, or errors of its agents or employees.
- 6. CONTRACTOR SUPERVISION:** Contractor shall provide competent supervision of personnel employed on the job Site, use of equipment, and quality of workmanship.
- 7. WORKERS:** Contractor shall at all times enforce strict discipline and good order among its employees and the employees of its subcontractors and shall not employ or work any unfit person or anyone not skilled in work assigned to him or her. Any person in the employ of the Contractor or a subcontractor whom the District may deem incompetent or unfit shall be dismissed from the Site and shall not again be employed at Site without written consent from the District.
- 8. SUBCONTRACTORS:** Subcontractors, if any, engaged by the Contractor for any Service or Work under this Agreement shall be subject to the approval of the District. Contractor agrees to bind every subcontractor by the terms of the Agreement as far as such terms are applicable to subcontractor's work, including, without limitation, all registration, indemnification, insurance, and bond requirements, if applicable. If Contractor shall subcontract any part of this Agreement, Contractor shall be fully responsible to the District for acts and omissions of its subcontractor and of persons either directly or indirectly employed by itself. Nothing contained in the Contract Documents shall create any contractual relations between any subcontractor and the District.
- 9. SAFETY AND SECURITY:** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
- 10. OWNERSHIP OF DATA:** This Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all documents that Contractor prepares or causes to be prepared pursuant to this Agreement.

- 11. AUDIT:** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
- 12. LEAD-BASED PAINT:** Pursuant to the requirements of the Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") and other applicable law, no lead-based paint, lead plumbing and solders, or other potential sources of lead contamination shall be utilized on this Work, and only trained and state-certified contractors, inspectors and workers shall undertake any action to abate existing risk factors for lead. Contractor must execute the Lead-Based Paint Certification, if applicable.
- 13. CLEAN UP:** Debris shall be removed from the Site. The Site shall be left in a reasonably clean condition.
- 14. PROTECTION OF WORK AND PROPERTY:** Contractor shall erect and properly maintain at all times, as required by conditions and progress of the Work, all necessary safeguards, signs, barriers, lights, and security persons for protection of workers and the public, and shall post danger signs warning against hazards created by the Work. In an emergency affecting life and safety of life or of Work or of adjoining property, Contractor, without special instruction or authorization from District, is permitted to act at his discretion to prevent such threatened loss or injury.
- 15. FORCE MAJEURE:** The Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, products, plants, or facilities by the government, when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Contractor.
- 16. CORRECTION OF ERRORS:** Contractor shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by the Contractor's failure to comply with the standard of care required herein.
- 17. DISTRICT'S RIGHT TO PERFORM WORK:** If the Contractor should neglect to prosecute the Work properly or fail to perform any provisions of this Agreement, the District, after **FORTY-EIGHT (48)** hours' written notice to the Contractor, may make good such deficiencies, without prejudice to any other remedy it may have, including but not limited to the District hiring its own forces or another contractor to replace the Contractor's nonconforming Work, in which case the District shall either issue a deductive Change Order, a Construction Change Directive, or invoice the Contractor for the cost of that work. Contractor shall pay any invoices within thirty (30) days of receipt of same or District may withhold those amounts from payment(s) to Contractor.
- 18. SITE ACCESS:** The District shall provide Contractor with reasonable access to the Sites and the System for purposes of Contractor's performance of the Work under this Agreement. The District has the right to oversee Contractor's Work at any time.
- 19. OCCUPANCY:** District reserves the right to occupy the Sites at any time before formal completion and such occupancy shall not constitute final acceptance or approval of any part of the Work covered by this Agreement, nor shall such occupancy extend the date specified for completion of the Work.
- 20. CHANGE IN SCOPE OF WORK:** Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition, or deletion is approved in advance and in writing by a valid change order executed by the District. Contractor specifically understands, acknowledges, and agrees that the District shall have the right to request any alterations, deviations, reductions, or additions to the Project or Work, and the cost thereof shall be added to or deducted from the amount of the Contract Price by fair and reasonable

valuations. Contractor also agrees to provide the District with all information requested to substantiate the cost of the change order and to inform the District whether the Work will be done by the Contractor or a subcontractor. If Contractor fails to submit its request for a time extension or the necessary supporting information, it shall be deemed to have waived its right to request such extension.

## **21. INDEMNIFICATION:**

- 21.1.** To the furthest extent permitted by California law, Contractor shall indemnify and hold harmless the District, its agents, representatives, officers, consultants, employees, and volunteers (the "Indemnified Parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from, arising out of, connected with, or resulting from the performance of this Agreement unless the claims are caused wholly by the sole or active negligence or willful misconduct of the Indemnified Parties.
- 21.2.** Contractor shall also, to the furthest extent permitted by California law, defend the Indemnified Parties at Contractor's own expense, including attorneys' fees and costs, from any and all claims directly or indirectly arising from, arising out of, connected with, or resulting from the performance of this Agreement unless the claims are caused wholly by the sole or active negligence or willful misconduct of the Indemnified Parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the District.
- 21.3.** Pursuant to Public Contract Code section 9201, the District shall provide timely notification to Contractor of the receipt of any third-party claim relating to this Agreement. The District shall be entitled to recover its reasonable costs incurred in providing said notification.
- 21.4.** The District may retain so much of the moneys due the Contractor as shall be considered necessary, until disposition of any such suit, claims or actions for damages or until the District has received written agreement from the Contractor that it will unconditionally defend the Indemnified Parties, and pay any damages due by reason of settlement or judgment.
- 21.5.** The defense and indemnification obligations hereunder shall survive the completion of Work, including the warranty/guarantee period, and/or the termination of the Agreement.

## **22. [RESERVED.]**

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## 23. CONTRACTOR'S INSURANCE:

- 23.1. Insurance Requirements.** The Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

TYPE OF COVERAGE	MINIMUM REQUIREMENT
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$1,000,000
General Aggregate	\$2,000,000
<b>Automobile Liability Insurance - Any Auto</b>	
Per person	\$ 100,000
Per accident	\$ 300,000
Property damage	\$ 50,000
Combined single limit	\$1,000,000
<b>Workers' Compensation</b>	Statutory Limits
<b>Employers' Liability</b>	\$1,000,000

**23.1.1. Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

**23.1.2. Workers' Compensation and Employers' Liability Insurance.**

Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

- 23.2. Proof of Insurance.** The Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

**23.2.1.** A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

**23.2.2.** Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

**23.2.3.** An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

**23.2.4.** All policies except the Workers' Compensation Insurance, and Employers' Liability Insurance Policies shall be written on an occurrence form.

**24. ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

**25. WARRANTY/QUALITY:** Unless a longer warranty is called for elsewhere in the Contract Documents, the Contractor, manufacturer, or their assigned agents shall guarantee the workmanship, product or service performed against defective workmanship, defects or failures of materials for a minimum period of one (1) year from filing the Notice of Completion with the county in which the Site is located. All workmanship and merchandise must be warranted to be in compliance with applicable California energy, conservation, environmental, and educational standards.

**26. CONFIDENTIALITY:** Each Party shall maintain the confidentiality of all information, documents, programs, procedures, and all other items received from the other Party that is marked or otherwise designated as confidential. This requirement shall be ongoing and shall survive the expiration or termination of this Agreement. The Parties understand that the District is subject to compliance with the California Public Records Act and Brown Act open meeting requirements, and both Parties are subject to compliance with any valid subpoena/discovery requests properly served upon such Party. In the event a Party is served with a subpoena or discovery request in litigation which seeks production of the other Party's confidential information, the Party receiving such subpoena or discovery request shall promptly notify the other Party so as to allow such other Party to seek a protective order in the underlying litigation.

**27. LIMITATION OF DISTRICT LIABILITY:** District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Contract, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the Services performed.

**28. COMPLIANCE WITH LAWS:** Contractor shall give all notices and comply with all laws, ordinance, rules and regulations bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

**29. LABOR CODE REQUIREMENTS:** The Contractor shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000). Copies of the prevailing rate of per diem wages are on file with the District or available online at <http://www.dir.ca.gov/>. In addition, the Contractor and each subcontractor shall comply with Chapter 1 of Division 2, Part 7 of the California Labor Code, beginning with Section 1720, and including Section 1735, 1777.5 and 1777.6, forbidding discrimination, and Sections 1776, 1777.5 and 1777.6 concerning the employment of apprentices by Contractor or subcontractors. Willful failure to comply may result in penalties, including loss of the right to bid on or receive public works contracts.

**29.1. Registration:** Contractor and its subcontractor(s) shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 and in accordance with Labor Code section 1771.1.

**29.2. Certified Payroll Records:** Contractor and its subcontractor(s) shall upload certified payroll records ("CPR") electronically using California Department of Industrial Relations' (DIR) eCPR System by uploading the CPRs by electronic XML file or entering each record manually using the DIR's iform (or current form) online on a weekly basis and within ten (10) days of any request by the District or Labor Commissioner at <http://www.dir.ca.gov/Public-Works/Certified-Payroll-Reporting.html> or current application

and URL, showing the name, address, social security number, work classification, straight time, and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor and/or each subcontractor in connection with the Work.

- 29.3. Labor Compliance:** Contractor shall perform the Work of the Project while complying with all the applicable regulations, including section 16000, et seq., of Title 8 of the California Code of Regulations and is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations.
- 30. ANTI-DISCRIMINATION:** It is the policy of the District that in connection with all work performed under its contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment Practice Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).
- 31. ANTI-TRUST CLAIM:** Contractor and its subcontractor(s) agree to assign to the District all rights, title, and interest in and to all causes of action they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Agreement or a subcontract. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the Parties.
- 32. DISPUTES:** If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Contractor submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process. Pending resolution of the dispute, Contractor and its subcontractors shall continue to perform the Work under the Agreement and shall not cause a delay of the Work during any dispute, claim, negotiation, mediation, or arbitration proceeding, except by written agreement of the District.
- 33. ATTORNEY FEES/COSTS:** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs, and attorney's fees.
- 34. ASSIGNMENT:** Contractor shall not assign or transfer in any way any or all of its rights, burdens, duties, or obligations under this Agreement without the prior written consent of the District.
- 35. TIME IS OF THE ESSENCE:** Time is of the essence in the performance of and compliance with each of the provisions and conditions of this Agreement.
- 36. CALCULATION OF TIME:** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
- 37. GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California with venue of any action in a County in which the District administration office is located.
- 38. BINDING CONTRACT:** This Agreement shall be binding upon the Parties and upon their successors and assigns, and shall inure to the benefit of said Parties and their successors and assigns.
- 39. DISTRICT WAIVER:** District's waiver of any term, condition, covenant or waiver of a breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or the waiver of a breach of any other term, condition or covenant.
- 40. CAPTIONS AND INTERPRETATIONS:** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision

of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.

- 41. INVALID TERM:** If any provision of this Agreement is declared or determined by any court of competent jurisdiction to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remaining parts, terms and provisions shall not be affected thereby, and said illegal, unenforceable or invalid part, term or provision will be deemed not to be a part of this Agreement.
- 42. PROVISIONS REQUIRED BY LAW DEEMED INSERTED:** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
- 43. ENTIRE CONTRACT:** This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements, understandings, written or oral, between the Parties pertaining to the subject matter thereof.
- 44. NO ORAL MODIFICATIONS:** No oral agreement or conversation with any officer, agent, or employee of District, either before or after execution of Agreement, shall affect or modify any of the terms or obligations contained in any of the documents comprising the Agreement.

[END OF TERMS AND CONDITIONS.]

## EXHIBIT A SCOPE OF WORK

Contractor shall provide the following Services at the Sites. District may be referenced as the "Customer" in the descriptions.

### Maintenance Services

Contractor shall perform the following Maintenance Services in accordance with the Agreement, applicable laws, and such standard of care and performance as is reasonably expected of a contractor providing same or substantially similar services with respect to a photovoltaic power system. District must be notified at least 48 hours in advance should a System shutdown be required.

SERVICE DESCRIPTION	SERVICE FREQUENCY
<b>1. Customer Service Support:</b> <ol style="list-style-type: none"> <li>a. Provide Technical support contact (12 hours per day, 5 days per week, from 6 am to 6pm Pacific time).</li> <li>b. Support technicians specialized in remote troubleshooting and providing step-by-step diagnosis instructions.</li> </ol>	Continuous
<b>2. Preventative Maintenance, Inspections &amp; Testing:</b> <ol style="list-style-type: none"> <li>a. Array               <ol style="list-style-type: none"> <li>i. Inspect photovoltaic (PV) modules for damage, discoloration or delamination.</li> <li>ii. Inspect mounting system for damage or corrosion.</li> <li>iii. Visual inspection of torque markings.</li> <li>iv. Spot check 10% of structural bolts for torque.</li> </ol> </li> <li>b. Inverter               <ol style="list-style-type: none"> <li>i. Clean all filters and fans.</li> <li>ii. Inspect inverter pad and container.</li> <li>iii. Tighten wire terminations inside inverter.</li> <li>iv. All other preventive maintenance required by original equipment manufacturer (OEM) warranty.</li> </ol> </li> <li>c. Electrical Balance of System (BOS)               <ol style="list-style-type: none"> <li>i. Inspect ground braids, electrodes and conductors for damage.</li> <li>ii. Perform thermo-graphic analysis of combiner boxes, inverters, transformers, and conductor connections to buses, breakers or disconnects.</li> <li>iii. Test and record all circuits, open circuit voltage and short circuit current and repair any fault circuits.</li> <li>iv. Inspection of all terminal connections for torque.</li> </ol> </li> <li>d. Meteorological Station (if present)               <ol style="list-style-type: none"> <li>i. Inspect weather measurement equipment for damage.</li> <li>ii. Clean pyranometers and reference cells.</li> </ol> </li> <li>e. Site Conditions               <ol style="list-style-type: none"> <li>i. Inspect drainage conditions.</li> <li>ii. Inspect vegetation for array shading or fire hazards, and remove any obstructions causing shade or hazard issues, including ongoing tree trimming as needed.</li> <li>iii. Inspect safety conditions and proper signage.</li> </ol> </li> <li>f. Maintenance Reporting               <ol style="list-style-type: none"> <li>i. Record results of all inspections.</li> <li>ii. Take photographs of any damage or defects identified.</li> <li>iii. Inform Customer and warranty providers of all deficiencies identified.</li> </ol> </li> </ol>	Annual (unless otherwise noted)

SERVICE DESCRIPTION	SERVICE FREQUENCY
<ul style="list-style-type: none"> <li>iv. Provide Customer with recommendations for corrective action.</li> <li>g. Sensor Calibration               <ul style="list-style-type: none"> <li>i. Every twenty-four (24) months, O&amp;M Contractor will have the pyranometer calibrated by the manufacturer of each sensor.</li> <li>ii. Field comparison of pyranometers and reference cells to calibrated sensor.</li> <li>iii. Adjust field sensor to within <math>\pm 3\%</math> of calibrated sensor and record changed parameters.</li> <li>iv. O&amp;M Contractor may replace pyranometers in lieu of field calibration.</li> </ul> </li> </ul>	
<p><b>3. Module Cleaning:</b></p> <ul style="list-style-type: none"> <li>a. Minimum once per year, in June or July.</li> <li>b. As-needed to meet Performance Guarantee.</li> <li>c. Surface washing of all modules.</li> <li>d. Pressure washer settings not to exceed 1,500 PSI or manufacturer's recommendation, whichever is less.</li> <li>e. Before and after photographs shall be provided.</li> </ul>	Annual, or as needed
<p><b>4. Corrective Maintenance includes:</b></p> <ul style="list-style-type: none"> <li>a. On-site troubleshooting &amp; diagnostics of all system components.</li> <li>b. Inverter and Data Acquisition System resets.</li> <li>c. Processing of OEM warranty claims on behalf of Customer and verification of replaced equipment.</li> <li>d. Full scope repair and replacement of equipment throughout the ESA warranty term and any additional years where the Performance Guarantee Agreement is in effect.</li> </ul>	As needed

[CONTINUES ON NEXT PAGE.]

## Monitoring and Performance Reporting

Contractor shall perform the following Monitoring and Performance Reporting in accordance with the Agreement, applicable laws, and such standard of care and performance as is reasonably expected of a contractor providing same or substantially similar services with respect to a photovoltaic power system.

SERVICE DESCRIPTION	SERVICE FREQUENCY
<p><b>1. Performance Monitoring Website:</b></p> <ul style="list-style-type: none"> <li>a. Separate PV production and consumption meters to measure PV system production and on-site consumption of electricity (separate from net consumption).</li> <li>b. Customer website updated every 15 minutes with operational performance from the beginning of operation.</li> <li>c. Cellular data connection or other data connection maintained by the Contractor. System may not use Customer's internet connection.</li> <li>d. Internet-based monitoring and reporting portal with full data access to Customer, including weather parameters.</li> <li>e. Synchronized clock intervals for all site meters, including production and consumption meter. Clock intervals shall be synchronized with utility meters where feasible.</li> <li>f. All site data must be able to be downloaded to Customer's computer in Microsoft Excel format.</li> <li>g. Customer will be provided with login credentials for use during the term of the O&amp;M Agreement.</li> <li>h. All fees for monitoring software and cellular/data fees included under this scope.</li> </ul>	Continuous
<p><b>2. Daily Performance Monitoring and Notification:</b></p> <ul style="list-style-type: none"> <li>a. Daily monitoring of Customer's System via experienced solar monitoring technicians.</li> <li>b. Operational status (inverter and system on/off) and performance alerts (actual vs. expected performance) monitored daily by O&amp;M Contractor.</li> <li>c. Monitoring technicians identify and respond to system alerts including contacting Customer's system administrator as appropriate.</li> </ul>	Daily
<p><b>3. Performance Review and Reports:</b></p> <ul style="list-style-type: none"> <li>a. Actual vs. expected performance of the System for the period.</li> <li>b. Environmental benefits will be estimated and included.</li> <li>c. Weather adjustment calculations.</li> <li>d. Optional custom reports can be supplied, upon Customer request, at added cost.</li> <li>e. Review of the following System performance data with an O&amp;M Contractor performance engineer and proposal of a recommended action plan where applicable: <ul style="list-style-type: none"> <li>i. Expected vs. Actual system production (kWh)</li> <li>ii. System Availability</li> <li>iii. Recoverable Degradation</li> <li>iv. Performance Index</li> <li>v. Operation and Maintenance Records</li> <li>vi. Safety, Accidents and Environmental Reporting</li> <li>vii. Proposal of Recommended Actions</li> </ul> </li> <li>f. Annual Performance Review Report provided to Customer within sixty (60) days of each anniversary of the Commercial Operation Date (COD) as defined in the ESA.</li> <li>g. O&amp;M Records must be provided to Customer upon request.</li> </ul>	Annual

[END OF EXHIBIT A.]

**EXHIBIT B  
SYSTEM DESCRIPTIONS**

**San Rafael City Schools  
Solar Photovoltaic Project**

**Glenwood Elementary School, 25 W Castlewood Dr, San Rafael CA 94901**

- 85.32 kWp
- Solar Panel Model: SunPower SPR-P19-395-COM
- Inverter Model: SolarEdge SE14.4KUS
- 133,516 kWh Estimated Year-1 Production:
- Canopy orientation from due N = 144 degrees. 7 degree tilt.

**San Pedro Elementary School, 498 Point San Pedro, San Rafael, CA 94901**

- 109.02 kWp
- Solar Panel Model: SunPower SPR-P19-395-COM
- Inverter Model: SolarEdge SE43.2KUS
- 161,525 kWh Estimated Year-1 Production
- Canopy orientation from due N = 191 degrees. 7 degree tilt.

[END OF EXHIBIT B.]

**EXHIBIT C  
FEES FOR EXTRA SERVICES**

**I. ADDITIONAL SERVICES AND EMERGENCY SERVICES**

Additional Services and Emergency Services, if any are authorized by the District, shall be performed at the following rates:

<b>Charge Description</b>	<b>Amount</b>
Engineering	\$225.00/hr
Project Management	\$195.00/hr
Lead Electrician	\$175.00/hr
Electrician's Assistant	\$155.00/hr
Emergency Service	\$155.00/hr

The hourly rates, above, are inclusive of all reimbursable costs, overhead, and profit.

Extra Services must be authorized by District in writing and in advance.

[END OF EXHIBIT C.]

**PREVAILING WAGE AND  
RELATED LABOR REQUIREMENTS CERTIFICATION**

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours' notice, payroll records, and apprentice and trainee employment requirements, for all Work on the above Project, including, without limitation, labor compliance monitoring and enforcement by the Department of Industrial Relations.

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

Proper Name of Contractor: **STE Electric dba Solar Technologies**

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

Print Name: Jeff Parr

Title: President

### **WORKERS' COMPENSATION CERTIFICATION**

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

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

Proper Name of Contractor: **STE Electric dba Solar Technologies**

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

Print Name: Jeff Parr

Title: President

(In accordance with Labor Code sections 1860 and 1861, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Agreement.)

### **HAZARDOUS MATERIALS CERTIFICATION**

- 1.** Contractor hereby certifies that no asbestos, or asbestos-containing materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations, ("New Hazardous Material"), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.
- 2.** Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.
- 3.** Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (0.1%) asbestos shall be defined as asbestos-containing material.
- 4.** Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.
- 5.** All Work or materials found to be "New Hazardous Material" or Work or material installed with equipment containing "New Hazardous Material" will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.
- 6.** Contractor has read and understood the document titled Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein. Contractor certifies that it is knowledgeable of, and shall comply with, all laws applicable to the Work, including, but not limited to, all federal, state, and local laws, statutes, standards, rules, regulations, and ordinances applicable to the Work.

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

Proper Name of Contractor: **STE Electric dba Solar Technologies**

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

Print Name: Jeff Parr

Title: President

## **LEAD-BASED MATERIALS CERTIFICATION**

This certification provides notice to the Contractor that:

- (1) Contractor's work may disturb lead-containing building materials.
- (2) Contractor shall notify the District if any work may result in the disturbance of lead-containing building materials.
- (3) Contractor shall comply with the Renovation, Repair and Painting Rule, if lead-based paint is disturbed in a six-square-foot or greater area indoors or a 20-square-foot or greater area outdoors.

### **1. Overview of Law**

Both the Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") have implemented safety orders applicable to all construction work where a contractor's employee may be occupationally exposed to lead.

The OSHA Regulations apply to all construction work where a contractor's employee may be occupationally exposed to lead. The OSHA Regulations contain specific and detailed requirements imposed on contractors subject to those regulations. The OSHA Regulations define construction work as work for construction, alteration, and/or repair, including painting and decorating. Regulated construction work includes, but is not limited to, the following:

- a. Demolition or salvage of structures where lead or materials containing lead are present;
- b. Removal or encapsulation of materials containing lead;
- c. New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;
- d. Installation of products containing lead;
- e. Lead contamination/emergency cleanup;
- f. Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and
- g. Maintenance operations associated with the construction activities described in the subsection.

Because it is assumed by the District that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532.1).

**Contractor shall notify the District if any Work may result in the disturbance of lead-containing building materials. Any and all Work that may result in the disturbance of lead-containing building materials shall be coordinated through the District. A signed copy of this Certification shall be on file prior to beginning Work on the Project, along with all current insurance certificates.**

**2. Renovation, Repair and Painting Rule, Section 402(c)(3) of the Toxic Substances Control Act**

The EPA requires lead safe work practices to reduce exposure to lead hazards created by renovation, repair and painting activities that disturb lead-based paint. Pursuant to the Renovation, Repair and Painting Rule (RRP), renovations in homes, childcare facilities, and schools built prior to 1978 must be conducted by certified renovations firms, using renovators with training by a EPA-accredited training provider, and fully and adequately complying with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

The RRP requirements apply to all contractors who disturb lead-based paint in a six-square-foot or greater area indoors or a 20-square-foot or greater area outdoors. If a DPH-certified inspector or risk assessor determines that a home constructed before 1978 is lead-free, the federal certification is not required for anyone working on that particular building.

**3. Contractor's Liability**

If the Contractor fails to comply with any applicable laws, rules, or regulations, and that failure results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify, and hold harmless the District, pursuant to the indemnification provisions of the Agreement, for all damages and other claims arising therefrom.

If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses, and training shall conduct this Work.

It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including, but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

THE CONTRACTOR HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT IT:

1. HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY;
2. IS KNOWLEDGEABLE REGARDING AND WILL COMPLY WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL, OF LEAD.

THE UNDERSIGNED WARRANTS THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR. THE DISTRICT MAY REQUIRE PROOF OF SUCH AUTHORITY.

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

Proper Name of Contractor: **STE Electric dba Solar Technologies**

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

Print Name: Jeff Parr

Title: President