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File ID Number	23-0102
Introduction Date	3/8/2023
Enactment Number	23-0482
Enactment Date	3/8/2023 os



Memo (Agreement Award)

To Board of Education

From  Kyla Johnson-Trammell, Superintendent
Tadashi Nakadegawa, Deputy Chief, Division of Facilities Planning and Management

Board Meeting Date March 8, 2023

Subject Approval of Resolution No. 2223-0174 – Battery Services Agreement – Castlemont High School Energy Efficiency and Safety Project - Division of Facilities Planning and Management

Action Requested Approval by the Board of Education of **Resolution Number 2223-0174** Battery Services Agreement by and between the **District and SolarStorage Fund D, L.L.C. ("SolarStorage")** Richmond, California, an entity, associated with Total Energies. Pursuant to the Agreement SolarStorage for the latter to install and maintain Battery System, for the **Castlemont High School Energy Efficiency and Safety Project**, The Term of the Agreement is 10 years, with the option of extension. The District will pay no upfront costs, the system will be funded by tax credits and grants given to SolarStorage, primarily by the Federal government. Agreement fee is a not-to-exceed amount of **\$200,000.00**, with work scheduled to commence on **March 9, 2023**, and scheduled to end **September 28, 2033**, pursuant to the Agreement.

Background The Battery Systems will provide two substantial benefits to the school and to the District. The first benefit is simple and ingenious. Energy supplied to the District during off hours, and at a cheaper rate, will be stored by the batteries for use during the day, when energy is relatively more expensive. The District will thereby save a substantial amount of energy costs. It is conservatively estimated that Castlemont High School will save \$442,870 in energy costs over 10 years. The actual amount saved may vary somewhat, depending on the eventual amount of pending government grants and incentives, with the figures quoted constituting a "floor", or minimum amount.

The second benefit to the District is that in the event of power outage, the batteries can provide backup power to each school, for a period ranging from 4 to 6 hours.

Discussion Energy conservation and efficiency projects are not required to be bid, pursuant to Government Code section 4217. Because this Project involved the use of professional services in the packaging of government tax and energy conservation credits, District staff felt that this transaction was more in the nature of a financing, as well as a professional and design services agreement, more than a construction agreement. As a Government Code section 4217 Project, the approval of this Agreement requires a finding, by resolution, that the benefits of this transaction are more than the cost to the District. Since the District will pay little or nothing under the Agreement and the benefits are more than \$1,000,000, District staff recommends the adoption of the submitted resolution and the accompanying Agreements.

LBP (Local Business Participation Percentage)

waived

Recommendation

Approval of Resolution Number 2223-0174 Agreement by and between the District and SolarStorage Fund D, L.L.C. (“SolarStorage”) for Castlemont High School Battery Service Energy Efficiency and Safety.

Fiscal Impact

None.

Attachments

- Resolution No. 2223-0174
- Battery Services Agreement
- Certificate of Insurance (To be provided prior to commencement of construction)
- Routing Form

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

**CASTLEMONT HIGH SCHOOL
BATTERY SERVICE ENERGY EFFICIENCY AND SAFETY**

RESOLUTION NO. 2223-0174

WHEREAS, the Oakland Unified School District ("District") Board of Trustees ("Board") supports the goal of energy efficient and cost-effective school operations; and

WHEREAS, the California legislature seeks to encourage the implementation of energy projects at public facilities through legislation designed to provide flexibility to public agencies in structuring agreements for alternative energy projects (Government Code sections 4217.10 *et seq.*); and

WHEREAS, SolarStorage Fund, an entity affiliated with TotalEnergies SE, has proposed a Battery Services Contract (the "SolarStorage Agreement"), which is presented concurrently with this resolution; and

WHEREAS, under the Agreement, SolarStorage will design, construct, install and maintain large scale battery storage system at Castlemont High School on selected District sites, and the District will purchase energy stored in these batteries at a discounted price; and

WHEREAS, Section 4217.12(a) of the California Government Code authorizes the Board to enter into a contract for design, construction and installation of energy conservation measures on terms the Board concludes are in the best interests of the District, if it finds that the anticipated cost of the purchase will be less than the anticipated cost of energy that would have been purchased by the District in the absence of the SolarStorage Agreement; and

WHEREAS, on the Board has received and reviewed information indicating that cost of the design, construction and installation of solar facilities and energy conservation measures, will be less than the anticipated cost of energy that would have been purchased by the District in the absence of the SolarStorage equipment; and

WHEREAS, the District desires to retain SolarStorage to design, construct, and install the solar photovoltaic systems and other energy efficiency measures pursuant to the terms and conditions of the SolarStorage Agreement; and

WHEREAS, competitive bidding is not required under Government Code section 4217, *et seq.*, and inasmuch as the Agreement here involves the rendering of professional services for the financing of the transaction, the District finds that a competitive bid process would not be beneficial to the District; and

WHEREAS, the law exempts certain projects from further evaluation under the California Environmental Quality Act ("CEQA"), including, without limitation, new construction or conversion of small structures, the construction or placement of minor structures accessory to existing facilities; and projects consisting of minor additions to existing schools. This project falls within one or more of these exemptions, and is thus categorically exempt from further CEQA review;

NOW, THEREFORE, THE BOARD OF TRUSTEES OF THE OAKLAND UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Based on information and documentation reviewed by the Board, the Board makes the findings required by Government Code section 4217.12 that: (i) the services to be provided pursuant to the SolarStorage Agreement will be less than the anticipated cost to the District of energy consumed by the District in the absence of the SolarStorage Agreement; and (ii) approval of the SolarStorage Agreement is in the best interests of the District.

Section 3. The Board approves the SolarStorage Agreement, in substantially the same form as it is being presented with this resolution, and authorizes the Superintendent, or her designee, to make any revisions necessary to affect the intent of the parties, and to execute the final SolarStorage Agreement.

Section 4. The Board authorizes staff to file a categorical exemption relating under CEQA to the project.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 8th day of March, 2023, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

ABSENT: Student Director Gallegos Chavez, Student Director Linh Le


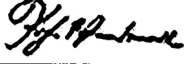
AYE: VanCedric Williams, Valerie Bachelor, Clifford Thompson, Benjamin "Sam" Davis , Vice President Clifford Thompson, President Mike Hutchinson

NAY: None

CERTIFICATION

We hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on March 8, 2023.

Legislative File	
File ID Number:	23-0102
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<p>OAKLAND UNIFIED SCHOOL DISTRICT</p> <p></p> <hr/> <p>Mike Hutchinson, President Board of Education</p> <p></p> <hr/> <p>Kyla Trammell Johnson, Superintendent and Secretary, Board of Education</p>

BATTERY SERVICES AGREEMENT (CASTLEMONT HIGH SCHOOL)

This Battery Services Agreement (this "Agreement"), entered into by SolarStorage Fund D, LLC ("SolarStorage") and Oakland Unified School District ("Customer" or "District"), takes effect on **March 9, 2023** (the "Effective Date"). Each a "Party" and together the "Parties."

RECITALS

WHEREAS, Customer owns, leases, or otherwise controls the facility at the location specified in attached Exhibit 1: Description of the Site and System (the "Site");

WHEREAS, Customer desires to: (1) obtain certain advanced energy storage services (the "Services") for the purpose of reducing its utility costs at the Site; (2) grant license and easement access to the Site to SolarStorage; and (3) and perform its payment and other obligations described in this Agreement;

WHEREAS, SolarStorage desires to: (1) install a battery storage system at the Site (as described in attached **Exhibit 1**: Description of the Site and System, the "System"); and (2) perform the Services and all of its other obligations described in this Agreement; and

WHEREAS, SolarStorage or a third-party shall retain all right, title, ownership, and interest in the System installed at the Site; and

WHEREAS, SolarStorage and Customer desire to execute an agreement to govern their obligations in connection with the System;

NOW THEREFORE, acknowledging that the compensation and respective covenants and obligations described in this Agreement constitute adequate consideration, SolarStorage and Customer each agree to the following:

AGREEMENT

It is estimated that the Services will commence on the Commercial Operation Date described in Exhibit 1 and continue for the Term described in Section 12.a and accordingly, the Term is expected to end on October 2, 2034. If the System obtains less than 40% Investment Tax Credit, then pursuant to Section 2.a and Exhibit 1, District agrees to pay SolarStorage TWO HUNDRED THOUSAND DOLLARS NO/100 (\$200,000.00) as Battery Service Fees for the period from the Commercial Operation Date through the Expiration Date.

1. SolarStorage's Obligations. Pursuant to this Agreement, SolarStorage will:
 - a. Perform the Services or cause the Services to be performed,
 - b. Design and install the System at the Site and connect the System to Customer's existing electrical system in accordance with the scope of work attached at **Exhibit 2**. SolarStorage agrees to cause the performance of the work to be conducted in substantial compliance with the General Conditions will be attached hereto as an **Exhibit 3**.
 - c. During the Term, SolarStorage will have the exclusive right to operate and perform all repairs to, and maintenance of, the System at its sole cost and expense, except to the extent any repairs or maintenance result from Customer's active negligence, willful misconduct or breach of this Agreement, in which case Customer shall be responsible for the cost of any such repair or maintenance expenses.

Battery Service Agreement – SolarStorage Fund D, LLC (SolarStorage) – Castlemont High School Energy Efficiency and Safety Project - \$200,000.00

- d. Indemnify, defend, and hold Customer (as well as the directors, officers, employees, and agents of Customer) harmless against any third-party claims, losses, damages, or liabilities—including claims that allege injury (including death) or property damage but excluding any such Claims alleged, brought, or demanded by Customer's affiliates, parent companies, directors, officers, employees, insurers, or subrogees ("Claims")—that arise out of the SolarStorage's operation of the System, the negligence or willful misconduct of SolarStorage or any entity or individual engaged by SolarStorage in the performance of the Services.
 - e. Prepare and submit an application for California's Self-Generation Incentive Program (SGIP) rebates from Pacific Gas & Electric (the "Program Administrator") for the System (the "SGIP Incentives") on behalf of Customer, and pay any fees required in connection with such applications with the understanding that SolarStorage owns and is entitled to all environmental attributes and environmental incentives attributable to the System, including the SGIP Incentives, any tax credits, and any and all rebates, incentives, subsidies or other benefits from any and all other incentive, rebate or other programs applicable to the System.
 - f. Maintain, during the Term, at its expense, insurance with a financially sound and reputable insurance company against such risks, and in such amounts, as is appropriate for SolarStorage's obligations under this Agreement in SolarStorage's reasonable discretion. SolarStorage will also require its installing contractor to acquire and maintain appropriate insurance for its work on the Project in SolarStorage's reasonable discretion.
 - g. Based on reasonable due diligence SolarStorage estimates that the installation of the System will save the District a minimum of \$442,870 over a 10 year period for Castlemont High School as shown on Exhibit 4, hereto. The stated amount is a reasonable estimate. The actual amount of savings may vary, depending, and not limited to, such factors as the availability of State and Federal incentives, utility rates, and environmental conditions. This topic is further discussed in Exhibit 4, referenced above.
2. Customer's Obligations. Pursuant to this Agreement, Customer will:
- a. Starting on the date on which SolarStorage shall have certified to Customer that (a) the System is substantially complete and available for commercial operation, (b) all permits and license required to be obtained under applicable law in connection with the operation of the System shall have been obtained and be in full force and effect, and (c) Customer shall have entered into an interconnection agreement ("Interconnection Agreement") with the local electric utility (the "Commercial Operation Date"), Customer shall begin to pay to SolarStorage the fees set forth in Exhibit 1 (the "Battery Services Fees") on a monthly basis. Customer must pay the Battery Services Fee within thirty (30) days after receiving an invoice from SolarStorage for the Services provided by SolarStorage during the preceding month.
 - b. Maintain the existing electrical equipment and related systems at the Site, excluding the System. If Customer modifies or replaces the existing electrical equipment or related systems at the Site, and such modifications or replacement damage or cause the System to fail, SolarStorage will not be liable for any damages, losses, outages, or failure of SolarStorage to perform its obligations under this Agreement that result from such modifications or replacement and Customer shall be liable to SolarStorage for any resulting damages to the System.
 - c. Refrain from modifying, repairing or otherwise performing any work on the System, In addition, Customer shall not—and shall not permit any third party to—disassemble, reverse engineer, re-engineer or otherwise attempt to record or analyze the design or intellectual property associated with the System.
 - d. Enter into an Interconnection Agreement as provided in Section 2(b) and ensure that the Interconnection Agreement remains in place and that the Site remains interconnected to the utility grid for the Term.
 - e. Indemnify, defend, and hold SolarStorage (as well as the officers, directors, shareholders, employees, and agents of SolarStorage) harmless against any Claims to the extent arising out of (i) the negligence or willful misconduct of Customer or its agents or employees or others under Customer's control at the Site, or (ii) Customer's breach of this Agreement

3. License and Easement.

- a. Easement. Customer hereby grants to SolarStorage and to SolarStorage's agents, employees, contractors, subcontractors, lenders, Financing Parties, and local electric utility personnel irrevocable, non-exclusive license, easement, and right-of-way running with the Site for access to, on, over, under, and across the Site (the "Easement") for the purpose of and including the right to (i) install, construct, operate, keep, maintain, access (including for laydown, storage, and staging), remove, and replace the System on the Site including the installation, use and maintenance of racking, mounts, anchors and ballasts; (ii) perform all of SolarStorage's obligations and enforce all of SolarStorage's rights set forth in this Agreement including the provision and sale of Services to Customer; and (iii) access and connect with the Site's electrical panels and conduits and install, use, keep, and maintain electric lines and equipment, including inverters, meters, conductors, fittings, pull boxes, mounting hardware, asphalt, concrete, and disconnect equipment necessary or convenient to interconnect the System to Customer's electric system at the Site or to the utility's electric distribution system or that otherwise may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance, or repair of the System. The term of the Easement is the Term of this Agreement plus the period of time necessary for SolarStorage to remove the System, but in no case later than one hundred eighty (180) days after the Expiration Date (the "Easement Term"). During the Easement Term, Customer shall preserve and protect SolarStorage's rights under the Easement and shall not interfere with or permit any third parties to interfere with SolarStorage's rights or access.
- b. Breach. The breach or termination of the Easement by Customer, a Customer affiliate, or a person under Customer's control through no fault of SolarStorage shall be a Customer Default unless such termination is allowed pursuant to the terms hereof.
- c. Quiet Enjoyment. Customer represents and warrants to SolarStorage that there are no circumstances known to Customer or commitments to third parties (including, without limitation, mortgages or liens) that may damage, impair or otherwise adversely affect SolarStorage's rights under this Agreement or the System and/or its function. Customer represents and warrants that Customer has lawful title to the Site, including the point of interconnection of the System to the Site's electrical panels and conduits, and full right to enter into this Agreement and that SolarStorage shall have quiet and peaceful use of the Site as provided herein and throughout the Term hereof free from any claim and without hindrance or disturbance to or interference with SolarStorage's quiet enjoyment thereof by any entity or person including by Customer or any of its agents, employees, invitees or independent contractors or by any entity, person or persons having or claiming an interest in the Site inconsistent with the rights expressly afforded SolarStorage herein. Customer will not initiate or conduct activities that it knows or reasonably should know may damage, impair or otherwise adversely affect any System or its function. Customer will not conduct any activity that is reasonably likely to damage, impair or otherwise adversely affect the System or its function. Customer will not interfere with or handle any SolarStorage equipment or the System without written authorization from SolarStorage.
- d. Subordination. Customer agrees that it shall use commercially reasonable efforts to cause any purchaser, assignee, mortgagee, pledgee or other party to whom a lien or other security interest in the Site has been or may be granted (individually, each a "third party") to execute and deliver to SolarStorage a subordination and non-disturbance agreement ("SNDA"), in recordable form approved by SolarStorage (such approval not to be unreasonably withheld by SolarStorage), and as described below. Customer further acknowledges and agrees that the System is SolarStorage's personal property and may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered by Customer or by any person acting for, on behalf of, through, or for the benefit of Customer or a Customer's successor in interest. Any SNDA shall (i) acknowledge and consent to the SolarStorage's rights in the Site, (ii) acknowledge that the third party has no interest in the System or the Easement and shall not gain any interest in the System or Easement by virtue of the Parties' performance or breach of this Agreement, (iii) subordinate such third party's interest in the Site to the Easement and this Agreement, (iv) acknowledge that SolarStorage's rights in the Site granted hereunder shall run with the Site throughout the Easement Term, notwithstanding any sale, lease, transfer, assignment, mortgage, pledge or other alienation or encumbrance by or to the benefit of such third party, and (v) provide that so long as SolarStorage is not in default under this Agreement beyond the expiration of any applicable grace or cure period

provided for hereunder, SolarStorage's right of peaceable and quiet use and enjoyment of the Site pursuant to the Easement shall not be disturbed by such third party.

- e. Utilities. Customer shall, unless otherwise specified in this Agreement, at no additional cost to SolarStorage, allow SolarStorage access to utilities on the Site as reasonably necessary or convenient for the construction, maintenance, repair, replacement, and/or operation of the System. In connection therewith, SolarStorage's use of the Site shall include the non-exclusive appurtenant right to the use of water lines, sewer lines, storm water lines, power lines, fuel lines, telephone and communication lines, pipelines, conveyors and drainage ditches or canal systems on, connected to or maintained in connection with the Site. Customer shall have the obligation to maintain and repair all utilities as reasonably necessary or convenient for the use of SolarStorage in fulfilling its rights and obligations hereunder but shall not be obligated to obtain additional utility services or expand existing utility services except as required by SolarStorage at SolarStorage's cost.
- f. Right to Update This Agreement for Mutually Agreed Changes. The Parties acknowledge and agree that the configuration and location of the System(s) as of the Effective Date of this Agreement may be updated by the mutual agreement of the Parties after the Effective Date; wherefore, the Parties shall negotiate in good faith to execute an amendment to this Agreement to modify any exhibits hereto or provisions hereof, or provide for additional easements, in order to account for any such mutually agreed changes to the configuration or location of the System or to more accurately reflect the current configuration or location of the System.
- g. Right to Record. SolarStorage has the right to record a memorandum of easement to reflect the Easement and the recording costs for the same will be borne by SolarStorage. Customer shall cooperate in good faith with SolarStorage in signing and recording such memorandum of easement. SolarStorage also has the right to record or to have recorded a fixture filing, without prior consent of the Customer, that provides that the System is SolarStorage's (or a SolarStorage's designee's) personal property and may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered by Customer or by any person acting for, on behalf of, through, or for the benefit of Customer or a Customer's successor in interest.

4. SGIP Cooperation and Compliance

- a. Customer shall cooperate with and assist SolarStorage in SolarStorage's preparation, application, and compliance work related to the SGIP Incentives including (i) signing all SGIP application forms, (ii) providing data needed to complete such application forms, (iii) accommodating the SGIP Program Administrator post installation inspection and measurement and evaluation visits, and (iv) refrain from making any false or misleading statement, representations or warranties in connection with the SGIP Incentives. Customer acknowledges and agrees that the System's eligibility for SGIP Incentives may require the SGIP Program Administrator to inspect the System, the Site, and any equipment related to the operation, maintenance, repair, interconnection or other work performed on the System, including evaluation of Customer's utility meters. Notwithstanding anything to the contrary herein, SolarStorage shall have all right and authority to provide the California Public Utilities Commission ("CPUC") or the SGIP Program Administrator with access to the Site and the System as necessary to facilitate any inspections related to the SGIP Incentives.
- b. Customer agrees to share with and disclose to SolarStorage any communications that Customer receives from CPUC or the SGIP Program Administrator in connection with the System.
- c. Customer recognizes and agrees that SolarStorage owns and is entitled to all environmental attributes and environmental incentives attributable to the System, including the SGIP Incentives, any tax credits, and any and all rebates, incentives, subsidies or other benefits from any and all other incentive, rebate or other programs applicable to the System. Customer further agrees to comply with any SolarStorage request concerning the designation of the recipient of any SGIP Incentives using any SGIP Incentive forms or documentation including signing an Incentive Claim Form designating a SolarStorage designee as payee of such incentives.

- d. Customer agrees not to (i) make any modifications or alterations to the System, or (ii) make any modifications to the electrical infrastructure at the Site that would result in the failure or disconnection of the System such that the System becomes unable to operate as required to collect the SGIP Incentive.
 - e. Customer agrees to reimburse SolarStorage for any SGIP-related loss that occurs as a result of Customer's breach of this Agreement or other failure to meet its obligations hereunder, including loss of SGIP Incentives, System removal costs, and any financing fees and pre-payment penalties.
 - f. If Customer proceeds with a project that takes advantage of the SGIP Incentive, Customer agrees to reimburse SolarStorage any deposit advanced by SolarStorage to the SGIP administrator for the purpose of reserving the System's SGIP Incentive.
5. **Grid Services.** This Agreement is not meant to preclude or prevent SolarStorage, subject to Customer's reasonable agreement, from entering into an agreement or agreements with the local electric utility, grid operator, grid services provider or aggregator, or other entity whereby SolarStorage would use the System to bid into or provide demand-response, reactive power or voltage stabilization services, grid balancing services, or other similar services or programs ("Grid Services"). SolarStorage and Customer shall negotiate in good faith and shall agree on the terms, including revenue sharing, of the participation by the System in any such program(s) on a case-by-case basis.
6. **WARRANTY DISCLAIMER.** NO IMPLIED WARRANTY OR REMEDY, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY UNDER THIS AGREEMENT. The remedies set forth in this Agreement shall be Customer's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise.
7. **Confidentiality; Permitted Disclosures; Publicity.**
- a. Confidentiality. If either Party and/or its Representatives (as defined below) provides any information (whether prior to, on or after the Effective Date) to the other party and/or its Representatives, either directly or indirectly, in writing, orally, by drawings, observation, or tangible objects such as documents, prototypes, samples, products and facilities, including, but not limited to, trade secrets, know-how and other intellectual property or information relating to the disclosing party's business, operations, products, technology (including technical information regarding the design, operation and maintenance of the System), or analyses or other documents prepared by either Party or any of their Representatives that contain or otherwise reflect any of the disclosed information which the receiving Party reasonably should understand is confidential ("Confidential Information"), the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement.
 - b. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "Representatives"), and affiliates, lenders, and potential assignees of this Agreement (provided on condition that such recipients be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information as provided herein), in each case as reasonably necessary to the negotiation and performance of this Agreement.
 - c. All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Provided, however, that electronic copies of or containing Confidential Information that are automatically generated through data backup and/or archiving systems and which are not readily accessible by receiving Party's business personnel (the "electronic copies"), shall not be deemed to violate this Agreement, so long as such electronic copies are not disclosed in violation of the terms of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall prohibit receiving party's legal department or counsel from

retaining one (1) copy, including any electronic copy, of any of the Confidential Information as necessary to comply with regulatory recordkeeping requirements applicable to it or any internal recordkeeping policy or procedure to which it is subject. Such retained copy shall remain subject to the terms and conditions of this Agreement.

- d. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section. To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section, but shall be in addition to all other remedies available at law or in equity.
 - e. Permitted Disclosures. Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available other than through the receiving Party, (ii) is required to be disclosed to a national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission or the California Public Utilities Commission), or any court or arbitrator with authority to bind a party at law (each, a "Governmental Authority") under applicable law or pursuant to a validly issued subpoena or a Public Records Act request, (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), or is required to be submitted to obtain a permit or approval from a Governmental Authority, or as required to be disclosed to the local electric utility in connection with the interconnection agreement, (iii) is independently developed by the receiving Party or (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.
 - f. Goodwill and Publicity. Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Any press releases and other published statements pertaining to this Agreement shall be jointly prepared by the Parties to accurately describe the System, the benefits it confers upon Customer (including any energy conservation and continuity of operations during power disruptions) and where appropriate, accurately reflect the rights and obligations of the Parties under this Agreement, including SolarStorage's ownership of environmental attributes and environmental incentives and any related reporting rights.
8. SolarStorage Representations and Warranties. SolarStorage represents and warrants the following:
- a. It is a Delaware limited liability company duly organized, validly existing and in good standing under the laws of the state of Delaware and has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.
 - b. The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary action.
 - c. This Agreement is a legal, valid and binding obligation of SolarStorage enforceable against SolarStorage in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).

- d. SolarStorage has obtained all licenses, authorizations, consents and approvals required by any governmental authority or other third party which is necessary for SolarStorage to execute and deliver this Agreement, and SolarStorage is in compliance with all laws that relate to this Agreement in all material respects.
9. Customer Representations and Warranties. Customer represents and warrants the following:
 - a. It is a public school district, validly existing under the laws of the state of California and has all requisite power and authority to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby.
 - b. The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary action.
 - c. This Agreement is a legal, valid and binding obligation of Customer enforceable against Customer in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).
 - d. Customer has obtained all licenses, authorizations, consents and approvals required by any governmental authority or other third party necessary for Customer to execute and deliver this Agreement, and Customer is in compliance with all laws that relate to this Agreement in all material respects.
 - e. Customer represents, warrants and covenants that Customer has lawful title to the Site and that throughout the Term, provided that no default by SolarStorage has occurred and continues beyond the expiration of applicable notice and cure periods, SolarStorage shall enjoy quiet and peaceful use and enjoyment of the Site to the extent of and pursuant to the Easement and rights granted herein, free from any claim inconsistent with the Easement and rights granted herein of any entity or person of superior title thereto without hindrance to or interference with SolarStorage's quiet enjoyment thereof, and neither Customer nor any person claiming by, through or under Customer shall disturb SolarStorage's quiet and peaceful use and enjoyment of the Easement.
 - f. Customer represents and warrants that it will make no claim to any environmental attributes and environmental incentives and any related reporting rights associated with the System and that, to Customer's knowledge, SolarStorage is the owner of any environmental attributes and environmental incentives and any related reporting rights associated with the System.
10. Dispute Resolution; Governing Law. This Agreement, and any dispute arising therefrom, shall be governed by the laws of the State of California, without regard to its conflict of laws rules or any other statute, regulation, or precedent requiring the application of the laws of another jurisdiction. In the event of any dispute, controversy, or claim arising out of, under, or related to this Agreement, the claiming Party shall provide written Notice of such dispute to the other Party. Thereafter, SolarStorage and Customer will make good-faith attempts to negotiate a mutually-acceptable solution. In the event that, after the expiration of 30 calendar days, from receipt of a Notice of a dispute under this Section, SolarStorage and Customer have not resolved such dispute, then, the Parties shall submit to non-binding mediation. In the event that the Parties are still unable to resolve the dispute following mediation (or if either Party fails to comply with its obligation to engage in informal negotiations or mediation), all disputes arising under, out of, or related to this Agreement shall be settled by binding arbitration by the American Arbitration Association ("AAA") under the arbitration rules of the AAA in force as of the date the AAA receives notice of arbitration. The seat and place of arbitration shall be San Francisco, California. The language of arbitration shall be English.
11. Except as otherwise stated in this Agreement, the liability of one party to the other (arising from any source, whether from contract, tort, equity, quasi-contract, or otherwise) under this Agreement shall not exceed one million four hundred and thirty eight thousand, seven hundred and thirty five dollars (\$1,438,735). In addition, neither Party will be liable to the other Party under this Agreement for any consequential, special, indirect, or

punitive damages, or for loss of profit or goodwill. The Limitations of Liability set forth in this Section 11 shall not apply to indemnification obligations or to Customer's obligations under Sections 4.e.

12. Term.

- a. Term. This Agreement becomes effective upon the Effective Date and, unless earlier terminated or extended according to the provisions governing termination or extension contained herein, shall expire on the date that is ten (10) years after the Commercial Operation Date for the System (the "Expiration Date"); the duration between the Effective Date and the Expiration Date being the "Term." The date of the Commercial Operation Date will be sent, in writing, to the Customer by SolarStorage.
- b. Customer Options Upon Expiration of Term.
 - i. Extension to Term. Upon prior written Notice to SolarStorage at least one-hundred eighty (180) days prior to the Expiration Date, Customer shall have the option to extend the term of this Agreement with respect to the Services for up to five (5) additional one (1)-year periods at the fair market price for the Services as determined by agreement of the Parties.
 - ii. Purchase of the System. If Customer has not elected to extend the term of this Agreement in accordance with Section 12.b.i, Customer shall have the option to purchase the System on the Expiration Date by providing SolarStorage written Notice of its intent to purchase the System no later than one-hundred and eighty (180) days prior to the Expiration Date, and paying SolarStorage the fair market value of the System ("FMV") no later than the relevant Expiration Date. The FMV shall be the value determined by the mutual agreement of Customer and SolarStorage within ten (10) days after receipt by SolarStorage of Customer's Notice of its election to purchase the System. If Customer and SolarStorage cannot mutually agree on the FMV within such ten (10) days, then the Parties shall jointly select a nationally recognized independent appraiser with experience and expertise in the energy storage industry appropriate to value such equipment after discussing relevant methods and assumptions with the Parties. The Parties shall enter an agreement with such appraiser in which the appraiser agrees to act reasonably and in good faith to determine the FMV and to deliver an FMV determination in a written opinion to the Parties setting forth the methods, assumptions and findings of its determination. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. To the extent transferable, the remaining period, if any, on all warranties for the System will be transferred from SolarStorage to Customer at Customer's sole expense. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be jointly selected by the appraiser firm proposed by the Customer and the appraiser firm proposed by the SolarStorage. If such appraiser firms are unable to agree on the selection of an appraiser, then an appraiser shall be selected in accordance with the procedures set forth in Section 10. Upon receipt by SolarStorage of payment of the FMV, title to the System shall transfer to Customer as-is, where-is with no further liabilities, obligations, covenants, representations or warranties to be requested or required from SolarStorage.
 - iii. Return of System. If Customer does not exercise any of the options described in Sections 12.b.i and 12.b.ii, SolarStorage, or if SolarStorage terminates this Agreement under Section 13.a.i, shall remove all of its tangible property comprising the System from the Site by a mutually convenient date but in no case later than ninety (90) days after the Expiration Date ("Removal Deadline"). Such cost to remove the System shall be borne by SolarStorage except to the extent that such cost is increased by the negligence or intentional misconduct of Customer. The portion of the Site on which the System was installed shall be returned to substantially the same condition of the Site as of the Effective Date (other than ordinary wear and tear and other reasonable marks that the System previously occupied and operated on the Site during the Term), and SolarStorage shall leave the portion of the Site on which the System was installed in neat and clean order. If SolarStorage fails to remove or commence substantial efforts to remove the System by such agreed upon date, Customer shall have the right, at

its option, to remove the System to a public warehouse and restore the Site to its original condition (other than ordinary wear and tear) at SolarStorage's cost. Customer shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal. The Removal Deadline shall be extended to account for any Customer-caused delays in providing or maintaining Site access for SolarStorage as necessary or appropriate to allow System removal.

13. Termination.

a. SolarStorage may terminate this Agreement in the following circumstances:

- i. In SolarStorage's sole discretion prior to the Commercial Operation Date. If SolarStorage terminates pursuant to this Section 13(a)(i), then it must provide written Notice to Customer at least forty five (45) calendar days before termination becomes effective. Once termination pursuant to this Section 13(a)(i) takes effect, neither SolarStorage nor Customer will have any liability or obligations to the other under this Agreement, except as may survive pursuant to Section 21.
- ii. At any time, and subject to 13. b below, if Customer fails to perform any of its material obligations under this Agreement; provided, however, that the following conditions precedent to termination have been met: (1) SolarStorage has provided written Notice to Customer of Customer's failure to perform any such material obligation, and; (2) forty five (45) calendar days or more have passed since SolarStorage's provision of Notice of such failure and Customer has not cured or remedied such failure. If SolarStorage terminates this Agreement pursuant to this Section, Customer will not be entitled to a refund of any payments, all remaining Battery Services Fees and any other amounts owed by Customer will become immediately due and payable, and SolarStorage will retain all rights and remedies available to it under this Agreement, at law, or in equity. In the event of any termination pursuant to this Section 13(a)(ii), and provided all amounts owed by Customer have been received by SolarStorage, neither SolarStorage nor Customer will have any further liability or obligations to the other under this Agreement, except as may survive pursuant to Section 21.

b. Customer may terminate this Agreement in the following circumstances:

- i. At any time, if SolarStorage fails to perform any of its material obligations under this Agreement; provided that the following conditions have been met: (1) Customer has provided SolarStorage with written Notice setting out (with reasonable particularity) SolarStorage's alleged breach or failure to comply with its material obligations under this Agreement; and (2) forty-five (45) calendar days or more have passed since the date Customer sent such written Notice to SolarStorage and SolarStorage has not initiated a correction, repair, or cure to its failure to comply with material obligations or breach of this Agreement with completion of such correction, repair or cure to be completed with a reasonable time, and (3) all cure periods available to Financing Parties, as provided below, have expired.
 1. In the event of any termination pursuant to Section 13(b)(i): (1) Customer must pay to SolarStorage all undisputed Battery Services Fees incurred prior to the date of such termination, and (2) neither SolarStorage nor Customer will have any other remaining liability or obligations under this Agreement except as may survive pursuant to Section 21.

14. Force Majeure.

- a. "Force Majeure" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure, which cannot through diligent efforts be overcome or substantially mitigated by the affected Party including, without limitation, failure or interruption of the production, delivery or acceptance of electricity or the Services due to: war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; terrorism; economic

sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake exceeding the design parameters of the System ; hurricane; flood exceeding the design parameters of the System ; lightning; wind loads exceeding the design parameters of the System; drought; the binding order of any governmental authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any governmental authority; unavailability of electricity from the utility grid (except where such unavailability results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); absolute unavailability of necessary and adequate equipment, supplies or products; and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

- b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.
- c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that impacts Customer's ability to make payment; however, the time to make any payment due under this Agreement shall be tolled during any period that making the payment is prevented by one or more Force Majeure events. Such tolling shall include any period during which Customer has taken all reasonable steps to secure payment, processing and tender of payment, during which period payment is delayed by the conduct of third parties whose actions are necessary to the payment of Customer's obligations hereunder.
- d. If a Force Majeure event continues for a period of one hundred (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party under this Agreement (except for amounts accrued but unpaid).

15. Notice. Any communication or notice that is made in connection with, or required under, this Agreement, must be in writing and may be delivered via mail, electronic mail, or otherwise (and deemed delivered upon receipt) to the following addresses (or any address specified, in writing, by Customer or SolarStorage) ("Notice"):

a. To Customer: Oakland Unified School District
 955 High Street
 Oakland, CA 94601
 Attention: Deputy Chief, Facilities Planning and Management

To SolarStorage: SolarStorage Fund D, LLC
 1414 Harbour Way South, Ste. 1901
 Richmond, CA 94804
 Attention: Legal Department
 with an email copy to LegalNoticeTEDGUS@totalenergies.com

16. Assignment and Financing.

- a. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, SolarStorage may, without the prior written consent of Customer, (i) assign, mortgage, pledge or Battery Services Agreement – SolarStorage Fund D, LLC – Castlemont High School Battery Backup Plant Project - \$200,000.00

otherwise sell, transfer, or assign its interests in this Agreement to any Financing Party (as defined below), (ii) directly or indirectly assign this Agreement to an affiliate of SolarStorage, (iii) assign this Agreement to any entity through which SolarStorage is obtaining financing or capital for the System and (iv) assign this Agreement to any person succeeding to all or substantially all of the assets of SolarStorage (provided that SolarStorage shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of SolarStorage's obligations hereunder by the assignee). Customer's consent to any other assignment shall not be unreasonably withheld if Customer has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining battery storage systems comparable to the System and providing services comparable to those contemplated by this Agreement; and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

- b. Notwithstanding the foregoing, Customer may assign, transfer or otherwise convey the Site to an assignee if such assignee (1) agrees in writing to assume all of Customer's obligations hereunder and (2) simultaneously with such assignment, transfer or other conveyance, enters into a replacement Interconnection Agreement as required to maintain System eligibility for SGIP.
 - c. The Parties acknowledge that SolarStorage may obtain construction and long-term financing or other credit support from lenders or third parties (including tax equity or similar investors) ("Financing Parties") in connection with the installation, construction, ownership, operation and maintenance of the System. The Parties agree that SolarStorage may assign or transfer this Agreement to the Financing Parties. If requested by SolarStorage in connection with any such assignment or transfer, Customer agrees to execute an acknowledgement or consent to such assignment or transfer in customary form and reasonably acceptable to the Financing Parties. If SolarStorage requests more than two such acknowledgements, then SolarStorage shall reimburse Customer for reasonable documented fees and costs actually incurred as a result of the third such request and any such request thereafter. If a Financing Party so requests, Customer shall deliver an estoppel in which Customer certifies as to the existence of this Agreement, SolarStorage's good standing hereunder, and other customary certifications as reasonably requested by such Financing Party.
 - d. A Financing Party shall be entitled to exercise, in the place and stead of SolarStorage, any and all rights and remedies of SolarStorage under this Agreement. Customer agrees that it shall not exercise any right to terminate this Agreement unless it shall have given the Financing Party, if known to Customer, prior written notice and has allowed the Financing Party the opportunity to cure the condition giving rise to such right to the same extent and under the same terms allowed SolarStorage under this Agreement; provided that any cure periods shall begin to run with respect to a Financing Party when such Financing Party receives notice of the underlying issue to be cured. If the Financing Party requires this Agreement to be modified in order to finance, develop or operate the System, and the modification does not materially diminish Customer's rights under this Agreement, the Parties shall negotiate in good faith to amend this Agreement accordingly in a timely fashion.
17. Further Assurances. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.
18. No Partnership. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

19. Full Agreement, Modification, Invalidity, Counterparts, Captions. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.
20. No Third Party Beneficiaries. Except as otherwise expressly provided herein, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other person.
21. Survival. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 1(d), 2(e) (Indemnification), Section 3 (License and Easement), Section 6 (Warranty Disclaimer), Section 7 (Confidentiality; Permitted Disclosures; Publicity), Section 12(b)(iii) (Return of System), Section 8 and 9 (Representations and Warranties), Section 10 (Dispute Resolution; Governing Law), Section 11 (Limitations on Liability); Section 15 (Notice), Section 18 (No Partnership), Section 19 (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 20 (No Third Party Beneficiaries).
22. Taxes. Customer shall be responsible for paying any sales tax associated with payments of the Battery Services Fee. SolarStorage shall pay or cause to be paid any taxes assessed with respect to the System. If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes.


[REMAINDER OF PAGE INTENTIONALLY BLANK]

This Agreement is authorized and executed by:

SolarStorage Fund D, LLC

By: TotalEnergies Distributed Generation Assets USA, LLC, its sole owner

By: TotalEnergies Distributed Generation USA, LLC

DocuSigned by:

A831C83C94354B5

Name: Frederic A. Potts, III

Title: President and CEO

Oakland Unified School District



Kyla Johnson-Trammell, Superintendent
and Secretary, Board of Education

3/9/2023

Date



Mike Hutchinson, President, Board of
Education

3/9/2023



Tadashi Nakadegawa
Deputy Chief, Facilities Planning and Management

2/16/23

Date

Approved As To Form:



Mark Williams, OUSD
OUSD Facilities Legal Counsel

2/16/23

Date

EXHIBIT 1—DESCRIPTION OF THE SITE AND THE SYSTEM; PRICING ASSUMPTIONS

1. Site and System. The System will be installed at the location and will be comprised of the components as set forth below:

Site Address	8601 MacArthur Blvd., Oakland, CA 94605
Estimated System Size	408 kW / 1632 kWh
Expected Commercial Operation Date	10/3/2024
Battery Services Fee	\$20,000/year *The Battery Service Fee will be reduced to \$0/year if the project obtains 40% or higher Investment Tax Credit eligible through the Inflation Reduction Act

2. Proposed Location of Battery System at the Site:

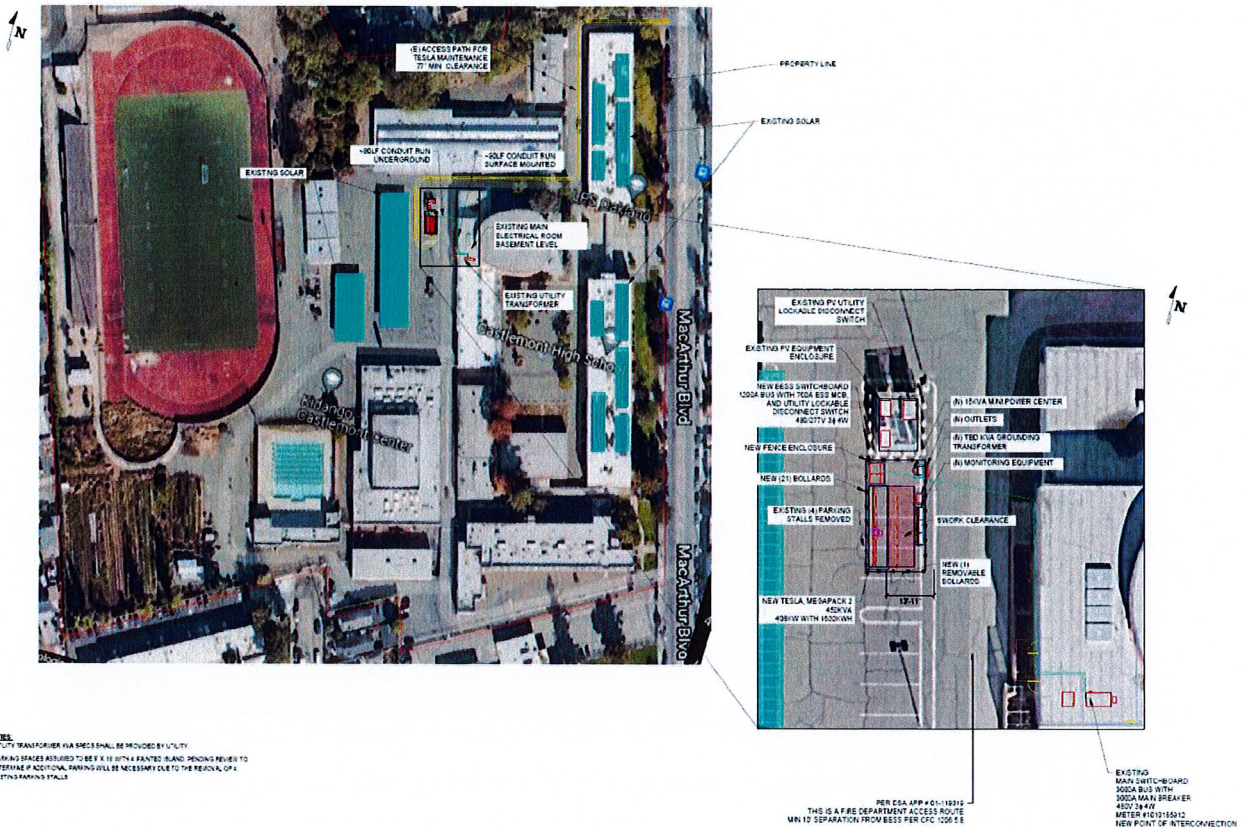


EXHIBIT 2 – SCOPE OF WORK

System Design & Scope

System Design and Scope

Battery Storage System Location and Tie-In

The Battery Storage System will be constructed to the design and specifications and in the location as illustrated in the drawing provided in Exhibit 1. The Battery Storage System will be installed on the ground with a standard concrete pad, located within 80 feet of the electrical tie-in location. Trenches will bury conduits 2' deep and follow NEC code requirements for conduit spacing.

Design includes EMT conduit with rain-tight compression fittings for above ground installations and PVC for below ground installations. Conduits are assumed to be wall-mounted within buildings with no concrete coring required.

Interconnection

Facility Equipment

The System will interconnect at Customer's main switchboard at 480/277 Volts with ample current capacity to accept the System. The existing panel is assumed to have provisions to accept new PTs, CTs and cable connections as a line side tap. Panel or bus bar reconfiguration is not included. Design assumes reversal of existing electrical room doors without the need for replacement. New monitoring equipment inside the electrical room is assumed to be wall mounted above existing spare stub-ups and connected to a spare breaker location in the existing panel.

Foundations, Soil Conditions and Site Preparation

Foundations

The following foundation is assumed for the battery storage system: 8" thick, 4000 PSI, concrete pad. Sizes are site specific and show on the BESS layouts.

Slope Tolerance

Slope of the battery storage system should be no more than 2% in any direction.

Commissioning

The battery storage system will be commissioned on site by a manufacturer's representative or qualified technician in accordance with the manufacture's requirements and procedures.

Pricing Assumptions

This Agreement is based upon SolarStorage's review of all documents available at time of the site walk.

SolarStorage has included in this Agreement a ground mounted battery storage system that includes battery banks, inverter, equipment pads, monitoring system and standard interconnection that includes all interconnection related equipment on the customer side of the meter, including panel circuit breakers, utility and/or visible utility lockable disconnect switches, metering, conduit, and wiring. The system will be constructed to the design, specifications and schedule as shown in layouts in this exhibit.

This Agreement includes the following assumptions and conditions. Should any of the assumptions or conditions vary, this Agreement may be updated by the mutual agreement of the Parties in accordance with section 3.f.

Labor

Overtime and special shift requirements

SolarStorage has included cost for work to be performed during regular business hours between 7:00 am and 5:00 pm. Overtime and special shift requirements are not included.

Prevailing Wages

SolarStorage has included prevailing wage.

System Design & Scope

Electrical Equipment and Conductors

Battery installation will interconnect to the customer’s existing switchboard on the line side of the main breaker. It is assumed that there is enough space in the existing switchboard to accommodate the cables in the cabinet and cable limiters landing on the existing bussing. Battery equipment, conduit and the point of interconnection are in the locations as shown on the drawings in this exhibit and is assumed to be in an acceptable location from a real estate and drainage perspective.

Utility Interconnection & Requirements

Coordination of shutdown may be required with customer and local utility. If facility power is required during the shutdown, SolarStorage can add the cost for generator rental.

This Agreement assumes all utility-owned electrical equipment serving the sites electrical distribution system has adequate capacity to handle the battery storage system output. Cost and day for day time extension for any required upgrades including transformers as a result of the interconnection application and or study will be the responsibility of the customer.

Codes & Studies

This Agreement includes arc flash studies only.

Plug Load Outlet Bank

This Agreement includes a 120V plug load outlet bank that will be powered off of the battery switchgear and mounted on the fence surrounding the battery system.

ADA

This Agreement excludes requirements for accessibility upgrades and accessibility design.

This Agreement assumes that the California Green Building Standards Code does not apply as our project is not anticipated to generate additional traffic or add parking spaces.

Parking

This Agreement excludes modification to the existing parking layout.

Painting

Materials are factory-finished or non-corrosive and will not need painting for weather protection or aesthetic reasons.

Landscaping

The removal of trees and light posts are excluded.

Site landscaping and irrigation reconfiguration to complete any foundation construction is not included.

Fencing

Permanent galvanized chain-link fencing, gates and lock boxes enclosing equipment (over and around) is included. 4" bollards are included only in areas subject to vehicle impact.

Site & Construction Conditions

Soils and Structural Foundations

Existing site soil is assumed to have no seismic-related hazards (e.g. faults, liquefaction, seismically-induced settlement, lateral spreading), limited expansiveness

This Agreement assumes that if ground water or dewatering, sub grade rocks, or other unforeseen underground structures are encountered and there is a need to slurry and re-drill or dewater site, then additional costs will be the responsibility of the customer.

Existing site soil is assumed to have the following characteristics:

- IBC or UBC Table 1804A.2, Class 3 or equivalent Non-hazardous, sandy gravel and/or gravel
- Allowable foundation pressure greater than or equal to 2000 psf Lateral Bearing strength below grade equal to 200 (Lbs./Sq. Ft./Ft. of depth)
- Lateral sliding coefficient of friction greater than or equal to 0.35. No sub-grade rocks or rock formations
- Adequate drainage
- No seismic-related hazards (e.g. faults, liquefaction, seismically-induced settlement, lateral spreading) Limited expansiveness
- Low to moderate corrosiveness (PH is less than 5.5, electrical resistivity is more than 1000 OHM-cm, chloride is less than 500 ppm, sulfate is less than 2000 ppm)
- Depth to start of passive pressure is 0.5 feet.

Use of Facilities

On-site water and power will be available for construction with no restrictions and at no charge to SolarStorage.

Special handling of site materials

Testing for removal and disposal of any existing hazardous waste materials, contaminated soils, or any other unforeseen site conditions that require special handling are not included.

Drainage

Changes to the onsite drainage have not been included in this Agreement.

Testing and Inspections

SolarStorage assumes all Special Inspections and Inspector of Record (IOR) shall be paid for and contracted by the Customer.

Security and Lighting

Lighting and security have not been priced in this Agreement.

EXHIBIT 3— GENERAL CONDITIONS

DISTRICT'S RULES AND REGULATIONS

1. **Access.** Access to the school buildings and entry to buildings, classrooms, restrooms, mechanical rooms, electrical rooms, or other rooms, for construction purposes, must be coordinated with District and onsite District personnel before Work is to start. Unless agreed to otherwise in writing, only a school custodian will be allowed to unlock and lock doors in existing building(s). The custodian will be available only while school is in session. If a custodian is required to arrive before 7:00 a.m. or leave after 3:30 p.m. to accommodate Designer/Builder's Work, arrangements will be coordinated with the District in advance.
2. **Maintaining Services.** Interruption and/or periods of shutdown of public access, electrical service, water service, lighting, or other utilities shall be only as arranged in advance with the District. Designer/Builder may, as necessary, address interruptions of services caused by Designer/Builder's Work except for shutdowns as arranged in advance with the District.
3. **Maintaining Utilities.** The Designer/Builder shall maintain in operation during duration of Contract, drainage lines, storm drains, sewers, water, gas, electrical, steam, and other utility service lines within working area except for shutdowns as arranged in advance with the District.
4. **Alcohol & Firearms.** Designer/Builder shall ensure that no alcohol, firearms, weapons, or controlled substances enter or are used at the Site. Designer/Builder shall immediately remove from the Site and terminate the employment of any employee(s) found in violation of this provision.
5. **Project Inspector.** The Project Inspector is the individual designated and employed by the District in accordance with the requirements of title 24 of the California Code of Regulations. The Project Inspector shall be authorized to act on behalf of the District, as provided for in the Contract Documents, and in Title 24 of the California Regulations, as the same may be amended from time to time. Special inspectors will also be provided by the District as necessary. Any geotechnical work shall be provided by Design-Builder.
6. **Schedule and Schedule Updates.** Design/Builder shall provide District a Project Schedule and shall update said Schedule, as needed.
7. **Work During Instructional Time.** Designer/Builder affirms that Work may be performed during ongoing instruction in existing facilities. Parties agree to work together in good faith to minimize any disruption to the school including rescheduling specific disruptive work activities and making any necessary personal available for such rescheduling.. .
8. **No Work During Student Testing.** Designer/Builder shall, at no additional cost to the District and at the District's request, coordinate its Work to not disturb District students to the best of its ability when students at the Site are taking State-required tests. The District shall provide a testing schedule at least 30 days prior to the start of work.

9. **Badge and Fingerprint Policy For Designer/Builders.** All Designer/Builders doing work for the District will provide their workers with identification badges. These badges will be worn by all members of the Designer/Builder's staff who are working in a District facility.

9.1. Badges must be filled out in full and contain the following information:

- 9.1.1. Name of Designer/Builder
- 9.1.2. Name of Employee
- 9.1.3. Designer/Builder's address and phone number

9.2. Badges are to be worn when the Designer/Builder or his/her employees are on site and must be visible at all times. Designer/Builders must inform their employees that they are required to allow District employees or the Project Inspector to review the information on the badges upon request.

9.3. A continued failure to display identification badges as required by this policy may result in the assessment of fines against the Designer/Builder. All Design/Builder Supervisory personnel shall have completed criminal background checks, pursuant to Education Code section 45125.1.

10. **Language.** Unacceptable and/or loud language will not be tolerated, "Cat calls" or other derogatory language toward students or public will not be allowed.

11. **Disturbing the Peace (Noise and Lighting)**

11.1. Designer/Builder shall observe the noise ordinance of the Site at all times including, without limitation, all applicable local, city, and/or state laws, ordinances, and/or regulations regarding noise and allowable noise levels.

11.2. The use of radios, etc., shall be controlled to keep all sound at a level that cannot be heard beyond the immediate area of use. The District reserves the right to prohibit the use of radios at the Site, except for handheld communication radios (e.g., Nextel phones or radios).

11.3. If portable lights are used after dark, all light must be located so as not to direct light into neighboring property. Design/ Builder will observe noise ordinances and applicable requirements under governmental jurisdictions including the DSA.

11.4. Designer/Builder shall cooperate with District to minimize and/or seize the use of noisy and vibratory equipment if that equipment becomes objectionable by its longevity.

11.5. Designer/Builder acknowledges that adjacent facilities may remain in operation during all or a portion of the Work period, and it shall take all reasonable precautions to minimize noise as required by applicable laws and the Contract Documents.

- 11.6. Notice of proposed noisy operations, including without limitation, operation of pneumatic demolition tools, concrete saws, and other equipment, shall be submitted to the District a minimum of forty- eight (48) hours in advance of their performance.

12. Utility Shutdowns and Interruptions

- 12.1. Designer/Builder shall give the District a minimum of three (3) days written notice in advance of any need to shut off existing utility services or to effect equipment interruptions. The District will set exact time and duration for shutdown, and will assist Designer/Builder with shutdown. Work required to re-establish utility services shall be performed by the Designer/Builder.

13. Traffic

- 13.1. Driving on the Premises outside of the Work area shall be limited to periods when students and public are not present unless otherwise coordinated in advance with the District. If driving or deliveries must be made during the school hours, two (2) or more ground guides shall lead the vehicle across the area of travel. In no case shall driving take place across playgrounds or other pedestrian paths during recess, lunch, and/or class period changes. The speed limit on-the Premises shall be five (5) miles per hour (maximum) or less if conditions require.
- 13.2. All paths of travel for deliveries, including without limitation, material, equipment, and supply deliveries, shall be reviewed and approved by District in advance. Any damage will be repaired to the pre-damaged condition by the Designer/Builder.
- 13.3. The District shall designate a construction entry to the Site. If Designer/Builder requests, the District determines it is required, and to the extent possible, the District shall designate a staging area so as not to interfere with the normal functioning of school facilities. Location of gates and fencing shall be approved in advance with the District and at Designer/Builder's expense.
- 13.4. Parking areas shall be reviewed and approved by District in advance. No parking is to occur under the drip line of trees or in areas that could otherwise be damaged.

14. Barriers And Enclosures:

- 14.1. Designer/Builder shall obtain the District's written permission for locations and types of temporary barriers and enclosures, including fire-rated materials proposed for use, prior to their installation.
- 14.2. Designer/Builder shall provide and maintain temporary enclosures to prevent public entry and to protect persons using other buildings and portions of the Site and/or Premises, the public, and workers. Designer/Builder shall also protect the Work and existing facilities from the elements, and adjacent construction and improvements, persons, and trees and plants from damage and injury from demolition

and construction operations. Designer/Builder shall ensure the site is safe and free from unnecessary debris and trash.

- 14.3. Designer/Builder shall provide site access to existing facilities for persons using other buildings and portions of the Site, the public, and for deliveries and other services and activities.

15. Tree and Plant Protection

- 15.1. Designer/Builder shall preserve and protect existing trees and plants on the Premises that are not designated or required to be removed, and those adjacent to the Premises.
- 15.2. Designer/Builder shall provide barriers to a minimum height of 4'-0" around drip line of each tree and plant, around each group of trees and plants, as applicable, in the proximity of demolition and construction operations.
- 15.3. Designer/Builder shall not park trucks, store materials, perform Work or cross over landscaped areas. Designer/Builder shall not dispose of paint thinners, water from cleaning, plastering or concrete operations, or other deleterious materials in landscaped areas, storm drain systems, or sewers. Plant materials damaged as a result of the performance of the Work shall, at the option of the District and at Designer/Builder's expense, either be replaced with new plant materials equal in size to those damaged or by payment of an amount representing the value of the damaged materials as determined by the District.
- 15.4. Designer/Builder shall remove soil that has been contaminated during the performance of the Work by oil, solvents, and other materials which could be harmful to trees and plants, and replace with good soil, at Designer/Builder's expense.

16. Excavation Around Trees

- 16.1. Excavation within drip lines of trees shall be done only where absolutely necessary and with written permission from the District.
- 16.2. Where trenching for utilities is required within drip lines, tunneling under and around roots shall be by hand digging and shall be approved by the District. Main lateral roots and taproots shall not be cut. All roots 2 inches in diameter and larger shall be tunneled under and heavily wrapped with wet burlap so as to prevent scarring or excessive drying. Smaller roots that interfere with installation of new work may be cut with prior approval by the District. Roots must first be cut with a Vermeer, or equivalent, root cutter prior to any trenching.
- 16.3. Where excavation for new construction is required within drip line of trees, hand excavation shall be employed to minimize damage to root system. Roots shall be relocated in backfill areas wherever possible. If encountered immediately adjacent to location of new construction, roots shall be cut approximately 6 inches back from new construction.

- 16.4. Approved excavations shall be carefully backfilled with the excavated materials approved by the Design/Builder's Engineer of Record for backfilling. Backfill shall conform to adjacent grades without dips, sunken areas, humps, or other surface irregularities.
- 16.5. Exposed roots shall not be allowed to dry out before permanent backfill is placed. Temporary earth cover shall be provided, or roots shall be wrapped with four layers of wet, untreated burlap and temporarily supported and protected from damage until permanently relocated and covered with backfill.
- 16.6. Accidentally broken roots should be sawed cleanly 3 inches behind ragged end.

17. Security

- 17.1. The Designer/Builder shall be responsible for project security for materials, tools, equipment, supplies, and completed and partially completed Work.

18. Dust and Dirt

- 18.1. Designer/Builder shall conduct demolition and construction operations to minimize the generation of dust and dirt, and prevent dust and dirt from interfering with the progress of the Work and from accumulating in the Work and adjacent areas including, without limitation, occupied facilities.
- 18.2. Designer/Builder shall periodically water exterior demolition and construction areas to minimize the generation of dust and dirt.
- 18.3. Designer/Builder shall ensure that all hauling equipment and trucks carrying loads of soil and debris shall have their loads sprayed with water or covered with tarpaulins, and as otherwise required by local and state ordinance.
- 18.4. Designer/Builder shall prevent dust and dirt from accumulating on walks, roadways, parking areas, and planting, and from washing into sewer and storm drain lines.

19. **Job Sign(s)**: Signs other than a District-approved Project sign and/or signs required by law, for safety, or for egress, shall not be permitted, unless otherwise approved in advance by the District.

20. **Publicity Releases**. Designer/Builder shall not release any information, story, photograph, plan, or drawing relating information about the Project to anyone, including press and other public communications medium, including, without limitation, on website(s).

21. **District Approvals**: Any required approval, agreement, or consent of the District shall not be unreasonably withheld or delayed.

22. **Training of Site Personnel:** Design/Builder will provide District with any training or resources necessary to help ensure the safe operations of the improvements.

EXHIBIT 4— ESTIMATED SAVINGS PROFORMA

Operating Benefits and Costs During Years of Operation							
Year of Solar System Operation	Anticipated Benefit: Solar Avoided Utility Costs	Anticipated Benefit: Rate Switch B19V Option S Expected Savings	Anticipated Benefit: Storage Expected Savings on B19V Option S	-	Cost: Battery Storage Investment	=	Anticipated Net Benefits to General Fund
2024	\$0	\$10,298	\$47,095		(\$20,000)		\$37,393
2025	\$0	\$10,298	\$48,508		(\$20,000)		\$38,806
2026	\$0	\$10,298	\$49,963		(\$20,000)		\$40,261
2027	\$0	\$10,298	\$51,462		(\$20,000)		\$41,760
2028	\$0	\$10,298	\$53,006		(\$20,000)		\$43,304
2029	\$0	\$10,298	\$54,596		(\$20,000)		\$44,894
2030	\$0	\$10,298	\$56,234		(\$20,000)		\$46,532
2031	\$0	\$10,298	\$57,921		(\$20,000)		\$48,219
2032	\$0	\$10,298	\$59,659		(\$20,000)		\$49,956
2033	\$0	\$10,298	\$61,448		(\$20,000)		\$51,746
Total	\$0	\$102,979	\$539,891		(\$200,000)		\$442,870

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DIVISION OF FACILITIES PLANNING AND MANAGEMENT ROUTING FORM

Project Information				
Project Name	Castlemont High School Energy Efficiency and Safety Project	Site	301	
Basic Directions				
Services cannot be provided until the contract is awarded by the Board or is entered by the Superintendent pursuant to authority delegated by the Board.				
Attachment Checklist	<input checked="" type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input checked="" type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider			

Contractor Information							
Contractor Name	SolarStorage Fund D, L.L.C. ("SolarStorage")	Agency's Contact	Frederic A. Potts, III				
OUSD Vendor ID #		Title	President and CEO				
Street Address	1414 Harbour Way South, Ste. 1901	City	Richmond	State	CA	Zip	94804
Telephone	(510) 260-8239	Policy Expires					
Contractor History	Previously been an OUSD contractor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
OUSD Project #	22130						

Term of Original/Amended Contract			
Date Work Will Begin (i.e., effective date of contract)	3-9-2023	Date Work Will End By (not more than 5 years from start date; for construction contracts, enter planned completion date)	8-28-2033
		New Date of Contract End (If Any)	

Compensation/Revised Compensation			
If New Contract, Total Contract Price (Lump Sum)	\$	If New Contract, Total Contract Price (Not To Exceed)	\$200,000.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Change in Price	\$
Other Expenses		Requisition Number	

Budget Information				
<i>If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.</i>				
Resource #	Funding Source	Org Key	Object Code	Amount
9655/9895	Fund 21/Measure Y	210-9655-0-9895-8500-6274-301-9180-9906-9999-22130	6274	\$200,000.00

Approval and Routing (in order of approval steps)				
Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.				
	Division Head	Phone	510-535-7038	Fax 510-535-7082
1.	Executive Director, Facilities Planning and Management			
	Signature	Date Approved	2/16/23	
2.	General Counsel, Department of Facilities Planning and Management			
	Signature	Date Approved	2/16/23	
3.	Deputy Chief, Facilities Planning and Management			
	Signature	Date Approved	2/16/23	
4.	Chief Financial Officer			
	Signature	Date Approved		
5.	President, Board of Education			
	Signature	Date Approved		