



Council Agenda Report

From: Dick McKinley, Public Works Director

Subject: Agreement with Siemens Industry to Complete HVAC and Lighting System Upgrades at Four City Facilities; Public Hearing and Resolution Pursuant to Government Code Section 4217.12

Date: June 6, 2017

Facts

1. Siemens Industry, Inc. Building Technologies Division ("Siemens"), conducted a financial and engineering analysis of upgrading the HVAC and Lighting systems at four City facilities - City Hall/Library, Public Safety Center, Centennial Park/Gym, and Senior Center. Based on that analysis, Siemens proposed an agreement whereby Siemens would complete the upgrades, provide financing, use available PG&E financial programs, and provide a mechanism for the City to pay Siemens from the energy savings over a 15-year period.
2. The City will save significant amounts through reduced energy costs after paying Siemens, and will save significant maintenance and repair costs for a number of years because of replacing outdated equipment and fixtures with new equipment and fixtures. In addition, the improvements are to be completed with no anticipated out-of-pocket expenses for the City.
3. Government Code 4217.12 calls for the City to provide public notice then hold a public hearing and approve a resolution in order to select Siemens as the City's energy service provider. The City completed that on September 6, 2017. Now that the Performance Contracting Agreement ("Energy Savings Contract") and related agreements are completed in preparation for moving forward with the project, the City Attorney has recommended that the City once again do the public notice, public hearing and resolution process in order to provide for the City Council's consideration of the terms of these agreements in accordance with the requirements specified in Section 4217.12.
4. Financing for the Energy Contract, in the approximate amount of \$2,354,218, is proposed to be provided by Siemens Public, Inc. through a cost-effective leasing arrangement as set forth in that certain Master Lease Purchase Agreement, a copy of which is included with this agenda item, and will be entered into in conjunction with an Escrow Agreement related thereto, and also included herewith. Staff has determined that this lease financing arrangement is the most economical means for providing the improvements to the City.

Options

1. Hold the public hearing and take no further action.
2. Hold the public hearing, make the findings set forth in this Agenda Report and approve Resolution 17-XXX.

Analysis and Conclusions

Option 1 provides no benefit to the City, and likely leaves the City paying Siemens for the cost of the financial and engineering analysis per the Letter of Intent.

Option 2 follows through on the project, improves outdated and inefficient HVAC and lighting systems with no current out-of-pocket expenses, and provides significant operating efficiencies for Facilities staff. The Energy Savings Contract includes guaranteed energy savings anticipated to offset all payments to Siemens over the 15-year period, and additional savings for years after that. It allows the City to have upgraded equipment without negatively impacting General Fund expenses.

Prior to approving award of the Energy Savings Contract with Siemens, the City Council must fulfill three requirements under Government Code section 4217.12:

- Hold a regularly scheduled public hearing on the award of the Energy Savings Contract, public notice of which must be given at least two weeks prior to the public hearing. Notice of the public hearing was published May 23, 2017 and May 30, 2017.
- Find that the Energy Savings Contract is on terms serving the City's best interests.
- Find that the anticipated cost to the City for electric energy provided pursuant to the Energy Savings Contract will be less than the anticipated marginal cost to the City of electric energy that would have been consumed by the City in the absence of the Energy Savings Contract. Based on an analysis performed by Siemens and reviewed by staff and in light of the terms of the Energy Savings Contract and all other evidence provided to the City, there is support for this finding.

Fiscal Impact

If the City enters into the agreements with Siemens, there are no current out-of-pocket expenses for the City, with all upfront capital and implementation costs incurred by Siemens. The City's costs to repay Siemens over the 15-year period will come from energy savings, guaranteed by Siemens and anticipated to cover all costs of the project. The City will save the cash flow that would have been needed if the City completed these deferred maintenance projects out of the current budget. In addition, the City will be able to benefit from the energy cost savings after Siemens has been repaid.

We are working through the Siemens program because they: are proven experts in this field; finance the projects through the generated energy savings; and guarantee those energy savings to be more than enough to pay all project costs –in this case in excess of \$400,000 over the lifetime project costs (even after Siemens is repaid for its costs and profit). In addition to avoiding the capital costs for this deferred maintenance, and saving an additional \$400,000 in energy savings, the City will be able to reduce budgeted General Fund expenses by \$400,000 in 2016-17 and \$90,000 in 2017-18.

CEQA

This project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15301, Class 1 (Existing Facilities), because the proposed improvements involve negligible or no expansion of the existing uses beyond current levels.

Recommendation

1. Hold the public hearing and approve Resolution 17-XXX authorizing the City Manager to execute the agreements with Siemens to implement the HVAC / Lighting improvements identified in the plan, and to repay those costs to Siemens over a 15-year period using cost savings from the improvements.
2. Authorize the City Manager and City Attorney to amend the agreements, if needed, in full conformance with overall Council direction.

Attachments

1. Resolution 17-XXX with attachments
2. Siemens Agreements (Exhibit A to Resolution with attachments)
3. Siemens Financing Proposal

RESOLUTION NO. _____

AUTHORIZING THE EXECUTION AND DELIVERY OF AN ENERGY SAVINGS CONTRACT, A MASTER LEASE PURCHASE AGREEMENT WITH SIEMENS PUBLIC, INC. AND RELATED DOCUMENTS, AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH

WHEREAS, the City of El Paso de Robles (the “City”) is a municipal corporation duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the City desires to acquire certain improvements (the “Improvements”) consisting of the installation of certain energy savings equipment relating to the City’s HVAC and lighting systems described in a Performance Contracting Agreement (the “Energy Savings Contract” by and between the City and Siemens Industry, Inc. Building Technologies Division, which has been presented to the Council and is on file with the City Clerk; and

WHEREAS, the City desires to provide for financing in the approximate amount of \$2,354,218 for the installation of the Improvements; and

WHEREAS, Siemens Public, Inc. (“Siemens”) has proposed a cost-effective lease purchase financing arrangement for the installation of the Improvements, as set forth under Leasing Schedule #280-0006002-001 which incorporates the terms and conditions of that certain Master Lease Purchase Agreement (together, the “Agreement”) between Siemens and the City, which have been presented to the Council and is on file with the City Clerk; and

WHEREAS, in connection with the execution and delivery of the Agreement, it will be necessary for the City to enter into an Escrow Agreement Relating to Equipment Subject to Leasing Schedule #280-0006002-001 (the “Escrow Agreement”) among the City, Siemens Public, Inc. and the escrow agent named therein, which has been presented to the Council and is on file with the City Clerk; and

WHEREAS, the City has determined that this lease financing arrangement is the most economical means for providing the Improvements to the City; and

WHEREAS, pursuant to Government Code Section 4217.12 the City may enter into the Energy Savings Contract at a regularly scheduled public hearing after providing proper notice of such public hearing if certain findings as set forth in Government Code Section 4217.12 are made by the City Council; and

WHEREAS, the City has properly noticed a public hearing regarding the Energy Savings Contract in accordance with Government Code Section 4217.12.

NOW, THEREFORE, it is resolved by the City Council of the City of El Paso de Robles as follows:

SECTION 1. Findings. In accordance with Government Code Section 4217.12, the City Council has conducted a public hearing and hereby determines that the anticipated cost to the City of electric energy provided pursuant to the Energy Savings Contract will be less than the anticipated marginal cost to

the City of electric energy that would have been consumed by the City in the absence of the Energy Savings Contract.

SECTION 2. Authorization and Approval of Energy Savings Contract. The City Council hereby approves and authorizes the City to enter into the Energy Savings Contract in the form attached hereto as Exhibit A and incorporated herein by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager of the City (the “City “Manager”), upon consultation with the City Attorney. The City Manager is authorized and directed to take all steps and actions which are necessary to accomplish the execution of the Energy Savings Contract pursuant to the authorization given by and the conditions specified in this resolution. The City Manager or his designee is authorized to execute the Energy Savings Contract for and on behalf of the City.

SECTION 3. Authorization and Approval of Agreement and Escrow Agreement. The City Council hereby approves and authorizes the City to enter into (a) the Agreement in a principal amount which shall not exceed \$3,000,000 in the form attached hereto as Exhibit B and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager, upon consultation with the City Attorney, and (b) the Escrow Agreement in the form attached hereto as Exhibit C and incorporated hereby by reference, together with any changes therein or additions thereto which are deemed advisable by the City Manager upon consultation with the City Attorney. The City Manager is authorized and directed to take all steps and actions which are necessary to accomplish execution of the Agreement and the Escrow Agreement pursuant to the authorization given by and the conditions specified in this resolution. The City Manager or his designee, is authorized to execute the Agreement and the Escrow Agreement for and on behalf of the City.

SECTION 4. Attestations. The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the City Manager or of such other person or persons as may have been designated by the City Manager, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Energy Savings Contract, the Agreement and the Escrow Agreement.

SECTION 5. Other Actions. The City Manager and other officers of the City are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all agreements, documents and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution and the Energy Savings Contract, the Agreement and the Escrow Agreement. Such actions are hereby ratified, confirmed and approved.

SECTION 7. Effect. This Resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 6th day of June, 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Approved:

Steve Martin, Mayor

Attest:

Kristin Buxkemper, Deputy City Clerk

EXHIBIT A
Energy Savings Contract

EXHIBIT B

Master Lease Purchase Agreement

EXHIBIT C
Escrow Agreement

PERFORMANCE CONTRACTING AGREEMENT

between

City of Paso Robles

and

**Siemens Industry, Inc.,
Building Technologies Division**

TABLE OF ARTICLES

1. Agreement
2. Glossary
3. General
4. Performance Guarantee
5. Work by SIEMENS
6. CLIENT Responsibilities
7. Changes and Delays
8. Compensation
9. Acceptance
10. Insurance and Allocation of Risk
11. Hazardous Material Provisions
12. Miscellaneous Provisions
13. Maintenance Services Program

PERFORMANCE CONTRACTING AGREEMENT

Number: SAP JOB NUMBER

Article 1 AGREEMENT

THIS PERFORMANCE CONTRACTING AGREEMENT ("Agreement") is made this _____ day of _____, (the "Effective Contract Date", defined below), by and between Siemens Industry, Inc., Building Technologies Division ("SIEMENS") and the party identified below as the CLIENT.

The CLIENT: City of Paso Robles

DESIGNATED REPRESENTATIVE: Tom Frutchey
PHONE: 805-237-3888 FAX:

Siemens Industry, Inc., Building Technologies Division
1000 Deerfield Parkway
Buffalo Grove, Illinois 60089

With offices at: 6141 Katella Blvd. Cypress CA 90630

DESIGNATED REPRESENTATIVE: John DeMaio
PHONE: 510-303-8736 FAX:

For Work and Services in connection with the following project (the "Project"):

City of Paso Robles

The CLIENT considered performing the following FIMs but at this time, has determined to exclude them from the Scope of Work and Services, Exhibit A:

[List FIMS not part of this project that were considered and may be performed via amendment at a later date]: N/A

PERFORMANCE CONTRACTING AGREEMENT

Articles and Attachments

This Agreement consists of this document, which includes the following articles and exhibits which are acknowledged by the CLIENT and SIEMENS and incorporated into the Agreement by this reference:

Articles

1. Agreement
2. Glossary
3. General
4. Performance Guarantee
5. Work BY SIEMENS
6. The CLIENT's Responsibilities
7. Changes and Delays
8. Compensation
9. Acceptance
10. Insurance and Allocation of Risk
11. Hazardous Material Provisions
12. Miscellaneous Provisions
13. Maintenance Services Program

Exhibits

Exhibit A	Scope of Work and Services
Exhibit B	Payment Schedule(s)
Exhibit C	Performance Assurance
Exhibit D1	Form of Certificate of Substantial Completion
Exhibit D2	Form of Certificate of Final Completion
Exhibit E	Addendum No. 1

This Agreement, when executed by an authorized representative of the CLIENT and authorized representatives of SIEMENS, constitutes the entire, complete and exclusive agreement between the Parties relative to the project scope stated in Exhibit A. This Agreement supersedes all prior and contemporaneous negotiations, statements, representations, agreements, letters of intent, awards, or proposals, either written or oral relative to the same, and may be modified only by a written instrument signed by both Parties. The CLIENT intends to enter into that certain Master Lease Purchase Agreement with Siemens Public, Inc. ("Master Lease Purchase Agreement"). Notwithstanding any other provision herein, this Agreement shall have no force or effect unless and until the Master Lease Purchase Agreement has been executed by the CLIENT and Siemens Public, Inc.

COMPENSATION/TERMS OF PAYMENT:

As full consideration for the performance of the Work and Services set forth in Exhibit A, and for the Performance Assurance set forth in Exhibit C, the CLIENT shall pay SIEMENS in such manner and amounts as agreed to in Exhibit B.

Agreed for _____
[City of Paso Robles]

(Signature) by: _____

Print Name and Title: _____

(Signature) by: _____

Print Name and Title: _____

Agreed for _____
Siemens Industry, Inc.

(Signature) by: _____

Print Name and Title: _____

(Signature) by: _____

Print Name and Title: _____

PERFORMANCE CONTRACTING AGREEMENT

Article 2

Glossary

The following terms shall for all purposes have the meanings stated herein, unless the context otherwise specifies or requires, or unless otherwise defined in the Agreement:

Acceptance means the CLIENT has signed, or is deemed to have signed, a Certificate of Final Completion.

Acceptance Date means the date on which the CLIENT signs or is deemed to have signed a Certificate of Final Completion.

Annual Performance Assurance Report means the document prepared by SIEMENS and submitted to the CLIENT as part of the Performance Assurance Service Program, which identifies the Savings achieved for the applicable Annual Period.

Annual Period means a twelve (12) month period beginning on the Guarantee Date or on any anniversary date thereof.

Annual Realized Savings means the actual Savings achieved by the CLIENT during an Annual Period, calculated as the sum of the Measured & Verified Savings plus the Stipulated Savings.

Applicable Law means laws, ordinances, codes, rules and regulations applicable to the Work and in effect on the Effective Contract Date.

Baseline means the measurements of Facility energy usage taken prior to the Effective Contract Date, and the Facility operating practices in effect prior to the Effective Contract Date, as set forth in the Performance Assurance, Exhibit C.

Baseline Period means the period of time from which data is provided to SIEMENS to derive the Baseline measurements. The Baseline Period is set forth in the Performance Assurance, Exhibit C.

BTU means a British Thermal Unit and is a unit of thermal energy.

Capital Off-Set Savings means a sub-category of Operational Savings where Savings will result in a cost effective upgrade to the Facility to address one or more of the following issues: potential future increased costs, comfort, code non-compliance, usage requirements, user needs and/or expectations.

Certificate of Final Completion means a document, in the form attached as Exhibit D2 hereto, indicating that the Work identified in Article 1 of the Scope of Work and Services-Exhibit A has been completed in accordance with the Agreement, including all items in the Outstanding Items List(s).

Certificate of Substantial Completion means a document, in the form attached as Exhibit D1 hereto, indicating that the Work, or a designated portion of the Work, is Substantially Complete in accordance with the Agreement. A Certificate of Substantial Completion may be accompanied by an Outstanding Items List.

CLIENT Representative means the person identified to SIEMENS by the CLIENT as the person authorized to make decisions on behalf of the CLIENT as set forth in Section 6.1(a) hereof.

Construction Period means the period between the Effective Contract Date and the first day of the month following the Acceptance Date.

Construction Period Savings means the actual accumulated Measured & Verified Savings plus the Stipulated Savings achieved from the Effective Contract Date until the Guarantee Date.

Contracted Baseline means the post-FIM-implementation Facility operating profile based on parameters described in Exhibit C, which the CLIENT shall maintain throughout the Performance Guarantee Period and are relied upon by SIEMENS for the calculation of Guaranteed Savings as provided in the Performance Assurance, Exhibit C. The Contracted Baseline must also include stipulated hours of operation and plug-loads for all Facilities, and must include stipulated blended, or non-blended, utility rates.

Deferred Maintenance means a sub-category of Operational Savings where Savings result from a reduction of current or potential future repair and maintenance costs due to certain work being performed hereunder where such work had been previously postponed.

Deliverables shall mean collectively, (a) any Equipment and any Software Product deliverable to CLIENT from SIEMENS under or in connection with the Work, and (b) any Work Product Deliverables.

Effective Contract Date is the date appearing at the top of this Agreement, unless specifically indicated otherwise.

Energy Conservation Measure or **ECM** means the SIEMENS Products and/or other third party equipment, devices, materials and/or software as installed by SIEMENS at the Facilities, or as repaired or replaced by SIEMENS or the CLIENT hereunder, for the purpose of improving the efficiency of utility consumption.

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Equipment means the installed physical equipment to be provided by SIEMENS as described in the Scope of Work and Services, Exhibit A.

Escalation Rate means an annual percentage increase to be applied to the previous Annual Period's energy savings, operational savings and service pricing, beginning and occurring on dates outlined in the Performance Assurance, Exhibit C. A different Escalation Rate may be applied to differing Savings calculations and/or payment schedules depending on the percentage agreed upon by the Parties.

Facility or **Facilities** means the building(s) or structure(s) where Work will be installed or implemented.

Facility Improvement Measures or **FIMs** means the (i) Instruments, know-how and Intellectual Property, including but not limited to methods and techniques for energy conservation, owned or licensed by SIEMENS and employed by SIEMENS to perform the Work and Services under this Agreement; and, (ii) the installation of Equipment and Software Products with the intent of generating net savings or efficiencies at or in connection with the operation of the Facilities. A FIM may include one or multiple ECMs as well as any non-conservation-related activities, means or methods.

FEMP means the Federal Energy Management Program managed by the United States Department of Energy.

FEMP Guidelines means the FEMP M&V Guidelines v. 3.0 published by FEMP as M&V Guidelines; Measurement and Verification for Federal Energy Management Projects.

Guarantee Date means the first day of the month following the date on which the CLIENT executes, or is deemed to have executed, the Certificate of Final Completion.

Guaranteed Annual Savings are the Guaranteed Measured & Verified Savings plus the Stipulated Savings that SIEMENS guarantees will be achieved in an Annual Period of the Performance Guarantee Period.

Guaranteed Measured & Verified Savings means the Measured & Verified Savings that SIEMENS guarantees will be achieved, as described in the Performance Assurance, Exhibit C.

Guaranteed Savings means the amount of Savings that SIEMENS guarantees will be achieved at the Facility during the Performance Guarantee Period, as identified in the Performance Assurance, Exhibit C as subject to the limitation identified in Section 4.8.

Hazardous Materials refers to the definition found in Section 11.1.

Instruments means all know-how, tools and related documentation owned or licensed by SIEMENS and used by SIEMENS to install or commission Equipment and Software Products for operation at the Facility, including but not limited to tools for installing any Software Products in Equipment, performing diagnostics on Equipment as installed in the Facility as well as any reports, notes, calculations, data, drawings, estimates, specifications, manuals, documents, all computer programs, codes and computerized materials prepared by or for SIEMENS and used by SIEMENS to provide an ECM or a FIM. Instruments excludes Work Product Deliverables.

Intellectual Property Rights or **Intellectual Property** means all trade secrets, patents and patent applications, trade marks (whether registered or unregistered and including any goodwill acquired in such trade marks), services marks, trade names, internet domain names, copyrights (including rights in computer software), moral rights, database rights, design rights, rights in know-how, rights in inventions (whether patentable or not) including, but not limited to, any and all renewals or extensions thereof, and all other proprietary rights (whether registered or unregistered, and any application for the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world, including, but not limited to, any and all renewals or extensions thereof.

IPMVP means the International Performance Measurement and Verification Protocol, Volume 1, EVO 10000-1.2007 as prepared by the Efficiency Valuation Organization.

kW and **kWh** means kilowatt and kilowatt hour, respectively.

Maintenance Services Program or **MSP** means the Services performed by SIEMENS to maintain the Equipment in good working order. The MSP may also contain Services unrelated to the maintenance of the Equipment. If applicable, the MSP is more fully described in the Scope of Work and Services, Exhibit A.

Material Change means a measurable deviation in the Contracted Baseline caused by or due to the actions or inactions of CLIENT such that there is an adverse impact on the Annual Realized Savings which results or will result in a Savings Shortfall.

Measured & Verified Savings means those Savings that can be calculated and ascertained by the methodology set forth in the Performance Assurance, Exhibit C.

Oil refers to the definition found in Section 11.1.

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Operational Savings means Savings derived from reduced operational expenses, including but not limited to, Deferred Maintenance, or Capital Off-Set Savings. Operational Savings can only be expressed in monetary value and are Stipulated Savings.

Outstanding Items List means a list of items in need of completion or correction that relates to the Work, or a designated portion thereof that is Substantially Complete. The absence of such items does not deprive the CLIENT of the ability to put such Work, or a designated portion thereof to beneficial use. An Outstanding Items List may be attached to a Certificate of Substantial Completion.

Parties means the CLIENT and SIEMENS.

Performance Assurance is the process of ascertaining whether the FIMs are performing at the level necessary to achieve the Guaranteed Savings.

Performance Assurance Services Program or **PASP** means the Services required to monitor the operation of the FIMs so that SIEMENS can provide the Annual Performance Assurance Report detailing the Annual Realized Savings and comparing the same to the Annual Guaranteed Savings based upon the calculations agreed to by the Parties in the Performance Assurance, Exhibit C. The Services provided under the PASP are described in the Scope of Work and Services, Exhibit A.

Performance Guarantee means the guarantee that SIEMENS makes to the CLIENT which is reconciled and confirmed through the Performance Assurance process set forth in the Performance Assurance, Exhibit C.

Performance Guarantee Period means the timeframe from the Guarantee Date to the last day of the final Annual Period as described in Table 1.1 of the Performance Assurance, Exhibit C, or the period from the Guarantee Date until the termination of this Agreement, whichever occurs earlier.

Permitted Users means the CLIENT, its employees and agents.

Savings means the Parties' intended result from implementing all FIMs. Savings can be derived from reductions in energy or utility consumption, reductions in operating expenses, a changed utility rate classification or a combination thereof. The Savings that are achieved from reduced energy or utility consumption are converted to a dollar figure based upon the calculation in Article 4.1.1 and as detailed in the Performance Assurance, Exhibit C. When converted to a dollar figure, these Savings become energy cost savings. Operational Savings are only expressed in a dollar figure.

Savings Shortfall means the Annual Realized Savings less the Guaranteed Annual Savings for the Annual Period resulting in an amount less than zero.

Services means those services to be provided by SIEMENS as described in the Scope of Work and Services, Exhibit A.

SIEMENS Pre-existing Intellectual Property means any Intellectual Property: (i) that has been conceived or developed by an employee or subcontractor of SIEMENS before SIEMENS performs any Work or Services under this Agreement; (ii) that is conceived or developed by such employee or subcontractor at any time wholly independently of SIEMENS performing the Work under this Agreement; or, (iii) if developed while performing the Work under this Agreement, where the development of Intellectual Property for the benefit of the CLIENT is not expressly identified as a FIM or part of a FIM. SIEMENS Preexisting Property is included in all reports, notes, calculations, data, drawings, estimates, specifications, manuals, documents, all computer programs, codes and computerized materials prepared by or for SIEMENS.

SIEMENS Product means a product, including Software Product and/or Equipment, offered for sale or license by SIEMENS or its affiliates or subsidiaries and developed prior to performing the Work or SIEMENS rendering services in connection with this Agreement. A SIEMENS Product also includes improvements or modifications to any Equipment and any Software Product developed by SIEMENS or developed as part of the Work, including any SIEMENS Product that is configured or modified for operation at a site specified by the CLIENT. Any information that is provided by the CLIENT and incorporated into a SIEMENS Product is not, by itself, a SIEMENS Product. A compilation of such information and the product of such compilation, however, is a SIEMENS Product.

Software Product means any software that is owned or licensed by SIEMENS or its affiliates and that is either separately deliverable for use in the Equipment or for use in a computer system owned by the CLIENT or delivered as firmware embedded in the Equipment.

Stipulated Savings are a sub-category of Guaranteed Savings that do not require post-FIM implementation measurement and verification because they are agreed upon by the Parties based upon representations made to SIEMENS by the CLIENT and through the application of generally accepted analytical formulae. As such, Stipulated Savings are agreed upon in advance by the Parties and cannot be changed. When used as a methodology for representing a FIM's energy savings, such methodology is not recognized as a measurement and verification methodology under IPMVP. Therefore, where the

PERFORMANCE CONTRACTING AGREEMENT

IPMVP measurement methodologies are required, a methodology other than Stipulated Savings must be used to calculate energy savings.

Substantial Completion or **Substantially Complete** means the Work, or any identifiable portion thereof, which is sufficiently complete, in accordance with the provisions of this Agreement relating to the Scope of the Work and Services, Exhibit A, such that the CLIENT will be able to realize from such Work substantially all of the practical benefits intended to be gained therefrom, or otherwise employ the Work or the FIMs for their intended purposes.

Therm is a measure of energy equal to 100,000 BTUs.

Total Guaranteed Savings means the sum of the Savings that are guaranteed for all Annual Periods during the Performance Guarantee Period (inclusive of the Construction Period, if applicable). The Total Guaranteed Savings are reflected in Tables 1.1 and 1.2 in the Performance Assurance, Exhibit C.

Work means collective labor, Equipment and services comprising the FIMs to be performed by SIEMENS, as described in the Scope of Work and Services, Exhibit A.

Work Product Deliverable means the tangible form of a report or drawing specifically developed for, commissioned by and deliverable to the CLIENT in connection with the Work to be performed by SIEMENS under this Agreement.

Article 3

General

- 3.1 The Parties hereto acknowledge and agree that this Agreement has been negotiated at arm's length and among the Parties equally sophisticated and knowledgeable as to the subject matter of this Agreement. Each party has conferred, or has had the opportunity to confer, with their respective legal counsel. Accordingly, in the event any claim is made relating to any conflict, omission, or ambiguity in this Agreement, no presumption, burden of proof, or persuasion shall be implied by virtue of the fact that this Agreement was drafted by or at the request of a particular party or its legal counsel.
- 3.2 The CLIENT hereby engages and SIEMENS hereby accepts the engagement to perform and to provide the Work and Services set forth in Exhibit A in accordance with the terms and conditions of this Agreement.
- 3.3 SIEMENS shall perform the Work as an independent contractor with exclusive control of the manner and means of performing the Work in accordance with the requirements of this Agreement. SIEMENS has no authority to act or make any agreements or representations on behalf of the CLIENT. This Agreement is not intended, and shall not be construed to create, between the CLIENT and SIEMENS, the relationship of principal and agent, joint-venturers, co-partners or any other such relationship, the existence of which is hereby expressly denied. No employee or agent of SIEMENS shall be, or shall be deemed to be, an employee or agent of the CLIENT.
- 3.4 SIEMENS represents, warrants and covenants to the CLIENT that:
- (a) It has all requisite corporate power to enter into this Agreement, and that its execution hereof has been duly authorized and does not and will not constitute a breach or violation of any of SIEMENS organizational documents, any Applicable Law, or any agreements with third parties;
 - (b) It has done and will continue to do all things necessary to preserve and keep in full force and effect its existence and the Agreement;
 - (c) This Agreement is the legal, valid and binding obligation of SIEMENS, in accordance with its terms, and all requirements have been met and procedures have been followed by SIEMENS to ensure the enforceability of the Agreement;
 - (d) To SIEMENS best knowledge, there is no pending or threatened, suit, action, litigation or proceeding against or affecting SIEMENS that affects the validity or enforceability of this Agreement;
 - (e) It is duly authorized to do business in all locations where the Work and Services are to be performed; and
 - (f) SIEMENS shall perform all Work under this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

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3.5 The CLIENT represents, warrants and covenants to SIEMENS that:

- (a) It has all requisite corporate power and/or statutory authority to enter into this Agreement, and that its execution hereof has been duly authorized and does not and will not constitute a breach or violation of any of the CLIENT's organizational documents, any Applicable Law, or any agreements with third parties;
- (b) It has done and will continue to do all things necessary to preserve and keep in full force and effect its existence and the Agreement;
- (c) This Agreement is the legal, valid and binding obligation of the CLIENT, in accordance with its terms, and all requirements have been met and procedures have been followed by the CLIENT to ensure the enforceability of the Agreement;
- (d) To the CLIENT's best knowledge, there is no pending or threatened, suit, action, litigation or proceeding against or affecting the CLIENT that affects the validity or enforceability of this Agreement; and,
- (e) The CLIENT has consulted with its legal counsel and is relying on the advice of its counsel concerning all legal issues related to this Agreement, and is not relying on SIEMENS in this regard.

Article 4

Performance Guarantee

4.1 The Annual Realized Savings generated during each Annual Period will be no less than the Guaranteed Annual Savings as shown in Tables 1.1 and 1.2 of the Performance Assurance, Exhibit C, subject to the limits in Section 4.8. The measurement and verification calculation methodology for determining the Savings is set forth in the Performance Assurance, Exhibit C.

4.1.1 General. Except as otherwise provided, energy savings will be calculated for each month of each Annual Period as the product of (a) "units of energy saved" (kWh, Therms, GJ, etc.) multiplied by (b) "cost of energy."

- (a) Units of energy saved are calculated by 1) assuming the Contracted Baseline has been maintained per Section 4.3 below, and 2) subtracting the then current period measured units of energy consumed from the Baseline units of energy defined in Article 5 of Exhibit C.
- (b) Costs of energy are defined in Article 6 of Exhibit C-Utility Rate Structures and Escalation Rates.

4.2 Any future Escalation Rates to be applied to utility, energy or other costs are set forth in Exhibit C. SIEMENS and the CLIENT agree that the Baseline data set forth in Exhibit C is a full and accurate reflection of the existing Facility, equipment, operation, business use and energy usage, and that such Baseline data will be the basis on which all future energy use will be compared in order to determine the Annual Realized Savings.

4.3 SIEMENS and the CLIENT agree that the Contracted Baseline fully described in Exhibit C will represent the new operating and/or equipment profile of the Facility resulting from the FIM implementation. The Performance Guarantee is dependent upon and is subject to the express condition that the CLIENT operates and maintains its Facilities within the Contracted Baseline parameters, as may be adjusted in accordance with the terms herein, during the entire term of the Performance Guarantee Period.

4.4 The CLIENT agrees to notify SIEMENS prior to or within thirty (30) days of CLIENT's actual knowledge of any Material Change.

4.5 Within thirty (30) days of notice of a Material Change, SIEMENS' discovery of a Material Change and with prompt, prior written notice to CLIENT, SIEMENS will either:

- (a) Require an adjustment to the Performance Assurance and the Performance Guarantee as a result of the Material Change; or,
- (b) Where a commercially reasonable adjustment to the Performance Guarantee is unavailable, terminate both the Performance Assurance and the Performance Guarantee.

4.6 A Performance Guarantee Period savings reconciliation as identified in Section 4.1 will be performed at the end of each Annual Period as follows:

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- (a) Within ninety (90) days of the Guarantee Date, the Construction Period Savings shall be reconciled and applied to the calculation of the first Annual Period's Annual Realized Savings.
- (b) At the conclusion of each Annual Period, SIEMENS will calculate the Annual Realized Savings and compare the calculated amount to the applicable Guaranteed Annual Savings amount.
- (c) Where the Annual Realized Savings are less than the Guaranteed Annual Savings, a Savings Shortfall shall be recorded for the applicable Annual Period.
- (d) A Savings Shortfall shall be paid by SIEMENS within sixty (60) days following the CLIENT's acceptance of the reconciliation and once paid SIEMENS shall have fulfilled its obligations under the Performance Guarantee for the applicable Annual Period.

4.6.1 As the mutual goal of the Parties is to maximize Savings, if SIEMENS can correct a Savings Shortfall through an operational improvement at no expense or material inconvenience to the CLIENT and without future operational expenses, and the CLIENT declines to allow such operational improvement, then any future Savings Shortfall that the improvement would have corrected will be negated by deeming the value of the Savings Shortfall as Savings achieved and adding the amount of same to the Annual Realized Savings calculations for each Annual Period thereafter, until and unless CLIENT incorporates such operational improvement.

4.7 The Performance Guarantee is dependent upon and is subject to the express condition that the CLIENT maintains the PASP during the entire Performance Guarantee Period. If the CLIENT fails to maintain, breaches, cancels or otherwise causes the termination of the PASP for any reason unrelated to SIEMENS' breach or anticipated breach of this Agreement or negligence or willful misconduct then: (a) The Performance Guarantee shall terminate immediately and be void and of no force or effect; or, (b) Where termination of the Performance Guarantee acts to render the Agreement in violation of Applicable Law, all Guaranteed Savings thereafter shall be determined to have been achieved and SIEMENS shall have been deemed to have met its Performance Guarantee obligations under this Agreement for each and every Annual Period thereafter without the obligation to provide the CLIENT, or any third-party as the case may be, with any further Annual Performance Assurance Reports.

4.8 The payments and credits based on Savings Shortfalls, if any, are the sole remedy of the CLIENT under this Performance Guarantee. ANY PAYMENTS MADE OR TO BE MADE TO THE CLIENT UNDER THE TERMS OF THIS PERFORMANCE GUARANTEE SHALL NOT EXCEED THE PAYMENTS ACTUALLY MADE BY CLIENT TO EITHER SIEMENS AND/OR A THIRD-PARTY (IN THE EVENT THAT THE CLIENT HAS FINANCED THE TRANSACTION) FOR THE AGGREGATE OF: THE PRICE, AS DEFINED IN EXHIBIT B, ARTICLE 1.1; THE PASP PAYMENTS; THE MSP PAYMENTS, IF ANY; AND, IF APPLICABLE, THE CLIENT'S COST OF FINANCING THE WORK. The CLIENT's cost of financing the Work is the cost of financing calculated either: (a) On the date that the escrow account is funded in accordance with Exhibit B, Article 1.2; or, (b) On the Effective Contract Date if the escrow requirement is expressly waived by SIEMENS.

4.9 The CLIENT represents that, to its knowledge, all existing equipment that is not installed by SIEMENS under this Agreement but is deemed necessary to achieve the Performance Guarantee, is in satisfactory working condition. Prior to the beginning of the Performance Guarantee Period, SIEMENS will have inspected all such existing equipment and reported any deficiencies to the CLIENT. To the extent that the deficiencies are not remedied by the CLIENT prior to the Guarantee Date, the adverse effect on the ability of the Project to attain the necessary Guaranteed Savings shall be factored into the Annual Performance Assurance Report and, if necessary, the Performance Guarantee shall be adjusted accordingly.

4.10 If the Equipment or the existing equipment is altered or moved by any person (including the CLIENT) other than SIEMENS or a person authorized by SIEMENS, the CLIENT shall immediately notify SIEMENS in writing, and SIEMENS reserves the right to perform a reacceptance test on, or if necessary a re-commissioning of, the system at the CLIENT's expense in order to determine if a Material Change has occurred.

4.11 SIEMENS will have no liability or obligation to continue providing PASP Services or any Guaranteed Savings under the Performance Guarantee in the event that the CLIENT fails to:

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- (a) Authorize a re-acceptance test or re-commissioning that SIEMENS reasonably deems necessary in order to determine if a Material Change has occurred;
- (b) Provide access on reasonable terms and conditions to any Facility where Work is to be performed;
- (c) Service and maintain all Equipment in accordance with the manufacturers' recommendations in order to prevent a Savings Shortfall; or,
- (d) Provide SIEMENS with accurate Facility operating information as soon as such information becomes reasonably available to the CLIENT, including energy usage and cost, executed preventive maintenance and repair records, building or equipment additions, and occupancy levels during each Annual Period.

4.12 Unless expressly contrary to Applicable Law, should the CLIENT decide to discontinue the PASP before the end of the Performance Guarantee Period, the CLIENT will give SIEMENS thirty (30) days prior written notice and in such notice indicate that the CLIENT has selected one of the following:

- (a) The CLIENT will re-invest the avoided cost of cancellation of the PASP into Facility improvements and services that improve the overall Facility's performance and which improvements and services are implemented by SIEMENS; or,
- (b) The CLIENT will pay to SIEMENS 25% of the remaining value left in the PASP Annual Period, as a liquidated damage and not as a penalty, to compensate SIEMENS for SIEMENS' up-front costs and expenses in preparing to perform the PASP as contracted for the Annual Period.

4.13 Unless expressly contrary to Applicable Law, any disputes concerning the calculation of the Annual Realized Savings or changes to the Contracted Baseline that are not resolved by negotiation between the Parties within thirty (30) days of the notice of the dispute, will be resolved by a third-party professional engineering firm which is reasonably acceptable to both SIEMENS and the CLIENT. The determination of such firm will be final and binding upon CLIENT and SIEMENS. SIEMENS and the CLIENT will each be responsible for half of the fees of such firm.

Article 5

Work by SIEMENS

- 5.1 SIEMENS will perform the Work expressly described in this Agreement and in any work release documents or change orders that are issued under this Agreement and signed by both Parties. The Work performed by SIEMENS shall be performed in accordance with Applicable Law and with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.
- 5.2 SIEMENS shall perform the Work during its normal hours, Monday through Friday inclusive, excluding CLIENT holidays or office closures, unless otherwise agreed herein. The CLIENT shall provide SIEMENS with 7-days advance written notice of any scheduled office closures. The CLIENT shall make the Facility available so Work may proceed in an efficient manner.
- 5.3 SIEMENS is not required to conduct safety, reacceptance or other tests, install new devices or equipment or make modifications to any Equipment unless expressly made a part of the Work identified in the Scope of Work and Services, Exhibit A. Any CLIENT request to change the scope or the nature of the Work or Services must be in the form of a mutually agreed change order, effective only when executed by the Parties.
- 5.4 All Work Product Deliverables shall become the CLIENT's property upon receipt by CLIENT. SIEMENS may retain file copies of such Work Product Deliverables. If any Instruments are provided to the CLIENT under this Agreement, any such Instruments shall remain SIEMENS' property, including the Intellectual Property conceived or developed by SIEMENS in the Instruments. All SIEMENS' Pre-existing Intellectual Property that may be included in the Deliverables provided to the CLIENT under this Agreement shall also remain SIEMENS property including the SIEMENS Preexisting Intellectual Property included in the Work Product Deliverables. All Work Product Deliverables and any Instruments provided to the CLIENT are for Permitted Users' use and only for the purposes disclosed to SIEMENS. SIEMENS hereby grants the CLIENT a royalty-free (once payments due under this Agreement are paid to SIEMENS), non-transferable, perpetual, nonexclusive license to use any SIEMENS Pre-existing Intellectual Property solely as

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incorporated into the Deliverables and SIEMENS' Intellectual Property as incorporated into any Instruments provided to the CLIENT under this Agreement. Under such license, and following agreement to be bound to such separate confidentiality provisions that may exist between the Parties, Permitted Users shall have a right to:

- (a) Use, in object code form only, the Software Products included in the Deliverables ("Software Deliverables");
- (b) Make and retain archival and emergency copies of such Software Deliverables (subject to any confidentiality provisions) except if the Software Deliverable is embedded in the Equipment; and,
- (c) Use all such Deliverables and such Instruments, provided however, the Deliverables and Instruments shall not be used or relied upon by any parties other than Permitted Users, and such use shall be limited to the particular project and location for which the Deliverables are provided. All Deliverables provided to the CLIENT are for Permitted Users' use only for the purposes disclosed to SIEMENS, and the CLIENT shall not transfer them to others or use them or permit them to be used for any extension of the Work or any other project or purpose, without SIEMENS' express written consent.

5.4.1 Any reuse of such Deliverables or such Instruments for other projects or locations without the written consent of SIEMENS, or use by any party other than Permitted Users will be at Permitted Users' risk and without liability to SIEMENS; and, the CLIENT shall indemnify, defend and hold SIEMENS harmless from any claims, losses or damages arising therefrom.

5.4.2 In consideration of such license, CLIENT agrees not to reverse engineer any Equipment or Software Product to reconstruct or discover any source code, object code, firmware, underlying ideas, or algorithms of such Equipment or Software Product even to the extent such restriction is allowable under Applicable Law.

5.4.3 Nothing contained in this Agreement shall be interpreted or construed to convey to the CLIENT the pre-existing Intellectual Property rights of any third party incorporated into the Deliverables. CLIENT agrees to take delivery of any Software Deliverables subject to any applicable SIEMENS or third party end-user license agreement accompanying such Software Deliverable.

5.5 SIEMENS shall be responsible for any portion of the Work performed by any subcontractor of SIEMENS. SIEMENS shall not have any responsibility, duty or authority to direct, supervise or oversee any contractor of the CLIENT or their work or to provide the means, methods or sequence of their work or to stop their work. SIEMENS' work and/or presence at the Facility shall not relieve others of their responsibility to the CLIENT or to others.

5.6 SIEMENS warrants that:

- (a) Unless otherwise agreed, all Equipment shall be new and of good quality. Until one year from the date the Equipment is installed, all Equipment manufactured by SIEMENS or bearing its nameplate will be free from defects in material and workmanship arising from normal use and service.
- (b) Labor for all Work, excluding PASP or MSP Services, is warranted to be free from defects in workmanship for one year after the Work is performed. PASP Services and MSP Services are warranted to be free from defects in workmanship for ninety (90) days after the Services are performed.

5.7 Warranty Limitation:

- (a) The limited warranties set forth in Section 5.6 will be void as to, and shall not apply to, any Equipment (i) repaired, altered or improperly installed by any person other than SIEMENS or its authorized representative; (ii) which the CLIENT or a third party subjects to unreasonable or improper use or storage, uses beyond rated conditions, operates other than per SIEMENS or the manufacturer's instructions, or otherwise subjects to improper maintenance, negligence or accident; (iii) damaged because of any use of the Equipment after the CLIENT has, or should have had, knowledge of any defect in the Equipment; or (iv) not manufactured, fabricated and assembled by SIEMENS or not bearing SIEMENS nameplate. However, SIEMENS assigns to the CLIENT, without recourse, any and all assignable warranties available from any manufacturer, supplier, or subcontractor of such Equipment.
- (b) Any claim under the limited warranty granted above must be made in writing to SIEMENS within thirty (30) days after discovery of the claimed defect unless discovered directly by SIEMENS. Such limited warranty only extends to the CLIENT and not to any subsequent owner of the Equipment. The CLIENT's sole and exclusive remedy for any Equipment or Services not conforming with this limited warranty is limited to, at SIEMENS' option: (i) repair or

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replacement of defective components of covered Equipment; (ii) re-performance of the defective portion of the Services; or (iii) to the extent previously paid and itemized, the issuance of a credit or refund for the original purchase price of such defective component or portion of the Equipment or Services.

- (c) SIEMENS shall not be required to repair or replace more than the component(s) of the Equipment or the portion of the Work and Services actually found to be defective. SIEMENS' warranty liability shall not exceed
- (d) the purchase price of such item. Repaired or replaced Equipment or Services will be warranted hereunder only for the remaining portion of the original warranty period.

5.8 THE EXPRESS LIMITED WARRANTIES PROVIDED ABOVE ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED. THE LIMITED EXPRESS WARRANTIES AND REPRESENTATIONS SET FORTH IN THIS AGREEMENT MAY ONLY BE MODIFIED OR SUPPLEMENTED IN A WRITING EXECUTED BY A DULY AUTHORIZED SIGNATORY OF EACH PARTY.

5.9 SIEMENS will not be responsible for the maintenance, repair or replacement of, or Services necessitated by reason of:

- (a) Non-maintainable, non-replaceable or obsolete parts of the Equipment, including but not limited to: ductwork, shell and tubes, heat exchangers, coils, unit cabinets, casings, refractory material, electrical wiring, water and pneumatic piping, structural supports, cooling tower fill, slats and basins, etc., unless covered by the warranty provisions herein or otherwise specifically stated herein; or
- (b) The CLIENT's or a third-party's negligence, abuse, misuse, improper or inadequate repairs or modifications, improper operation, lack of operator maintenance or skill, corrosion, erosion, improper or inadequate water treatment, electrolytic action, chemical action, failure to comply with manufacturer's operating and environmental requirements, Acts of God, or other reasons beyond SIEMENS' control. Unless expressly agreed in writing, SIEMENS is not responsible for the removal or reinstallation of replacement valves, dampers, or waterflow and tamper switches with respect to pipes and ductwork, including vent or drain system. SIEMENS ASSUMES NO RESPONSIBILITY FOR ANY SERVICE PERFORMED ON ANY EQUIPMENT OTHER THAN THAT PERFORMED BY SIEMENS OR ITS AGENTS.

Article 6

CLIENT Responsibilities

6.1 The CLIENT, without cost to SIEMENS, shall:

- (a) Designate a contact person with authority to make decisions for the CLIENT regarding the Work and provide SIEMENS with information sufficient to contact such person in an emergency;
- (b) Coordinate the work of contractors under CLIENT's sole control so as not to disrupt the Work and Services proceeding in an efficient manner;
- (c) Provide or arrange for 24 hour, 7 day per week access and make all reasonable provisions for SIEMENS to enter any Facility where Work is to be performed so that Work may proceed in an efficient manner;
- (d) Permit SIEMENS to control and/or operate all building controls, systems, apparatus, equipment and machinery necessary to perform the Work;
- (e) Furnish SIEMENS with blueprints, surveys, legal descriptions, waste management plans and all other available information pertinent to the Work and any Facility where the Work is to be performed as may be reasonably requested by SIEMENS. Such plans and blueprints, along with an executed copy of this Agreement, with its Exhibits, shall be kept and maintained in CLIENT's files for a period of fifteen (15) years from the Effective Contract Date;
- (f) Furnish SIEMENS with all approvals, permits and consents from government authorities and others as may be required for performance of the Work, except for those SIEMENS has expressly agreed in writing to obtain;
- (g) In accordance with Article 11 hereof, promptly notify SIEMENS of all known or suspected Hazardous Materials at the Facility, of any contamination of the Facility by Oil or Hazardous Material, and of any other conditions requiring special care or which may reasonably be expected to affect the Work, and provide SIEMENS with

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any available documents describing the quantity, nature, location and extent of such materials, contamination or conditions;

- (h) Comply with Applicable Law and provide any notices required to be given to any government authorities in connection with the Work, except such notices SIEMENS has expressly agreed in writing to give;
- (i) Provide SIEMENS with legally required materials and information (including but not limited to Material Safety Data Sheets) related to all Hazardous Materials located at any Facility where the Work is to be performed;
- (j) Furnish SIEMENS with any contingency plans, safety programs and other policies, plans or programs related to any Facility where the Work is to be performed;
- (k) Operate, service and maintain all Equipment according to the manufacturer's recommendations including those set forth in the manufacturer's operating manuals or instructions, as well as all requirements of Applicable Law or of authorities having jurisdiction. The CLIENT shall furnish all needed servicing and parts for said FIMs, which parts shall become part of the FIMs. Such Equipment shall be operated only in the specified operating environment, which shall be supplied by the CLIENT, including without limitation: (1) suitable electrical service, including clean, stable, properly conditioned power, to all Equipment; (2) telephone lines, capacity and connectivity as required by such Equipment; and (3) heat, light, air conditioning or other environmental controls, and other utilities in accordance with the specifications for the Equipment;
- (l) Promptly notify SIEMENS of any unusual operating conditions, hours of usage, system malfunctions, installed equipment or building alterations that may affect the Equipment or energy usage or any Services; and,
- (m) If applicable, provide and pay for a dedicated voice grade dial-up phone line, or a mutually agreed communication method, and install a terminal block, or an equivalent communication mechanism, in a mutually agreed upon location. All on-line service Equipment (excluding the phone line) will remain the property of SIEMENS unless otherwise stated herein.

6.2 Unless contrary to Applicable Law, the CLIENT acknowledges that the technical information contained in this Agreement is confidential and proprietary to SIEMENS and agrees not to disclose it or otherwise make it available to others without SIEMENS' express written consent. If CLIENT receives a request under Applicable Law to inspect such information, it shall notify SIEMENS and provide SIEMENS with an opportunity to obtain a court order limiting the disclosure of such information. SIEMENS shall defend, indemnify and hold CLIENT harmless from any third party challenge to such disclosure or non-disclosure.

6.3 The CLIENT acknowledges that it is now and shall at all times remain in control of the Facility. Except as expressly provided herein, SIEMENS shall not be responsible for the adequacy of the health or safety programs or precautions related to the CLIENT's activities or operations, the CLIENT's other contractor(s), the work of any other person or entity, or Facility conditions. SIEMENS shall not be responsible for inspecting, observing, reporting or correcting health or safety conditions or deficiencies of the CLIENT or others at the Facility. So as not to discourage SIEMENS from voluntarily addressing health or safety issues while at the Facility, in the event SIEMENS does address such issues by making observations, reports, suggestions or otherwise, the CLIENT shall not hold, or attempt to hold, SIEMENS liable or responsible on account thereof.

Article 7

Changes and Delays

7.1 Reserved.

7.2 Either party may request additions, deletions, modifications or changes to the Work. Any such requests shall only become effective upon execution of a written agreement by authorized representatives of both Parties.

7.3 SIEMENS may, in its reasonable discretion with notice to CLIENT, substitute alternative parts, goods or equipment in the performance of the Work, provided that any such substitution shall be of an equal or better quality.

7.4 SIEMENS shall not be responsible for loss, delay, injury, damage or failure of performance that may be caused by circumstances beyond its control, including but not restricted to acts or omissions by the CLIENT or its employees, agents or contractors, Acts of God, war, civil commotion, acts or omissions of government authorities, fire, theft, corrosion, flood, water damage, lightning, freeze-ups, strikes, lockouts and difference with workmen affecting third party employees, riots, explosions not caused by SIEMENS, quarantine restrictions, delays in transportation, or shortage of vehicles, fuel, labor or materials. In the event of such delay or failure, the time for performance shall be

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extended by a period equal to the time lost plus a reasonable recovery period. In the event that delay, injury, damage or failure of performance were caused by acts or omissions of the CLIENT, then SIEMENS' compensation shall be equitably adjusted to compensate for additional costs SIEMENS incurs due to such delay. If any such delay exceeds sixty (60) days, SIEMENS may terminate this Agreement upon three (3) days' notice to the CLIENT and the CLIENT shall promptly pay SIEMENS for the allocable portion of the Work completed. .

Article 8

Compensation

- 8.1 The aggregate amount paid by CLIENT provides for and is solely in consideration of the Scope of Work and Services described in Exhibit A, and is detailed in Exhibit B.
- 8.2 SIEMENS will invoice the CLIENT in accordance with the schedules set forth in Exhibit B. Unless otherwise agreed in writing, invoices are due and payable upon receipt by the CLIENT. If the CLIENT disagrees with any portion of an invoice, it shall notify SIEMENS in writing of the amount in dispute and the reason for its disagreement within 21 days of receipt of the invoice, and shall pay the portion not in dispute.
- 8.3 SIEMENS may suspend or terminate the Work or Services at any time if payment is not received when due. In such event, SIEMENS shall be entitled to compensation for the Work or Services previously performed and for costs reasonably incurred in connection with the suspension or termination.
- 8.4 On amounts not paid within thirty (30) days of invoice date, the CLIENT shall pay interest from invoice date until payment is received at the lesser of 12% per annum or the maximum rate allowed by law. The CLIENT shall reimburse SIEMENS for SIEMENS' costs and expenses (including reasonable attorney and witness fees) incurred for collection under this Agreement.
- 8.5 Except to the extent expressly agreed herein, SIEMENS' fees do not include any taxes, excises, fees, duties or other government charges related to the Work or Services. The CLIENT shall pay such amounts or reimburse SIEMENS for any such amounts SIEMENS pays to the extent such charges are lawfully due and payable by CLIENT and have been paid or incurred by SIEMENS in furtherance thereof. If the CLIENT claims that the Work or Services is subject to a tax exemption or direct payment permit, it shall provide SIEMENS with a valid exemption certificate or permit and, unless specifically prohibited by law, shall indemnify, defend and hold SIEMENS harmless from any taxes, costs and penalties arising out of the use or acceptance of same.
- 8.6 All other work or services requested by the CLIENT, including but not limited to the following, shall be separately billed or surcharged on a time and materials basis:
 - (a) Emergency services, if inspection does not reveal any deficiency covered by the Scope of Work and Services, Exhibit A;
 - (b) Work and/or services performed at times other than during SIEMENS' normal working hours, unless otherwise agreed to in Exhibit A; or
 - (c) Work and/or services performed on equipment not covered by the Scope of Work and Services, Exhibit A.

Article 9

Acceptance

- 9.1 When SIEMENS believes that all or an independent definable phase or portion of the Work is Substantially Complete, SIEMENS will submit a Certificate of Substantial Completion to the CLIENT which shall be subject to the following:
 - (a) If the CLIENT concurs that the described portion of the Work as performed is Substantially Complete, the CLIENT will sign the Certificate of Substantial Completion and return it to SIEMENS;
 - (b) A Certificate of Substantial Completion may include, as an attachment to it, an Outstanding Items List prepared by SIEMENS;
 - (c) If the CLIENT does not concur that the Work is Substantially Complete, then, within fifteen (15) business days of receiving the Certificate of Substantial Completion, the CLIENT shall notify SIEMENS in writing of the reasons it believes the Work is not Substantially Complete;

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- (d) If SIEMENS disagrees with the CLIENT as to whether the Work is Substantially Complete, SIEMENS shall notify the CLIENT of a dispute and such dispute shall be resolved in accordance with Section 9.3 herein;
- (e) If, within fifteen (15) business days of receiving the Certificate of Substantial Completion the CLIENT fails to sign the Certificate, and within the same period the CLIENT's Representative does not deliver to SIEMENS a written notice of the reasons the CLIENT believes that the Work is not Substantially Complete, then in the mutual interests of the Project proceeding in a timely manner, the CLIENT will be deemed to have agreed to, signed and returned the Certificate of Substantial Completion.

9.2 After the CLIENT signs and returns, or is deemed to have signed and returned to SIEMENS all of the Certificates of Substantial Completion relating to the Work, and after SIEMENS corrects and completes all of the items on all of the Outstanding Items Lists, if any, SIEMENS will submit to the CLIENT a Certificate of Final Completion which shall be subject to the following:

- (a) If the CLIENT concurs that all of the items on all of the Outstanding Items Lists have been completed or corrected, the CLIENT will indicate its final acceptance of the Work by signing the Certificate of Final Completion and returning it to SIEMENS;
- (b) If the CLIENT does not concur that all of the items on all of the Outstanding Items Lists have been completed or corrected, then the CLIENT shall, within fifteen(15) business days of receiving the Certificate of Final Completion, identify the items that, it believes, were not completed or corrected;
- (c) If SIEMENS disagrees that the items identified by the CLIENT have not been completed or corrected, SIEMENS shall notify the CLIENT of a dispute and such dispute shall be resolved in accordance with section 9.3 herein;
- (d) If, within fifteen (15) business days of receiving a Certificate of Final Completion, the CLIENT fails to sign that Certificate, and, within the same period the CLIENT's Representative does not deliver to SIEMENS a written notice identifying the items on the Outstanding Items List(s) that, the CLIENT believes, were not completed or corrected, then the CLIENT will be deemed to have agreed to and signed and returned the Certificate of Final Completion.

9.3 Any disputes concerning the Substantial Completion or the Final Completion of the Work will be resolved by submitting the issue to a third party professional engineering firm and which is reasonably acceptable to both SIEMENS and the CLIENT. The determination of this firm with respect to Final Completion or Substantial Completion will be final and binding upon the Parties. SIEMENS and the CLIENT shall share equally the costs or fees for such firm in connection with such dispute resolution process.

Article 10

Insurance and Allocation of Risk

10.1 SIEMENS shall maintain, at SIEMENS' expense, the following insurances while performing the Work and shall add the CLIENT as an "Additional Insured" to each policy that is referenced in subsections (c) through and including (e) hereof:

- (a) Workers' Compensation at the statutory amounts and limits as prescribed by Applicable Law.
- (b) Employer's Liability insurance (and, where applicable, Stop Gap extended protection endorsement) limits of liability shall be:
 - \$1,000,000 per occurrence
 - \$1,000,000 Disease Policy
 - \$1,000,000 Each Employee
- (c) SIEMENS shall carry, in the Occurrence Coverage Form, Comprehensive General Liability or Commercial General Liability, insurance covering SIEMENS' operations and providing insurance for bodily injury and property damage with limits of liability stated below and including coverage for:
 - Products and Completed Operations
 - Contractual Liability insuring the obligations assumed by SIEMENS in this Agreement
 - Broad Form Property Damage (including Completed Operations)
 - Explosion, Collapse and Underground Hazards
 - Personal Injury Liability:

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— Limits of liability shall be \$1,000,000 per occurrence/aggregate

(d) SIEMENS shall carry Automobile Liability Insurance in the Occurrence Coverage Form covering all owned, hired and non-owned automobiles and trucks used by or on behalf of SIEMENS providing insurance for bodily injury liability and property damage liability for the limits of:

- \$1,000,000 per occurrence/aggregate

(e) SIEMENS shall carry Excess Liability Insurance in the Occurrence Coverage Form with limits of:

- \$5,000,000 per occurrence/aggregate

10.2 The CLIENT will either maintain at its own expense, or self-insure for the equivalent risks, property insurance written on a builder's "all-risk" or equivalent policy form in an amount no less than the Price identified in Exhibit B, Article 1.1, plus the value of subsequent modifications and cost of materials supplied or installed by others, on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by SIEMENS, until final payment has been made to SIEMENS or no person or entity other than the CLIENT has an insurable interest in the property, whichever is later. The policy form shall include without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and start-up, rebuilding and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for SIEMENS' services and expenses required as result of such insured loss. If the insurance requires deductibles or retentions, the CLIENT shall pay costs not covered because of such deductibles or retentions. This insurance shall cover portions of the Work off the Facility, and also portions of the Work in transit. Partial occupancy or use shall not commence unless the insurance company providing this insurance has consented to such partial occupancy or use by endorsement for otherwise. The CLIENT shall purchase and maintain boiler and machinery insurance which shall specifically cover such insured objects during installation and until Acceptance by the CLIENT. The insurance required by this section shall include the interests of the CLIENT, SIEMENS, subcontractor and sub-subcontractor in the Work. SIEMENS shall be included as an additional insured on each such insurance coverage. The CLIENT and SIEMENS waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees for damages caused by fire or other causes of loss to the extent covered by the insurance required by this section and for any other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the CLIENT as fiduciary. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged. Insurance certificates shall be furnished upon request.

10.3 Title and risk of loss of materials and Equipment furnished by SIEMENS shall pass to the CLIENT upon their delivery to the Facility, and the CLIENT shall be responsible for protecting them against theft and damage.

10.4 SIEMENS will indemnify the CLIENT from and against losses, claims, expenses and damages (including reasonable attorney's fees) for personal injury or physical damage to property (collectively "Damages"). Such indemnification shall be solely to the extent the Damages are caused by or arise directly from SIEMENS or its employees', consultants' or agents' negligent acts or omissions or willful misconduct in connection with SIEMENS' performance of the Work or Services. SIEMENS' obligations under this indemnity shall not extend to Damages arising out of or in any way attributable to the negligence of the CLIENT or its agents, contractors or employees. SIEMENS reserves the right to control the defense and settlement of any claim for which SIEMENS has an obligation to indemnify hereunder.

10.5 UNLESS CONTRARY TO APPLICABLE LAW, IN NO EVENT SHALL THE CLIENT OR SIEMENS BE LIABLE UNDER THIS AGREEMENT FOR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING COMMERCIAL LOSS, LOSS OF USE, OR LOST PROFITS, HOWEVER CAUSED, EVEN IF SIEMENS OR THE CLIENT HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND, IN ANY EVENT, UNLESS CONTRARY TO APPLICABLE LAW, SIEMENS' AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS, LOSSES OR EXPENSES ARISING OUT OF THIS AGREEMENT, OR OUT OF ANY GOODS OR

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SERVICES FURNISHED UNDER THIS AGREEMENT, WHETHER BASED IN CONTRACT, NEGLIGENCE, STRICT LIABILITY, AGENCY, WARRANTY, TRESPASS, OR ANY OTHER THEORY OF LIABILITY, SHALL BE LIMITED TO THE TOTAL COMPENSATION RECEIVED BY SIEMENS FROM THE CLIENT UNDER THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS ON LIABILITY SET FORTH IN THIS SECTION SHALL NOT APPLY TO SIEMENS' INDEMNITY OBLIGATIONS UNDER SECTION 10.4. IN ADDITION, THE PRECEDING LIMIT SHALL NOT APPLY TO THE CLIENT'S REMEDY UNDER THE PERFORMANCE GUARANTEE AS SUCH IS LIMITED BY SECTION 4.8

10.6 As to Patents and Copyrights:

- (a) SIEMENS will, at its own expense, defend or at its option settle any suit or proceeding brought against the CLIENT in so far as it is based on an allegation that any Work (including parts thereof), or use thereof for its intended purpose, constitutes an infringement of any United States patent or copyright, if SIEMENS is promptly provided notice and given authority, information, and assistance in a timely manner for the defense of said suit or proceeding. SIEMENS will pay the damages and costs awarded in any suit or proceeding so defended. SIEMENS will not be responsible for any settlement of such suit or proceeding made without its prior written consent. In case the Work, or any part thereof, as a result of any suit or proceeding so defended is held to constitute infringement or its use by the CLIENT is enjoined, SIEMENS will, at its option and its own expense, either: (i) procure for the CLIENT the right to continue using said Work; (ii) replace it with substantially equivalent non-infringing Work; or (iii) modify the Work so it becomes non-infringing.
- (b) SIEMENS will have no duty or obligation to the CLIENT under Section 10.6(a) to the extent that the Work is: (i) supplied according to the CLIENT's design or instructions, wherein compliance therewith has caused SIEMENS to deviate from its normal course of performance; (ii) modified by the CLIENT or its contractors after delivery; or, (iii) combined by the CLIENT or its contractors with items not furnished hereunder, and by reason of said design, instruction, modification, or combination, a suit is brought against the CLIENT. If by reason of such design, instruction, modification or combination, a suit or proceeding is brought against SIEMENS, unless expressly prohibited by law, the CLIENT shall protect SIEMENS in the same manner and to the same extent that SIEMENS has agreed to protect the CLIENT under the provisions of Section 10.6(a) above.
- (c) THIS SECTION 10.6 IS AN EXCLUSIVE STATEMENT OF ALL THE DUTIES OF THE PARTIES RELATING TO PATENTS AND COPYRIGHTS, AND DIRECT OR CONTRIBUTORY PATENT OR COPYRIGHT AND OF ALL THE REMEDIES OF THE CLIENT RELATING TO ANY CLAIMS, SUITS, OR PROCEEDINGS INVOLVING PATENTS AND COPYRIGHTS. Compliance with Section 10.6 as provided herein shall constitute fulfillment of all liabilities of the Parties under the Agreement with respect to the intellectual property indemnification.

10.7 The Parties acknowledge that the price for which SIEMENS has agreed to perform the Work and obligations under this Agreement was calculated based upon the foregoing allocations of risk, and that each Party has expressly relied on and would not have entered into this Agreement but for such allocations of risk.

Article 11

Hazardous Materials Provisions

11.1 The Work does not include directly or indirectly performing or arranging for the detection, testing, handling, storage, removal, treatment, transportation, disposal, monitoring, abatement or remediation of any contamination of any Facility at which Work is performed and any soil or groundwater at the Facility by petroleum or petroleum products (collectively called "Oil"), asbestos, PCBs or hazardous, toxic, radioactive or infectious substances, including any substances regulated under RCRA, CERCLA or any other Applicable Law (collectively called "Hazardous Materials"), including without limitation: ionization smoke detectors, ballasts, mercury bulb thermostats, used oil, contaminated filters, contaminated absorbents, and refrigerant. Except as expressly disclosed pursuant to Section 11.2, the CLIENT represents and warrants that, to the best of its knowledge following due inquiry, there are no Hazardous Materials or Oil present where the Work is to be performed. SIEMENS will notify the CLIENT immediately if it discovers or reasonably suspects the presence of any previously undisclosed Oil or Hazardous Material. All Services have been priced and agreed to by SIEMENS in reliance on the CLIENT's representations as set forth in this Article. The discovery or reasonable suspicion of Hazardous Materials or hazardous conditions at a Facility where SIEMENS is to perform Work, or of contamination of the Facility by Oil or Hazardous Materials not previously disclosed pursuant to Section 11.2, shall

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entitle SIEMENS to suspend the Work immediately, subject to mutual agreement of terms and conditions applicable to any further Work, or to terminate the Work and to be paid for Work previously performed.

- 11.2 The CLIENT warrants that, prior to the execution of the Agreement, it notified SIEMENS in writing of any and all Oil or Hazardous Materials, to the best of its knowledge following due inquiry, known to be present, potentially present or likely to become present at the Facility and provided a copy of any Facility safety policies and information, including but not limited to lock-out and tag procedures, chemical hygiene plan, material safety data sheets, and other items covered or required to be disclosed or maintained by Applicable Law.
- 11.3 Regardless of whether Oil or Hazardous Material was disclosed pursuant to Section 11.2, the CLIENT shall be solely responsible for properly testing, abating, encapsulating, removing, disposing, remedying or neutralizing such Oil or Hazardous Materials, and for the costs thereof. Even if an appropriate change order has been entered into pursuant to Section 11.1, SIEMENS shall have the right to stop the Work until the Facility is free from Oil or Hazardous Materials. In such event, SIEMENS will receive an equitable extension of time to complete the Work, and compensation for delays caused by Oil or Hazardous Materials remediation. In no event shall SIEMENS be required or construed to take title, ownership or responsibility for such Oil or Hazardous Materials. The CLIENT shall sign any required waste manifests in conformance with all government regulations, listing the CLIENT as the generator of the waste. If someone other than the CLIENT is the generator of the waste, the CLIENT shall arrange for such other person to sign such manifests.
- 11.4 Except where expressly prohibited by Applicable Law, for separate consideration of \$10 and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the CLIENT shall indemnify, defend and hold SIEMENS harmless from and against any damages, losses, costs, liabilities or expenses (including attorneys' fees) arising out of any Oil or Hazardous Materials or from the CLIENT's breach of, or failure to perform its obligations under this Article.
- 11.5 For purposes of this Article 11, in the context of the phrase "to the best of its knowledge following due inquiry"; "knowledge" means actual awareness of the facts by the CLIENT's directors, officers, employees or agents, or the presence of relevant information contained in the CLIENT's books or records; and, "due inquiry" means inquiry of those persons under the CLIENT's control who should have knowledge of the subject matter of such inquiry.
- 11.6 Notwithstanding any other provision of this Agreement, or any exhibit attached hereto, any Hazardous Materials release or violation of Applicable Law related to Hazardous Materials caused by the negligence or willful misconduct of SIEMENS in conducting the Work or Services shall be the responsibility of SIEMENS, and shall be excluded from the CLIENT's indemnification obligations contained in Section 11.4 above.

Article 12

Miscellaneous Provisions

- 12.1 Notices between the Parties shall be in writing and shall be hand-delivered or sent by certified mail, express courier, or acknowledged telefax properly addressed to the appropriate party. Any such notice shall be deemed to have been received when delivered in-person or when sent by telefax, or five (5) business days subsequent to deposit in the U.S. mails, or one (1) day after deposit with express courier.
- 12.2 Neither the CLIENT nor SIEMENS shall assign or transfer any rights or obligations under this Agreement, except that either party may assign this Agreement to its affiliates and SIEMENS may use subcontractors in the performance of the Work or Services. Nothing contained in this Agreement shall be construed to give any rights or benefits to anyone other than the CLIENT and SIEMENS without the express written consent of both Parties.
- 12.3 This Agreement shall be governed by and construed in accordance with the laws of the state or commonwealth within which the Facilities are located. Venue shall be in the San Luis Obispo Superior Court or federal Central District of California.
- 12.4 This Agreement and all provisions of this Agreement allocating responsibility or liability between the Parties shall survive the completion of the Work, the Services, and the termination of this Agreement.
- 12.5 SIEMENS' performance of the Work and Services is expressly conditioned on the Parties assenting to all of the terms of this Agreement, notwithstanding any different or additional terms contained in any writing at any time submitted or to be submitted by a Party to the other Party relating to the Work or Services, even if signed by the Parties, unless the written statement expressly indicates that such terms supersede the terms of this Agreement.

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- 12.6 Any provision of this Agreement found to be invalid, unlawful or unenforceable by a court of law shall be ineffective to the extent of such invalidity, and deemed severed herefrom, without invalidating the remainder of this Agreement. All other provisions hereof shall remain in full force and effect.
- 12.7 The waiver by a party of any breach by the other party of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach hereof. No waiver shall operate or be effective unless made in writing and executed by the party to be bound thereby.
- 12.8 In the event that Applicable Law or the CLIENT requires that SIEMENS procure a performance bond and/or a payment bond, SIEMENS shall provide a performance and payment bond in the amount of \$2,342,118 . The performance and payment bond will solely apply to the Work performed during the Construction Period and to the required statutory lien filing period thereafter. The performance and payment bond will not apply to any of the obligations included in the Performance Assurance, Exhibit C. Furthermore, the CLIENT's funding source may be named as "Co-Obligee" on the performance bond if so requested by the CLIENT.

Article 13

Maintenance Services Program

- 13.1 If applicable, the scope of Services provided by SIEMENS for the Maintenance Services Program is stated in Exhibit A.
- 13.2 The CLIENT represents that all equipment not installed by SIEMENS under this Agreement and subject to a MSP is in satisfactory working condition. SIEMENS will have inspected all such equipment within the first thirty (30) days of MSP commencement or no later than the first scheduled inspection. Testing and inspection will not be deemed to be complete until all such equipment has been so tested and inspected.
- 13.3 If the equipment is altered or moved by any person, including the CLIENT, other than SIEMENS or a person authorized by SIEMENS, the CLIENT shall immediately notify SIEMENS in writing, and SIEMENS reserves the right to perform a reacceptance test on, or if necessary a re-commissioning of, the system at the CLIENT's expense. In equipment is altered or moved as a result of an emergency caused by SIEMENS, SIEMENS shall be responsible for the cost of any reacceptance test on, or if necessary a re-commissioning of, the system.
- 13.4 If SIEMENS reasonably determines as a result of such inspection and/or testing that any equipment requires repair or replacement, the CLIENT will be so notified and shall take corrective action within thirty (30) days, or such equipment shall be removed from coverage hereunder without further action by the Parties. SIEMENS is not liable or responsible for the continued testing, maintenance, repair, replacement or operating capabilities of any portion of the equipment until it has been inspected and/or tested and has been, if necessary, restored to an acceptable initial condition at the CLIENT's sole expense. Any services provided by SIEMENS in the course of such restoration will be separately charged on a time and materials basis, and not included in fees paid hereunder.
- 13.5 If the MSP scope of Services provides for equipment maintenance, repairs and/or replacements of equipment by SIEMENS, those Services are limited to restoring the proper working condition of such equipment. SIEMENS will not be obligated to provide replacement equipment that represents significant capital improvement compared to the original. Exchanged components become the property of SIEMENS, except Hazardous Materials, which under all circumstances remain the property and responsibility of the CLIENT.

Article 1: Scope of Work

1.1 *Description:* Except as otherwise expressly provided herein, SIEMENS shall provide each and every item of cost and expense necessary for: implementation of the FIMS described in Section 1.2, below. Work will be based on California Prevailing wage requirements. CLIENT to provide adequate site access and appropriate area on site for contractor staging and storage.

1.2 *Specific Elements:* The Work shall include the following:

1.2.1 Lighting Upgrade: Replace with LED Equivalents

SIEMENS will:

1. Coordinate with PG&E prior to installation for rebate pre-inspection if required.
2. Provide lighting upgrades as shown in Appendix 1.
 - a) Remove and dispose of existing Compact Fluorescent, Incandescent, High Pressure Sodium (HPS) and Metal Halide lamps (MH).
 - b) Furnish and install new LED equivalent lamps and ballasts as shown in Appendix 1.
 - c) Fixture replacements limited to those specifically shown in Appendix 1.
3. Lighting upgrades will occur at the following locations.

Facility	Address
City Hall / Library	1000 Spring St, Paso Robles, CA 93446
Public Safety Building (Police and Fire)	900 Park St, Paso Robles, CA 93446
Centennial Gym/Admin Building	600 Nickerson Dr, Paso Robles, CA 93446
Senior Center	270 Scott St, Paso Robles, CA 93446

4. Work to be installed in accordance with applicable Title 24 requirements.
5. Work to be performed during normal business hours Monday thru Friday.

1.2.1.1 Areas with Low Light Levels

SIEMENS' work is based on the lighting retrofits as shown in Appendix 1. Some areas may currently have existing low light levels, and which after the Appendix 1 retrofits may still not meet necessary lighting standards. Regarding areas where lighting may not meet necessary lighting standards:

1. SIEMENS will walk with the CLIENT representative to take lighting readings in spaces prior to construction
2. Following the walk-through, spaces which are determined to have low light levels will be flagged in the SIEMENS audit document (Appendix 1)

3. For these and other such areas identified during construction, SIEMENS will communicate to the CLIENT, and provide recommendations for addressing light level issues
4. SIEMENS will provide pricing for the recommended additional work on a time and material basis
5. Following construction, post lighting levels will also be documented in conjunction with the CLIENT representative
6. CLIENT has elected to self-implement maintenance. Therefore SIEMENS shall not perform any on-going maintenance services, although the Parties may negotiate a separate agreement for such services at a later date.

Exclusions:

- 1 Since the incentives are paid for by a third party (PG&E), SIEMENS cannot guarantee the incentives, but will provide work necessary in a timely manner to help to secure the funds. The CLIENT acknowledges that: (i) any incentive that may be available to the CLIENT to pay the costs of the work will be granted by a third party outside the control of Siemens; (ii) lack of availability of such incentives shall not relieve the CLIENT of its payment obligations under this Agreement.
- 2 Entire scope was priced as universal voltage (120/277V), 480V fixtures/drivers are not included in the scope.
- 3 Emergency circuits/drivers are not included.
- 4 Additional LED emergency drivers, if needed, will be charged and installed on unit pricing basis.
- 5 Scope assumes 1 for 1 replacement only, any change in layout or unforeseen electrical issues are not included in the scope.
- 6 Siemens scope is limited to replacing the fixtures identified in Appendix 1 or working inside the fixtures identified therein. Correction of any pre-existing defects or non-conformities with the applicable Codes in the electrical wiring to the fixture is not included.
- 7 Standard manufacturer's warranty applies to all specified product.
- 8 Design services i.e. CAD drawings/reflective ceilings plans are not included in the quoted price above.
- 9 Installation of new sensors and calibration of existing sensors is not included.
- 10 Replacement of lenses is not included.
- 11 Any extra or spare parts are not included.
- 12 Overtime work is not included.

1.2.2 Package Unit Replacement – Centennial Gym/Administration Building

SIEMENS will:

1. Demo, remove and dispose of the below existing packaged rooftop HVAC units (including compressor oil and refrigerant per EPA guidelines) serving the Centennial Gym/Administration Building

Mark	Capacity Tons	Type	Existing Make/Model
AC-1	3	Gas Heating/Mech cooling	PAYNE/ 585JJ036100
AC-2	3	Gas Heating/Mech cooling	PAYNE/ 585JP036125
AC-3	3	Gas Heating/Mech cooling	PAYNE/ 585JP036125
AC-4	3	Gas Heating/Mech cooling	PAYNE/ 585HP036100
AC-5	3.5	Gas Heating/Mech cooling	PAYNE/ 585JP042125
AC-6	3	Gas Heating/Mech cooling	PAYNE/ 585JP036125
AC-7	3.5	Gas Heating/Mech cooling	PAYNE/ 585JP042060
AC-8	4	Gas Heating/Mech cooling	PAYNE/ 585HP048080
AC-9	7.5	Gas Heating/Mech cooling	PAYNE/ 585EP090146
AC-10	12.5	Gas Heating/Mech cooling	PAYNE/ 579DP150231
AC-11	15	Gas Heating/Mech cooling	PAYNE/ 579DP180270
AC-12	15	Gas Heating/Mech cooling	PAYNE/ 579DP180270
AC-13	15	Gas Heating/Mech cooling	PAYNE/ 579DP180270
AC-14	15	Gas Heating/Mech cooling	PAYNE/ 579DP180270
AC-15	5	Gas Heating/Mech cooling	PAYNE/ 585HP060100
AC-16	3	Gas Heating/Mech cooling	PAYNE/ 585HE036060
AC-17	3	Gas Heating/Mech cooling	PAYNE/ 585HE036060
AC-18	3	Gas Heating/Mech cooling	PAYNE/ 585HE036060

Furnish and install the new Carrier packaged rooftop HVAC replacement units ("New Units") or equivalent, with the same size as existing units. New units to be of equal or lesser weight than existing.

2. The New Units shall consist of:
 - a. Three (3) units - Nominal 3 Ton Gas Heat/Elec Cooling Pkg RTU, 460/3, 60HZ, 1200 CFM
 - b. Five (5) units - Nominal 3 Ton Gas Heat/Elec Cooling Pkg RTU, Med Heat, 460/3, 60HZ, 1200 CFM
 - c. Three (3) units - Nominal 4 Ton Gas Heat/Elec Cooling Pkg RTU, 460/3, 60HZ, 1600 CFM

- d. One (1) unit - Nominal 5 Ton Gas Heat/Elec Cooling Pkg RTU, 460/3, 60HZ , 2000 CFM
 - e. One (1) unit - Nominal 7.5 Ton Gas Heat/Elec Cooling Pkg RTU, 460/3, 60HZ , 3000 CFM
 - f. One (1) unit - Nominal 12.5 Ton Gas Heat/Elec Cooling Pkg RTU, 460/3, 60HZ , 5000 CFM
 - g. One (4) unit - Nominal 15 Ton Gas Heat/Elec Cooling Pkg RTU, 460/3, 60HZ , 6000 CFM
3. Duct Sealing:
- a. Siemens proposes to complete the duct sealing of exterior sheet metal exposed on the roof in a manner recommended by the manufacturer and the practices and standards of the industry at the following locations
 - Gymnasium – Over Gymnastic Area (3 Units)
 - Administration Offices and Common Area (1 unit)
 - Administration and Banquet Rooms (10 Units)
- 4. Reconnect existing electrical power, gas piping, supply/return ductwork, condensate piping to New Units.
 - 5. Furnish and install p-traps for condensate piping. Route condensate piping to nearest roof drain.
 - 6. Furnish and install supply and return duct transitions above roof line for New Units as needed.
 - 7. Furnish and install new NEMA-3R fused disconnect switches for the New Units.
 - 8. Provide commissioning/start-up for the New Units.
 - 9. Receive, unload and properly store New Units and required material at job site prior to installation.
 - 10. Provide air flow measurements at unit discharge only and verify that it meets existing airflows. Provide operational training on Equipment.

Exclusions:

- 1. ADA upgrades not specifically listed in this scope of work
- 2. Removal or installation of fire life safety equipment. SIEMENS will coordinate with clients consultant for any work related to SIEMENS work.
- 3. Major structural work such as reinforcing of structural members below the roof line was not anticipated during the development of this project and is excluded from the cost of the project.
- 4. SIEMENS is not responsible for clearance requirements.
- 5. Remediating asbestos, lead paint, mold or any other Hazardous Material that is not specifically identified as part of the scope is expressly excluded. All

abatement work, unless required as a result of SIEMENS failure to properly complete its scope of work, shall be performed by the CLIENT, as may be applicable. All hazardous areas are assumed to have been tagged.

6. Painting and patching
7. Repair of any faulty or non-code wiring
8. No test and air balance beyond measurement at the unit discharge is included.
9. No premium time hours included
10. No repair or replacement of existing duct work
11. Siemens is not responsible for remedying any preexisting comfort conditions due to undersizing of existing equipment. Siemens scope assumes that the units are adequately sized for current loads to maintain comfort conditions, and no additional load calculations were performed.
12. Siemens is not responsible for remedying any existing duct leaking issues in the building.
13. Repair of any damaged structural membranes caused by water or any other unknown damage to existing members is not included.
14. All work related to the insulation inside the duct work is not included.

1.2.3 Boiler Replacement – City Hall/Library

SIEMENS will:

1. Coordinate with Sempra prior to installation for rebate pre-inspection if required.
2. Dismantle and remove (1) existing boiler from site, haul away and dispose.

Mark	Type	BTU/HR Output	BTU/HR Input	Existing Make/Model/Serial Number	Proposed Make/Model/Serial Number
B-1	Gas Fired Water Heater Boiler	680,000	850,000	AJAX/ WG-850/ 85761	Lochinvar CHN 0752 or equivalent

3. Provide and install new boiler to match existing capacity meeting applicable codes.
4. Modify existing concrete pad as/if needed per requirements of new boiler.
5. Provide and install new disconnect and connect to existing electrical service.
6. Connect to existing outgoing and incoming piping, pumps, gas lines and condensate lines.
7. Provide for start-up and commissioning of new equipment.
8. Work to be installed in accordance with applicable Title 24 requirements.

- 9. Work to be performed during normal business hours.

Exclusions:

- 1 Provisions for temporary heating are not included.
- 2 Provisions for temporary power are not included.
- 3 Since the incentives are paid for by a third party (Sempra), SIEMENS cannot guarantee the incentives, but will provide work necessary in a timely manner to help to secure the funds. The CLIENT acknowledges that (i) any incentive that may be available to the CLIENT to pay the costs of the work will be granted by a third party outside the control of SIEMENS; and (ii) lack of availability of such incentives shall not relieve the CLIENT of its payment obligations under this Agreement.
- 4 Remediating asbestos, lead paint, mold or any other Hazardous Material that is not specifically identified as part of the scope is expressly excluded. All abatement work, unless required as a result of SIEMENS failure to properly complete its scope of work, shall be performed by the CLIENT, as may be applicable. All hazardous areas are assumed to have been tagged.
- 5 Repair of any faulty or non-code wiring or remedying any existing defective piping.
- 6 No premium time hours included
- 7 Connections to existing fire/smoke alarm system or removal and installation of fire life safety equipment are not included. SIEMENS will coordinate with clients consultant for any work related to SIEMENS work.
- 8 Siemens is not responsible for remedying any preexisting comfort conditions due to undersizing of existing equipment. Siemens scope assumes that the units are adequately sized for current loads to maintain comfort conditions, and no additional load calculations were performed.

1.2.4 Hot Water Pump Replacement – Public Safety Building

SIEMENS will:

- 1. Dismantle and remove (1) existing non-operating hot water pump from site, haul away and dispose.

Mark	HP
P-3 (non operating pump)	3

- 2. Provide and install new hot water pump matching existing motor size and flow rate.
- 3. Mechanically install pumps meeting applicable codes.
- 4. Connect to existing electrical service and provide new disconnects
- 5. Provide start-up and commissioning of new pump.
- 6. Work to be done during regular hours.

Exclusions:

1. Provisions for temporary heating are not included.
2. Provisions for temporary power are not included.
3. Remediating asbestos, lead paint, mold or any other Hazardous Material that is not specifically identified as part of the scope is expressly excluded. All abatement work, unless required as a result of SIEMENS failure to properly complete its scope of work, shall be performed by the CLIENT, as may be applicable. All hazardous areas are assumed to have been tagged.
4. Repair of any faulty or non-code wiring or remedying any existing defective piping.
5. No premium time hours included
6. Connections to existing fire/smoke alarm system or removal and installation of fire life safety equipment are not included. SIEMENS will coordinate with clients consultant for any work related to SIEMENS work.
7. SIEMENS is not responsible for remedying any preexisting comfort conditions due to undersizing of existing equipment. Siemens scope assumes that the pumps are adequately sized for current loads to maintain comfort conditions, and no additional sizing calculations were performed.

1.2.5 Chiller Replacement – Public Safety Building

SIEMENS will:

1. Dismantle and remove (1) existing chiller from site, haul away and dispose.

Mark	Type	Capacity Ton	Existing Make/Model	Proposed Make/Model
CH-1	Reciprocating Air Cooled Chiller	100	McQuay/ AGR100AS27- ER10	Daikin AGZ100E or equivalent

2. Provide and install new chiller to match existing capacity meeting applicable codes.
3. Modify existing concrete pad as/if needed per requirements of new chiller.
4. Connect to existing supply and return piping.
5. Provide and install new disconnect and connect to existing electrical service .
6. Start up and commissioning of new chiller.
7. Work to be installed in accordance with applicable Title 24 requirements.
8. Work to be performed during normal business hours.

Exclusions:

- 1 Provisions for temporary cooling are not included.
- 2 Provisions for temporary power are not included.

- 3 Since the incentives are paid for by a third party (PG&E), SIEMENS cannot guarantee the incentives, but will provide work necessary in a timely manner to help to secure the funds. The CLIENT acknowledges that: (i) any incentive that may be available to the CLIENT to pay the costs of the work will be granted by a third party outside the control of SIEMENS; and (ii) lack of availability of such incentives shall not relieve the CLIENT of its payment obligations under this Agreement. Remediating asbestos, lead paint, mold or any other Hazardous Material that is not specifically identified as part of the scope is expressly excluded. All abatement work, unless required as a result of SIEMENS failure to properly complete its scope of work, shall be performed by the CLIENT, as may be applicable. All hazardous areas are assumed to have been tagged.
- 4 Repair of any faulty or non-code wiring not included.
- 5 No premium time hours included.
- 6 Connections to existing fire/smoke alarm system are not included.
- 7 SIEMENS is not responsible for remedying any preexisting comfort conditions due to undersizing of existing equipment. Siemens scope assumes that the chillers are adequately sized for current loads to maintain comfort conditions, and no additional sizing calculations were performed.
- 8 Connections to existing fire/smoke alarm system or removal and installation of fire life safety equipment are not included. SIEMENS will coordinate with clients consultant for any work related to SIEMENS work.

1.2.6 Evaporcool on the Chillers at City Hall and Public Safety Building

Siemens will furnish Evaporcool frames and controller equipment on the chillers at the City Hall and Public Safety Building.

- 1 Coordinate with PG&E prior to installation for rebate pre-inspection if required.
- 2 Furnish magnetic mounting of Engineered Pre-Cooler Media Frames on the inlet face of condenser coils on the existing chiller at City Hall and on new proposed chiller at Public Safety Building.
- 3 Furnish magnetic mounting of a designated Wireless Communicating Controller with associated Sensors on the existing chiller at City Hall and on new proposed chiller at Public Safety Building
- 4 Furnish wiring of the Controller Power Supply Transformer and Fuse Block kit on both the chillers
- 5 Furnish Magnetic mounting and wiring of Water Solenoid Valves on each designated chillers
- 6 Provide controller commissioning and startup
- 7 Provide and install system Water Boost Pump and electrical service to the pump.
- 8 Provide and install Water Treatment System required for Evaporcool
- 9 Provide and install Nylon Water Tubing and Fittings to Evaporcool Media Frame Solenoid Valves and Media Frames

- 10 Provide operational training on Equipment.

Exclusions:

- 1 Provisions for temporary cooling are not included.
- 2 Provisions for temporary power are not included.
- 3 Since the incentives are paid for by a third party (PG&E), SIEMENS cannot guarantee the incentives, but will provide work necessary in a timely manner to help to secure the funds. The CLIENT acknowledges that: (i)any incentive that may be available to the CLIENT to pay the costs of the work will be granted by a third party outside the control of SIEMENS; and (ii) lack of availability of such incentives shall not relieve the CLIENT of its payment obligations under this Agreement. No premium time hours included.
- 4 Connections to existing fire/smoke alarm system are not included.
- 5 Ongoing operation and maintenance of Evaporcool components not included.

1.2.7 Plug Load Management

SIEMENS will:

- 1. Coordinate with PG&E prior to installation for rebate pre-inspection if required.
- 2. Provide Bert smart plugs for the equipment as shown in Appendix 2.
 - a) Bert Control automatically turns off loads during nights, weekends and holidays when buildings are unoccupied based on the schedule provided by the City.
 - b) Bert Smart plugs limited to the equipment specifically shown in Appendix 2.
- 3. Plug load management will occur at the following locations.

Facility	Address
City Hall / Library	1000 Spring St, Paso Robles, CA 93446
Public Safety Building (Police and Fire)	900 Park St, Paso Robles, CA 93446
Centennial Gym/Admin Building	600 Nickerson Dr, Paso Robles, CA 93446
Senior Center	270 Scott St, Paso Robles, CA 93446

- 4. Tie communications to the Siemens controls system for monitoring and alerts
- 5. Work to be installed in accordance with applicable Title 24 requirements.
- 6. Work to be performed during normal business hours.

Exclusions:

- 1 Since the incentives are paid for by a third party (PG&E), SIEMENS cannot guarantee the incentives, but will provide work necessary in a timely manner to help to secure the funds. The CLIENT acknowledges that: (i)any incentive that may be available to the CLIENT to pay the costs of the work will be granted by a third party outside the control of S; and (ii) lack of availability of such incentives shall not relieve the CLIENT of its payment obligations under this Agreement.
- 2 No premium time hours included.

1.2.8 Install New Siemens DESIGO Control System

SIEMENS will:

1. Siemens DESIGO server will be installed on existing workstation at City Hall/Library. The city will have unlimited client licenses to install at Public Safety Building, Centennial Gym and Senior Center.
2. Network IP address to be furnished by city IT for each location at City Hall/Library, Public Safety Building, Centennial Gym and Senior Center.
3. Integrate the following points in to the Siemens controls system
 - DDC Controls and monitoring for the following at the City Hall/Library:
 - (2) Air Handling Units
 - Damper Actuators
 - Valve Actuators
 - Temperature Sensors
 - Smoke Alarm
 - Differential Pressure Sensor
 - (3) Air Conditioning Units
 - Thermostat
 - Duct Temperature Sensor
 - (38) Variable Air Volume Boxes
 - Controller
 - Belimo Valve
 - Room Temperature Sensor
 - Damper Actuator
 - (1) Boiler
 - BACnet Interface
 - Outdoor Temperature Sensor
 - (1) Hot Water Pump
 - Start/Stop/Status
 - (1) Booster Pump
 - Start/Stop/Status
 - (1) Chiller
 - BACnet Interface
 - Temperature Sensors

- (2) Chilled Water Pump
 - Start/Stop Status
 - (1) Evaporative Cooler
 - BACnet Interface
 - DDC Controls and monitoring for the following at the Public Safety Building:
 - (34) Fan Coil Units
 - Controller
 - Belimo Valve Actuator
 - Room Temperature Sensor
 - (8) Fan Coil Units
 - Controller
 - Belimo Valve Actuator
 - Room Temperature Sensor
 - DX Cooling
 - (1) Boiler
 - BACnet Interface
 - Outdoor Temperature Sensor
 - (2) Hot Water Pumps
 - Start/Stop/Status
 - (1) Chiller
 - BACnet Interface
 - Temperature Sensors
 - (2) Chilled Water Pumps
 - Start/Stop/Status
 - (1) Evaporative Cooler
 - BACnet Interface
 - DDC controls and monitoring for the following at Centennial Gym/Administration Building:
 - (18) Rooftop A/C Units
 - Thermostat
 - DDC controls and monitoring for the following at Senior Center:
 - (7) Furnaces with condensing unit
 - Thermostat
4. Siemens to provide Submittals, as-built/O&M drawings for controls, system start-up and commissioning.
 5. All work will be performed during normal working hours.
 6. Siemens to provide commissioning of added new DDC control points only.
 7. Low voltage wiring to be in plenum
 8. Server and Client License will be issued.
 9. Provide demo of existing pneumatic controllers, piping and devices
 10. Provide engineering, programming, project management, testing, start-up and check-out
 11. Siemens to provide damper actuators for control dampers only
 12. Provide design software and graphics on the systems listed above.

Exclusions

- 1 Contacts to be monitored are assumed to be located at the equipment controlled and readily accessible for connection to our system.
 - 2 Dampers of any kind including fire/smoke & smoke dampers are excluded in this scope of work.
 - 3 End switches for fire/smoke & smoke dampers are not included.
 - 4 No test and air balance is included as part of the Controls scope
 - 5 Duct smoke detectors, their installation or wiring, includes fan shut down

 - 6 Connections to existing fire/smoke alarm system or removal and installation of fire life safety equipment are not included. SIEMENS will coordinate with client's fire life safety consultant for any work related to SIEMENS work.
 - 7 Any wiring not part of BMS such as but not limited to local thermostats, Interlocks, & controls, water filter, water treatment, fuel oil, generator, domestic water, or plumbing systems, light switch controls for exhaust fans
 - 8 Hubs, routers to Ethernet connection
 - 9 Non BMS equipment such as gauges, valves, PRV's, & thermometers, etc.
 - 10 Cutting, patching, roof penetrations, & restoration of surfaces
- 1.3 *Technical Specifications, Drawings, and Exhibits:* The Work shall be performed in accordance with the following specifications, drawings and other attachments hereto, which are specifically incorporated herein and made part hereof:
- 1.3.1 Appendix 1 : Building by Building Lighting Audit
- 1.3.2 Appendix 2 : Building by Building Plug Load Audit
- 1.4 CLIENT'S Responsibilities (in addition to those in Article 6 of the Agreement):
- The Client will provide a representative for all facilities to coordinate work.
 - Client will provide access to any area that contains equipment to be measured and/or verified.
 - Client to provide unlimited site access during construction.

1.5

Article 2: Work Implementation Period

2.1 Commencement of Work (select **one**):

- 2.1.1 SIEMENS shall commence the Work on _____, 20__, and shall perform the Work diligently and shall complete the Work per the construction schedule to be provided post contract execution.

or,

- 2.1.1 SIEMENS shall commence the Work 45 calendar days from the Effective Contract Date, and shall perform the Work diligently and shall complete the Work no later than 300 calendar days from the day of commencement.

Article 3: Scope of Services-Performance Assurance Services Program

3.1 SIEMENS will manage the Performance Guarantee consistent with the Agreement and Exhibit C. SIEMENS will provide an Annual Performance Assurance Report ninety (90) days after the end of each Annual Period.

Article 4: Scope of Services-Maintenance Services Program

(Please check one box only)

- CLIENT has elected to self-implement maintenance. Therefore SIEMENS shall not perform any on-going maintenance services, although the Parties may negotiate a separate agreement for such services at a later date. CLIENT agrees that it will maintain the equipment per manufacturer specifications and that it will operate the Equipment in accordance with the Contracted Baseline described in Article 7 of Exhibit C. If CLIENT fails to properly maintain or operate the Equipment, SIEMENS shall have the right to modify the Performance Guarantee pursuant to Article 4 of the Agreement.
- The follow consists of the Services to be performed by SIEMENS:

By signing below, this Exhibit is attached to and made a part of the Agreement between SIEMENS and the CLIENT.

CLIENT: **City of Paso Robles**
Signature: _____
Printed Name: Thomas Frutchey
 Title: City Manager
Date: _____

SIEMENS: **Siemens Industry, Inc.**
Signature: _____
Printed Name: _____
 Title: _____
Date: _____

Signature: _____
Printed Name: _____
 Title: _____
Date: _____

Article 1: Payment for Scope of Work

- 1.1 **Price:** As full consideration of the Work as described in Exhibit A, Article 1: Scope of Work, the CLIENT shall pay to SIEMENS \$2,342,118 (plus taxes, if applicable).
- 1.2 **Escrow:** The CLIENT has agreed to deposit the Price into an Escrow Account at a financial institution satisfactory to both the CLIENT and SIEMENS pursuant to the terms of that certain Master Lease Purchase Agreement to be entered into between CLIENT and Siemens Public, Inc.. All expenses to establish the Escrow Account shall be the complete responsibility of the CLIENT and the CLIENT will receive all interest earnings from the Escrow Account. SIEMENS will submit periodic invoices to the CLIENT based on the Payment Schedule in Table B.1 below. The CLIENT shall be responsible for submitting the necessary documents to the Escrow Agent to allow for timely disbursements from the Escrow Account. The funding of the Escrow Account in an amount equal to or greater than the Price stated in Article 1.1 above shall be a condition precedent to SIEMENS obligation to perform or to continue the performance of the Work. If the Escrow Account is not funded within 30 days of the execution of this Agreement, this Agreement shall be null and void. This 30 day funding period may be extended as mutually agreed in writing by the Parties. In the event that the Agreement becomes null and void as described in this paragraph and CLIENT has previously authorized SIEMENS to proceed with the Work, the CLIENT shall be obligated to reimburse SIEMENS either: (i) for the Work performed to date; or (ii) for the Work specifically authorized by the CLIENT.
- 1.3 **Timely Payments:** The CLIENT agrees to pay SIEMENS per Table B.1 below. CLIENT agrees to pay all invoices submitted by SIEMENS per Article 8 of the Agreement.

Table B.1 – FIM Work Payment Schedule

Project Phase	Payments (\$)	Payments (%)	Schedule
Project Development/Mobilization	\$585,529.50	25%	Contract Execution
Project Installation	\$1,639,482.60	70%	Monthly Progress Payments
Project Retention	\$117,105.90	5%	Project Completion
PROJECT TOTAL:	\$2,342,118.00	100%	

Article 1 of Exhibit B is attached to and made a part of the Agreement between SIEMENS and the CLIENT.

CLIENT: City of Paso Robles
Signature: _____
Printed Name: _____
Title: _____
Date: _____

SIEMENS: Siemens Industry, Inc.
Signature: _____
Printed Name: _____
Title: _____
Date: _____

Signature: _____
Printed Name: _____
Title: _____
Date: _____

Article 2: Payment for Performance Assurance Services Program (PASP)

- 2.1 **Price:** As full consideration of the Services as described in Exhibit A, Article 3, the CLIENT shall pay to SIEMENS the amounts identified in Table B.2 plus taxes, if applicable, on the dates identified therein.
- 2.2 **Performance Assurance Services Program Term:** The term of the PASP shall commence on the Guarantee Date and shall extend for either: (a) the term of the Performance Guarantee Period where multi-year obligations are allowed; or (b) for twelve (12) month periods corresponding to the term of each Annual Period.
- 2.3 **Automatic Renewal:** Where the PASP term is limited to an Annual Period, the PASP shall automatically renew for successive Annual Periods beginning on the anniversary date of Guarantee Date. Either party may request to amend the PASP at the end of an Annual Period by giving the other party at least sixty (60) days prior written notice of such amendments and such amendment shall be mutually negotiated by the Parties and effective upon a written amendment signed by both Parties prior to commencement of the next Annual Period. Each automatic renewal shall be and remain subject to the terms and conditions of this Agreement. SIEMENS obligations under the Performance Guarantee are dependent upon and subject to the express condition that the CLIENT maintains the PASP during the entire Performance Guarantee Period.
- 2.4 **Termination:** See Section 4.7 of the Agreement.

Table B.2 – Performance Assurance Program Payment Schedule

Date	Annual Payments (\$)	Notes
Annual Period 1	\$15,000	M&V for the project
Annual Period 2	\$15,300	M&V for the project
Annual Period 3	\$15,606	M&V for the project
Annual Period 4	\$15,918	M&V for the project
Annual Period 5	\$16,236	M&V for the project
Annual Period 6	\$16,561	M&V for the project
Annual Period 7	\$16,892	M&V for the project
Annual Period 8	\$17,230	M&V for the project
Annual Period 9	\$17,575	M&V for the project
Annual Period 10	\$17,926	M&V for the project
Annual Period 11	\$18,285	M&V for the project
Annual Period 12	\$18,651	M&V for the project
Annual Period 13	\$19,024	M&V for the project
Annual Period 14	\$19,404	M&V for the project
Annual Period 15	\$19,792	M&V for the project

Article 2 of Exhibit B is attached to and made a part of the Agreement between SIEMENS and the CLIENT.

CLIENT: **City of Paso Robles**
Signature: _____
Printed Name: _____
 Title: _____
 Date: _____

SIEMENS: **Siemens Industry, Inc.**
Signature: _____
Printed Name: _____
 Title: _____
 Date: _____

Signature: _____
Printed Name: _____
 Title: _____
 Date: _____

The following Articles and Tables are hereby included and made part of this Exhibit C:

Article 1: Summary of Articles and Total Guaranteed Savings

- Article 1 Summary of Articles and Total Guaranteed Savings
- Article 2 Measurement and Verification Options
- Article 3 Performance Guarantee Period Responsibilities of CLIENT
- Article 4 Measurement and Verification Plan
- Article 5 Baseline Utility Data
- Article 6 Utility and Escalation Rates
- Article 7 Contracted Baseline Data

Table 1.1 – Total Guaranteed Savings (Units)

Performance Period	Electric Energy Saved (kWh)	Electric Power Saved (kW)	Natural Gas Saved (Therms)
Construction	297,974	N/A	N/A
Annual Period 1	689,605	214	7,289

1.1 Only Annual Period 1 is shown as the energy/utility unit Savings will remain constant for each Annual Period of the Performance Guarantee Period as the CLIENT will operate the Facility in accordance with the Contracted Baseline identified in Article 7.

Table 1.2 – Total Guaranteed Savings (Cost)

Performance Period	Energy/Utility Savings	Operational Savings & Avoided Capital Costs	Total Savings
Construction	\$50,000	N/A	\$50,000
Annual Period 1	\$123,838	\$54,690	\$178,528
Annual Period 2	\$130,045	\$54,831	\$184,876
Annual Period 3	\$136,564	\$54,976	\$191,540
Annual Period 4	\$143,408	\$55,125	\$198,533
Annual Period 5	\$150,594	\$55,279	\$205,873
Annual Period 6	\$158,140	\$55,437	\$213,577
Annual Period 7	\$166,062	\$55,600	\$221,662
Annual Period 8	\$174,381	\$55,768	\$230,149
Annual Period 9	\$183,116	\$55,941	\$239,057
Annual Period 10	\$192,288	\$56,119	\$248,407
Annual Period 11	\$201,919	\$56,303	\$258,222
Annual Period 12	\$212,030	\$56,492	\$268,522
Annual Period 13	\$222,648	\$56,687	\$279,335
Annual Period 14	\$233,796	\$56,887	\$290,683
Annual Period 15	\$245,502	\$57,094	\$302,596
TOTALS	\$2,724,331	\$837,229	\$3,561,560

1.2 Table 1.2 shows the CLIENT'S guaranteed cost Savings for each Annual Period that are extrapolated from the guaranteed energy/utility unit Savings shown in Table 1.1 by multiplying the energy/utility Savings by the Baseline energy/utility rates including the stipulated Escalation Rates found in Article 6.

- 1.3 SIEMENS cannot and does not predict fluctuations in utility rates or the cost of energy. Therefore, the CLIENT and SIEMENS agree that the energy/utility cost Savings for each Annual Period will be calculated by multiplying the verified units of energy/utility Savings by the Annual Period's stipulated energy/utility rate and Escalation Rates and not the Annual Period's actual utility rate.
- 1.4 The determination of energy/utility Savings will follow current best practice, as defined in the IPMVP, or the FEMP Guidelines where required, unless otherwise agreed to by the Parties.
- 1.5 The Performance Guarantee does not operate to guarantee the Savings per-FIM. Rather, the calculation of Savings is based on aggregate performance of all of the FIMs contained in the Project. The projected value of such aggregate performance is contained in Table 1.2 above representing the Total Guaranteed Savings as monetized.

This Exhibit C, comprising nineteen (19) pages, is attached to and made a part of the Agreement between SIEMENS and the CLIENT.

CLIENT: City of Paso Robles
 Signature: _____
 Printed Name: _____
 Title: _____
 Date: _____

SIEMENS: Siemens Industry, Inc.
 Signature: _____
 Printed Name: _____
 Title: _____
 Date: _____

Signature: _____
 Printed Name: _____
 Title: _____
 Date: _____

Article 2: Measurement and Verification Options

2.1 Measurement and Verification Options: There are five measurement and verification options to measure and verify energy/utility Savings: Option A - Retrofit Isolation: Key Parameter Measurement; Option B - Retrofit Isolation: All Parameter Measurement; Option C - Whole Facility; and, Option D – Calibrated Simulation. Options A through and including D are part of the IPMVP. Option E- Stipulated is based on industry accepted engineering standards and is the Option used for purposes of calculating Operational Savings.

Option A - Retrofit Isolation: Key Parameter Measurement. Savings are determined by field measurement of the key performance parameter(s) which define the energy use of the FIM's affected system(s) and/or the success of the Project. Measurement frequency ranges from short-term to continuous, depending on the expected variations in the measured parameter and the length of the reporting period. Parameters not selected for field measurement are estimated. Estimates can be based on historical data, manufacturer's specifications, or engineering judgment. Documentation of the source or justification of the estimated parameter is required. The plausible savings error arising from estimation rather than measurement is evaluated. If applicable, the predetermined schedule for data collection, evaluation, and reporting is defined in Exhibit A, Article 3-Performance Assurance Services Program.

Option B – Retrofit Isolation: All Parameter Measurement. Savings are determined by field measurement of energy use of the FIM-affected system. Measurement frequency ranges from short-term to continuous, depending on the expected variations in the savings and the length of the reporting period. If applicable, the predetermined schedule for data collection, evaluation, and reporting is defined in Exhibit A, Article 3-Performance Assurance Services Program.

Option C - Whole Facility: Savings are determined by measuring energy use at the whole Facility or sub-Facility level. Continuous measurements of the entire Facility's energy use are taken throughout the reporting period. If applicable, the predetermined schedule for data collection, evaluation, and reporting is defined in Exhibit A, Article 3-Performance Assurance Services Program.

Option D - Calibrated Simulation: Savings are determined through simulation of the energy use of the whole Facility, or of a sub-Facility. Simulation routines are demonstrated to adequately model actual energy performance measured in the Facility. This Option usually requires considerable skill in calibrated simulation. If applicable, the predetermined schedule for data collection, evaluation, and reporting is defined in Exhibit A, Article 3-Performance Assurance Services Program.

Option E – Stipulated: This Option is the method of measurement and verification applicable to FIMS consisting either of Operational Savings or where the end use capacity or operational efficiency; demand, energy consumption or power level; or manufacturer's measurements, industry standard efficiencies or operating hours are known in advance, and used in a calculation or analysis method that will stipulate the outcome. Both CLIENT and SIEMENS agree to the stipulated inputs and outcome(s) of the analysis methodology. Based on the established analytical methodology the Savings stipulated will be achieved upon completion of the FIM and no further

measurements or calculations will be performed during the Performance Guarantee Period. If applicable, the methodology and calculations to establish Savings value will be defined in Section 4.6 of this Exhibit C.

2.2 Table 2.1 below summarizes the first Annual Period’s Guaranteed Savings (See Article 1, Tables 1.1 and 1.2) utilizing the applicable Measurement and Verification Options as applied to the referenced FIMs valued pursuant to the agreed upon rates identified in Article 6 hereof.

Table 2.1 – Savings for First Annual Period by Option

FIM	Energy/Utility Savings \$						Operational Savings \$	Total Savings \$
	Measurement and Verification Options						E Stipulated	
	A Retrofit Isolation: Key Parameter Measurement	B Retrofit Isolation: All Parameter Measurement	C Whole Facility	D Calibrated Simulation	E Stipulated	Total Energy/Utility Savings		
Lighting Upgrade	\$73,394					\$73,394		\$73,394
Package Unit Replacements					\$25,119	\$25,119	4,690	\$29,809
Boiler Replacement					\$645	\$645		\$645
Hot Water Pump Replacement								
Chiller Replacement					\$4,366	\$4,366		\$4,366
“Evaporcool” on Chillers					\$5,663	\$5,663		\$5,663
Plug Load Management					\$1,205	\$1,205		\$1,205
New Siemens “DESIGO” Controls System					\$13,446	\$13,446		\$13,446
TOTALS	\$73,394				\$50,444	\$123,838	\$4,690	\$128,528

2.3 Table 2.2 identifies the source of Operational Savings and Avoided Capital Costs defined and quantified by the Parties. The Parties affirm that such amounts are Stipulated Savings for purposes of calculating Annual Realized Savings and acknowledge that the Guaranteed Savings identified herein have been based on CLIENT’S affirmation. **OPERATIONAL SAVINGS SHALL NOT BE MEASURED OR MONITORED DURING THE PERFORMANCE GUARANTEE PERIOD.**

Table 2.2 - Source of Operational Savings & Avoided Capital Costs

Account/Vendor	Description	Annual Cost \$	# of Annual Periods Savings Are Applied	Annual Period Savings Begin	Escalation Rate
City of Paso Robles	Interior and Exterior Lighting material replacements (Lamp, Ballasts and recycling maintenance cost reductions)	\$4,690.00	15	1	3%
City of Paso Robles	Avoided budgeted capital expenditures for lighting/HVAC equipment replacement over the next 15 years	\$50,000.00	15	1	0%

- 2.4 SIEMENS has explained to the CLIENT and the CLIENT has satisfied itself as to how Operational Savings and Avoided Capital Costs are incorporated into the Annual Realized Savings.
- 2.4 2.5 The Escalation Rate as shown in Table 2.2 is applicable to the Operational Savings

BY SIGNING BELOW, THE PARTIES CONFIRM THAT THEY HAVE REVIEWED THE INCLUDED MEASUREMENT AND VERIFICATION OPTIONS AND THEIR APPLICATION TO BE USED IN CALCULATING SAVINGS UNDER THE AGREEMENT.

CLIENT: City of Paso Robles
 Signature: _____
 Printed Name: _____
 Title: _____
 Date: _____

SIEMENS: Siemens Industry, Inc.
 Signature: _____
 Printed Name: _____
 Title: _____
 Date: _____

Signature: _____
 Printed Name: _____
 Title: _____
 Date: _____

Article 3: Performance Guarantee Period Responsibilities of the CLIENT

In addition to the CLIENT'S responsibilities under Article 6 of the Agreement, this Article details the responsibilities of the CLIENT in connection with the management and administration of the Performance Guarantee.

- 3.1 The CLIENT will provide a representative at each Facility to coordinate work and provide required data described below.
- 3.2 The CLIENT will provide SIEMENS with accurate Facility operating information as defined below and in the Contracted Baseline article of this Exhibit C during each Annual Period, within thirty (30) days of any Material Change that may increase or decrease energy usage.
- 3.3 If applicable, the CLIENT will provide SIEMENS with copies of utility bills within thirty (30) days of receipt by the CLIENT or provide access to utility vendor information to allow SIEMENS to include a utility bill analysis in the Annual Performance Assurance Report. The utility bill analysis does not take the place of the Measurement and Verification Plan identified in Article 4 of this Exhibit C and is not used to measure the Project's performance.
- 3.4 If required for the Work, CLIENT will provide telephone/data remote access, through SIEMENS Insight® software package or otherwise, as SIEMENS reasonably requests. All charges related to telephone/data line installation, activation and communication services are the responsibility of the CLIENT.
- 3.5 If required for the Work, CLIENT will provide and coordinate utility meter upgrade for interface with SIEMENS metering and data collection. All charges related for these upgrades are the responsibility of the CLIENT.

Article 4: Measurement and Verification Plan

The following information is applicable to this Agreement:

- Article 4.1 General Overview
- Article 4.2 Option A - Retrofit Isolation: Key Parameter Measurement
- Article 4.3 Option B - Retrofit Isolation: All Parameter Measurement
- Article 4.4 Option C - Whole Facility
- Article 4.5 Option D - Calibrated Simulation
- Article 4.6 Option E – Stipulated-Energy/Utility Savings

4.1 General Overview

The purpose of the Measurement and Verification (M&V) Plan is to identify the methods, measurements, procedures and tools that will be used to verify savings for each FIM which has energy/utility savings. Savings are determined by comparing prior usage, consumption or efficiencies (defined as the “Baseline”) against the post-FIM implementation usage, consumption or efficiencies respectively. The Baseline utility consumptions are described in this Exhibit C, Article 5. The post-FIM implementation usage, consumption or efficiencies is defined as the Contracted Baseline and are described in this Exhibit C, Article 7.

4.2 Option A - Retrofit Isolation: Key Parameter Measurement

4.2.1 FIM: Lighting Upgrade

Description

Savings generated by this measure shall be based upon one-time pre and post measurements. Energy savings will be calculated by taking wattage measurements of a 5% sample size of fixtures of each major type before and after retrofit. A wattage-per-fixture type will be assigned based on these measurements. Each fixture’s assigned wattage will be used in the lighting survey to calculate actual energy savings. Fixtures with quantities of 50 or higher throughout the facilities are considered to be major fixture types. For the rest of the fixture types, Pacific Gas & Electric (PG&E) wattages will be used. Lighting Burn Hours used in the savings calculations are agreed-upon hours, as shown in the attached calculations.

Calculations

The following formulas are used to determine annual savings:

Existing Lighting Power: [kW_{EX}]

$$((\# \text{ Fixtures})_{EX} \times (\text{Watts} / \text{Fixture})_{EX}) / (1,000 \text{ W/kW}) = \text{kW}_{EX}$$

Proposed Lighting Power: [kW_{PR}]

$$((\# \text{ Fixtures})_{PR} \times (\text{Watts} / \text{Fixture})_{PR}) / (1,000 \text{ W/kW}) = \text{kW}_{PR}$$

Existing Lighting Power Consumption: [kWh_{EX}]

$$(kW_{EX}) \times (\text{Annual Burn Hours}) = kWh_{EX}$$

Proposed Lighting Power Consumption: [kWh_{PR}]

$$(kW_{PR}) \times (\text{Annual Burn Hours}) = kWh_{PR}$$

The following calculations will be performed on a Facility-by-Facility basis:

Annual Lighting Power Savings: [kW_{LGHT}]

$$\Sigma (kW_{EX}) - \Sigma (kW_{PR}) = kW_{LGHT}$$

Annual Lighting Power Consumption Savings: [kWh_{LGHT}]

$$\Sigma (kWh_{EX}) - \Sigma (kWh_{PR}) = kWh_{LGHT}$$

Annual Lighting Power Savings: [kW_{LGHT}]

$$\text{\$ Savings} = kWh_{LGHT} * \text{Electrical Energy Rate (\$/kWh)}$$

Calculations Variables Index

- Burn Hours: Designated, see attached lighting audit sheets
- kW_{EX}: TBD, one-time pre-measurement
- (# of Fixtures)_{EX}: Designated, see attached lighting audit sheets
- \\$/kWh: See Table 6.1, scheduled rate with escalation
- kW_{PR}: TBD, one-time post-measurement
- (# of Fixtures)_{PR}: Designated, see attached lighting audit sheets in Appendix 1

SIEMENS will:

- Identify specific fixtures to be measured and verified, in compliance with this M&V plan
- Provide tools for measurement and verification
- Provide results of measurement and verification to CLIENT.

CLIENT Responsibility

Future lamp and ballast replacements per specifications

Measurement Tools

FLUKE multi meter

4.3 Option B - Retrofit Isolation: All Parameter Measurement (Not Applicable)

4.4 Option C - Whole Facility (Not Applicable)

4.5 Option D – Calibrated Simulation (Not Applicable)

4.6 Option E - Stipulated

4.6.1 FIM: Package Unit Replacements

Overview

Savings were calculated using the following steps:

- Each piece of equipment being replaced was audited for the unit location.
- Unit scheduling information and operating parameters were gathered through a combination of the facility personnel input and survey of the existing programmable thermostats.
- Mechanical, architectural and electrical blueprint data was gathered.
- Baseline Unit efficiency information was estimated based on age of equipment.
- Savings are calculated using bin analysis based on the occupancy information provided by the city personnel and thermostat set points. Manufacturer's published efficiency ratings EER/SEERs are used in the analysis.

M & V Procedure

Both CLIENT and SIEMENS agree to the inputs and assumptions and the analysis methodology. Savings for this measure have been stipulated and are considered satisfied upon completion of construction. No further measurements or calculations will need to be performed. A Measurement and Verification report will be issued to the Client detailing the results of the installation after the first guarantee year.

Cost Savings Calculations

See Appendix 3 for designated HVAC replacement Energy Savings Calculations. Savings are the based on installation of new efficient package units.

Calculations Variables

Run Hours: Designated, as provided by the City

EER-Pre Retrofit: Designated, see Article 7 for details

EER-Post Retrofit: Designated, see Article 7 for details

4.6.2 FIM: Boiler Replacement

Overview

Savings were calculated using the following steps:

- Boiler being replaced was audited for the unit location.
- Unit scheduling information and operating parameters were gathered through a combination of the facility personnel input and existing Johnson Controls system.
- Mechanical, architectural and electrical blueprint data was gathered.
- Baseline Unit efficiency information was estimated based on age of equipment.
- Savings calculations were performed using Trane Trace building simulation software. Savings are based on an annual simulation of the buildings based on input construction, occupancy, thermostat and lighting/equipment use parameters (which were gathered using the steps described above).

M & V Procedure

Both CLIENT and SIEMENS agree to the inputs and assumptions and the analysis methodology. Savings for this measure have been stipulated and are considered satisfied upon completion of construction. No further measurements or calculations will need to be performed. A Measurement and Verification report will be issued to the Client detailing the results of the installation after the first guarantee year.

Cost Savings Calculations

See Appendix 4 for Trane Trace input and output models.

Calculations Variables

Run Hours: Designated, as provided by the City

Pre Retrofit Efficiency: Designated, see Article 7 for details

Post Retrofit Efficiency: Designated, see Article 7 for details

Load Profile, designated, as simulated in the Trane Trace simulation program, based on the input variables shown in Appendix 4

4.6.3 FIM: Hot Water Pump Replacement

There are no savings for this measure as we are replacing a non-operating pump. This pump is a back-up pump to the primary hot water pump.

4.6.4 FIM: Chiller Replacement

Overview

Savings were calculated using the following steps:

- Chiller being replaced was audited for the unit location.
- Unit scheduling information and operating parameters were gathered through a combination of the facility personnel input and existing Johnson Controls system.
- Mechanical, architectural and electrical blueprint data was gathered.
- Baseline Unit efficiency information was estimated based on age of equipment.
- Savings calculations were performed using Trane Trace building simulation software. Savings are based on an annual simulation of the buildings based on input construction, occupancy, thermostat and lighting/equipment use parameters (which were gathered using the steps described above).

M & V Procedure

Both CLIENT and SIEMENS agree to the inputs and assumptions and the analysis methodology. Savings for this measure have been stipulated and are considered satisfied upon completion of construction. No further measurements or calculations will need to be performed. A Measurement and Verification report will be issued to the Client detailing the results of the installation after the first guarantee year.

Cost Savings Calculations

See Appendix 4 for Trane Trace input and output models.

Calculation Variables:

Run Hours: Designated, as provided by the City

Pre Retrofit Efficiency: Designated, see Article 7 for details

Post Retrofit Efficiency: Designated, see Article 7 for details

Load Profile, designated, as simulated in the Trane Trace simulation program, based on the input variables as shown in Appendix 4.

4.6.5 FIM: “Evaporcool” on Chillers

Overview

Savings were calculated using the following steps:

- Each piece of equipment being replaced was audited for the unit location.
- Unit scheduling information and operating parameters were gathered through a combination of the facility personnel input and existing Johnson Controls system.
- Mechanical, architectural and electrical blueprint data was gathered.
- Chiller load calculations were performed using TMY3 data for Paso Robles and calculating the delta T across the Evaporcool frame. Savings are obtained by reducing the energy consumption of the chiller by lowering entering air temperature.

M & V Procedure

Both CLIENT and SIEMENS agree to the inputs and assumptions and the analysis methodology. Savings for this measure have been stipulated and are considered satisfied upon completion of construction. No further measurements or calculations will need to be performed. A Measurement and Verification report will be issued to the Client detailing the results of the installation after the first guarantee year.

Cost Savings Calculations

See Appendix 5 for designated Evaporcool Savings Calculations. Savings are based on installing the Evaporcool frame and reducing the entering air temperature to the chillers.

Calculation Variables

Run Hours: Designated, as provided by the City

Pre Retrofit Efficiency: Designated, see Appendix 5

Post Retrofit Efficiency: Designated, see Appendix 5

Load Profile, designated, as simulated in the Evaporcool calculations, based on the input variables as shown in Appendix 5.

Interaction between the Evaporcool and Chiller retrofit measure was modeled using the post-retrofit chiller efficiency for Evaporcool calculations.

4.6.6 FIM: Plug Load Management

Savings for this measure are due to automatic reduction of operating hours for various “plug load” equipment such as printers, copiers, televisions, coffee makers, vending machines, etc.

Overview

Savings were calculated using the following steps:

- Each piece of equipment being controlled was entered into the Plug Load Audit list (Appendix 2) after being physically audited for location.
- Pre and Post unit scheduling information and operating parameters were gathered through facility personnel input
- Plug load calculations were performed using spreadsheet calculations. Assumed plug load kW consumption was based on standard manufacturer kW.

Measurement & Verification Procedure

Both CLIENT and SIEMENS agree to the inputs and assumptions and the savings calculation methodology. Savings for this measure have been stipulated and are considered satisfied upon completion of construction. No further measurements or calculations will need to be performed. A Measurement and Verification report will be issued to the Client detailing the results of the installation after the first guarantee year.

Cost Savings Calculations

See Appendix 2 for designated plug load calculations.

Calculation Variables:

Pre Retrofit Run Hours: designated, as provided by the Client, see Appendix 2 for details

Post Retrofit Run Hours: designated, as provided by the Client, see Appendix 2

For details

of Plug Load equipment: designated, as provided in Appendix 2

kW: based on the standard equipment wattages

4.6.7 FIM: New Siemens “DESIGO” Controls System

Overview

Savings were calculated using the following steps:

- Each piece of equipment being controlled was audited for the unit location.

- Unit scheduling information and operating parameters were gathered through a combination of the facility personnel input and existing Johnson Controls system.
- Mechanical, architectural and electrical blueprint data was gathered.
- Savings calculations were performed using the Trane Trace building simulation software. Savings are based on an annual simulation of the buildings based on input construction, occupancy, thermostat and lighting/equipment use parameters (which were gathered using the steps described above).

M & V Procedure

Both CLIENT and SIEMENS agree to the inputs and assumptions and the analysis methodology. Savings for this measure have been stipulated and are considered satisfied upon completion of construction. No further measurements or calculations will need to be performed. A Measurement and Verification report will be issued to the Client detailing the results of the installation after the first guarantee year.

Cost Savings Calculations

See Appendix 4 for Trane Trace input and output models. Savings for this measure are due to optimized operation of HVAC systems and equipment as a result of new controls.

Calculation Variables

See Appendix 4 for inputs used in the Trane Trace simulation and Article 7 for contracted baseline parameters.

Article 5: Baseline Utility Data

5.1 The twelve-month baseline periods used as reference for evaluation of the FIMs are from October, 2015 to September, 2016 for electricity and from January, 2015 to December, 2015 for natural gas. Tables 5.1 and 5.2 below show utility consumptions of all facilities in this project scope during baseline periods.

Table 5.1: Baseline Electricity Consumption

Month	City Hall / Library		Public Safety Building (Police and Fire)		Centennial Gym /Admin Building				Senior Center	
	kWh	kW	kWh	kW	Actual		Adjusted		kWh	kW
					kWh	kW	kWh	kW		
Oct-15	49,481	137	54,980	123	17,689	62	20,729	136	3,447	22
Nov-15	49,548	138	53,848	122	17,467	60	21,341	134	3,020	12
Dec-15	40,751	129	53,884	145	14,258	56	23,568	166	3,099	12
Jan-16	46,407	121	53,164	121	13,811	51	32,537	191	3,216	12
Feb-16	50,152	120	54,412	125	15,415	56	39,347	197	3,333	13
Mar-16	49,284	137	56,025	118	29,994	107	57,424	248	3,256	14
Apr-16	53,056	135	52,935	108	29,404	102	59,714	243	3,237	13
May-16	50,393	132	52,866	110	28,572	92	60,125	233	4,648	26
Jun-16	61,757	166	59,002	124	20,140	89	46,465	230	5,444	27
Jul-16	58,983	169	59,195	121	20,457	91	40,921	222	5,238	28
Aug-16	59,696	155	57,644	109	19,861	67	31,285	177	4,646	26
Sep-16	56,068	160	63,955	129	17,420	79	24,939	166	4,535	25
Total	625,576	169	671,910	145	244,488	107	458,395	248	47,119	28

Table 5.2: Baseline Natural Gas Consumption

Month	City Hall / Library		Public Safety Building	Centennial Gym /Admin Building		Senior Center
	Boiler Plant	Rest of Facility	(Police and Fire)	Actual	Adjusted	
	Therms	Therms	Therms	Therms	Therms	Therms
Jan-15	952	412	1,598	2,510	2,630	246
Feb-15	918	280	1,424	2,045	2,166	142
Mar-15	788	189	1,593	1,803	1,817	72
Apr-15	1,056	102	1,224	1,050	1,072	69
May-15	1,009	77	1,268	265	267	51
Jun-15	893	81	1,031	294	294	35
Jul-15	812	8	1,020	491	491	35
Aug-15	752	8	1,053	465	465	33
Sep-15	745	12	1,170	512	517	35
Oct-15	706	83	1,039	537	558	34
Nov-15	1,078	250	1,257	570	631	69
Dec-15	959	1,116	2,630	3,438	3,589	200
Total	10,668	2,618	16,307	13,980	14,499	1,021

Baseline for the Centennial Gym was adjusted and the new baseline will be used as the basis for the energy savings calculation and Measurement and Verification purposes. The details of the baseline adjustment are shown in the table below.

Mark	Capacity Tons	Type	Current Baseline Condition	Adjusted Baseline Condition
AC-1	3	Gas Heating/Mech cooling	Non-Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently Operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-2	3	Gas Heating/Mech cooling	Non-Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-3	3	Gas Heating/Mech cooling	Non-Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-4	3	Gas Heating/Mech cooling	Non – Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently Operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-5	3.5	Gas Heating/Mech cooling	Non – Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-6	3	Gas Heating/Mech cooling	Non – Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-7	3.5	Gas Heating/Mech cooling	Non – Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-8	4	Gas Heating/Mech cooling	Non – Operating. No economizer. Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.7. No economizer. Operating Hrs: M-F: 6AM-5PM
AC-9	7.5	Gas Heating/Mech cooling	Non – Operating. Economizer not working Operating Hrs: M-F: 6AM-5PM	Currently operating with an EER of 7.4. Economizer not working Operating Hrs: M-F: 6AM-5PM
AC-10	12.5	Gas Heating/Mech cooling	Non – Operating. Economizer not working.	Currently operating with an EER of 7.4. Economizer not

			Operating Hrs: M-F: 6AM-5PM	working.. Operating Hrs: M-F: 6AM-5PM
AC-11	15	Gas Heating/Mech cooling	Non – Operating. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	Currently operating with an EER of 7.4. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM
AC-12	15	Gas Heating/Mech cooling	Non – Operating. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	Currently operating with an EER of 7.4. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM
AC-13	15	Gas Heating/Mech cooling	Currently Operating with an EER of 7.4. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	Currently operating with an EER of 7.4. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM
AC-14	15	Gas Heating/Mech cooling	Currently Operating with an EER of 7.4. Economizer not working	Currently operating with an EER of 7.4. Economizer not working
AC-15	5	Gas Heating/Mech cooling	Currently Operating with an EER of 7.7. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	Currently operating with an EER of 7.7. Economizer not working. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM
AC-16	3	Gas Heating/Mech cooling	Currently Operating with an EER of 7.7. No Economizer. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	Currently operating with an EER of 7.7. No Economizer. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM
AC-17	3	Gas Heating/Mech cooling	Currently Operating with an EER of 7.7. No Economizer.	Currently operating with an EER of 7.7. No Economizer. Operating Hrs:

			Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	M-F: 6AM-8PM Sat, Sun: 6AM-5PM
AC-18	3	Gas Heating/Mech cooling	Non – Operating. No Economizer. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM	Currently operating with an EER of 7.4. No Economizer. Operating Hrs: M-F: 6AM-8PM Sat, Sun: 6AM-5PM

5.2 The operating practices during the baseline periods determine the utility consumptions shown in Tables 5.1 and 5.2. This data indicates the operating characteristics that were in effect during the baseline periods. Guaranteed savings are based on Work implemented under this Agreement.

5.3 Applicable codes - Federal, State, County or Municipal codes or regulations are applicable to the use and operation of the Facility. SIEMENS will maintain the current level of Facility compliance relative to applicable codes unless specifically outlined to the contrary below. Unless specifically set forth in the Scope of Work and Services, Exhibit A, nothing herein should be construed as to require SIEMENS to provide additional work or services in the event that the current applicable code or regulation is modified.

- 5.3.1 Current code compliance (identify the applicable code citation):
 - a. California Title 24 (2013 Nonresidential Compliance Manual)

Article 6: Utility and Escalation Rates

6.1 Utility costs used for Savings calculations will be based on the utility rates and rate escalation percentages, as provided in the table below. Each escalation rate will be applied annually to the utility rate.

Facility	Natural Gas (\$/therm)	Electricity Schedule
City Hall / Library		HA10SX
Boiler Plant	\$0.6990	
Rest of Facility	\$0.8369	
Public Safety Building	\$0.6595	HE19SX
Centennial Gym / Admin Building	\$0.6883	HA10SX
Senior Center	\$1.0490	HA1X

The baseline rate schedules HA10SX, HE19SX and HA1X used in the calculations were those prevailing at the time of execution of this contract escalated by 5%. Energy Escalation Rate: 5.0% per Annual Period thereafter

Article 7: Contracted Baseline Data

7.1 In addition to the baseline utility data contained in Article 5, Facility operating parameters used in the savings calculations and agreed to by the CLIENT are required to be implemented on the Guarantee Date or on such time as agreed upon by the Parties. This specific configuration of Facility operating parameters is the Contracted Baseline and failure of the CLIENT to maintain the Contracted Baseline may result in a Material Change which may require a modification of the Performance Guarantee pursuant to Article 4 of the Agreement.

Contracted operating parameters, upon which guaranteed savings for the FIMs are based on, are shown below.

FIM: Lighting Upgrade

Lighting Operating Hours: Included in attached savings calculations in Appendix 1.

FIM: Package Unit Replacements

	Unit Size	Pre-Retrofit EER	Post-Retrofit EER
Centennial Gym/Administration Building	3 Ton Unit	7.7	13.5
	4 Ton Unit	7.7	14.0
	5 Ton Unit	7.7	13.7
	7.5 Ton Unit	7.4	12.0
	12.5 Ton Unit	7.4	12.2
	15Ton Unit	7.4	12.0

Thermostat Setpoints		
Building	Minimum Cooling Setpoints	Maximum Heating Setpoints
All Buildings	72	70

FIM: Boiler Replacement

City Hall/Library	Equipment	Pre-Retrofit Efficiency	Post-Retrofit Efficiency
	Boiler	75%	85%

FIM: Hot Water Pump Replacement

There are no savings associated with this measure.

FIM: Chiller Replacement

Public Safety Building	Equipment	Pre-Retrofit Efficiency	Post-Retrofit Efficiency
	Central Chiller	9.3 EER	10.2 EER

FIM: Plug Load Management

Operating Hours – Plug-Load Equipment: Included in attached savings calculations in Appendix 2.

FIM: New Siemens “DESIGO” Controls System

HVAC Parameters		
Building	Controls Pre-Retrofit	Controls Post-Retrofit
City Hall/Library	AHU-1 Supply Fan VFD on Hand	AHU-1 Supply Fan VFD modulation
	Fixed Static Pressure Set Point for Supply Fan	Reset Static Pressure Set Point
	30% of Belimo Valves Leaking	Replace the leaking Belimo Valves
	Economizer Dampers stuck at 20%	Economizer control based on enthalpy
	No Supply Air Reset. Fixed at 55F	Supply Air Reset with a 10 deg reset based on outside air temperature. Reset from 55F to 65F based on the outside air temperature
	No Hotwater Temp Reset. Fixed at 180F	Reset Hotwater temp based on outside air temperature from 120F to 160F
	No Boiler Lockout based on the outside air temperature	Boiler Lockout if the outside air temperature is 80F
	30% of the dampers (or actuators) at the Zone VAV boxes not working properly	Fixing the 30% zone dampers (or actuators)
	No Chiller Lockout based on outside air temperature	Chiller Lockout below 50F
Equipment not scheduled to turn off during holidays	Equipment will be scheduled to turn off during holidays	
Public Safety Buiding	No Supply Air Reset	Supply Air Reset with a 10 deg reset based on outside air temperature. Reset from 55F to 65F based on the outside air temperature
	No Hotwater Temp Reset. Fixed at 180F	Reset Hotwater temp based on outside air temperature from 120F to 160F
	No Chiller Lockout based on outside air temperature	Chiller Lockout below 50F
	No Boiler Lockout based on outside air temperature	Boiler Lockout if outside air temperature is 80F

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\$2,354,218
Leasing Schedule #280-0006002-001
to Master Lease Purchase Agreement,
both dated June 8, 2017, between the
City of El Paso de Robles, California, as lessee,
and
Siemens Public, Inc., as lessor

Closing Date: June 8, 2017

Closing List

**Document
No.**

1. Master Lease Purchase Agreement.
2. Leasing Schedule #280-0006002-001, with the following exhibits attached:
 - Exhibit A – Description of Equipment.
 - Exhibit B – Lease Payment Schedule
3. Escrow Agreement Relating to Equipment Subject to Leasing Schedule #280-0006002-001, with the following items attached:
 - Schedule 1 – Telephone Numbers and Signatures for Persons Designated to Give and Confirm Funds Transfer Instructions
 - Exhibit A – Form of Requisition Requesting Disbursement.
 - Exhibit B – Arbitrage Investment Instructions.
4. Officer's Certificate, with evidence of authorization from Lessee's governing body attached, including affidavit of publication regarding public hearing.
5. Essential Use/Source of Funds Certificate.
6. Insurance Coverage Requirements, with insurance certificates attached.
7. Opinion of Counsel to Lessee.
8. IRS Form 8038-G.
9. Opinion of Lessee's Special Tax Counsel.
10. Performance Contracting Agreement.
11. UCC Search Results.
12. UCC-1 Financing Statement.
13. Lessee's Payment Instructions.
14. Costs of Issuance Payment Instructions.
15. California Debt and Investment Advisor Commission Filings:
 - A. Report of Proposed Debt Issuance.
 - B. Report of Final Sale.
16. Other Documents Provided by Lessee to Lessor:
 - A. Customer Billing Information Form.
 - B. Form W-9.
 - C. Lessee's Acknowledgment to Letter regarding Lessor's role in transaction.
17. Distribution List.

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SIEMENS PUBLIC, INC.

MASTER LEASE PURCHASE AGREEMENT DATED JUNE 8, 2017

This Master Lease Purchase Agreement (herein "Agreement") is by and between SIEMENS PUBLIC, INC., as lessor ("Lessor"), and CITY OF EL PASO DE ROBLES, CALIFORNIA, as lessee ("Lessee").

1. Master Lease. This Agreement sets forth the basic terms and conditions upon which Lessor shall lease to Lessee and Lessee shall lease from Lessor items of property specified in leasing schedules (herein "Leasing Schedules") to be entered into from time to time. Each Leasing Schedule shall incorporate the terms and conditions of the Agreement and shall constitute a lease as to the property specified in such Leasing Schedule (herein "Equipment"). The term "Lease" as used in the Agreement shall mean the applicable Leasing Schedule as incorporating the terms and conditions of the Agreement. The Agreement shall become effective at the time of Lessor's acceptance (by execution hereof) at its corporate offices, by an authorized representative of Lessor.

2. Term. The lease term of the Equipment (herein "Lease Term") shall commence upon the lease commencement date specified in the Leasing Schedule (herein "Lease Commencement Date") and, unless earlier terminated as expressly provided for in the Lease, shall continue until Lessee has paid and performed in full all of its obligations under the Lease.

3. Acquisition of Equipment. Lessee hereby sells, assigns, transfers and sets over to Lessor, all of its rights, title and interest, but none of its obligations or responsibilities, in and to the purchase or acquisition contract(s) (herein "Purchase Contracts") entered into by and between Lessee and one or more vendors, suppliers or contractors (the "Suppliers") for the acquisition and installation of the Equipment, including, without limitation, all right, title and interest of Lessee in and to the Equipment and all of Lessee's rights and remedies under the Purchase Contracts, and the right either in Lessor's own behalf or in Lessee's name to take all such proceedings, legal equitable or otherwise, that it might take, save for the Lease.

4. Lessee to Act as Agent. Lessor hereby irrevocably appoints Lessee as its agent in connection with the acquisition and installation of the Equipment pursuant to the Purchase Contracts. Lessee, as agent of Lessor, shall cause the acquisition and installation of Equipment to be completed as soon as reasonably practicable and in accordance with the Lease and the Purchase Contract, and any applicable requirements of governmental authorities.

5. Rent. Lessee agrees to pay to Lessor or its assignee the lease payments, including the interest thereon (herein the "Lease Payments") specified in the Leasing Schedule. The Lease Payments shall be payable without notice or demand at the Delaware headquarters of Lessor (or such other place as Lessor or its assignee may from time to time designate in writing) and shall commence as set forth in the Leasing Schedule (each applicable due date, a "Lease Payment Date"), and continue thereafter as specified in the Leasing Schedule. Any Lease Payment or other amount due from Lessee under the Lease (whether prior to or after a Default (as hereinafter defined) and including, without limitation, accelerated balances) that is received later than ten (10) days from the due date shall bear interest from the due date at the lesser of 16% per annum or the highest lawful rate.

Except as specifically provided in Section 8 hereof, Lessee's obligation to pay the Lease Payments is absolute and unconditional in all events and is not subject to any abatement, set-off, defense, counterclaim, or recoupment claim for any reason whatsoever, including without limitation any failure of any of the Equipment to be delivered or installed, any condemnation or loss of or damage to the Equipment, any defect therein or any unfitness or obsolescence thereof.

Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the period beginning with the Lease Commencement Date and ending on the last Lease Payment Date set forth on the Leasing Schedule (the "Maximum Lease Term") and hereby covenants that its staff shall properly request funds from Lessee's governing body from which Lease Payments may be made, including making provision for such payments to the extent necessary in each budget submitted to its governing body for consideration; provided, however, that nothing in the Lease shall be construed to create an indebtedness or commitment of funds other than current revenues of Lessee.

Lease Payments have been calculated based upon the interest portion of the Lease Payments being excludable from gross income for federal, state and local income tax purposes. If, in the opinion of Lessor's counsel, Lessor is no longer entitled to exclude the interest portion of the Lease Payments from its gross income for federal, state and local income tax purposes, Lessor, at Lessor's option, shall recalculate the Lease Payments for the remaining term of the Lease and/or extend the original term of the Lease, as permitted by law, to protect Lessor's originally anticipated after tax yield from the Lease Commencement Date to the end of the Maximum Lease Term. Such recalculations shall be on the basis that the interest portion of the Lease Payments is subject to (a) federal income tax at the highest marginal corporate tax rate and (b) state and local income tax at the highest marginal corporate tax rate or other similar tax rate as may be applicable in each state or locality, as applicable. In

such event, Lessee authorizes Lessor to correct the Leasing Schedule (and all related documentation) to reflect such changes, and Lessee, if requested by Lessor, shall execute an amendment to the Leasing Schedule prepared by Lessor to reflect such changes.

6. Delivery and Acceptance. Lessee, as Lessor's agent, shall cause the Equipment to be delivered to Lessee at the location specified in the Leasing Schedule ("Equipment Location"). Lessee shall pay all transportation and other costs, if any, incurred in connection with delivery of the Equipment. Lessee shall accept the Equipment as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of the Equipment by executing and delivering to Lessor an acceptance certificate in form and substance acceptable to Lessor.

7. Disclaimer of Warranties; Limitation on Liability. Lessee acknowledges and agrees that the Equipment is of a size, design and capacity selected by Lessee, that Lessor is neither a manufacturer nor a vendor of such Equipment, and that LESSOR HAS NOT MADE, AND DOES NOT HEREBY MAKE, ANY REPRESENTATION, WARRANTY OR COVENANT, EXPRESS OR IMPLIED, WITH RESPECT TO THE MERCHANTABILITY, CONDITION, QUALITY, DURABILITY, DESIGN, OPERATION, FITNESS FOR USE, OR SUITABILITY OF THE EQUIPMENT IN ANY RESPECT WHATSOEVER OR IN CONNECTION WITH OR FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION, WARRANTY OR COVENANT OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE (INCLUDING WITHOUT LIMITATION, UNDER ANY THEORY IN TORTS) FOR ANY LOSS OF USE, REVENUE, ANTICIPATED PROFITS OR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE LEASE OR THE USE, PERFORMANCE OR MAINTENANCE OF THE EQUIPMENT. Lessor hereby assigns to Lessee for the Lease Term, so long as no Default has occurred hereunder and is continuing, all manufacturer's warranties held by Lessor, if any, express or implied, with respect to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's expense.

8. Non-Appropriation of Funds. Notwithstanding anything contained in the Lease to the contrary, in the event no funds or insufficient funds are appropriated and budgeted in any fiscal period for Lease Payments or other amounts due under the Lease, the Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts agreed upon in the Lease for which funds shall have been appropriated and budgeted. Lessee shall immediately notify Lessor or its assignee in writing of such occurrence, but failure to give such notice shall not prevent such termination. In the event of such termination, Lessee shall immediately cease all use of the Equipment and shall, at its sole expense and risk, immediately de-install, disassemble, pack, crate, insure, and return the Equipment to Lessor (all in accordance with applicable industry standards) at any location in the continental United States selected by Lessor. The Equipment shall be in the same condition and appearance as when received by Lessee (reasonable wear, tear and depreciation resulting from normal and proper use excepted), shall be in good operating order and maintenance as required by the Lease, shall be free and clear of any liens (except Lessor's lien), and shall comply with all applicable laws and regulations. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of legal and beneficial title to the Equipment to Lessor and to evidence the termination of Lessee's interest in the Equipment. Lessor shall have all legal and equitable rights and remedies to take possession of the Equipment.

9. Lessee Representations and Covenants.

(a) Lessee represents, covenants and warrants that: (i) Lessee is a state or a fully constituted political subdivision or agency of the State of Lessee (as set forth in the Leasing Schedule); (ii) Lessee intends the interest portion of the Lease Payments is excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); (iii) the execution, delivery and performance by Lessee of the Lease and all related documents and instruments executed by Lessee have been duly authorized by all necessary action on the part of Lessee; (iv) Lessee intends that the Lease and all related documents and instruments executed by Lessee constitute legal, valid and binding obligations of Lessee enforceable in accordance with their terms except as limited by state and federal laws, regulations, rulings and court decisions relating to applicable bankruptcy, insolvency, reorganizations, moratoriums or similar laws affecting the enforcement of creditors' rights generally; (v) Lessee shall comply with the information reporting requirements of Section 149(e) of the Code, and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee shall not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee does not intend for the Lease to be a private activity bond within the meaning of Section 141(a) of the Code, and Lessee shall not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee shall not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payments to be or become includable in the gross income of the recipient for federal income taxation purposes under the Code; (ix) Lessee shall be the only entity or person (other than its employees within the scope of their employment) to own, use, manage or operate the Equipment during the Lease Term; (x) no event that constitutes, or with the giving of notice or the lapse of time or both would constitute, a Default exists as of the date hereof; (xi) Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds to make the Lease Payments scheduled to come due for

the current fiscal year and to meet its other obligations for such period, and such funds have not been expended for other purposes and Lessee currently expects that it will fully budget and appropriate sufficient funds to make Lease Payments throughout the Maximum Lease Term (but Lessee retains its right to terminate the Lease pursuant to Section 8 hereof); (xii) Lessee shall cause to be done all things necessary to keep the Lease in full force and effect except as otherwise permitted by Section 8 hereof; (xiii) Lessee has an immediate need for the Equipment, which Lessee expects will continue throughout the Maximum Lease Term; (xiv) the use of the Equipment is, and Lessee currently expects that it will continue to be throughout the Maximum Lease Term, essential to Lessee's proper, efficient and economic operation; (xv) the useful life of the Equipment is as great or greater than the Maximum Lease Term; (xvi) the Equipment shall not be used in connection with a trial or test program of Lessee; (xvii) Lessee has never failed to appropriate funds for payment of any amount due pursuant to a lease purchase agreement, a conditional sales agreement or any similar type of obligation; (xviii) Lessee is not and has never been in default under any bond, note, lease purchase agreement or other type of financial obligation to which it is or has been a party; (xix) Lessee has complied with such public bidding and other requirements as may be applicable to the Lease and the Purchase Contracts, including, without limitation, the acquisition by Lessee of the Equipment; (xx) all financial and other information provided to Lessor by Lessee, and all statements or representations made to Lessor by Lessee, in connection with the Lease are true and complete in all material respects and not misleading in any material respect; and (xxi) within 270 days after the end of each fiscal year, Lessee shall provide Lessor with current financial statements, budgets and such other financial information relating to the ability of Lessee to continue the Lease as may be requested by Lessor

(b) Lessee further represents, covenants and warrants that: (i) neither Lessor nor Lessor's fiscal agent, Siemens Financial Services, Inc. ("SFS"), has recommended any action to Lessee; (ii) Lessee understands that Lessor is acting for its own interests, that neither Lessor nor SFS is a registered municipal advisor and neither is subject to any of the fiduciary duties imposed on municipal advisors; (iii) without limiting the generality of the foregoing, neither Lessor nor SFS is an advisor to, or fiduciary of, Lessee with respect to the Lease, any of the discussions, undertakings, and procedures leading thereto, or any information or material provided in connection therewith; and (iv) to the extent it deems appropriate, Lessee has consulted, and will continue to consult before taking any action, its own legal, financial, and other advisors regarding the Lease, all matters related thereto, and any information or material provided in connection therewith.

(c) Lessee's representations, covenants and warranties under the Lease shall survive the expiration of the Lease.

10. Title to Equipment; Security Interest. Upon acceptance of the Equipment by Lessee, title to the Equipment shall vest in Lessee; provided, however, that (i) in the event of termination of the Lease by Lessee pursuant to Section 8 hereof, or (ii) upon the occurrence of a Default, and as long as such Default is continuing, title will immediately vest in Lessor or its assignee. In order to secure the payment and performance of all of its obligations under the Lease, Lessee hereby: (a) to the extent permitted by law, grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment, together with all accessions, attachments, replacements, substitutions, modifications and additions thereto, now or hereafter acquired, and all Proceeds (as defined in the applicable Uniform Commercial Code) thereof (including insurance proceeds); (b) authorizes Lessor to file such Uniform Commercial Code financing statements or similar filings respecting such security interest with such authorities and with any filing offices as Lessor considers appropriate; and (c) agrees to execute and deliver all certificates of title and other documents requested by Lessor to evidence such security interest.

11. Use; Repairs. Lessee shall use the Equipment in a careful manner for the use contemplated by the manufacturer for the Equipment and shall comply with all laws, ordinances, insurance policies and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of, its possession, use or maintenance. Lessee, at its expense, will keep the Equipment in good repair and furnish all parts, mechanisms, and devices required therefor. Lessee shall not permit any other person (other than its employees within the scope of their employment) or entity to use, manage or operate the Equipment. If any Equipment is customarily covered by a maintenance agreement, Lessee shall enter into a maintenance agreement with a party reasonably satisfactory to Lessor and shall furnish Lessor with a copy of such maintenance agreement. No maintenance or other service for any Equipment will be provided by Lessor and Lessor shall not be liable for any operating or maintenance costs with respect to the Equipment.

12. Alterations. Lessee shall not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without causing damage to the Equipment. Any alterations, additions or improvements to the Equipment shall become a part of the Equipment and subject to the Lease.

13. Location; Inspection. The Equipment shall not be removed from, or if the Equipment consists of mobile goods or rolling stock, its permanent base shall not be changed from, the Equipment Location without Lessor's prior written consent, which will not be unreasonably withheld. Lessor shall be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

14. Liens and Taxes. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under the Lease. Lessee shall pay, when due, all Taxes (as hereinafter defined) which may now or hereafter be

imposed upon the ownership, leasing, rental, sale, purchase, possession or use of the Equipment, the Lease, the Lease Payments, any other payments due under the Lease or the transaction contemplated thereby. If Lessee fails to pay any Taxes when due, Lessor shall have the right, but shall not be obligated, to pay those Taxes. If Lessor pays any Taxes for which Lessee is responsible or liable under the Lease, Lessee shall promptly reimburse Lessor therefor. For purposes of the Lease, "Taxes" means present and future taxes, levies, duties, assessments, fees or other governmental charges of federal, state and local governments that are not based on the net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation, sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes, and interest, penalties or fines on any of the foregoing.

15. Risk of Loss; Damage; Destruction. Lessee assumes all risk of loss of or damage to the Equipment from any cause whatsoever. In the event of damage to any item of Equipment, Lessee shall immediately place the same in good repair, with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair, Lessee, at the option of Lessor, shall either (a) replace the same with like equipment in good repair (with its own funds to the extent that sufficient insurance proceeds are not available for that purpose), or (b) on the next Lease Payment Date, pay Lessor (i) all amounts then owed by Lessee to Lessor under the Lease, including the Lease Payment due on such date, and (ii) an amount equal to the then applicable "Concluding Payment" as set forth in the Leasing Schedule.

16. Insurance. Lessee shall, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks provided such self-insurance must provide the same protection to Lessor as would otherwise be provided under this Section in the case of insurance under third-party insurance policies. In no event shall the property insurance limits be less than the amount of the then applicable Concluding Payment with respect to such Equipment. The public liability insurance policy shall name Lessor and its assigns as additional insureds. The property insurance policy shall name Lessee as an insured and Lessor and its assigns as additional insured and loss payee, as their interests may appear. Each of the insurance policies shall contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies shall be payable to Lessee and Lessor or its assigns as their interests may appear. Upon acceptance of the Equipment and thirty (30) days prior to each insurance renewal date, Lessee shall deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee shall furnish Lessor with a letter or certificate evidencing such self-insurance. In the event of any loss, damage, injury or accident involving the Equipment, Lessee shall promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

17. Indemnification. Lessee shall, to the extent not prohibited by applicable law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, ownership, delivery, possession, lease, use, operation, rejection, revocation of acceptance or return, and the recovery of claims under insurance policies thereon. The provisions of this Section 17 shall survive the expiration of the Lease.

18. Assignment. Without Lessor's prior written consent, Lessee shall neither (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of the Lease or the Equipment or any interest in the Lease or the Equipment, nor (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor (and any assignee of Lessor) may assign any of its rights, title and interest in and to the Lease, the Equipment and any documents executed with respect to the Lease without the consent of Lessee. Lessee shall not have the right to and shall not assert against any assignee any claim, defense, recoupment claim, setoff or counterclaim or other right Lessee may have against Lessor or any Supplier. Subject to the foregoing, the Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto. After notice of such an assignment, Lessee shall execute all documents, including any notices and acknowledgements of assignment, which may be reasonably requested by Lessor or assignee, and, upon request of Lessor, shall name the assignee as additional insured and loss payee in any insurance policies obtained or in force. For the Lease Term and an additional period of six (6) years thereafter, Lessee shall keep a complete and accurate record of all assignments or reassignments of any of Lessor's right, title or interest in the Lease or the Equipment in a form necessary to comply with Section 149(a) of the Code and the regulations promulgated thereunder by the Internal Revenue Service.

19. Default. The term "Default," as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Lease, and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation or warranty made by Lessee in the Lease or in any writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) a default by Lessee under any Lease or other agreement or note

with Lessor, or with any assignee of the Lease; (v) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and in the case of any such involuntary proceedings or appointment, such shall not be vacated, dismissed or fully stayed within sixty (60) days after the institution or occurrence thereof; or (vi) an attachment, levy or execution is threatened or levied upon or against the Equipment.

20. Remedies. Upon the occurrence of a Default, and as long as such Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare an amount equal to all amounts then due under the Lease, and all remaining Lease Payments and other amounts due during the fiscal year in effect when the Default occurs and during which fiscal year funds for such Lease Payments have been appropriated, to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) by written notice to Lessee, demand and Lessee shall, at Lessee's expense, promptly return the Equipment to Lessor in the manner set forth in Section 8 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same without demand or notice, without any court order or other process of law and without liability for any damage occasioned by taking possession; (iii) sell, lease or otherwise dispose of the Equipment (each a "Disposition"), in whole or in part, in public or private transactions, for the account of Lessee, holding Lessee liable for all Lease Payments and other payments due during the fiscal year in effect when the Default occurs; (iv) terminate any unfunded commitments to Lessee; and (v) exercise any other right, remedy or privilege which may be available to it under applicable law or by appropriate court action at law or in equity to enforce the terms of the Lease or to recover damages for the breach of the Lease or to rescind the Lease as to any or all of the Equipment. In addition, Lessee shall remain liable for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above. Lessor may be a purchaser at any sale of the Equipment pursuant to this Section 20, and the proceeds of any such Disposition shall be applied in the following order: (a) to the payment of expenses related to such Disposition including, without limitation, costs of repair or replacement of the Equipment, expenses related to enforcement of the Lease, including reasonable attorneys' fees and other expenses related thereto; (b) to payment of the Non-Recourse Amount, as defined below; (c) to the payment of the amount determined pursuant to the calculation in clause (i) above; and (d) the balance, if any, to Lessee. Lessee will remain responsible for any amounts that are due pursuant to clause (i) above after Lessor has applied such proceeds.

As used herein, the "Non-Recourse Amount" means (1) an amount equal to the Concluding Payment for the last Lease Payment Date occurring in the fiscal year in effect when the Default occurs (the "Last Lease Payment Date"), plus (2) if the Disposition has occurred after the Last Lease Payment Date, an amount equal to interest (to the date of Disposition) on the Concluding Payment referenced in the foregoing subsection (1) at the lesser of 16% per annum or the highest rate permitted by law, plus (3) all other amounts due and unpaid under the Lease to the extent not included in the amount calculated pursuant to clause (i) above.

21. Purchase Option. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that there is no Default then existing, Lessee shall have the right to purchase all (but not less than all) of the Equipment on any Lease Payment Date, as permitted in the Leasing Schedule, by paying to Lessor, on such date, the Lease Payment then due together with the Concluding Payment amount for such date as set forth in the Leasing Schedule. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee AS-IS, WHERE-IS, without warranty, express or implied, except that the Equipment shall be free and clear of any liens created by Lessor.

22. Notices. All written notices to be given under the Lease shall be given to the other party at its address identified below, or at such address as the party may provide to the other party in writing from time to time, by (i) first class mail, postage prepaid, (ii) overnight delivery by nationally recognized courier or (iii) personal delivery. Notices sent by mail shall be deemed received five days after deposit in the U.S. mail, postage prepaid. Notices delivered by other means shall be deemed received upon receipt. All written notices herein shall be simultaneously given to Lessor's fiscal agent, Siemens Financial Services, Inc., 170 Wood Avenue South, Iselin, NJ 08830, Attention: Chief Financial Officer.

23. Section Headings. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of the Lease.

24. Governing Law. The Lease shall be construed in accordance with and governed by the laws of the State of Lessee.

25. Further Assurances. Lessee shall promptly execute and deliver to Lessor such further documents and take such further action as Lessor may reasonably request in order to more effectively carry out the intent and purpose of the Lease.

26. Waiver. The Lease shall not be modified, amended, altered or changed except with the written consent of Lessee and Lessor. If any provision of the Lease shall be adjudged invalid, illegal or unenforceable by a court of competent jurisdiction, the remaining provisions of the Lease shall not be affected thereby, but the Lease shall be construed as if such invalid, illegal or unenforceable provisions had not been contained therein, and the remainder of the Lease shall be valid and enforceable to the fullest extent permitted by law. Lessor shall not be deemed to have waived any breach by Lessee of any term, covenant or

condition of the Lease, unless Lessor makes such waiver in writing, and any such waiver shall not operate as a waiver of any subsequent breach of any terms, covenant or conditions of the Lease. **TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, LESSOR AND LESSEE EACH WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE AGREEMENT, LEASE OR THE TRANSACTION CONTEMPLATED HEREBY.**

27. Execution in Counterparts. The Lease may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument. All signatures of the parties to the Lease may be transmitted by facsimile, and such facsimile will, for all purposes, be deemed to be the original signature of such party whose signature reproduces and will be binding upon such party. In addition, the transaction described in the Lease may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, Lessor and Lessee have caused the Agreement to be executed by their authorized representatives. For all purposes hereof, the date of the Agreement shall be the date of Lessor's execution of the Agreement as set forth below. By execution hereof, each signer certifies that (s)he is duly authorized to execute the Agreement on behalf of Lessee or Lessor, as applicable.

SIEMENS PUBLIC, INC.
3411 Silverside Road
Hanby Building, Suite 100
Wilmington, DE 19810

CITY OF EL PASO DE ROBLES, CALIFORNIA
1000 Spring Street
El Paso de Robles, CA 04915

By: _____
Printed Name: _____
Title: _____

By: _____
Printed Name: _____
Title: _____

Date: June 8, 2017

By: _____
Printed Name: _____
Title: _____

Date: June 8, 2017



LEASING SCHEDULE #280-0006002-001

(Escrow)

LESSOR: SIEMENS PUBLIC, INC.
3411 Silverside Road
Hanby Building, Suite 100
Wilmington, DE 19810
(800) 327-4443

LESSEE: CITY OF EL PASO DE ROBLES, CALIFORNIA
1000 Spring Street
El Paso de Robles, CA 04915
(805) 237-3960

LEASING SCHEDULE #280-0006002-001 (herein also referred to as the "Leasing Schedule" or "Lease"), to that certain Master Lease Purchase Agreement dated June 8, 2017 (herein "Agreement"), between Lessor and Lessee.

- 1. EQUIPMENT DESCRIPTION: See Exhibit A attached hereto and incorporated herein.
2. LEASE COMMENCEMENT DATE: The date that Lessor executes this Leasing Schedule and provides funds hereunder, as reflected on the signature lines of Lessor below.
3. STATE OF LESSEE: CA
4. NUMBER OF LEASE PAYMENTS:
5. LEASE PAYMENT (per payment period): See Lease Payment Schedule attached hereto and incorporated herein as Exhibit B.
6. CONCLUDING PAYMENT: See Lease Payment Schedule attached hereto and incorporated herein as Exhibit B.
7. EQUIPMENT LOCATION: See Exhibit A attached hereto and incorporated herein.
8. MAXIMUM EQUIPMENT COST: \$2,354,218
9. LEASE PAYMENT LOCATION: Unless Lessor specifies in writing otherwise, all payments shall be sent by wire transfer as follows:
Account Title: Siemens Public, Inc.
Bank: Citibank, New York
Bank Address: 111 Wall Street, New York, New York 10043 USA
Swift Code: CITIUS33
ABA (for Wires and ACH): 021000089
Account Number: 30824094
10. STATEMENT OF INTENT: It is the intent of Lessor and Lessee that for federal, state and local income tax purposes, the transaction contemplated hereby will be a conditional sale or financing arrangement consisting of a loan from the Lessor directly to the Lessee, and the Lessee acquiring and being deemed the owner of the Equipment.

ADDITIONAL TERMS AND CONDITIONS AND OTHER IMPORTANT PROVISIONS ARE SET FORTH ON THE FOLLOWING PAGE.

IN WITNESS WHEREOF, the parties hereto have duly executed the Lease as of the dates set forth below. For all purposes hereof, the date of the Lease shall be the date of Lessor's acceptance as set forth below. LESSEE ACKNOWLEDGES THAT NEITHER LESSOR NOR THE SUPPLIER IS AN AGENT OR REPRESENTATIVE OF THE OTHER AND NEITHER HAS AUTHORITY TO BIND THE OTHER.

ACCEPTED BY:

LESSOR: SIEMENS PUBLIC, INC.

BY: _____

NAME: _____

TITLE: _____

BY: _____

NAME: _____

TITLE: _____

DATE: June 8, 2017

BY EXECUTION HEREOF, THE SIGNER CERTIFIES THAT (S)HE HAS READ THE ENTIRE LEASE, THAT LESSOR OR ITS REPRESENTATIVES HAVE MADE NO AGREEMENTS OR REPRESENTATIONS EXCEPT AS SET FORTH HEREIN, OR IN THE AGREEMENT, AND THAT (S)HE IS DULY AUTHORIZED TO EXECUTE THE LEASE ON BEHALF OF LESSEE.

LESSEE: CITY OF EL PASO DE ROBLES, CALIFORNIA

BY: _____

NAME: _____

TITLE: _____

DATE: June 8, 2017

COUNTERPART NO. ___ OF 2 SERIALLY NUMBERED MANUALLY EXECUTED COUNTERPARTS. TO THE EXTENT THAT THIS DOCUMENT CONSTITUTES CHATTEL PAPER UNDER THE UNIFORM COMMERCIAL CODE, NO SECURITY INTEREST IN THIS DOCUMENT MAY BE CREATED THROUGH THE TRANSFER AND POSSESSION OF ANY COUNTERPART OTHER THAN COUNTERPART NO. 1.

11. AMENDMENT TO SECTION 3 OF THE AGREEMENT: For purposes of this Lease, Section 3 of the Agreement shall be deleted and the following substituted therefor:

“3. Purchase Contracts, Acquisition of Equipment.

(a) The Equipment shall be acquired and installed pursuant to one or more purchase or acquisition contracts (the “Purchase Contracts”) to be entered into by and between Lessee and one or more vendors, suppliers or contractors (the “Suppliers”) for the acquisition and installation of the Equipment. Lessee and Lessor agree that Lessee shall be solely responsible for the selection, size, design and specifications of the Equipment and that Lessor shall have no duty or responsibility therefor or for the negotiation, execution or delivery of any Purchase Contract.

(b) Lessee represents, warrants and covenants that the cost of the Equipment shall in no event exceed the Maximum Equipment Cost as set forth in the Leasing Schedule.

(c) Lessee shall enter into Purchase Contracts for the acquisition or installation of the Equipment, the total cost of which shall not exceed the Maximum Equipment Cost. Further, Lessee shall, after entering into such Purchase Contracts, proceed with due diligence and complete the acquisition and installation of all the Equipment by no later than the timeframe specified in Section 3.5(ii) of the Escrow Agreement Relating to Equipment Subject to the Lease (the “Escrow Agreement”) among Lessor, Lessee and the Escrow Agent named therein (the “Escrow Agent”). If the cost of the Equipment exceeds the monies available in the Escrow Fund (the “Escrow Fund”) created by the Escrow Agreement, Lessee shall pay the remaining cost of the Equipment from its other available funds.

(d) Lessee hereby sells, assigns, transfers and sets over to Lessor, all of its rights, title and interest, but none of its obligations or responsibilities, in and to the Purchase Contracts (whether now in existence or hereafter entered into), including, without limitation, all right, title and interest of Lessee in and to the Equipment and all of Lessee’s rights and remedies under the Purchase Contracts, and the right either in Lessor’s own behalf or in Lessee’s name to take all such proceedings, legal equitable or otherwise, that it might take, save for the Lease.

(e) Prior to disbursements under the Escrow Agreement, either directly to one or more Suppliers or in reimbursement of advance payments by Lessee, for all or a portion of the Equipment accepted by Lessee pursuant to the Lease and the Purchase Contracts, Lessee shall furnish the Escrow Agent with a requisition requesting disbursement in the form attached as Exhibit A to the Escrow Agreement completed and executed by Lessee and approved for payment by Lessor, together with the supporting documents referred to in the requisition. Upon the delivery to Escrow Agent of such instruments, Lessee shall be found to have accepted that portion of the Equipment and related services and labor represented by the requisition.

(f) If Lessee has not accepted all the Equipment within the timeframe specified in Section 3.5(ii) of the Escrow Agreement (the “Nonacquired Equipment Date”), the Lease shall not as a result thereof be void or voidable, nor shall Lessor be liable to Lessee for any loss or damage resulting from such nonacceptance of Equipment. Prior to the Nonacquired Equipment Date, Lessee may, with Lessor’s prior written consent, substitute items of Equipment equal in value for items of Equipment not delivered. If all or a part of the original or substituted Equipment has not been accepted by Lessee on or before the Nonacquired Equipment Date, the Lease shall terminate as to such unaccepted portion of the Equipment (the “Nonacquired Equipment”) as of the Nonacquired Equipment Date. Exhibit A to this Leasing Schedule shall be deemed to be automatically amended to delete all reference to the Nonacquired Equipment. As set forth in the Escrow Agreement, a payment to Lessor pursuant to Section 3.5 of the Escrow Agreement shall constitute a partial prepayment of Lease Payments (as hereinafter defined), and upon receipt of such prepayment, Lessee authorizes Lessor to prepare a revised Exhibit B to this Leasing Schedule reflecting such prepayment, which shall be delivered to Lessee, and Lessee shall acknowledge such revised Exhibit B in writing if requested by Lessor.

(g) Monies held by the Escrow Agent pursuant to the Escrow Agreement shall be paid to Lessor in accordance with Section 3.5 of the Escrow Agreement, including, without limitation, upon the occurrence of a Default or upon a termination of the Lease as a result of Lessee’s governing body failing to appropriate sufficient funds to pay the Lease Payments and other amounts due hereunder for any fiscal period.

(h) Lessee hereby represents as follows:

- (i) The estimated total costs of the Equipment, including costs of negotiating and preparing the Lease and any assignment of the Lease by Lessor, shall not be less than the total principal portion of the Lease Payments.
- (ii) The Equipment has been ordered or is expected to be ordered within six months of the Lease Commencement Date, and the Equipment is expected to be delivered and installed, and the Supplier fully paid, within eighteen (18) months of the Lease Commencement Date.
- (iii) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (a) that is reasonably expected to be used to pay the Lease Payments, or (b) that may be used solely to prevent a default in the payment of the Lease Payments.
- (iv) The Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in part, prior to the expiration of the Maximum Lease Term (as defined in Section 5 of the Agreement).
- (v) To the best of Lessee’s knowledge, information and belief, all expectations referenced above are reasonable.”

12. AMENDMENT TO SECTION 6 OF THE AGREEMENT: For purposes of this Lease, Section 6 of the Agreement shall be deleted and the following substituted therefor:

“6. Delivery and Acceptance. Lessee, as Lessor’s agent, shall cause the Equipment to be delivered to Lessee at the location specified in Exhibit A (“Equipment Location”). Lessee shall pay all transportation and other costs, if any, incurred in connection with delivery of the Equipment. Lessee shall accept the Equipment (by delivery of a requisition request as described in Section 3(e) above) as soon as it has been delivered and is operational. Concurrently with the delivery of its final requisition request, Lessee shall evidence its acceptance of all Equipment by executing and delivering to Lessor an Acceptance Certificate substantially in the form attached to the Escrow Agreement. Such Acceptance Certificate shall include the description of all Equipment covered by any and all requisition requests issued under the Lease (the “Final Equipment Description”). Exhibit A shall be deemed automatically amended to the extent necessary to correct any differences between Exhibit A and the Final Equipment Description.”

13. MISCELLANEOUS: Lessor and Lessee agree that the terms and conditions of the Agreement are hereby incorporated into this Leasing Schedule to the same extent as if such terms and conditions were set forth in full herein. **THIS LEASING SCHEDULE (AS INCORPORATING THE TERMS OF THE AGREEMENT), TOGETHER WITH ANY EXHIBITS AND ATTACHMENTS HERETO, CONTAIN THE COMPLETE AGREEMENT OF THE PARTIES WITH RESPECT TO ITS SUBJECT MATTER AND SUPERSEDE AND REPLACE ANY PREVIOUSLY MADE PROPOSALS, REPRESENTATIONS, WARRANTIES AND AGREEMENTS.** Capitalized terms used herein, which are not otherwise defined herein, shall have the same meanings as set forth in the Agreement. Any amendments contained or incorporated into this Leasing Schedule, which in any way alter the terms of the Agreement, shall be effective only with respect to this Leasing Schedule and shall be ineffective with respect to any other Leasing Schedule. The Lease shall become effective at the time of Lessor’s acceptance (by execution hereof) at its corporate offices, by an authorized representative of Lessor.

EXHIBIT A
to
Leasing Schedule #280-0006002-001

DESCRIPTION OF EQUIPMENT

Energy savings equipment as described in the Performance Contracting Agreement dated _____, 2017, by and between Lessee and Siemens Industry, Inc., Building Technologies Division.

(See Exhibit A-1 attached hereto for Scope of Work and Services.)

The Equipment will be located at the following locations, all located in the City of El Paso de Robles, San Luis Obispo County, California:

Facility	Address
City Hall / Library	1000 Spring St, El Paso de Robles, CA 93446
Public Safety Building (Police and Fire)	900 Park St, El Paso de Robles, CA 93446
Centennial Gym/Admin Building	600 Nickerson Dr, El Paso de Robles, CA 93446
Senior Center	270 Scott St, El Paso de Robles, CA 93446

(The foregoing property description shall be deemed to be automatically amended to the extent necessary to conform to the Final Equipment Description as provided in Section 6 of the Agreement.)

Lessor: **SIEMENS PUBLIC, INC.**

Lessee: **CITY OF EL PASO DE ROBLES, CALIFORNIA**

By: _____
Title: _____

By: _____
Title: _____

By: _____
Title: _____

EXHIBIT A-1

SCOPE OF WORK AND SERVICES

[Scope of Work and Services from final Performance Contracting Agreement to be attached.]

EXHIBIT B
to
Leasing Schedule #280-0006002-001

LEASE PAYMENT SCHEDULE

Lease Commencement Date: June 8, 2017
 Principal Amount: \$2,354,218
 Interest Rate: _____%

Date	Payments	Interest Accrued	Payment of		Total Debt Service Paid	Cumulative Compounded Interest	Principal Balance	Concluding Payment ¹
			Current Interest	Compounded Interest				

[To Come.]

¹ After payment of the Lease Payment and all other amounts then due. The Concluding Payment also contains prepayment fees, if applicable. Prepayments, as provided in Section 21 of the Lease, are permitted only on the due date of the Lease Payment that is asterisked and on the due date of each Lease Payment thereafter.

[Signature page to Exhibit B to Leasing Schedule #280-0006002-001 – Lease Payment Schedule]

Lessor: **SIEMENS PUBLIC, INC.**

Lessee: **CITY OF EL PASO DE ROBLES, CALIFORNIA**

By: _____
Title: _____

By: _____
Title: _____

By: _____
Title: _____

**ESCROW AGREEMENT RELATING TO EQUIPMENT
SUBJECT TO LEASING SCHEDULE #280-0006002-001**

NAME AND ADDRESS OF LESSOR	NAME AND ADDRESS OF LESSEE	NAME AND ADDRESS OF ESCROW AGENT
Siemens Public, Inc. 3411 Silverside Road Hanby Building, Suite 100 Wilmington, DE 19810 Attn: President Fax : 302-479-7152	City of El Paso de Robles, California 1000 Spring Street El Paso de Robles, CA 04915 Attn: Mike Compton Fax: 805-237-6565	UMB Bank, N.A. 2 S. Broadway, 6 th Floor St. Louis, MO 63102 Attn: Corporate Trust Department Fax: 314-612-8499
Escrow Fund: "City of El Paso de Robles, California Equipment Acquisition Escrow Fund" Escrow Fund Deposit: \$2,354,218 Maximum Financed Lease Preparation Costs: \$12,100		

In consideration of the mutual agreements and covenants herein contained and for other valuable consideration, the parties hereto agree as follows:

**ARTICLE 1
DEFINITION AND RULES OF CONSTRUCTION**

1.1. Definitions. Terms defined in the Lease and capitalized herein shall, for purposes of this Escrow Agreement (the "Escrow Agreement"), have the meanings given them in the Lease unless the context requires otherwise. The terms defined below shall have the meanings given to them below:

"Acquisition Costs" means the amount paid for any portion of the Equipment upon the Lessee's acceptance thereof in connection with the acquisition and installation of the Equipment, all of which shall have been approved by the Lessor in its sole discretion.

"Authorized Officer of Lessee" means the [redacted] or [redacted] of the Lessee or any of their designees.

"Authorized Officer of Lessor" means any of the officers designated on an officer list provided by the Lessor to the Escrow Agent from time to time.

"Code" means the Internal Revenue Code of 1986, as amended.

"Effective Date" means the Lease Commencement Date, as defined in the Lease.

"Escrow Agent" means the Escrow Agent identified above and its successors and assigns.

"Escrow Fund" means the Escrow Fund identified above.

"Escrow Fund Deposit" means the Escrow Fund Deposit identified above.

"Lease" means that certain Leasing Schedule referenced in the title to this Escrow Agreement under Master Lease Purchase Agreement dated June 8, 2017, between the Lessor and the Lessee.

"Lessee" means the Lessee identified above and its successors and assigns.

"Lessor" means the Lessor identified above and its successors and assigns.

"Maximum Financed Lease Preparation Costs" means the Maximum Financed Lease Preparation Costs identified above.

"Permitted Investments" means the following to the extent permitted by applicable law and to the extent they comply with the Arbitrage Investment Instructions attached hereto as **Exhibit B**:

(i) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, which mature on or before the date on which the proceeds of such bonds, notes or obligations are expected to be used for the purpose set forth herein;

(ii) Bonds or interest-bearing notes or obligations that are guaranteed as to principal and interest by a federal agency of the United States, which mature on or before the date on which the proceeds of such bonds, notes or obligations are expected to be used for the purpose set forth herein;

(iii) Mutual funds invested exclusively in investments described in the preceding Subparagraphs (i) and (ii), or agreements to repurchase such investments, including those mutual funds for which the Escrow Agent or an affiliate of the Escrow Agent serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (a) the Escrow Agent or an affiliate of the Escrow Agent receives fees from such funds for services rendered, and (b) the Escrow Agent charges and collects fees for services rendered pursuant to this Escrow Agreement, which fees are separate from the fees received from such funds; and

(iv) Interest-bearing deposits of the Escrow Agent.

“Principal Office”, when used with respect to the Escrow Agent, means the office of the Escrow Agent situated in St. Louis, Missouri, at which the Escrow Agent conducts a corporate trust business.

1.2. Rules of Construction. Words of the masculine and feminine genders shall be deemed and construed to include the neuter gender. Unless the context otherwise indicates, the singular number shall include the plural number and vice versa, and words importing persons shall include corporations and associations, including public bodies, as well as natural persons. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Escrow Agreement, refer to this Escrow Agreement.

ARTICLE 2 RECITALS AND REPRESENTATIONS

2.1. Lease Purchase Agreement. The Lessor and the Lessee have entered into the Lease whereby the Lessor has agreed to lease certain Equipment to the Lessee and the Lessee has agreed to lease said Equipment from the Lessor. Under the terms of the Lease, the Lessor and the Lessee agree that the Lessee shall provide for the acquisition and installation of the Equipment.

2.2. Deposit of Monies. To provide for payment of Acquisition Costs, the Lessor will deposit, or cause to be deposited on its behalf, with the Escrow Agent, the Escrow Fund Deposit.

2.3. Lease Payments. Under the Lease, the Lessee is obligated to pay to the Lessor or its assigns Lease Payments for the lease of the Equipment.

2.4. Conditions Precedent Satisfied. All acts, conditions and things required by law to exist, happen and be performed precedent to and in connection with the execution and entering into of this Escrow Agreement have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly empowered to execute and enter into this Escrow Agreement.

ARTICLE 3 ESTABLISHMENT AND ADMINISTRATION OF ESCROW FUND

3.1. Escrow Fund. The Escrow Fund is hereby established with the Escrow Agent. The Escrow Agent shall keep the Escrow Fund separate and apart from all other funds and monies held by it. The Escrow Agent agrees to receive and deposit in the Escrow Fund the Escrow Fund Deposit.

3.2. Administration of the Escrow Fund.

3.2.1. The Escrow Agent shall administer the Escrow Fund as provided in this Section 3.2.

3.2.2. Amounts in the Escrow Fund shall be disbursed for Acquisition Costs as follows:

3.2.2.1. Disbursements for costs incurred in connection with the negotiation and preparation of the Lease and any assignment of the Lessor's interest in the Lease in an amount not to exceed the

Maximum Financed Lease Preparation Costs shall be made by the Escrow Agent upon receipt of written instructions from the Lessor; and

3.2.2.2. Disbursements from the Escrow Fund for Acquisition Costs other than costs associated with the negotiation and preparation of the Lease and any assignment of the Lessor's interest in the Lease shall be made by the Escrow Agent upon receipt of a Requisition Requesting Disbursement in the form attached hereto as Exhibit A, executed by an Authorized Officer of Lessee and approved for payment by an Authorized Officer of Lessor. So long as the Escrow Agent disburses funds in accordance with the written instructions of the Lessor pursuant to Section 3.2.2.1 or the requisition provided for above, it shall have no liability on account of disbursements from the Escrow Fund under Section 3.2.2 hereof.

3.2.3. After completion of the installation of all of the Equipment and concurrently with its delivery of the final Requisition Requesting Disbursement, the Lessee shall deliver to the Escrow Agent an Acceptance Certificate executed by an Authorized Officer of Lessee, substantially in the form of Attachment I to Exhibit A hereto, setting forth the final acceptance date for the Equipment. Upon receipt of the Acceptance Certificate and the final Requisition Requesting Disbursement, and subject to the provisions of Section 3.4 hereof, the Escrow Agent shall pay the balance of any amounts remaining in the Escrow Fund as follows: (i) if so directed in writing by an Authorized Officer of Lessee and approved in writing by an Authorized Officer of Lessor, the amount specified in that direction shall be paid to the Lessee to reimburse the Lessee for the interest portion of Lease Payments paid by the Lessee during the acquisition period for the Equipment, and (ii) any of the balance not paid to the Lessee pursuant to clause (i) shall be paid to the Lessor on behalf of the Lessee to be applied by the Lessor to prepay a portion of the Lessee's principal obligations under the Lease.

3.2.4. No amounts shall be withdrawn or transferred from or paid out of the Escrow Fund except as provided in this Article 3.

3.2.5. If the monies in the Escrow Fund are not sufficient to pay all of the Acquisition Costs, the Lessee shall pay from other funds the balance of the Acquisition Costs as they come due.

3.3. Monies in Escrow Fund. The monies and the investments held by the Escrow Agent under this Escrow Agreement are irrevocably held in trust for the benefit of the Lessor and the Lessee, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either the Lessor or the Lessee. With respect to any interest that the Lessee may have in the Escrow Fund, the parties hereto intend that the Lessor have a security interest in the Escrow Fund, and such security interest is hereby granted by the Lessee, to secure payment of all sums due to the Lessor under the Lease. For such purpose, the Escrow Agent hereby agrees to (a) act as control agent for the Lessor in connection with the perfection of such security interest, (b) note, or cause to be noted, on all books and records relating to the Escrow Fund, the Lessor's security interest therein, and (c) comply with entitlement orders or other instructions originated by the Lessor in accordance with Section 3.2 above directing disposition of the funds in the Escrow Fund without further consent by the Lessee.

3.4. Investment of Monies in Escrow Fund.

3.4.1. All monies held by the Escrow Agent in the Escrow Fund shall be invested and income and earnings thereon shall be distributed in accordance with the provisions of this Section 3.4.

3.4.2. The Escrow Agent shall invest amounts on deposit in the Escrow Fund in Permitted Investments as directed by an Authorized Officer of Lessee in writing. In the absence of such written instructions, Escrow Agent shall invest such monies in investments of the type described in subparagraph (iv) of the definition of Permitted Investments.

3.4.3. All interest or income on the Escrow Fund shall be deposited in the Escrow Fund.

3.4.4. The Escrow Agent shall not be liable for any loss or decrease in value resulting from the making or disposition of any investment pursuant to the provisions of this Section 3.4, and any such losses shall be charged to the Escrow Fund with respect to which such investment was made.

3.4.5. The Escrow Agent shall have the right to liquidate any investments held, in order to provide funds necessary to make required payments under this Escrow Agreement. The Escrow Agent in its capacity as escrow agent hereunder shall not have any liability for any loss sustained as a result of any investment made pursuant to the instructions of the Lessee or as a result of any liquidation of any investment prior to its maturity or for the failure by the Lessee to give the Escrow Agent instructions to invest or reinvest the Escrow Fund or any earnings thereon.

3.4.6. The Lessee and the Escrow Agent shall comply with the Arbitrage Investment Instructions attached hereto as Exhibit B. The Arbitrage Investment Instructions shall be amended at any time, without action by any party hereto, if in the opinion of counsel nationally recognized in the area of tax-exempt municipal obligations and satisfactory to the Lessor and the Lessee, such amendment is necessary or desirable to ensure that the interest portion of the Lease Payments are excludable from gross income for federal income tax purposes. Neither such instructions, whether or not amended, nor any failure to amend such instructions shall affect or diminish any obligation or liability of the Lessee under the Lease, including without limitation Section 9 thereof.

3.5. Termination. The Escrow Fund shall be closed upon the earlier of:

(i) completion of the acquisition and installation of the Equipment as evidenced by an Acceptance Certificate and payment of all of the Acquisition Costs therefor;

(ii) twenty-four months from the Effective Date (or such later date as may be agreed to in writing by the Lessor and the Lessee with notice in writing to the Escrow Agent);

(iii) if the Lease is subject to non-appropriation, receipt of a written notice to the Escrow Agent from the Lessor that the Lease has terminated because the Lessee's governing body has failed to appropriate funds for the payment of Lease Payments and other amounts due under the Lease for any fiscal period; or

(iv) receipt of a written notice to the Escrow Agent from the Lessor that a Default under the Lease has occurred.

Upon the occurrence of one of the events described above, the Escrow Agent shall pay the balance of any funds then remaining in the Escrow Fund to the Lessor or its assigns on behalf of the Lessee to be applied as a prepayment of a portion of the Lessee's principal obligation under the Lease in a manner determined by the Lessor.

ARTICLE 4 COVENANTS, DEFAULT AND LIMITATION OF LIABILITY

4.1. No Obligation with Respect to Performance by Escrow Agent. The Lessor and the Lessee shall have no obligation or liability to any party with respect to the performance by the Escrow Agent of any duty imposed upon it under this Escrow Agreement.

4.2. No Liability by Escrow Agent. The Escrow Agent makes no representations or warranties as to the title to the Equipment or as to the performance of any obligations of the Lessor or the Lessee.

4.3. No Responsibility for Sufficiency. The Escrow Agent shall not be responsible for the sufficiency of the Lease. The Escrow Agent shall not be responsible or liable for any loss or decrease in value suffered in connection with any investment of funds made by it under the terms of and in accordance with this Escrow Agreement.

4.4. Indemnification to Escrow Agent. The Lessee hereby agrees to indemnify and hold the Escrow Agent and its directors, officers, agents and employees (collectively, the "Indemnitees") harmless from and against any and all claims, liabilities, losses, damages, fines, penalties, and expenses, including out-of-pocket, incidental expenses, legal fees and expenses ("Losses") that may be imposed on, incurred by, or asserted against, the Indemnitees or any of them for following any instruction or other direction upon which the Escrow Agent is authorized to rely pursuant to the terms of this Escrow Agreement. In addition to and not in limitation of the immediately preceding sentence, the Lessee also agrees to indemnify and hold the Indemnitees and each of them harmless from and against any and all Losses that may be imposed on, incurred by, or asserted against the Indemnitees or any of them in connection with or arising out of the Escrow Agent's performance under this Escrow Agreement, provided the Escrow Agent has not acted with negligence, engaged in willful misconduct, or breached any provision of this Escrow Agreement. The provisions of this Section 4.4 shall survive the termination of this Escrow Agreement and the resignation or removal of the Escrow Agent for any reason.

ARTICLE 5 THE ESCROW AGENT

5.1. Appointment of Escrow Agent. The Escrow Agent is hereby appointed to serve in such capacity and the Escrow Agent shall receive, hold, invest and disburse the monies paid to it pursuant to this Escrow Agreement and the income and earnings thereon for credit to the Escrow Fund, and shall perform certain other functions, all as herein provided and subject to the terms and conditions of this Escrow Agreement.

5.2. Acceptance of Appointment. In consideration of the compensation herein provided for, the Escrow Agent accepts the appointment above referred to, subject to the terms and conditions of this Escrow Agreement. The Escrow Agent undertakes to perform only such duties as are expressly set forth herein. The duties and responsibilities of the Escrow Agent

hereunder shall be determined solely by the express provisions of this Escrow Agreement, and no further duties or responsibilities shall be implied. The Escrow Agent shall not have any liability under, nor duty to inquire into the terms and provisions of any agreement or instructions, other than outlined in this Escrow Agreement. The Escrow Agent shall not incur any liability for following the instructions herein contained or expressly provided for, or written instructions given by the Lessor.

5.3. Escrow Agent; Duties, Removal and Resignation. By executing and delivering this Escrow Agreement, the Escrow Agent accepts the duties and obligations of the Escrow Agent provided for in this Escrow Agreement, and agrees to perform such duties and obligations with the same degree of care and skill customarily exercised by financial institutions in the performance of the duties similar to those set forth in this Escrow Agreement.

The Lessor may, by written request, remove the Escrow Agent initially a party to this Escrow Agreement, and any successor thereto, and may appoint a successor Escrow Agent, but any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least Twenty-five Million Dollars (\$25,000,000.00) and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section, the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Escrow Agent may at any time resign by giving thirty (30) days written notice to the Lessor, but its resignation shall not become effective until a successor Escrow Agent has been appointed. Upon receiving such notice of resignation, the Lessor shall promptly appoint a successor Escrow Agent by an instrument in writing; provided, however, that in the event the Lessor does not appoint a successor Escrow Agent within sixty (60) days following receipt of such notice of resignation, the resigning Escrow Agent, at the expense of the Lessor, may petition an appropriate court having jurisdiction to appoint a successor Escrow Agent. Any resignation or removal of the Escrow Agent and appointment of a successor Escrow Agent shall become effective upon acceptance of appointment by the successor Escrow Agent. Upon written notice to the Lessor, any corporation or association into which the Escrow Agent in its individual capacity may be merged or converted or with which it may be consolidated, or any corporation or association resulting from any merger, conversion or consolidation to which the Escrow Agent in its individual capacity shall be a party, or any corporation or association to which all or substantially all the corporate trust business of the Escrow Agent in its individual capacity may be sold or otherwise transferred, shall be the Escrow Agent hereunder without further act.

5.4. Compensation of the Escrow Agent. The Lessee shall pay \$600 to the Escrow Agent on the Effective Date as compensation for its agreement to provide services under this Escrow Agreement and thereafter either (a) \$1,200 per year annually payable in arrears or (b) \$100 per month or portion thereof for any partial years to the date of termination of this Escrow Agreement payable in arrears. The Lessee shall be responsible for paying any and all brokerage fees or commissions or similar expenses incurred in the investment and reinvestment of the Escrow Fund and all other expenses incurred in connection with this Escrow Agreement, including reasonable attorneys' fees and expenses for matters in which the Lessee (and/or the Lessor) and the Escrow Agent are not adverse parties and which are not related to the Escrow Agent's negligence, willful misconduct or breach of any provision of this Escrow Agreement.

5.5. Protection to the Escrow Agent. The Escrow Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document believed by it to be genuine, and to have been signed or presented by the proper party or parties. The Escrow Agent shall be under no duty to inquire into or investigate the validity or accuracy of any such document. The Escrow Agent may consult with counsel, who may or may not be counsel to the Lessor or the Lessee, and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Escrow Agreement in good faith and in accordance therewith.

Whenever the Escrow Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Escrow Agreement, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a certificate of an Authorized Officer of Lessee or an Authorized Officer of Lessor, or both, as appropriate, and any such certificate shall be full warrant for any action taken or suffered in good faith under the provisions of this Escrow Agreement upon the faith thereof, but in its discretion the Escrow Agent may in lieu thereof accept other evidence of such fact or matter or may require such further additional evidence as to it may seem reasonable.

In the event that the Escrow Agent shall be uncertain as to its duties or rights hereunder or shall receive instructions, claims or demands from any party hereto which, in its opinion, conflict with any of the provisions of this Escrow Agreement, the Escrow Agent shall provide written notice to the Lessor and Lessee of the reason of such uncertainty or the receipt of instructions, claims or demands (with a copy thereof to the parties hereto), and it shall be entitled to refrain from taking any action and its sole obligation shall be to keep safely all property held in escrow until it shall be directed otherwise in writing by all of the other parties hereto or by a final order or judgment of a court of competent jurisdiction.

Except as otherwise expressly provided in this Escrow Agreement, any request order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Lessee or the Lessor shall be sufficiently executed if executed in the name of the Lessee or the Lessor by an Authorized Officer of Lessee or Lessor, as the case may be.

The Escrow Agent either as principal or agent, may also engage in or be interested in any financial, fiduciary, agency or other transaction with the Lessee or the Lessor, and may act as depository, trustee, or agent for any assignee of the Lessor or other obligations of the Lessee as freely as if it were not Escrow Agent hereunder.

The recitals, statements and representations in this Escrow Agreement shall be taken and construed as made on the part of the Lessee and not by the Escrow Agent, and the Escrow Agent does not assume, and shall not have, any responsibility or obligation for the correctness of any thereof.

The Escrow Agent may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duties hereunder, and the Escrow Agent shall not be answerable for the default or misconduct of any such attorney, agent or receiver selected by it with reasonable care. The Escrow Agent shall not be answerable for the exercise of any discretion or power under this Escrow Agreement or for anything whatever in connection with the Escrow Fund established hereunder, except only for its own willful misconduct, negligence or breach of any provision of this Escrow Agreement.

Anything in this Escrow Agreement to the contrary notwithstanding, in no event shall the Escrow Agent be liable for special, indirect or consequential loss or damage of any kind whatsoever (including, but not limited to, lost profits) even if advised of the likelihood of such loss or damage and regardless of the form of action.

The Escrow Agent shall not be required to take notice or be deemed to have notice of any default hereunder unless the Escrow Agent shall be specifically notified in writing of such default by the Lessee or the Lessor. All notices or other instruments required hereunder to be delivered to the Escrow Agent must, in order to be effective, be delivered to the office of the Escrow Agent as specified in Section 6.3 herein, and in the absence of such notice so delivered, the Escrow Agent may conclusively assume there is no such default except as aforesaid.

The Escrow Agent shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

Before taking such action hereunder, the Escrow Agent may require that it be furnished an indemnity bond satisfactory to it for the reimbursement to it of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the Escrow Agent's negligence, willful misconduct or breach of any provision of this Escrow Agreement.

ARTICLE 6 AMENDMENT; ADMINISTRATIVE PROVISIONS

6.1. Amendment. This Escrow Agreement may only be amended by written agreement among all of the parties.

6.2. Escrow Agent to Keep Records. The Escrow Agent shall keep a copy of this Escrow Agreement and books and records of all monies received and disbursed under this Escrow Agreement, which shall be available for inspection by the Lessor at any time during regular business hours upon prior written request. In addition, the Escrow Agent shall furnish monthly statements of any monies received and disbursed during such period and the balance of any monies held and a listing of the investment(s) of such monies at the end of such monthly period to the Lessor.

6.3. Notices. All communications hereunder shall be in writing, shall be sent to the appropriate notice address set forth on Page 1 of this Agreement, or at such other address as any party hereto may have furnished to the other parties in accordance with this section, and shall be deemed to be duly given and received:

- (i) upon delivery if delivered personally or upon confirmed transmittal via telephone call-back to one of the phone numbers listed on **Schedule 1** hereto or such other phone number as provided by the Lessor to the Escrow Agent if by facsimile; or
- (ii) on the date received if sent by overnight courier or if mailed by prepaid certified mail, return receipt requested.

In the event that the Escrow Agent, in its sole discretion, shall determine that an emergency exists, the Escrow Agent may use such other means of communication as the Escrow Agent deems appropriate. All written notices hereto shall be simultaneously given to Lessor's Fiscal Agent, Siemens Financial Services, Inc., 170 Wood Avenue South, Iselin, NJ 08830, Attention: Chief Financial Officer.

6.4. Governing Law. This Escrow Agreement shall be construed and governed in accordance with the laws of the State of California without regard to its principles of conflicts of laws, and any action brought hereunder shall be brought in the courts of the State of California. Each party hereto irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds and irrevocably consents to service of process by mail or in any other manner permitted by applicable law, and consents to the jurisdiction of said courts.

6.5. Security Procedures. In the event funds transfer instructions are given (other than in writing at the time of execution of this Escrow Agreement) whether in writing, by telecopier or otherwise, the Escrow Agent shall seek confirmation of such instructions by telephone call-back to the person or persons designated on Schedule 1 hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for individuals authorized to give or confirm payment instructions may be changed only in a writing actually received and acknowledged by the Escrow Agent. The Escrow Agent and the beneficiary's bank in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by the Lessor or the Lessee to identify (i) the beneficiary, (ii) the beneficiary's bank, or (iii) an intermediary bank. The Escrow Agent may apply any of the escrowed funds for any payment order it executes using any such identifying number, even when its use may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary's bank or an intermediary bank designated. The parties to this Escrow Agreement acknowledge that these security procedures are commercially reasonable. All funds transfer instructions must include the signature of the person(s) authorizing said funds transfer.

6.6 Severability. Any provision of this Escrow Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Escrow Agreement.

6.7. Binding on Successors. This Escrow Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

6.8. Headings. Headings preceding the text of the several Articles and Sections hereof, and the table of contents, are solely for convenience of reference and shall not constitute a part of this Escrow Agreement or affect its meaning, construction or effect.

6.9. Execution in Counterparts; Electronic Transaction. This Escrow Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument. All signatures of the parties to this Escrow Agreement may be transmitted by facsimile, and such facsimile will, for all purposes, be deemed to be the original signature of such party whose signature reproduces and will be binding upon such party. If one of the parties requests after the date of this Escrow Agreement that the other parties hereto deliver a copy of the Escrow Agreement with an original signature page to such requesting party, the non-requesting parties shall promptly deliver a copy of this Escrow Agreement with an original signature page to the requesting party. In addition, the transaction described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

6.10. Force Majeure. In the event that any party to this Escrow Agreement is unable to perform its obligations under the terms of this Escrow Agreement because of acts of God, strikes, equipment or transmission failure or damage reasonably beyond its control, or other cause reasonably beyond its control, such party shall not be liable for damages to the other parties for any unforeseeable damages resulting from such failure to perform or otherwise from such causes. Performance under this Escrow Agreement shall resume when the affected party is able to perform substantially that party's duties.

6.11 Tax Identification Numbers. Upon execution of this Agreement, the Lessee shall provide the Escrow Agent with a fully executed W-8 or W-9 IRS form, or such other tax document as is appropriate for the Lessee, which shall include the Lessee's Tax Identification Number. All interest or other income earned under the Escrow Agreement shall be for the account of Lessee and shall be so reported by the Escrow Agent to the Internal Revenue Service and all other applicable taxing authorities. The Escrow Agent shall report, and, as required, withhold and remit, to the appropriate authorities, any taxes as it determines may be required by any law or regulation in effect at the time of a distribution or as otherwise required. In the event that any earnings remain undistributed at the end of any calendar year, Escrow Agent shall report to the Internal Revenue Service or such other authority such earnings as it deems appropriate or as required by any applicable law or regulation or, to the extent consistent therewith, as directed in writing by the Lessor and Lessee.

6.12 Account Opening Information. In order to assist the United States government to prohibit the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. Accordingly, in order to establish the Escrow Fund, the Escrow Agent will ask for information that will allow the Escrow Agent to identify all relevant parties.

IN WITNESS WHEREOF, the parties have executed and attested this Escrow Agreement by their officers thereunto duly authorized as of the Effective Date.

CITY OF EL PASO DE ROBLES, CALIFORNIA, as Lessee

By: _____

Name: _____

Title: _____

UMB BANK, N.A., as Escrow Agent

By: _____

Name: _____

Title: _____

SIEMENS PUBLIC, INC., as Lessor

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

SCHEDULE 1

**Telephone Number(s) for Call-Backs and
Person(s) Designated to Give and Confirm Funds Transfer Instructions**

If to Lessor:

<u>Name</u>	<u>Telephone Number</u>	<u>Signature Specimen</u>
1. Eric Detwiler	610 / 232-2068	_____
2. Patricia Congemi	610 / 232-2063	_____
3. Camille de la Rigaudiere	610 / 232-2067	_____

If to Lessee:

<u>Name</u>	<u>Telephone Number</u>	<u>Signature Specimen</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

Telephone call-backs shall be made to both Lessor and Lessee if joint instructions are required pursuant to this Escrow Agreement. All funds transfer instructions must include the signature of the person(s) authorizing said funds transfer.

EXHIBIT A
FORM OF REQUISITION REQUESTING DISBURSEMENT

REQUISITION REQUESTING: PARTIAL DISBURSEMENT *Invoice No.* _____
 FINAL DISBURSEMENT

In accordance with Leasing Schedule #280-0006002-001 (the "Lease") to Master Lease Purchase Agreement dated June 8, 2017, between Siemens Public, Inc. (the "Lessor"), and the undersigned as lessee (the "Lessee"), and further in accordance with the Escrow Agreement Relating to Equipment Subject to Leasing Schedule #280-0006002-001 (the "Escrow Agreement"), dated June 8, 2017, among the Lessor, the Lessee and UMB Bank, N.A., as Escrow Agent, the Lessee hereby requests a disbursement from the Escrow Fund for the following Acquisition Costs of the Equipment listed below. Terms capitalized but not defined in this Requisition shall have the meaning given such terms in the Lease or the Escrow Agreement, as applicable.

<u>Quantity</u>	<u>Item</u>	<u>Amount</u>	<u>Name and Address of Payee*</u>
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The Lessee hereby represents and warrants for all purposes that:

1. The amount to be disbursed constitutes all or a portion of the Acquisition Costs of the Equipment, said amount is required to be disbursed pursuant to a Purchase Contract entered into therefor by or on behalf of the Lessee, and said amount is not being paid in advance of the time, if any, fixed for any payment.

2. Acquisition and installation of the applicable portion of the Equipment for which payment is being requested has been completed in accordance with plans and specifications approved by the Lessee and in accordance with the terms and conditions of the applicable Purchase Contract(s). Said applicable portion of the Equipment is suitable and sufficient for the expected uses thereof, but this statement is made without prejudice to any rights against third parties which exist at the date hereof or which may subsequently come into being.

3. No amount set forth in this Requisition Requesting Disbursement was included in any Requisition Requesting Disbursement previously filed with the Escrow Agent for which payment was actually made by the Escrow Agent.

4. By the delivery to Escrow Agent of this Requisition Requesting Disbursement, the Lessee irrevocably accepts that portion of the Equipment and related services and labor represented by this Requisition Requesting Disbursement. If this Requisition Requesting Disbursement is the Final Disbursement Requisition (as indicated above), there is attached hereto as Attachment 1 an original of the Acceptance Certificate, executed by an Authorized Officer of Lessee, evidencing the Lessee's acceptance of all Equipment (including all Equipment represented by any and all prior Requisitions Requesting Disbursement).

5. The Lessee has made such investigation of such sources of information as are deemed necessary and is of the opinion that the applicable portion of the Equipment has been fully paid for, and no claim or claims exist against the Lessee or any Supplier out of which a lien based on furnishing labor or material exists or might arise. Funds are on deposit in the Escrow Fund sufficient to make payment of the full amount which might in any event be payable in order to satisfy such claim or claims contested by the Lessee and described in this or any previous Requisition Requesting Disbursement.

6. By delivery of this Requisition Requesting Disbursement by the Lessee, the Lessee does hereby represent and warrant to the Lessor, that: (i) each of the representations and warranties of the Lessee contained in the Lease (and any documents related thereto) is true and correct on and as of the date hereof; (ii) the Lessee has performed all of its obligations under the Lease (and any documents related thereto) that are required to be performed by the Lessee on or prior to the date hereof; (iii) no Default exists under the Lease and no event has occurred and is continuing that with notice or the lapse of time or both

* A current IRS Form W-9 for the payee is attached hereto or an IRS Form W-9 has been previously submitted to Escrow Agent.

would constitute a Default under the Lease; and (iv) the person signing this Requisition Requesting Disbursement is an Authorized Officer of Lessee.

Date: _____

CITY OF EL PASO DE ROBLES, CALIFORNIA

Approved for Payment:
SIEMENS PUBLIC, INC., by
SIEMENS FINANCIAL SERVICES, INC.,
As Fiscal Agent

By: _____
Title: _____

By: _____
Title: _____

By: _____
Title: _____

**ATTACHMENT 1
TO EXHIBIT A
(FORM OF REQUISITION REQUESTING DISBURSEMENT)**

ACCEPTANCE CERTIFICATE

The undersigned, as the Lessee under that certain Leasing Schedule #280-0006002-001 (the "Lease") to Master Lease Purchase Agreement dated June 8, 2017, with Siemens Public, Inc., as lessor (the "Lessor"), hereby acknowledges receipt in good condition of all of the equipment (the "Equipment") described on the attached Annex A; hereby accepts such Equipment "**AS-IS, WHERE-IS**"; and hereby certifies that it has inspected the Equipment, that the Equipment is in good working order and complies with all purchase orders, contracts and specifications, that the Lessee has fully and satisfactorily performed all covenants and conditions to be performed by it as of this date under the Lease with regard to such Equipment, that the Lessee waives any right to revoke its acceptance, that such Equipment is fully insured in accordance with Section 16 of the Lease, and that such Equipment constitutes all or a portion of the Equipment as that term is defined in the Lease. This certificate is made without prejudice to any rights against third parties which may exist as of the date hereof or which may subsequently come into being.

CITY OF EL PASO DE ROBLES, CALIFORNIA

Acceptance Date: _____

By: _____

Name: _____

Title: _____

**ANNEX A
TO ATTACHMENT 1
(ACCEPTANCE CERTIFICATE)**

DESCRIPTION OF EQUIPMENT*

The following items:

* The Equipment subject to this Acceptance Certificate is deemed to include all items listed in each Requisition Requesting Disbursement submitted to the Escrow Agent pursuant to the Escrow Agreement whether or not such items are specifically included in this Description of Equipment. The Escrow Agent has no responsibility or duty to verify or validate any such Equipment related to this Agreement.

EXHIBIT B

ARBITRAGE INVESTMENT INSTRUCTIONS

These Arbitrage Instructions provide guidance regarding compliance with § 148 of the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exclusion from gross income for federal income tax purposes of the interest components of Lease Payments to be paid by the Lessee under the Lease. Pursuant to the Escrow Agreement, the Escrow Agent has agreed to hold, invest and disburse the proceeds of the Lease.

In Section 9 of the Lease, the Lessee has covenanted that it will not knowingly take any action that would cause the interest portion of the Lease Payments under the Lease to become includable in gross income of the recipient for federal income tax purposes under the Code and the applicable Treasury Regulations promulgated thereunder (defined below as the "Regulations"), and that it will take and will cause its officers, employees and agents to take all affirmative actions legally within its power and known to it to be necessary to ensure that the interest portion of the Lease Payments does not become includable in gross income of the recipient for federal income tax purposes under the Code and the Regulations. These actions include compliance with all requirements of the Code and the Regulations relating to the rebate of arbitrage profit to the United States of America, including without limitation the calculation and payment to the United States of any rebate required to preserve said exclusion of the interest components of Lease Payments.

Section 1. Definitions. In addition to the capitalized terms defined in the Lease and in § 148 of the Code and the Treasury Regulations issued thereunder, the following capitalized terms are defined:

"Bona Fide Debt Service Fund" means, under Treas. Reg. § 1.148-1(b), a fund that (1) is used primarily to achieve a proper matching of revenues with Lease Payments within each Lease Year, and (2) is depleted at least once each Lease Year, except for a reasonable carryover amount not to exceed the greater of (a) the investment earnings on the fund for the preceding Lease Year, or (b) 1/12 of the total Lease Payments on the Lease for the preceding Lease Year. For purposes of these Arbitrage Instructions, as of any date, all amounts in the Escrow Fund which are expected to be used to pay capitalized interest during the current Lease Year should be treated as amounts in a Bona Fide Debt Service Fund. It is not expected that any Gross Proceeds would be held in a Bona Fide Debt Service Fund.

"Escrow Fund" means the special escrow trust fund established in the custody of the Escrow Agent under the Escrow Agreement.

"Final Computation Date" means the date the last Lease Payment is made and the Lease is terminated.

"Gross Proceeds" means (i) Sale Proceeds; (ii) investment proceeds derived from the investment of Sale Proceeds; (iii) amounts held in a sinking fund for the Lease; (iv) amounts held in a pledged fund or reserve fund for the Lease; and (v) any transferred proceeds. Specifically, Gross Proceeds include all amounts held in the Escrow Fund.

"Installment Computation Date" means every 5th anniversary of the Issue Date.

"Investment" means any security, obligation, annuity contract or other investment-type property which is purchased directly with, or otherwise allocated to, Gross Proceeds. Such term does not include obligations the interest on which is excluded from federal gross income, except for "specified private activity bonds" as such term is defined in Code § 57(a)(5)(C).

"Issue Date" means the date on which the Lease is executed and delivered.

"Lease Year" means each one-year period ending on each annual anniversary of the Lease Commencement Date.

"Minor Portion" means the lesser of \$100,000 or 5% of the Sale Proceeds.

"Reasonable Retainage" means Gross Proceeds retained by the Lessee for reasonable business purposes, such as to ensure or promote compliance with a construction contract; provided that such amount may not exceed 5% of net Sale Proceeds of the Lease on the date 18 months after the Issue Date.

"Regulations" means Treasury Regulations §§ 1.148-0 through 1.148-11, 1.149(d)-1, 1.149(g)-1, 1.150-1 and 1.150-2, as the same may hereafter be amended, and any other temporary, proposed or final regulations promulgated by the Internal Revenue Service to implement the requirements of § 148(f) of the Code and applicable to the Lease.

"Sale Proceeds" means any amounts actually or constructively received from the "sale" of the Lease (i.e., execution, delivery and funding or purchase of the Lease by the Lessor or the Lessor's assignee if the Lessor's assignee is funding the Lease), including amounts used to pay any discount or compensation to underwriters, lease brokers, placement agents or financial advisors and accrued interest other than pre-issuance accrued interest.

"Special Tax Counsel" means a counsel of recognized national standing in the field of law relating to municipal bonds.

Section 2. Covenants. The Lessee agrees (a) to compute the arbitrage rebate on the Lease, or to determine that all or a portion of the Gross Proceeds are exempt from the rebate requirements, as appropriate, in accordance with the Regulations, and (b) to pay to the United States all arbitrage rebate due in accordance with these Arbitrage Investment Instructions and the Regulations.

Section 3. Investments. All Gross Proceeds must be invested in accordance with this Section.

(a) *Temporary Periods/Yield Restriction.* Proceeds of the Lease deposited in the Escrow Fund and investment earnings thereon may be invested without yield restriction for not more than three years after the Issue Date, except as otherwise provided in this Section. If any unspent proceeds remain in the Escrow Fund after three years, such amounts may continue to be invested without yield restriction, except as otherwise provided in this Section, so long as all yield reduction payments are computed and paid to the IRS in accordance with Treas. Reg. § 1.148-5(c). Any amounts in the Escrow Fund after completion of the acquisition of the Equipment in excess of the sum of the Lease Payments coming due within 12 months of such completion plus \$100,000 and any amounts not invested as described above shall be invested at a yield not greater than the yield on the Lease.

(b) *Fair Market Value.*

(1) General. No Investment may be acquired with Gross Proceeds for an amount (including transaction costs) in excess of the fair market value of such Investment, or sold or otherwise disposed of for an amount (including transaction costs) less than the fair market value of the Investment. The fair market value of any Investment is the price a willing buyer would pay to a willing seller to acquire the Investment in a bona fide, arm's-length transaction. Fair market value shall be determined in accordance with § 1.148-5 of the Regulations. Where there is no established securities market for an Investment, use the applicable paragraphs below.

(2) Certificates of Deposit. The purchase price of a certificate of deposit (a "CD") is treated as its fair market value on the purchase date if (i) the CD has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal; (ii) the yield on the CD is not less than the yield on reasonably comparable direct obligations of the United States; and (iii) the yield is not less than the highest yield published or posted by the CD issuer to be currently available on reasonably comparable CDs offered to the public.

(3) Other Investments. If an Investment is not described above, the fair market value may be established through a competitive bidding process, as follows:

(A) at least three bids on the Investment must be received from persons with no financial interest in the Lease (e.g., as underwriters or brokers); and

(B) the yield on the Investment must be equal to or greater than the yield offered under the highest bid.

Section 4. Arbitrage Rebate Exceptions.

(a) *Small Issuer Exception.* The Lessee will not be obligated to pay arbitrage rebate to the United States if (i) the Lessee is a governmental unit under the laws of its state with general taxing powers; (ii) the Lease is not a private activity bond as defined in Section 141 of the Code; (iii) 95% or more of the net proceeds of the Lease will be used for local governmental activities of the Lessee; and (iv) the aggregate face amount of all tax-exempt obligations (other than private activity bonds) issued by the Lessee and all subordinate entities thereof during the calendar year in which the Lease Commencement Date (as defined in the Lease) occurs does not exceed \$5,000,000.

(b) *Six-Month Exception.* The obligation to pay arbitrage rebate to the United States will be treated as satisfied if

(1) the Gross Proceeds (as modified below) are allocated to expenditures for the governmental purpose of the Lease within six months after the Issue Date; and

(2) arbitrage rebate is paid in accordance with Section 148 of the Code on all other Gross Proceeds.

For purposes of paragraph (1) above, Gross Proceeds do not include amounts in a Bona Fide Debt Service Fund or amounts that become Gross Proceeds after the end of the six-month spending period, but were not expected to be Gross Proceeds as of the Issue Date (e.g., Gross Proceeds arising from a sale of the facilities financed with the Lease). The Lease meets the six-month expenditure test even if, at the end of the six-month period, Gross Proceeds not exceeding the Minor Portion remain unspent, so long as such Gross Proceeds are spent within one year after the Issue Date. The use of Gross Proceeds to pay the principal component of any Lease Payment will not be treated as an expenditure of Gross Proceeds.

(c) *Eighteen-Month Exception.* The obligation to pay arbitrage rebate to the United States will be treated as satisfied if

(1) the Gross Proceeds (as modified below) are allocated to expenditures for the governmental purpose of the Lease in accordance with the following schedule:

<u>Time Period after the Issue Date</u>	<u>Minimum Percentage of Gross Proceeds Spent</u>
6 months	15
1 year	60
18 months	100

and;

(2) arbitrage rebate is paid in accordance with Section 148 of the Code on all other Gross Proceeds.

For purposes of paragraph (1) above, Gross Proceeds do not include amounts in a Bona Fide Debt Service Fund or amounts that become Gross Proceeds after the end of the 18-month spending period, but were not expected to be Gross Proceeds as of the Issue Date (e.g., Gross Proceeds arising from a sale of the facilities financed with the Lease). The Lease meets the 18-month expenditure test even if, at the end of the 18-month period, Gross Proceeds not exceeding a Reasonable Retainage remain unspent, so long as such proceeds are spent within 30 months after the Issue Date. In addition, the failure to satisfy the final spending requirement at the end of the 18-month period is disregarded if the Lessee uses due diligence to complete the facilities financed with the Lease, and the amount of Gross Proceeds unspent does not exceed the lesser of 3% of the "issue price" of the Lease (i.e., the amount paid by the Lessor or the Lessor's assignee if the Lessor's assignee is funding the payment) or \$250,000. However, the use of Gross Proceeds to pay the principal component of any Lease Payment will not be treated as an expenditure of such Gross Proceeds.

Section 5. Computation and Payment of Arbitrage Rebate.

(a) *Computation, Notice and Transfer.* Except as provided above, the Lessee shall compute arbitrage rebate within 45 days after each Installment Computation Date, and within 45 days after the Final Computation Date, in accordance with the Regulations. Upon each computation of arbitrage rebate, the Lessee shall give written notice to the Lessor by first class mail, postage prepaid, including a copy of such computation, showing the arbitrage rebate due, together with an opinion or certificate stating that arbitrage rebate was determined in accordance with the Regulations.

(b) *Exception for Bona Fide Debt Service Fund.* Amounts in a Bona Fide Debt Service Fund are exempt from the arbitrage rebate requirements.

(c) *Rebate Payments.* Within 60 days after each Installment Computation Date and the Final Computation Date, the Lessee shall pay to the United States the amount of arbitrage rebate then due, determined in accordance with the Regulations.

Each payment of arbitrage rebate shall be mailed or delivered to:

Internal Revenue Service Center
Ogden, UT 84201

(or any other address required by the Regulations) and shall be accompanied by IRS Form 8038-T and such other forms, documents or certificates as may be required by the Regulations. The Lessee shall send a copy of any such correspondence, payments, forms or documents to the Lessor.

Section 6. Records. The Lessee shall retain a copy of each computation of arbitrage rebate, and the Escrow Agent shall, to the best of its abilities, retain detailed records with respect to each Investment, including: (a) purchase date, (b) purchase price, (c) information establishing the fair market value on the date such investment was allocated to the Lease, (d) any accrued interest paid, (e) face amount, (f) coupon rate, (g) frequency of interest payments, (h) disposition price, (i) any accrued interest received, and (j) disposition date. The Lessee and the Escrow Agent shall retain all such records until six years after the Final Computation Date.

Section 7. Filing Requirements. The Lessee shall file or cause to be filed with the Internal Revenue Service such reports or other documents as are required by the Code. The Escrow Agent shall provide to the Lessee, upon written request, all information required to be retained by it pursuant to the Escrow Agreement (including these Arbitrage Investment Instructions).

Section 8. Survival after Defeasance. Notwithstanding anything in the Escrow Agreement to the contrary, the obligation to pay arbitrage rebate to the United States and to comply with all other requirements contained in these Arbitrage Instructions and in the Regulations shall survive the payment or defeasance of the Lease.

Section 9. Opinion of Special Tax Counsel. These Arbitrage Instructions may be modified or amended in whole or in part upon receipt of an opinion of Special Tax Counsel to the effect that such modifications and amendments will not adversely affect the exclusion from federal gross income of the interest components of the Lease Payments.

* * *

LESSEE COUNSEL OPINION

[To be Placed on Attorney Letterhead.]

June 8, 2017

Siemens Public, Inc.
3411 Silverside Road
Hanby Building, Suite 100
Wilmington, DE 19810

Ladies and Gentlemen:

As counsel for the City of El Paso de Robles, California (the "Lessee"), we have examined a duly executed original of (a) Leasing Schedule #280-0006002-001 dated June 8, 2017 (the "Lease"), by and between Siemens Public, Inc. (the "Lessor") and the City of El Paso de Robles, California, as Lessee, which incorporates the terms and conditions of Master Lease Purchase Agreement dated June 8, 2017 (the "Agreement"); (b) Escrow Agreement Relating to Equipment Subject to Leasing Schedule #280-0006002-001 dated June 8, 2017 (the "Escrow Agreement"), among the Lessee, the Lessor and UMB Bank, N.A., as escrow agent; and (c) Performance Contracting Agreement dated _____, 2017 (the "Energy Savings Contract"), between the Lessee and Siemens Industry, Inc., Building Technologies Division.

In our examination, we have assumed, without independent investigation, the authenticity of all documents submitted to us as originals, of all documents submitted to us as certified or photostatic copies and the authenticity of the originals of such latter documents and the accuracy of the statements and representations contained in such documents. In addition, we have assumed the authority of and due execution by each of the parties to the documents other than the Lessee.

As used in this opinion, the phrase "current actual knowledge" means knowledge as we have obtained from (i) the incumbency and signature certificate of the Lessee, (ii) the representations and warranties contained in each closing certificate of the Lessee, and (iii) knowledge of facts or other information currently known to lawyers currently in our firm who have performed legal services for the Lessee.

Capitalized terms used herein but not defined have the meaning given them in the Lease.

Relying on such examination and pertinent law and subject to the limitations and qualifications hereinafter set forth, we are of the opinion that:

1. The Lessee is a public body corporate and politic, duly organized and existing under the laws of the State of California, with the power and authority to execute, deliver and perform all of its obligations under the Lease, the Escrow Agreement and the Energy Savings Contract, and has a substantial amount of one or more of the following sovereign powers: (a) the power to tax; (b) the power of eminent domain; and (c) police power.
2. The Lease, as incorporating the terms and conditions of the Agreement, the Escrow Agreement and the Energy Savings Contract have been duly authorized, executed and delivered by the Lessee, pursuant to constitutional and/or statutory provisions which authorize this transaction and pursuant to Resolution No. _____ (the "Resolution"), adopted by the Lessee's governing body on June 6, 2017.
3. The Escrow Agreement and the Energy Savings Contract by the other parties thereto, the Lease, as incorporating the terms and conditions of the Agreement, the Escrow Agreement and the Energy Savings Contract are legal, valid and binding obligation of the Lessee, enforceable in accordance with their respective terms except as limited by state and federal laws, regulations, rulings and court decisions relating to applicable

bankruptcy, insolvency, reorganizations, moratoriums or similar laws affecting the enforcement of creditors' rights generally, and by equitable principles which could limit specific performance. In the event the Lessor obtains a judgment against the Lessee in money or damages, as a result of a default under the Lease, the Lessee will be obligated to pay such judgment.

4. The authorization, approval and execution of the Lease (as incorporating the terms and conditions of the Agreement), the Escrow Agreement and the Energy Savings Contract and all other proceedings of the Lessee related to the transactions contemplated thereby, have been performed in accordance with all open meeting laws, public bidding laws, if any, and all other applicable laws, including without limitation **[Note to Counsel: Reference applicable California energy savings statute].**

5. Based solely upon the Officer's Certificate of the Lessee, dated June 8, 2017 and executed in connection with the above referenced financing without witnessing the signing of the documents, the signatures of the officers of the Lessee which appear on the Lease, the Escrow Agreement and the Energy Savings Contract are true and genuine; we know said officers and know them to hold the offices set forth next to their names.

6. To our current actual knowledge after due inquiry, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way questioning or affecting the validity of the Resolution, the Lease, the Escrow Agreement or the Energy Savings Contract, or is likely to affect the ability of the Lessee to perform its obligations under the Lease (as incorporating the terms and conditions of the Agreement), the Escrow Agreement or the Energy Savings Contract.

7. No consent of, exemption by or registration with any governmental body (other than those that have been obtained) is required in connection with the leasing of the property or the execution, delivery and performance by the Lessee of its obligations under the Lease (as incorporating the terms and conditions of the Agreement), the Escrow Agreement and the Energy Savings Contract.

Our opinion is further qualified by the following:

(a) We express no opinion with respect to the laws of any state or jurisdiction other than California and the United States regarding the enforceability of any transaction mentioned herein or the interpretation, authorization, execution, validity, enforceability or effect of any of the documents mentioned herein; provided further that we express no opinion with respect to California or federal tax and securities law.

(b) As City Attorney in this matter, we have not rendered financial advice to the Lessee and do not represent by this opinion, or otherwise, that we reviewed or made any assessment about, nor do we express any opinion about, the ability of the Lessee to pay debt service or amounts due under the Lease.

(c) We express no opinion as to the validity and enforceability of any indemnity or liquidated damages provisions.

(d) This opinion speaks only as of its date and we have undertaken no obligation to update this letter.

This letter is furnished by us as City Attorney to the Lessee. This letter speaks only as of its date and is delivered to the addressees solely for their benefit as participants in the Master Lease transaction and is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person, however, this opinion may be relied upon by direct purchasers and direct assignees of Lessor's interests in the Lease (as incorporating the terms and conditions of the Agreement), the Escrow Agreement and the Energy Savings Contract.

We bring to your attention the fact that our conclusions are an expression of professional judgment and are not a guarantee of a result.

Very truly yours,

OPINION OF SPECIAL TAX COUNSEL AND IRS FORM 8038-G

[To be provided by Lessee's Special Tax Counsel.]

[Required to be Provided Prior to Closing Date.]

OFFICER’S CERTIFICATE

Issued in Connection with Leasing Schedule #280-0006002-001 (the “Lease”) to Master Lease Purchase Agreement dated June 8, 2017 (the “Agreement”) between Lessee and Siemens Public, Inc.

The undersigned, being a duly qualified and acting officer of **City of El Paso de Robles, California** (“Lessee”), **DOES HEREBY CERTIFY AS FOLLOWS:**

1. Attached hereto is a true and complete copy of the resolution or other authorizing document adopted, signed and approved by the governing body of Lessee, authorizing execution and delivery of (a) the Lease, as incorporating the terms and conditions of the Agreement, (b) the Escrow Agreement Relating to Equipment Subject to Leasing Schedule #280-0006002-001 (the “Escrow Agreement”) among Lessee, Siemens Public, Inc. and the escrow agent named therein, (c) the Performance Contracting Agreement dated _____, 2017 (the “Energy Savings Contract”), by and between Lessee and Siemens Industry, Inc., Building Technologies Division, and (d) all related documents, and consummation of the transactions contemplated thereby.
2. The official of Lessee who executed the Lease, as incorporating the terms and conditions of the Agreement, the Escrow Agreement and the Energy Savings Contract on behalf of Lessee and whose signature appears on those documents; (a) is the duly qualified and acting officer of Lessee as stated beneath his or her signature, and (b) has been authorized to execute those documents on behalf of Lessee.
3. The following official or representative of Lessee is authorized to act on behalf of Lessee in matters relating to the Lease, as incorporating the terms and conditions of the Agreement, the Escrow Agreement and the Energy Savings Contract and the Equipment covered thereby:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
_____	_____	_____

4. The budget year of Lessee is from July 1 to June 30.

IN WITNESS WHEREOF, the undersigned has executed this Officer’s Certificate as of the date set forth below.

By: _____

Name: _____

Title: _____

Date: June 8, 2017

[To be prepared by Lessee Counsel. Signed copy to be provided prior to Closing Date.]

AFFIDAVIT OF PUBLICATION REGARDING PUBLIC HEARING

[To be provided by Lessee Counsel prior to Closing Date.]

ESSENTIAL USE/SOURCE OF FUNDS CERTIFICATE

LESSEE NAME: City of El Paso de Robles, California

Re: Leasing Schedule #280-0006002-001 (the "Lease") to Master Lease Purchase Agreement dated June 8, 2017 between the undersigned ("Lessee") and Siemens Public, Inc.

This certificate confirms and affirms that the equipment described in the Lease referenced above (the "Equipment") is essential to the functions of the Lessee or to the services Lessee provides its citizens. Further, Lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Lessee will use such Equipment only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority.

1. Is the Equipment new, an upgrade, additional or a replacement? If replacement, how old is the existing equipment? If new, is the Equipment for a start-up program?

2. Please fully explain the use of the Equipment, including any specific department which may be its primary user.

3. If any of the Equipment is computer software, on what hardware will the software run, and is the existing hardware owned or being leased?

4. From which fund will lease payments be made? _____

5. Will any loan or grant monies be used to make lease payments? _____

CITY OF EL PASO DE ROBLES, CALIFORNIA

By: _____

Name: _____

Title: _____

Date: June 8, 2017

INSURANCE COVERAGE REQUIREMENTS

TO LESSOR: **SIEMENS PUBLIC, INC. its Successors and/or Assigns ATIMA**
(CERTIFICATE HOLDER) c/o Siemens Financial Services, Inc.
3411 Silverside Road
Hanby Building, Suite 100
Wilmington, DE 19810

FROM LESSEE: **CITY OF EL PASO DE ROBLES, CALIFORNIA**
(INSURED) 1000 Spring Street
El Paso de Robles, CA 04915

LEASING SCHEDULE #280-0006002-001 dated June 8, 2017 (the "Lease"), to MASTER LEASE PURCHASE AGREEMENT dated June 8, 2017 (the "Agreement") between the undersigned ("Lessee") and Siemens Public, Inc.

EQUIPMENT LOCATIONS: See Schedule 1 attached hereto.

SUBJECT: INSURANCE COVERAGE REQUIREMENTS

Check All Appropriate Boxes:

Third-Party Insurance. In accordance with Section 16 of the Agreement, we have instructed the insurance agent named below to issue the insurance indicated below (please fill in name, address and telephone number of insurance agent):

California Joint Powers Insurance Authority
c/o Alliant Insurance Services, Inc.
P.O. Box 6450
Newport Beach, CA 92685-6450

All Risk Physical Damage Insurance on the leased equipment ("Equipment") covered by the Lease, evidenced by a Certificate of Insurance and Long Form Loss Payable Clause **naming Siemens Public, Inc., and/or its assigns, as additional insured and loss payee.**

Coverage Required: Full Replacement Value

Public Liability Insurance evidenced by a Certificate of Insurance **naming Siemens Public, Inc., and/or its assigns as Additional Insured.**

Minimum Coverage Required:
\$1,000,000.00 per person
\$1,000,000.00 aggregate bodily injury liability
\$100,000.00 property damage liability

Proof of insurance coverage will be provided prior to the time the Equipment is delivered to us.

Self Insurance. Pursuant to Section 16 of the Agreement, we are self-insured for:

All risk, physical damage.

Public liability.

Such self-insurance covers Siemens Public, Inc. and its assigns to the same extent that commercial insurance would otherwise be required to do so by the Lease. We will provide proof of such self-insurance in letter form together with a copy of the statute or other authority authorizing this form of insurance.

LESSEE: CITY OF EL PASO DE ROBLES, CALIFORNIA

By: _____

Name: _____

Title: _____

Date: June 8, 2017

SCHEDULE 1 TO INSURANCE COVERAGE REQUIREMENTS

EQUIPMENT LOCATIONS

Facility	Address
City Hall / Library	1000 Spring St, El Paso de Robles, CA 93446
Public Safety Building (Police and Fire)	900 Park St, El Paso de Robles, CA 93446
Centennial Gym/Admin Building	600 Nickerson Dr, El Paso de Robles, CA 93446
Senior Center	270 Scott St, El Paso de Robles, CA 93446

INSURANCE CERTIFICATES (PROPERTY AND LIABILITY) RESPECTING THE EQUIPMENT WITH THE FOLLOWING PARTY SHOWN AS LOSS PAYEE AND ADDITIONAL INSURED:

SIEMENS PUBLIC, INC. its Successors and/or Assigns ATIMA
c/o Siemens Financial Services, Inc.
3411 Silverside Road
Hanby Building, Suite 100
Wilmington, DE 19810

[On file with Lessor.]

LESSEE'S PAYMENT INSTRUCTIONS

Re: Leasing Schedule #280-0006002-001 (the "Lease") to Master Lease Purchase Agreement, both dated June 8, 2017, between the City of El Paso de Robles, California , as lessee, and Siemens Public, Inc., as lessor

Siemens Public, Inc.
3411 Silverside Road
Hanby Building, Suite 100
Wilmington, DE 19810

Ladies and Gentlemen:

The City of El Paso de Robles, California (the "Lessee"), hereby instructs Siemens Public, Inc. to disburse the following amount to the following party in connection with the Lease:

\$2,354,218 to UMB Bank, N.A., as escrow agent, consisting of the proceeds of the Lease, to be applied to finance the "Equipment" as described in the Lease and pay certain costs of issuance relating thereto, as follows:

Wire Instructions:

Bank Name: UMB Bank, N.A.
ABA Routing No.: 101000695
BNF Name: Trust Operations/CT-STL
BNF Acc: 9800006823
Reference: Siemens/City of El Paso de Robles, California

Dated: June 8, 2017.

CITY OF EL PASO DE ROBLES, CALIFORNIA

By _____
Name: _____
Title: _____

COSTS OF ISSUANCE PAYMENT INSTRUCTIONS

Re: Leasing Schedule #280-0006002-001 (the "Lease") to Master Lease Purchase Agreement, both dated June 8, 2017, between the City of El Paso de Robles, California , as lessee, and Siemens Public, Inc., as lessor

UMB Bank, N.A.
2 S. Broadway, 6th Floor
St. Louis, MO 63102
Attn: Corporate Trust Department

Ladies and Gentlemen:

Siemens Public, Inc. hereby instructs UMB Bank, N.A., as escrow agent, to disburse the following amounts from the Escrow Fund established pursuant to the Escrow Agreement Relating to Equipment Subject to Leasing Schedule #280-0006002-001 dated as of June 8, 2017, to the following parties for payment of costs of issuance in connection with the Lease:

Payment Instructions:

Payee: Best Best & Krieger LLP

Purpose: Lessee Counsel Fee

Amount: \$4,500

(See attached invoice for payment instructions and attached signed Form W-9.)

Reference: El Paso de Robles, California

Payee: UMB Bank, N.A.

Purpose: Escrow Agent Acceptance Fee

Amount: \$600

ABA Routing No.: 101000695

BNF Name: Trust Operations/CT-STL

BNF Acc: 9800006823

Reference: Siemens/City of El Paso de Robles, California

(See attached invoice.)

Payee: Haight Law Firm

Purpose: Special Tax Counsel Fee

Amount: \$7,000

(See attached invoice for payment instructions and attached signed Form W-9.)

Reference: El Paso de Robles, California

Dated: June 8, 2017.

[Signature page follows.]

SIEMENS PUBLIC, INC.

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____

ACKNOWLEDGED:

CITY OF EL PASO DE ROBLES, CALIFORNIA

By: _____
Name: _____
Title: _____

CALIFORNIA DEBT AND INVESTMENT ADVISORY COMMISSION FILINGS

[To be prepared and filed by Lessor Counsel.]

Siemens Financial Services

Partner in creating value.

CUSTOMER BILLING INFORMATION

This is to instruct Siemens Financial Services Inc. in the mailing address for invoices regarding **Leasing Schedule #280-0006002-001 to Master Lease Purchase Agreement** between the **City of El Paso de Robles, California** (the "Lessee") and **Siemens Public, Inc.** (the "Lessor"). This form applies to the following Leasing Schedule:

Leasing Schedule No. 280-0006002-001

Invoice should be addressed as follows:

To the Attention of: Mike Compton, City Treasurer, CCMT

Corporate Name: City of El Paso de Robles, California

Billing Address: 1000 Spring Street, El Paso de Robles, CA 04915

Federal ID#: _____

Invoice Resolution Contact: mcompton@prcity.com

Telephone Number: (805) 237-7505, Ext. 6660

Fax Number: (805) 237-6565

CUSTOMER PURCHASE ORDER #: **X** _____ (if applicable)

Thank you!

Executed Documentation Should Be Sent To Whom: Mike Compton

**Request for Taxpayer
Identification Number and Certification**

**Give Form to the
requester. Do not
send to the IRS.**

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner. <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number	
OR	
Employer identification number	

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



May 22, 2017

City of El Paso de Robles, California
1000 Spring Street
El Paso de Robles, CA 04915

Re: Leasing Schedule #280-0006002-001 (the "Lease") to Master Lease Purchase Agreement dated as of June 8, 2017, between the City of El Paso de Robles, California , as lessee, and Siemens Public, Inc., as lessor

Ladies and Gentlemen:

Thank you for selecting Siemens Public, Inc. ("Siemens") as your lender. We are delivering this letter to describe our role in the transaction.

Siemens has not acted and will not act as your agent or serve as your municipal advisor (as defined in Section 15B of the Securities Exchange Act of 1934). We have no fiduciary duty to you and intend only to enter into an arms-length transaction involving extending credit to you through the purchase of a lease purchase agreement.

Any quote or indication of interest provided to you consists solely of the terms under which Siemens may be willing to enter into a transaction with you for Siemens' own account.

Please acknowledge the foregoing by signing where indicated below and returning this letter via e-mail to our counsel, Gilmore & Bell, P.C. (e-mail: jjackson@gilmorebell.com). In addition, please identify below any registered municipal advisor, financial advisor or placement agent you are working with on this transaction.

Please let us know if you or your counsel would like to further discuss these matters. Thank you again for doing business with us. We look forward to working with you.

SIEMENS PUBLIC, INC.

Financial Advisor/ Registered Municipal Advisor: _____
(Name of Firm)

Placement Agent: _____
(Name of Firm)

No Placement Agent/Financial Advisor/Registered Municipal Advisor

Acknowledgement:
CITY OF EL PASO DE ROBLES, CALIFORNIA

By: _____
Name: _____
Title: _____

DISTRIBUTION LIST

[On file with Lessor.]



Please Refer to Attachment Document:

Agenda Item No. 17 – Public Hearing

Agreement with Siemens Industry to Complete HVAC and
Lighting System Upgrades

Siemens Agreement: Appendix 1-5

[http://www.prcity.com/government/departments/publicworks
/pdf/siemens-appendices/](http://www.prcity.com/government/departments/publicworks/pdf/siemens-appendices/)

CC Agenda 6-6-17