

EXHIBIT A

ENERGY SOLUTIONS AGREEMENT

PARTIES: Efficient Lighting Designs, Inc. (ELD)
101 Parkshore Drive Suite #100
Folsom, CA 95630

Davis Joint Unified School District (“the CUSTOMER”)
526 B Street
Davis, CA 95616

AGREEMENT DOCUMENTS: In addition to the terms and conditions of this Energy Solutions Contract, incorporated into this agreement are the following:

- ❑ Schedule 1 - Scope of Work
- ❑ Schedule 2 - Term and Payment Schedule
- ❑ Schedule 3 - Certificate of Completion and Acceptance

FACILITIES OPERATIONS SURVEY AND PROPOSED AGREEMENT

ELD has developed procedures for assisting companies and public agencies to reduce energy usage and maintenance expenses using engineering analyses and the installation of energy efficient technologies.

ELD has conducted an extensive audit and assessment of the energy consumption characteristics at CUSTOMER’s premises, based upon which it has recommended to CUSTOMER certain equipment and other measures designed to conserve energy as described in Schedule 1 (the “Scope of Work”). ELD represents that the anticipated cost to CUSTOMER of the conservation services provided under this Agreement, together with any financing costs, will be less than the anticipated marginal cost to the public CUSTOMER of energy that would have been consumed by CUSTOMER in the absence of those services. The CUSTOMER is entering into this agreement as Authorized by Government Code section 4217.12 and encouraged by California Education Code 17650-17653.

1. SCOPE. ELD will provide the CUSTOMER with the work identified on Schedule 1 of this Agreement (Work). ELD shall supervise and direct the Work and shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under this Agreement. ELD shall be responsible to pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work as per Schedule 1 except as indicated in Scope of Work Exclusions.

2. COMMENCEMENT DATE AND COMPLETION AND ACCEPTANCE DATE. The Commencement Date and the Completion and Acceptance Date for the Work shall be as set forth in Schedule 3 of this Agreement. Completion means that ELD has provided enough materials and services to permit the CUSTOMER to achieve the intended benefit from the Work.

3. PRICE AND PAYMENT. The total price for ELD’S Work under this Agreement shall be as set forth in Schedule 2 of this Agreement. The CUSTOMER shall make progress payments as set forth in Schedule 2 or, if nothing is set forth in Schedule 2, monthly, for all materials delivered to the project or to an off-site storage facility and for all Work performed on-site and off-site. The CUSTOMER shall pay, or cause to be paid, all

amounts due ELD for work hereunder within twenty (20) business days after receipt of ELD 'S (or assignee's) invoice. Final payment, constituting the entire unpaid balance for the Work, shall be made to ELD within 30 (thirty) days after the Completion and Acceptance Date. Pursuant to applicable law payments may be withheld on account of any breach of this Agreement by ELD and claims by third parties (including ELD, ELD's subcontractors, and material suppliers).

4. TAXES, PERMITS, AND FEES. ELD shall be responsible for obtaining all permits and related permit fees associated with the Work and Services. ELD shall pay sales, consumer, use, and other similar taxes and shall secure and pay for permits and governmental fees, licenses, and inspections necessary for proper execution.

5. WARRANTY. ELD warrants that materials and equipment furnished by ELD will be of good quality and new; that the Work will be free from defects. ELD warrants that the Work shall be free from defects in material and workmanship arising from normal usage for a period of **(1) One Year** from the Completion and Acceptance Certificate date and/or the Completion and Acceptance Date, whichever is earlier. Upon written notice from the CUSTOMER, ELD shall, at its option, repair or replace the defective Work. These warranties do not extend to any Work that has been repaired by others, abused, altered, misused, or that has not been properly and reasonably maintained. All manufacturers' extended product warranty will be passed along to the CUSTOMER and will be detailed in the new equipment Operation and Maintenance Manuals.

One-Year Labor Warranty on all newly installed products

Ten-Year Material Warranty on newly Installed RAB TLED lamps

Ten-Year Material Warranty on newly Installed RAB Exterior LED Fixtures

Ten-Year Material Warranty on newly Installed ESL Vision MUR Lamps

Five-Year Material Warranty on newly Installed Lithonia LED High Bay Fixtures

Five-Year Material Warranty on newly Installed Advance Ballasts, Wattstopper Occupancy Sensors and all screw-based LED lamps

6. CLEANUP. ELD shall keep the premises and the surrounding area free from accumulation of waste materials or rubbish caused by the Work and, upon completion of the Work, ELD shall remove all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials.

7. DELEGATION BY ELD. ELD shall have the right to subcontract to any person, firm or corporation to perform any of its obligations hereunder, provided that ELD shall remain responsible for such performance.

8. SAFETY. ELD shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Work. ELD shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities related to safety of persons or property.

9. HAZARDOUS MATERIALS. Unless specifically noted in Schedule 1, ELD'S obligations expressly exclude any Work or Services of any nature associated or connected with the identification, abatement, use, transportation, cleanup, control, storage, removal, containment, clearance testing or disposal of hazardous materials or substances.

If ELD becomes aware of any additional hazardous materials that are not included in the Scope of Work, it shall immediately notify the CUSTOMER about the presence of hazardous materials. The CUSTOMER agrees to and does release, indemnify, defend and hold harmless ELD, its consultants, its ELDs, its partners and their officers, agents and employees of and from all costs, claim, damages and liability arising out of or relating to

hazardous materials, or third parties relating thereto, or injury caused thereby, except for such costs, claims, damages or liability which are directly caused by the misconduct and/or negligence of ELD.

10. INSURANCE. Prior to commencing the Work, ELD shall provide a certificate of insurance to Customer showing its insurance coverages, and ELD shall always maintain such insurance in full force and effect until the Work has been completed, in the following minimum amounts:

COVERAGES	LIMITS OF LIABILITY
Workmen's Compensation or Self Insurance Including Employer's Liability	Statutory
Commercial General Liability Each Occurrence including Contractual	\$2,000,000 Aggregate \$1,000,000.
Excess Umbrella Liability	\$1,000,000 Aggregate

11. INDEMNITY. ELD shall indemnify and hold harmless the CUSTOMER, its employees, agents, and assigns against all claims, actions, damages, liabilities, and expenses, including attorney's fees, arising out of or related to any claims of patent infringement and any claims of construction or materialman's lien made by any subcontractor or materialman. ELD shall also indemnify and hold harmless the CUSTOMER, its employees, agents, and assigns against all claims, actions, damages, liabilities, and expenses, including attorney's fees, arising out of or related to personal injury or property damage to the extent caused by ELD'S negligence or willful misconduct in connection with the performance of the Work.

12. DELAYS. ELD shall not be liable for any delay in the performance of the Work for any reason beyond ELD'S control and without ELD'S negligence, including without limitation labor disputes, fire, riots, and unusual delay in deliveries, acts of God and other abnormal adverse weather conditions.

13. ELD'S PROPERTY. All materials not part of the projects to be installed at the site or related to the equipment's function that are furnished by ELD remain the exclusive property of ELD. The CUSTOMER agrees not to use such materials for any purpose at any time. The CUSTOMER agrees to allow ELD personnel to retrieve and to remove all such materials remaining after installation or maintenance operations have been completed. ELD shall retain the title to all equipment installed, as set forth in Schedule 1, at the CUSTOMER'S facilities, until ELD receives its compensation for items installed as set forth in Schedule 2.

14. ORDER OF PRECEDENCE. Any inconsistency in this Agreement and its Schedules and related documents shall be resolved by giving precedence in the following order: The Addenda; Schedule 2, Term and Payment Schedule; Schedule 1, Scope of Work; and the Agreement Terms and Conditions.

15. MODIFICATIONS. Additions, deletions, and modifications to this Agreement and its Schedules may be made upon the mutual agreement of the parties, and, subject to the agreement of the Customer, such additions may include proposals from ELD for additional Work and Services. These modifications to the Agreement may be made via Change Order in writing to document the agreed upon changes.

16. NOTICES. All notices or communications related to this Agreement shall be in writing and shall be deemed served if and when sent by facsimile e-mailed or mailed by certified or registered mail to ELD at the address listed on page 1 of this Agreement, Attn.: Steve DiPierro, President, and to the CUSTOMER at the address listed on page 1 of this Agreement.

17. EVENTS OF DEFAULT BY THE CUSTOMER. Each of the following shall constitute an event of default by the CUSTOMER:

- (a) Any failure by the CUSTOMER to pay ELD its compensation required by Schedule 2 of this Agreement for a period of more than thirty (30) business days after the date of the invoice thereof and after a ten (10) business day cure notice;
- (b) Any representation or warranty furnished by the CUSTOMER in this Agreement which was false or misleading in any material respect when made;
- (c) Failure by the CUSTOMER to perform its obligations under this Agreement.

18. EVENTS OF DEFAULT BY ELD. Each of the following shall constitute an event of default by ELD:

- (a) Failure to perform by ELD its responsibilities pursuant to this Agreement;
- (b) Any representation or warranty furnished by ELD in this Agreement that was false or misleading in any material respect when made.

19. PREVAILING WAGE

- (a) Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the Labor Code, the Board of Davis Joint Unified School District has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which this public work is to be performed for each craft, classification or type of worker needed for this Project from the Director of the Department of Industrial Relations (“Director”). These rates are on file in the business office of Davis Joint Unified School District and copies will be made available to any interested party on request. ELD shall post a copy of such wage rates at the work site.
- (b) Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the above-specified rate of per diem wages, unless otherwise specified. Holidays shall be defined in the Collective Bargaining Agreement applicable to each craft, classification or type of worker employed.
- (c) ELD shall pay, and shall cause to be paid, each worker engaged in work on the Project not less than the general prevailing rate of per diem wages determined by the Director, regardless of any contractual relationship which may be alleged to exist between ELD or any subcontractor and such workers.
- (d) Any worker employed to perform work on the Project, which work is not covered by any craft or classification listed in the general prevailing rate of per diem wages determined by the Director, shall be paid not less than the minimum rate of wages specified therein for the craft or classification which most nearly corresponds to work to be performed by them, and such minimum wage rate shall be retroactive to time of initial employment of such person in such craft or classification.
- (e) Pursuant to Labor Code Section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence and apprenticeship or other training programs.

- (f) ELD shall post at appropriate conspicuous points on the site of the Project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages earned.
- (g) ELD agrees to comply with Labor Code Sections 1773.3, 1777.5 and 1777.6, and 3077 et. seq., each of which is incorporated by reference into this contract. These sections require that ELDs and subcontractors' employee apprentices in apprenticeable occupations in a ratio of not less than one (1) apprentice for each five (5) journeymen, unless an exemption is granted and that ELDs and subcontractors shall not discriminate against otherwise qualified employees as indentured apprentices on any public works solely on the ground of race, religious creed, color, national origin, ancestry, sex, or age. Only apprentices who are in training under written apprenticeship agreements will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions for all apprenticeable occupations rests with ELD.
- (i) ELD shall be knowledgeable of and comply with California Labor Code Sections 1727, 1773.5, 1775, 1777, 1777.5, 1810, 1813, 1860, including all amendments; each of these sections is incorporated by reference into this contract.
- (j) ELD agrees to comply with the provisions of Sections 1776 and 1812 of the California Labor Code. ELD and each subcontractor shall keep or cause to be kept an accurate record showing the names, addresses, social security numbers, work classifications, straight time and overtime hours worked each day and week of all workmen employed by him in connection with the execution of this Contract or any subcontract thereunder and showing the actual per diem wages paid to each of such workers. These records shall be open at all reasonable hours to the inspection of the District awarding the Contract, its officers and agents, and to the Chief of the Division of Labor Statistics and Law Enforcement of the State Department of Industrial Relations, his deputies and agents.

20. ADDITIONAL TERMS.

- A.** Any failure of either party to require strict performance by the other party, or any waiver by either party of any requirement under this Agreement, does not consent to or waive any subsequent failure or breach by the other party.
- B.** If any provision of this Agreement is invalid under any applicable law, that provision shall not apply, but the remaining provisions shall apply as written.
- C.** The captions and titles in this Agreement are for convenience only and shall not affect the interpretation or meaning of this Agreement.
- D.** This Agreement as well as the fully signed District Contract, all Exhibits, Schedules and attachments constitute the full agreement between ELD and the CUSTOMER as of the date it is signed. All previous conversations, correspondence, agreements, or representations related to this Agreement are not part of the Agreement between ELD and the CUSTOMER. No modifications are binding on ELD unless made in writing.
- E.** This Agreement shall be construed in accordance with the laws of the State of California.
- F.** The obligations and liabilities under this Agreement are not affected by the expiration or termination of this Agreement.

21. FINGERPRINTING

CUSTOMER has considered the totality of the circumstances concerning the Project and has determined that ELD and ELD’S employees or Sub-Contractor’s employees are subject to the requirements of Education Code section 45125.2 and the following: Contracts for Construction, Reconstruction, Rehabilitation or Repair of a School Facility Involving More than Limited Contact with Students (Section 45125.2.) apply.

By execution of the Agreement/Contract, ELD further acknowledges that ELD is entering into a contract for the construction, reconstruction, rehabilitation or repair of a school facility where ELD and/or ELD’s Subcontractors employees will have more than limited contact with students and the services to be provided do not constitute an emergency or exceptional situation. ELD and/or ELD’s Subcontractors will comply with Education Code 45125.2.

22. APPLICABLE LAW.

This Agreement and the construction and enforceability thereof shall be interpreted under the laws of the State of California. In the event of any conflict or ambiguity between these instructions and state or federal law or regulations, the latter shall prevail. Additionally, all equipment to be supplied or services to be performed under the agreement shall conform to all applicable requirements of local, state and federal law, including, but not limited to, California Labor Code Sections 1771, 1778 and 1779.

Every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted, and this contract shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted or is not correctly inserted, upon application of either party the contract shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject which are in effect as of the date of this contract, and any later changes that do not materially and substantially alter the positions of the parties.

In the event of litigation, venue shall be in Sacramento County, California.

IN WITNESS WHEREOF, the Parties hereto subscribe their names to this instrument on the date first written above.

WARNING: Contractors are required by law to be licensed and regulated by the Contractors State License Board, which has jurisdiction to investigate complaints against Contractors if a complaint is filed within three years of the date of the alleged violation. Any questions Concerning a Contractor may be referred to the Registrar, Contractors’ State License Board, P. O. Box 26000, Sacramento, CA 95826. [California Business and Professions Code § 7030(a)]

CUSTOMER

EFFICIENT LIGHTING DESIGNS, INC.

Amari Watkins,
Associate Superintendent for Business
Services

Stephen DiPierro,
President

Date

Date

SCHEDULE 1 – SCOPE OF WORK

PROJECT SCOPE OF WORK INDEX

<u>Section 1</u>	Lighting Scope of Work
<u>Section 2</u>	Proposed Project Installation Timeline & Coordination
<u>Section 3</u>	Utility Rebates and Incentives

1.0 GENERAL LIGHTING SCOPE OF WORK

The impetus of this project is to retrofit the current lighting systems with new (Light Emitting Diodes) LED technologies

All Interior Lighting fixtures will be retrofitted with new LED Lamps. Occupancy Sensing Lighting controls will be installed where applicable

All Exterior Lighting Fixtures will be replaced with new LED Fixtures or LED retrofit Kits using Photo Electric Control where applicable

All expended lighting lamps and ballasts will be disposed of per current EPA regulations. Any found lighting ballast containing PCB's will be treated as Hazardous waste and disposed of per EPA hazardous waste regulations

Please see the ECM table listed in Attachment A for project cost and annual savings totals for each site.

Please see the Itemized Scope of work listed in Attachment B for specific retrofit strategies and fixture totals for each site.

1.5 LIGHTING SCOPE OF WORK EXCLUSIONS

The impact of the following exclusions has not been estimated in the above Scope of Work:

- Repair of any pre-existing electrical distribution problems.
- Repair or replacement of any existing lighting controls.
- Any items not specified in this scope.

2.0 PROPOSED PROJECT INSTALLATION TIMELINE & COORDINATION

This project will require extensive scheduling and coordination to ensure the efficient implementation of the Work shown herein. ELD will provide retrofit services in Phases. Each construction Phase will include a complete Lighting system retrofit at a given building. The CUSTOMER shall provide safe access to the buildings. ELD will work with the CUSTOMER to develop a detailed project schedule. Once the project schedule is confirmed, ELD will provide the CUSTOMER with a Schedule of Values and a progress payment schedule, which corresponds to the project schedule. It is anticipated the construction phase of this project would be performed in the 2nd Quarter of 2021.

3.0 UTILITY REBATES AND INCENTIVES

Any and all direct or express utility rebates or incentives for this project will be paid Directly to ELD. There are no Rebates for this project.

SCHEDULE 2 – TERM AND PAYMENT SCHEDULE (PG&E) OBF Financing

1. INVESTMENT.

This project is being funded using PG&E's 2021 On Bill Financing (OBF) program.

2. TERM AND COMMENCEMENT DATE. The term of this Agreement shall begin on the Commencement Date, which shall be the date of execution of this Agreement. ELD will prepare a Project Construction Schedule, Schedule of Values indicating a Scheduled Completion Date by which all Work shall be completed. All Work shall be completed by the Scheduled Completion and Acceptance Date.

3. COMPLETION DATE. The Completion and Acceptance Date shall be the date when the Notice of Completion for the Work is filed and recorded. The Certificate of Substantial Completion and Acceptance will be filed and recorded by the CUSTOMER not later than ten (10) days after the CUSTOMER'S Board has accepted the Completion and Acceptance Date executed by the CUSTOMER'S Senior Director of Facilities and M.O.T.

4. DELAYS. If ELD is delayed in the commencement or completion of the Work by causes beyond its control and without its fault or negligence, including but not limited to fire, flood, labor disputes, unusual delays in deliveries, third parties which are not in ELD'S control, abnormal adverse weather conditions, and acts of God, or by failure by the CUSTOMER to perform its obligations under the Agreement and Schedules or failure by the CUSTOMER to cooperate with ELD in the timely completion of the Work, then ELD shall provide written notice to the CUSTOMER of the existence, extent of, and reason for such delays. An equitable adjustment in the Scheduled Completion Date shall be made as a result.

5. CERTIFICATE OF COMPLETION AND ACCEPTANCE. Upon completion of all the Work and its acceptance by the CUSTOMER, the CUSTOMER'S Senior Director of Facilities and M.O.T. shall execute a Certificate of Completion and Acceptance which shall include:

- a. Acknowledgment by the CUSTOMER that all Work required under this Agreement (less any work required under the Warranty) has been completed.
- b. Acknowledgment by the CUSTOMER of the warranty start date and warranty period.
- c. Acknowledgment that ELD has paid all providers of labor and material used for this project.

After its execution, the Certificate of Completion and Acceptance shall be submitted to the CUSTOMER'S Board at its next regular meeting occurring at least four (4) working days after execution. The Notice of Completion will be filed and recorded by the CUSTOMER not later than ten (10) days after the CUSTOMER'S Board has accepted the Certificate of Completion and Acceptance. Final payment to ELD (less any amounts retained under this Agreement or other required by law to be withheld or retained) shall be made within thirty (30) days of the filing and recording of the Notice of Completion.

SCHEDULE 3 -

Certificate of Completion and Acceptance

The undersigned, Davis Joint Unified School District (“the Customer”), having its office at 526 B Street, Davis, CA 95616, having entered into the Energy Solutions Agreement (“Agreement”) dated _____, 2021, with Efficient Lighting Designs, Inc., a California corporation (“ELD”), does hereby certify to ELD that with reference to the equipment and systems listed in Schedule 1 attached hereto (the “Equipment”, the “Systems”) and specifically located at the Customer’s Premises, that:

All Work required under this Agreement (less any work required under the Warranty) has been completed.

The Equipment and Systems by the Customer with the assistance of ELD and its authorized agents and representative, is in good condition and has been satisfactorily delivered and installed.

Based on the representation of ELD and its authorized agents and representative, the Customer is satisfied that the Equipment and Systems are suitable for the Customer’s purposes.

There exists no Event of Default or condition which, but for the passing of time or giving of notice, or both, would constitute an Event of Default for ELD under the Agreement.

ELD is entitled to all remaining compensation when due, as per Schedule 2.

ACCEPTANCE

Efficient Lighting Designs, Inc.

Amari Watkins,
Associate Superintendent of Business
Services

Stephen DiPierro,
President

Date

Date

ATTACHMENT A

DJUSD OBF 2021							
MEASURE NUMBER	INCLUDED IN PROJECT	SCHOOL CAMPUS / PG&E LA NUMBER	PROJECT COST	ANNUAL SAVINGS	MAINTENANCE SAVINGS	SIMPLE PAYBACK Energy Savings Only	SIMPLE PAYBACK All Savings
1	Y	HARPER JR HIGH OBF #012266	\$224,710	\$36,443	\$1,925	6.2	5.9
2	Y	KOREMATSU EL OBF #012265	\$124,852	\$19,305	\$1,120	6.5	6.1
		TOTAL	\$349,562	\$55,748	\$3,045	6.3	5.9
MISCELLANEOUS							
		Project Management	Incl				
PROJECT TOTALS			\$349,562	\$55,748	\$3,045	6.3	5.9

ATTACHMENT B

Scope of Work

DJUSD HARPER JR HIGH

Quantity	Existing Type	Retrofit Type	Fixture ID
465	3-4'T8,EB,SL	3-4'IF,ISL	1
40	TOGGLE SWITCH	PW-200	2
22	2-4'T8,EB,SL	2-4'IF,ISL	3
50	3-4'T8,EB,SL	2-4'IF,ISL	4
70	6-4'T8,EB,SL	6-4'IF,ISL	5
25	4-4'T8,EB,SL	4-4'IF,ISL,2-BALL	6
16	1-32,CFL,6"	GC LED 6"	7
80	4-4'T8,EB,SL	4-4'IF,ISL	8
25	1-85W,PAR-38	RAB 15W PAR38	9
60	2-40PLL,EB	2-IF,ISL	10
6	2-8'T8,EB,SL	2-8'IF,ISL	11
30	1-400MH,HB	LED 2X2,HB	12
45	TOGGLE SWITCH	CEILING SENSORS	13
160	1-26,CFL,6"	GC LED 6"	14
55	1-50,HPS,WP	SLIM12N/PCU	15
15	1-400,HPS,AREA	MUR-150	16
80	2-4'T8,EB,SL EXT	2-4'IF,ISL	17

Scope of Work

DJUSD KOREMATSU ELD

Quantity	Existing Type	Retrofit Type	Fixture ID
20	6-4'T8,EB,SL	6-4'IF,ISL	1
595	3-4'T8,EB,SL	3-4'IF,ISL	2
22	1-26,CFL,6"	GC LED 6"	3
24	1-50,HPS,CANOPY	VANLED10N	4
60	1-50HPS,WP	SLIM12N/PCU	5
4	TOGGLE SWITCH	CEILING SENSOR	6
25	3-4'T8,EB,SL	3-4'IF,ISL	7
30	6-4'T8,EB,SL	6-4'IF,ISL	8
10	TOGGLE SWITCH	PW-200-W	9
5	1-250HPS,AREA	MUR 105	10