

Solar PV Operation and Maintenance Agreement

This Solar PV Operation and Maintenance Agreement (this "Agreement"), is made and entered into as of May 13th, 2022 (the "Effective Date") by and between San Mateo High School District ("Owner") and **Borrego Energy, Inc.**, a California corporation ("Contractor"). Owner and Contractor are at times referred to individually as a "Party" and together as the "Parties".

WHEREAS, Owner wishes to retain Contractor to provide operation and maintenance services for Owner's photovoltaic, solar electric power system(s) (each a "System," collectively, the "Systems") located at one or more sites identified in **Exhibit A** (the "Site" or "Sites"), and Contractor wishes to provide such services for the consideration set forth herein.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Documents Comprising The Agreement

This Agreement consists of the terms and conditions set forth in this Agreement and the following exhibits, which are hereby incorporated by reference and made a part of this Agreement:

Exhibit A: SITE(S), SYSTEM(S), AND SERVICE FEE(S) (and any Schedules attached thereto)
Exhibit B: MAINTENANCE SCOPE OF SERVICES
Exhibit C: SITE INFORMATION TEMPLATE FORM

2. Term of Agreement

Unless terminated earlier in accordance with the terms and conditions of this Agreement, this Agreement shall commence on the Effective Date and continue for a period of five (5) years thereafter (the "Term"). Thereafter, unless either Party shall have otherwise terminated this Agreement, the Term shall automatically be extended annually for one (1) additional year beginning at each anniversary of the Effective Date. For the avoidance of doubt, "Term" shall refer to the original Term and any annual extensions thereof.

3. Scope of Services

- a. Owner hereby engages Contractor to perform certain services, as set forth in **Exhibit B** – "Maintenance Scope of Services" (the "Maintenance Scope of Services"), and Contractor hereby accepts the engagement and agrees to perform the Maintenance Scope of Services for the Annual O&M Fee set forth in **Exhibit A**.
- b. Contractor shall provide at its sole cost and expense all tools and equipment needed to perform the Maintenance Scope of Services, **except** for any exclusions set forth in Exhibit B, Section 5.
- c. Contractor will use reasonable efforts to assist Owner with any manufacturer warranties for modules, inverters, transformers, switchgear as part of the Maintenance Scope of Services. However, Contractor's obligations under this Section 3.c *specifically exclude* providing any legal assistance to Owner or incurring any other additional costs associated with enforcing any warranty. If Owner wishes to have Contractor initiate any warranty claims with respect to any other equipment on a System it shall be considered Additional Services under Section 4 of this Agreement.

4. Additional Services

- a. Owner and Contractor may agree from time to time that Contractor will provide services beyond the Maintenance Scope of Services ("Additional Services"). In such event Owner agrees to compensate Contractor in accordance with the hourly rates and fees for additional material, equipment and/or travel expense set forth as "Fees for Additional Services (Work Order)" in **Exhibit A**.
- b. Owner shall notify Contractor via telephone or electronically (email/portal) of any requests for Additional Services. Either Owner or Contractor shall then initiate a written Work Order in substantially the form as set forth in Schedule 1 to Exhibit A setting forth the scope of Additional Services and estimates and/or costs associated with the Additional Services (the "Work Order") for submission to the other Party for approval. Notwithstanding the foregoing, Contractor may from time to time perform Additional Services at a cost and/or fee not to exceed \$1,000 without obtaining a signed Work Order; provided that Contractor shall have first notified Owner via telephone or electronically of the Additional Services and the cost and/or fee for such Additional Services. The Parties shall subsequently document such Additional services and cost and/or fees in a Work Order.
- c. For any Additional Services exceeding the amount set forth in Section 4.b, Contractor shall not proceed with any Additional Services until Contractor and Owner have agreed on the scope and cost of such Additional Services and Owner has signed or otherwise authorized a Work Order.
- d. With respect to any Additional Services, Contractor shall procure, at Owner's expense, all replacement parts, System components and equipment attached to, part of or constituting a System (together, the "Replacement Components") necessary for the performance of the Additional Services; provided, however, if any such Replacement Components are required as a result of Contractor's failure to perform its obligations under this Agreement and/or Contractor's negligence then Contractor shall procure such Replacement Components at Contractor's expense. In the event of a warranty claim with regard to total module output, any module testing required shall be charged as an Additional Service.

5. Standard of Services; Fingerprinting; Prevailing Wages

- a. Contractor shall perform both Maintenance Scope of Services and Additional Services (collectively "Services") in accordance with applicable laws and orders or directives of governmental authorities having jurisdiction over the System and according to Prudent Industry Standards. "Prudent Industry Standards" is defined as standards of care and diligence normally practiced by or approved by a significant portion of the solar operation and maintenance firms in performing services of a similar nature with respect to solar generation projects of similar size and nature in jurisdictions in which the Services will be performed and that, in the exercise of reasonable judgment in light of the facts known is reasonable. Prudent Industry Standards shall not obligate Contractor to use optimum practices or methods to the exclusion of all others, but rather to use a spectrum of reasonable and prudent practices and methods that take into consideration the conditions specific to the applicable Site(s) and System(s).
- b. Contractor warrants to Owner that the Services shall be free from workmanship defects for a period of one (1) year from the date such Service was provided.
- c. All Services shall be performed by qualified technical personnel.
- d. All Services performed or provided on Site shall be in compliance with OSHA regulations and laws. Contractor shall have responsibility for all safety precautions and programs in performance of the Services. However, if Owner deems any part of the Services unsafe under OSHA regulations, Owner may require Contractor to stop performance of the Services and/or take corrective measures necessary to comply with the requirements of OSHA or other such regulating authority.
- e. Contractor and all of its subcontractors shall comply with the requirements of California Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the Owner's students. In no event shall any employees of Contractor and all subcontractors come into contact with

the Owner's students before complying with the fingerprinting requirements of California Education Code Section 45125.2.

- f. Contractor acknowledges the requirements of California Labor Code sections 1770 *et seq.*, as well as California Code of Regulations, Title 8, Section 16000 *et seq.* ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since this Agreement involves an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, the Contractor agrees to fully comply with such Prevailing Wage Laws. The Contractor shall defend, indemnify and hold the Owner, its trustees, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws

6. Use of Subcontractors

Contractor may engage subcontractors ("Subcontractors") as it deems advisable for the purpose of performing or carrying out any of its obligations under this Agreement; provided, however, that no such engagement shall relieve Contractor of any of its obligations or liabilities under this Agreement. As between Owner and Contractor, Contractor shall be solely responsible for the acts, omissions or defaults of its Subcontractors and their agents, representatives and employees. Nothing in this Agreement shall be construed to create any contractual relationship between Owner and any Subcontractor. Contractor shall not, as a consequence of its own acts or acts of its suppliers and Subcontractors, suffer or permit liens or encumbrances arising out of the furnishing of work, goods or Services by Contractor or its suppliers or Subcontractors to attach to the Systems or the Sites.

7. Owner's Responsibilities

- a. Owner shall provide Contractor, its Subcontractors, and their respective agents and employees with reasonable access to the System and the Site during reasonable times and without prior notice as required for the performance of Contractor's duties under this Agreement. Contractor will use reasonable efforts to schedule normal, routine maintenance in advance with the Owner, landlord or property manager of each Site. At Owner's request, Contractor will inform Owner of all Site visits that have taken place.
- b. Owner shall ensure that, prior to commencement of the Maintenance Scope of Services, each Site and System shall comply with all local, state and federal regulations, and shall meet industry standards for civil, mechanical and electrical design and installation/construction without material defects.
- c. Owner shall provide Contractor with all vendor manuals, spare parts lists, project data books and drawings which are provided to Owner pursuant to any project agreement or by any other contractor responsible for construction, installation, repair or maintenance of the Site(s) or System(s) or a part thereof. Contractor shall be entitled to rely upon such information in performance of the Services. To the extent Owner does not provide such information or such information is incorrect or defective, then Contractor shall be entitled to revise or amend the Maintenance Scope of Services and/or the O&M Annual Fee. Owner shall also provide Contractor with copies of all project agreements and any amendments thereto and any other documents that define the Site or the System's operating requirements.
- d. Owner shall (i) have a Data Acquisition System ("DAS") in place for each System(s); (ii) shall have subscription(s) in place to maintain the DAS (both at Owner's expense); and (iii) shall provide Contractor with access to the DAS for the Term of this Agreement.
- e. Owner shall timely respond to Contractor's communications and requests for information.

8. Payment Terms

- a. Owner shall pay Contractor according to the fees set forth in **Exhibit A**, inclusive of the annual escalation charges over the Term of the Agreement, for the Services provided by Contractor.
- b. Annual O&M Fees: Contractor will invoice Owner (via email) for the Annual O&M Fees on the Effective Date, and thereafter on the anniversary of the Effective Date.
- c. Fees for Additional Services/Components: Contractor will invoice Owner (via email) monthly for Additional Services/Components as set forth in Work Orders.
- d. Full payment on all invoices is due within thirty (30) calendar days of Owner's receipt of the invoice (the "Due Date"). A finance charge of the lesser of (i) 1.50% per month (18% per annum) or (ii) the maximum amount allowed by law, shall apply to all unpaid invoices past the Due Date.
- e. In any lawsuit or legal proceeding brought by Contractor to collect on unpaid fees for Services, Contractor shall be entitled to recover its attorneys' fees and all other costs and expenses from Owner.

9. Termination

- a. By Either Party:
 - i. Either Party may terminate this Agreement for convenience upon sixty (60) days written notice to the other Party. If the Agreement is terminated under this Section 9.a(i), Owner shall pay Contractor for all Additional Services performed up to and including the date of termination. If at the time of termination Contractor has performed the preventative maintenance work for the Term year, Contractor shall be entitled to retain either 80% or a pro rata portion of the prepaid Annual O&M Fee, whichever is higher. Contractor shall refund to Owner any remaining prepaid amounts.
 - ii. Either Party may terminate this Agreement immediately if the other Party has filed a voluntary petition in bankruptcy, is the subject of an involuntary petition in bankruptcy, has been adjudicated as bankrupt or insolvent, or has made an assignment for the benefit of creditors.
- b. By Owner: Owner may terminate this Agreement for default upon written notice if Contractor breaches a material term of this Agreement and fails to cure such material breach within thirty (30) days of such written notice.
- c. By Contractor: If Owner fails to comply with any of its obligations in Section 7 of this Agreement or fails to pay Contractor any amount by the Due Date (and there is no bona fide dispute between the Parties as to amounts owed hereunder), then Contractor may, upon fifteen (15) days written notice to Owner, suspend performance of all Services hereunder and/or terminate this Agreement. Owner remains liable for all Services performed by Contractor up through and including the date of termination.

10. Force Majeure

- a. Notwithstanding any other provision of this Agreement, each Party's obligations under this Agreement (excluding any obligations to pay moneys due) shall be suspended by any Force Majeure Event (as defined below) if and to the extent that such Party is prevented or delayed from performing by reason of the Force Majeure Event. In every instance of a Force Majeure Event, (i) the suspension of performance shall be of no greater scope and of no longer duration than is

necessarily caused by the Force Majeure Event and required by any remedial measures, (ii) no obligations of any Party that arose before the occurrence of such causes shall be excused as the result of the occurrence, and (iii) each Party shall use commercially reasonable efforts to remedy its inability to perform. If the performance by either Party of its obligations under this Agreement is affected by any Force Majeure Event, such Party shall notify the other Party in writing within ten (10) business days after the initial occurrence of the claimed Force Majeure Event of the nature and extent thereof. When the claiming Party is able to resume performance of its obligations under this Agreement, it shall give the other Party prompt notice to that effect.

- b. As used herein, the term "Force Majeure Event" shall mean any event that prevents the affected Party from performing its obligations under this Agreement and that is reasonably beyond the control of, and not the fault of or caused by, the affected Party, including, without limitation: (i) sabotage, riots or civil disturbances, (ii) acts of God, (iii) acts of the public enemy, (iv) terrorist acts affecting the Site, (v) volcanic eruptions, earthquake, hurricane, tornado, storm, flood, ice storms, explosion, fire, lightning, landslide or similarly cataclysmic occurrence, (vi) strikes or labor unrest not attributable to Contractor's workforce, (vii) requirement by a utility that the System discontinue operation for any reason, (viii) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, or (ix) any other action by any governmental authority which prevents or prohibits the Parties from carrying out their respective obligations under this Agreement (including, without limitation, an unstayed order of a court or administrative agency having the effect of subjecting the sale of energy output to federal or state regulation of prices and/or services). Economic hardship of either Party shall not constitute a Force Majeure Event under this Agreement.

11. Limitation of Liability

EXCEPT FOR ANY WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, CONTRACTOR MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES AND REPLACEMENT COMPONENTS PROVIDED HEREUNDER, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL SUCH WARRANTIES ARE DISCLAIMED.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. CONTRACTOR'S TOTAL LIABILITY WITH RESPECT TO ANY AND ALL CLAIMS REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OR NON-PERFORMANCE OF ANY OF CONTRACTOR'S OBLIGATIONS UNDER THIS AGREEMENT, OR THE USE OF THE SERVICES BY OR ON BEHALF OF OWNER OR ANY OTHER THIRD PARTY, SHALL BE SOLELY FOR OWNER'S DIRECT DAMAGES.

IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, INCLUDING ANY DAMAGES FOR BUSINESS INTERRUPTION, OR LOSS OF USE/DATA/REVENUE/PROFIT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE.

IN NO EVENT SHALL CONTRACTOR'S AGGREGATE LIABILITY TO OWNER FOR DIRECT DAMAGES, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID TO CONTRACTOR FOR THAT SITE OR SYSTEM DURING THE PRIOR TWELVE (12) MONTH PERIOD FOR SERVICES PERFORMED UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IF THE OWNER'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY ABOVE, THE LIMITATION OF LIABILITY ON CONTRACTOR'S LIABILITY (AGGREGATE OR OTHERWISE) SHALL NOT APPLY TO DIRECT DAMAGES COVERED BY CONTRACTOR'S INSURANCE PROCURED UNDER SECTION 12 BELOW.

12. Insurance Provisions

Throughout the Term of this Agreement, Contractor shall maintain insurance meeting the "Insurance Requirements" as set forth below. In the event Contractor makes any material modification, cancellation or termination of such coverage, Contractor shall give Owner at least thirty (30) days prior written notice. Such insurance shall be primary coverage without right of contribution from any insurance of Owner. The Contractor shall provide to Owner certificates of insurance and endorsements effecting coverage required by this Agreement. All insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VIII, admitted in California, and satisfactory to the District. All insurance required by this Section shall also contain standard separation of insureds provisions and shall not contain any special limitations on the scope of protection afforded to the Owner, its directors, officials, officers, employees, agents and volunteers. All policies shall contain a provision stating that such policies are primary insurance and that the insurance of Owner or any named insured shall not be called upon to contribute to any loss. Owner and its Board of Trustees, trustees, officers, employees, and agents shall be named as additional insureds ("Additional Insureds"). The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on industry standard forms (such as an ISO CG 2010 (or insurer's equivalent) signed by the insurer's representative, and a certificate of insurance (Acord form 25-S or equivalent) with additional insured endorsements attached), and acceptable to the Owner. All certificates and endorsements must be received and approved by the Owner within five (5) calendar days of the date of the Effective Date. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

Contractor shall cause each insurance policy obtained by it to provide that the insurance company waives all right of recovery by way of subrogation against Owner and Additional Insureds in connection with any damage covered by any policy.

GENERAL LIABILITY

Limits of Liability	Description
\$1,000,000	Per Occurrence
\$1,000,000	Annual Aggregate, Other Than Products
\$2,000,000	Annual Aggregate, Products & Completed Operations
\$1,000,000	Personal and Advertising Injury Aggregate
\$100,000	Fire Damage Liability
\$10,000	Medical Expense Each Claim
\$250	Deductible / Per Claim – Bodily Injury and Property Damage

UMBRELLA LIABILITY

Limits of Liability	Description
\$1,000,000	Per Occurrence
\$1,000,000	Annual Aggregate Limit

AUTOMOBILE LIABILITY

Limits of Liability	Coverage
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\$1,000,000	Liability
\$1,000,000	Hired/Borrowed Auto Liability
\$1,000,000	Non-Owned Auto Liability
\$1,000,000	Uninsured Motorists
\$100,000	Employers Liability Insurance
\$10,000	Medical Expense Each Claim

WORKERS COMPENSATION

Limits of Liability	Coverage
\$1,000,000	Liability (Each Accident)
\$1,000,000	Disease (Each Employee)
\$1,000,000	Disease (Policy Limit)

13. Notices

All notices and other communications required under this Agreement shall be in writing and addressed to each Party at the address or email address set forth below, or to such other addresses or email of which a Party may from time to time notify the other Party pursuant to the terms of this Section. Such notices and communications will be deemed given upon the earlier of (a) actual receipt; (b) three (3) business days after being mailed by registered or certified mail, return receipt requested with postage prepaid; or c) one (1) business day after being deposited with a recognized overnight courier service with charges prepaid.

To Owner:

San Mateo High School District
Attention: Chief Business Officer
Address: 650 N. Delaware Street
San Mateo, CA 94401
Email: lcarlton@smuhsd.org, yhawkins@smuhsd.org

To Contractor:

Borrego Solar Systems, Inc.
Attention: Director, O&M
55 Technology Drive, Suite 102
Lowell, MA 01851
Email:

With a copy to:

Borrego Solar Systems, Inc.
Attention: General Counsel
1814 Franklin Street, Suite 700
Oakland, CA 94612
Email: LegalNotices@borregosolar.com

14. Assignment

Owner may assign this Agreement and any of its rights or obligations hereunder to any third party, provided that Owner gives Contractor written notice of such assignment. In the event of any such assignment, Owner shall remain liable after such assignment as a guarantor for any payment obligations incurred before such

assignment; and further provided that the assignee shall agree in writing to be bound by all the terms of this Agreement, but shall only be required to assume liabilities and obligations arising after the relevant assignment. Contractor shall not assign this Agreement without the prior written consent of Owner, which shall not be unreasonably withheld; provided, however, that Contractor may assign this Agreement without Owner's prior written consent to an affiliate of Contractor or to the successor in interest to Contractor's operation and maintenance business in the event of a merger, consolidation or sale of all or substantially all of the assets of such business; provided such affiliate or successor has the expertise and financial ability to perform the obligations under this Agreement. With respect to any requested assignment, Contractor shall submit reasonable documentation to Owner demonstrating the proposed assignee has the expertise and financial ability to perform the obligations under this Agreement ("Assignment Documents"). Owner agrees to enter into a commercially reasonable non-disclosure agreement with the Contractor and/or proposed assignee to protect the confidentiality of the Assignment Documents.

15. Intentionally Omitted

16. Indemnification

- (a) To fullest extent permitted by California law, Contractor agrees to and does hereby defend, indemnify and hold harmless Owner and its trustees, officers, employees, and agents (the "Owner Indemnified Parties") against every claim or demand made, and every liability, loss, damage, or expense, including attorney's fees, of any nature whatsoever, that may be incurred by reason of liability for: (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or this Agreement; or (4) any other loss, damage or expense, sustained by any person, firm or corporation arising from any act, omission, negligence, or breach by Contractor or any person, firm or corporation employed by, under contract with, or acting on behalf of Contractor, arising out of the Maintenance Scope of Services performed by Contractor, its employees, subcontractors or agents pursuant to this Agreement, except for liability that results directly from the sole or active negligence, or the willful misconduct of an Owner Indemnified Party.
- (b) To fullest extent permitted by California law, Owner agrees to and does hereby defend, indemnify and hold harmless Contractor and its trustees, officers, employees, and agents (the "Contractor Indemnified Parties") against every claim or demand made, and every liability, loss, damage, or expense, including attorney's fees, of any nature whatsoever, that may be incurred by reason of liability for: (1) death or bodily injury to persons; (2) damage or injury to, loss (including theft), or loss of use of, any property; (3) any failure or alleged failure to comply with any provision of law or this Agreement; or (4) any other loss, damage or expense, sustained by any person, firm or corporation arising from any act, omission, negligence, or breach by Owner or any person, firm or corporation employed by, under contract with, or acting on behalf of Owner, arising out of this Agreement, except for liability that results directly from the sole or active negligence, or the willful misconduct of a Contractor Indemnified Party.

17. Miscellaneous

a. This Agreement and the rights and obligations of the Parties hereunder shall be governed by the laws of the California, without giving effect to the conflicts of laws principles. Jurisdiction for any action, suit or other legal proceeding shall be commenced and prosecuted solely and exclusively in a state or federal court located in the City of Oakland, California, and the Parties hereby consent to the exclusive jurisdiction of such a court. To the extent permitted by law, each Party hereby irrevocably waives its respective rights to a jury trial with respect to any claim or cause of action in any court in any jurisdiction based upon or arising out of or relating to this Agreement.

b. This Agreement expresses the entire and integrated agreement of the Parties with respect to the subject matter hereof, and any prior or contemporaneous negotiations or discussions are superseded. Neither Party has made any promise or inducement related hereto that is not set forth herein.

c. No amendments or modifications of this Agreement shall be valid unless evidenced in writing and signed by both Parties.

d. This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and assigns, to the extent that assignment is permitted hereunder.

e. Each Party signing this Agreement represents that s/he has the authority to enter into a legally valid and binding obligation on behalf of that Party.

f. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

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

Borrego Solar Systems, Inc. (Contractor)

San Mateo Union High School District (Owner)

By: _____
Name: _____
Title: _____



By: _____
Name: _____
Title: _____

(see Annual Rate from page 11)

	FY21-22	22-23	23-24	24-25	25-26
AHS	12,624.34	12,624.34	12,624.34	12,624.34	12,624.34
BHS	8,514.46	8,514.46	8,514.46	8,514.46	8,514.46
HS	12,633.58	12,633.58	12,633.58	12,633.58	12,633.58
MHS	11,719.63	11,719.63	11,719.63	11,719.63	11,719.63
SMHS		8,734.18	8,734.18	8,734.18	8,734.18
CHS		6,534.64	6,534.64	6,534.64	6,534.64
Annual	\$ 45,492.01	\$ 60,760.83	\$ 60,760.83	\$ 60,760.83	\$ 60,760.83
5-YR	\$ 288,535.33				

Solar PV Operation and Maintenance Agreement

Exhibit A SITE(S), SYSTEM(S), AND SERVICE FEE(S)

Solar PV Operation and Maintenance Agreement

Exhibit A SITE(S), SYSTEM(S), AND SERVICE FEE(S)

1. All pricing is based on System Information provided by Owner on:

2. Total Annual Maintenance Services Fee: **\$60,760.83** which is equal to the sum of the following amounts, as applicable:

Project Site Name	Project Address	Product Type	Install Type	Size kW DC	Comp \$/kW	Wash \$/kW	Total \$/kW	Total \$
SMUHSD - Aragon High School Campus	900 Alameda de las Pulgas, San Mateo, CA 94402	Comp	Roof	662.00	\$14.98	\$4.09	\$19.07	\$12,624.34
SMUHSD - Burlingame High School Campus- Phase 1	1 Mangini Way, Burlingame, CA 94010	Comp	Roof	229.07	\$32.37	\$4.80	\$37.17	\$8,514.46
SMUHSD - Hillsdale High School Campus- Phase 1A	31st Ave & Del Monte, San Mateo, CA 94403	Comp	Roof	684.38	\$14.38	\$4.08	\$18.46	\$12,633.58
SMUHSD - Mills High School Campus- Phase 1A	400 Murchison Drive, Millbrae, CA 94030	Comp	Roof	585.40	\$15.88	\$4.14	\$20.02	\$11,719.63
SMUHSD - San Mateo High School Campus	506 N Delaware Street, San Mateo, CA 94401	Comp	Carport	694.27	\$8.63	\$3.95	\$12.58	\$8,734.18
SMUHSD - Capuchino High School Campus	1501 Magnolia Ave, San Bruno, CA 94066	Comp	Carport	435.53	\$10.91	\$4.09	\$15.00	\$6,534.64
Summary				3,290.64				\$60,760.83

3. Maintenance and Additional Service Fees

B. Fees for Additional Services (Work Order):

i. Regular Time Labor:	\$150.00 per hour.	Billed in 15-minute increments. Regular Time is defined as Monday – Friday, 8:00 am – 5:00 pm.
ii. Off-Hour Labor:	\$180.00 per hour.	Billed in 15-minute increments. Off-hours is defined as Saturdays, Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day.
iii. Additional Module Washing Fee:		quoted as needed, reflected in the above pricing.
iv. Additional Vegetation Management:		N/A

C. Annual Increases: The Annual O&M Fee and Fees for Additional Services shall increase of the System Commencement Date for each System during the Term of the Agreement. 3.00%

D. Taxes: All fees in this Section 3 exclude any sales, use, general excise, or any other taxes applicable to the Services. Owner shall be liable for and shall reimburse Contractor for all taxes and related charges, including interest and penalties, however designated, imposed upon or arising from the provision of Services or the sale of the materials by Contractor to Owner. Such taxes shall be billed to Owner as separate items on Contractor's Invoices, unless a valid exemption certificate is furnished by Owner to Contractor. Owner shall cooperate with Contractor, in a reasonable and timely manner, in the event of an audit for any taxes that may arise from the existence or operation of this Agreement in order to minimize any assessment of additional taxes due.

E. Regulatory Changes: The Annual O&M Fee for Maintenance Scope of Services and rates for Additional Services are based on the current laws, codes, statutes and regulations (the "Regulatory Scheme") in place at the time of the Effective Date. To the extent the Regulatory Scheme materially changes during the Term of the Agreement, Contractor reserves the right to adjust the Annual O&M Fee and rates for Additional Services to reflect such changes.

4. Materials and Rented Equipment:

A. Maintenance Scope of Services: Includes all tools and equipment needed by Contractor to perform the Maintenance Scope of Services as set forth in Exhibit B of this Agreement, except any aerial lifts that may be required to perform the Maintenance Scope of Services; in which case such aerial lifts will be billed to Owner at cost, plus 20%, plus any applicable taxes.

B. Additional Services: All materials and rented equipment needed by Contractor to perform any Additional Services shall be billed to Owner at actual cost 15.00% plus taxes.

5. Permits and Approval Fees:

All permits and approval fees necessary for the Maintenance Scope of Services and any Additional Services shall be billed to Owner at cost plus: 15.00% plus taxes.

6. Travel Expenses:

A. For Maintenance Scope of Services under the Basic Package: For any corrective work, Owner shall be charged a maximum of four (4) hours for any Site visit.

B. For Maintenance Scope of Services under the Reactive Package: All travel time and expenses incurred by Contractor for Site visits is included in the Annual O&M Fee.

C. For any Additional Services under either Basic or Reactive Package: All travel time shall be billed at agreed upon rates, and expenses (including mileage, airfare, car rentals, meals and lodging) shall be billed to Owner at actual cost, plus 20%, plus any applicable taxes.

For any Additional Services under either Basic or Reactive Package: All travel time shall be billed at agreed upon rates, and expenses (including mileage, airfare, car rentals, meals and lodging) shall be billed to Owner at actual cost, plus 15.00% plus any applicable taxes.

**SCHEDULE 1
TO EXHIBIT A**

FORM OF WORK ORDER QUOTE



Quote

Date:	December 11, 2018
Prepared By:	
Case#:	
PO #:	

From: Borrego Solar Systems, Inc. 5005 Texas St., Ste. 400 San Diego, CA 92108 tel: 888-898-6273 fax: 888-843-6778	Customer: #N/A #N/A #N/A	Site Name: Project:
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Description	Qty	AMT	Line Total
	1.00		\$ -
			\$ -
			\$ -
			\$ -
			\$ -

Special Notes and Conditions Shipping and tax are reflected in this quote

Subtotal	\$	-
Estimated tax	%	
Estimated Tax	\$	\$0.00
Shipping	\$	
Total	\$	-
Not to Exceed	\$	

Above information is an invoice and only an estimate of services/goods described above.

Terms and Conditions: By signing this Quote, Buyer hereby accepts and is bound by the Terms & Conditions that are attached hereto and incorporated into this Quote

Warranty disclaimer: Note that any and all service work performed outside of the customer's original warranty period does not imply any fault by Borrego.

To accept this quotation, please sign here:

Signature

date

Thank you for your business!

Borrego Solar is solving the world's energy problems by accelerating the adoption of renewable energy. Our people are committed to excellence in every aspect of solar design, construction, and operation.

Solar PV Operation and Maintenance Agreement

Exhibit B (1) MAINTENANCE SCOPE OF SERVICES: PREVENTATIVE PACKAGE/COMPREHENSIVE

1. Contractor will perform the following Maintenance Scope of Services for the System.

Item #	Service	Service Description	Frequency
1. Monitoring, Reporting, and Inventory			
1.1	Site Monitoring	Monitor inverters and meter output data for issues and alarms through DAS.	Daily
1.2	Annual Reporting	Provide annual maintenance/inspection reports for the project for the preceding calendar year	Annually
1.3	Incident Reporting	Provide written report (in .pdf format) on any event involving personnel injury associated with the project or material damage to the project or any part thereof.	No later than three (3) business days after the occurrence, or immediately for OSHA recordable events, but no later than 24 hours.
2. Site Property Inspection/Maintenance			
2.1	Panel Washing	Panel Cleaning – Water supplied by owner	1 X per year
2.2	Perimeter and Fence Inspection	Visually inspect and report on all fencing for signs of damage, intrusion, and overgrowth of vegetation. Inspect signage to ensure all originally installed signs are present and legible.	1 X per year
3. DC Systems			
3.1	Racking Inspection	Visually inspect and report on all racking, racking mounts and conduits on racking for damage, corrosion, settling and stability.	1 X per year
3.2	Module Inspections	Using Aerial Thermal scan, inspect 100% of modules for soiling, breakage, delamination, discoloring and hot spots, and rotating sample areas. If systemic issues are identified, notify the project lessee and propose a corrective action plan to be implemented as needed.	1 X per year
3.3	Wire Inspection	Inspect for proper wire management and any possible damage on exposed conductors.	1 X per year
3.4	Combiner Box and Re-Combiner Inspections	Electrical/mechanical inspection of combiners & disconnects. Inspect bonding bushings and grounding, check for wire damage especially at entrance/exit locations, terminal corrosion, any discoloration, and inspect fuses for proper functionality. Remove insects/pests debris from all enclosures.	1 X per year
3.5	Combiner Box and Re-Combiner Torque Inspections	Confirm and correct terminal torque settings for both sides of all fuse holders, grounded (negative) terminal bar, grounding bar, PV output circuit and DC Disconnects.	1 X per year
4. AC Systems			

4.1	Inverters	Perform annual inverter preventative maintenance work for all inverters per manufacturer's recommendations and manufacturer's warranty requirements.	1 X per year
4.2	Inverter Air Filters and Transformer heat sinks	Inspect inverter air-filters and heat sinks, and clean or replace air filters if necessary.	1 X per year
4.3	Transformers	Inspect and clean all transformers per manufacturer recommendations, including but not limited to oil level measurement and clearing heat sink of debris.	1 X per year
4.4	AC Disconnect (if applicable)	Inspection of latches and seals on enclosure, verify proper operation of disconnect, visually inspect terminations and confirm and correct terminal torque settings. Check for signs of arcing.	1 X per year
5. DAS/SCADA Inspections			
5.1	General DAS Inspection	Perform monitoring system maintenance per manufacture's specifications; verify orientation and attachment of pyranometers and module temperature sensors and MET station, and verify back up power supply functionality.	1 X per year
5.3	Data/Instrument Accuracy and Communications Verification	Test MET station sensors (GHI and POA pyranometers, ambient temperature, back-of-module, anemometer, Revenue Grade Meter (including current transducers), and inverter direct	1 X per year
6. Testing			
6.1	VOC/imp	100%	1 X per year

- Scope assumes that roof-tops are accessible by either a ground lift or top of roof access panel.
- If racking is not accessible or too close to a roof-top then no racking preventive maintenance will be provided.
- If modules are on a slanted roof then Aerial Thermal will be used for inspection.
- Carports must be 100% empty while the Preventive Maintenance is performed.
- Inverters to be monitored on flat part of rooftop

Within five (5) business days after completing all such services, the Contractor shall notify Owner of the work performed by providing a copy of Contractor's standard service call report.

2. Priority of Service Cases

High Priority: 250kw or greater loss of power or loss communication causing the status of at least 250kw of the plant capacity to become unknown

Medium Priority: 50-249kw loss of power or loss communication causing the status of at least 50-249kw of the plant capacity to become unknown

Low Priority: <50 kW loss of power

3. Reporting

Following each annual service visit, Contractor will provide a report of all PM activities and results as well as non conformance items that need to be addressed. Photos of damage or non-conformance items will be provided.

Contractor shall provide Owner an Annual Report that includes Site information such as all maintenance, reactive service visits, and performance (a "Performance Report") of each individual Site set forth in Exhibit A.

4. Emergencies

"Emergency" means an event occurring at or impacting the Site or the System that (a) poses actual, or imminent risk of, (i) serious personal injury or death or (ii) material physical damage to the Site or the Facility; and (b) requires a good faith determination by Contractor or Owner that immediate preventative or remedial action is necessary. In the event of any emergency, Contractor shall take such action as may be reasonable and necessary. All labor, equipment, fees and costs for responding to and addressing such emergencies are *not included* in the Maintenance Scope of Services and shall be billed as Additional Services in accordance with the Fees for Additional Services set forth in Exhibit A.

5. Other Exclusions

In addition to certain exclusions set forth above, the Maintenance Scope of Services specifically excludes the following:

- a. Additional monitoring equipment that may be required if site conditions change for reasons beyond Contractor's control. Specifically, interference from additions or repairs to the Site or the System after the initial testing is done to confirm that the data can be reliably transmitted with the specified monitoring equipment.
- b. Parts or equipment that are not required to be installed by Contractor and/or its Subcontractors.
- c. In the event a manufacturer is not able or willing to honor its product warranty to Owner, the Maintenance Scope of Services shall not include any material replacement costs of manufacturer's components, unless such manufacturer refuses to honor its product warranty as a direct result of Contractor's sole negligence or misconduct.
- d. Maintenance, repair, calibration and inspection of CAISO RIG.

Service visits required to reset equipment as a result of utility outages, either power or telecommunications, shall be considered Additional Services.

6. Comprehensive Packages

In addition to the set forth above preventative maintenance service, the Scope of Services will include the following:

- a. Service calls in response to reactive services, such as troubleshooting due to an alert sent from our monitoring team. Any repair work that can be completed within 4 hours and will be dispatched by Borrego's Regional Supervisor. Equipment and materials to be charged at cost plus 15%.

Solar PV Operation and Maintenance Agreement

Exhibit C

Site Information Template Form

Project Name: _____ Prepared By: _____

Today's Date: 1/2/2019

Site original PTO Date: _____

System Performance

What DAS platform does the site currently report to?

Name and contact info of the DAS Administrator:

Name: _____

Email: _____

Phone: _____

Has DAS access for Borrego been requested?

Yes/No: _____

Are DAS Alerts currently configured and, if so, what Borrego email addresses are being notified?

Yes/No: _____

Can we set up our own specific alerts, yes/no? _____

Emails: _____

Has a PVSyst Model been provided? PVSyst Shade Model?

Yes/No: _____

If no PVSyst, please provide year 1 modeled production in 12 monthly increments

Jan	Feb	March	April	May	June	July	Aug	Sep	Oct	Nov	Dec

Is the DAS communicating via a Cellular or Building LAN connection?

If Cellular, who owns the cell account? (DAS Provider or System Owner?)

If system owner, name of provider and cellular number.

If LAN connection; name of IT contact.

Does the site have an actual or a virtual weather station

If virtual, please identify source.

Azimuth and tilt of the modules (if not provided on as-builts)

Azimuth and tilt of the pyronameter (if not provided on as-builts)

Logistical / Operational

Who is our on site point of contact? Please provide email and cell

Where should our electrician park on site?

Please provide details describing Array access and any difficulties accessing the array

Are there combination locks? If so, please provide access code

Are keys required for site access? If so, please list the location of the keys

Who is our primary/owner contact as it relates to O&M on this site?

Who is our primary/owner contact as it relates to system performance expectations?

Utility Recloser Number: _____

Utility Circuit Number: _____

Name of Utility and Contact info: _____

Notice of Commencement

Date: 05-13-22

Borrego Solar Systems, Inc.
Attention: Director of Business Development, O&M
55 Technology Drive, Suite 102
Lowell, MA 01851

To: Greg Shambo

Pursuant to the Solar PV Operation and Maintenance Agreement ("Agreement"), San Mateo Union High School District hereby delivers this notice to Borrego Solar Systems, Inc. to commence the Maintenance Scope of Services as set forth in the Agreement for the following sites:

Site Name	Site Address	Date of Service Commencement	Site PTO Date
Aragon High School Campus- (662 kW)	900 Alameda de las Pulgas, San Mateo, CA 94402	5/13/2022	
Burlingame High School Campus- Phase 1 (229.07 kW)	1 Mangini Way, Burlingame, CA 94010	5/13/2022	
Hillsdale High School Campus Phase 1- (684.38 kW)	31st Ave & Del Monte, San Mateo, CA 94403	5/13/2022	
Mills High School Campus- Phase 1A- (585.40 kW)	400 Murchison Drive, Millbrae, CA 94030	5/13/2022	
San Mateo High School Campus- (694.27 kW)	506 N Delaware Street, San Mateo, CA 94401	5/13/2023	
Capuchino High School Campus- (435.53 kW)	1501 Magnolia Ave, San Bruno, CA 94066	5/13/2023	

Sincerely,

San Mateo Union High School District

Borrego Solar Operations and Maintenance acknowledges San Mateo Union High School District's request for commencement.

Signature:

Name:

Title:

Date:



Borrego Solar Systems, Inc.

Signature:

Name: Gregory Shambo

Borrego. Powering your Growth.

4860-7861-6601v1/024653-0063

Title: Director, Business Development O&M

Date:

Borrego. Powering your Growth.

4860-7861-6601v1/024653-0063