

**CONTRACT NAME: AGREEMENT BETWEEN SUBURBAN
PROPANE AND DAVIS JOINT UNIFIED SCHOOL DISTRICT**

BRIEF DESCRIPTION OF CONTRACT: This agreement between Suburban Propane and DJUSD is to provide propane for the backup generator at Ron and Mary Brown Stadium at Davis Senior High School.

Suburban Propane®

☒ On-site Proposal
☐ Phone Quote/Proposal

PROPANE PROPOSAL

Suburban Propane, L.P. ("Suburban" or "Seller") Address: 1980 E Main St Woodland CA 95776

Telephone 530 662 9361 Fax 530 662 8542 Email bcanepa@suburbanpropane.com

Date 08/08/2017	Account Number 282	Account Representative Name Brian Canepa	CSC Number 1613
Name "Customer" Davis Unified School District Attn George Parker		Telephone 530-788-3533	
Customer's Email dburke@djusd.net		Cell Telephone	Fax
Billing Address 315 W. 14th Street		City Davis	State CA Zip Code 95616
Delivery Address 315 W. 14th Street		City Davis	State CA Zip Code 95616
Delivery Address Owner if not Customer ("Landowner")		Telephone Number	Cell Telephone Number

QUANTITY	EQUIPMENT/SERVICES DESCRIPTION	TOTAL
	PROPANE TANK INSTALLATION - Commercial Generator Use	\$
1	Suburban Propane will set a 172-gallon propane tank on concrete slab	\$
2	Anchor propane tank to slab with 1/2" x 4" grade 8 anchor bolts	\$395.00
3	Hook up a integral 2-stage regulator at propane tank	\$65.00
4	Provide a Leak & Safety Test to assure a Leak Free System. Includes a regulator flow & lock up test	\$75.00
		\$
5	Set up for inspection every 6 months and fill if needed (\$55.00 + fuel delivered)	\$
6	Tax Addendum to avoid paying Sales Tax on propane. \$12.50 annual service fee	\$12.50
		\$
	CUSTOMER TO SUPPLY: Concrete slab 4' x 8', gas line to generator, and Permits	\$
Permit Fees (if applicable):		\$
Sales Tax:		\$

We propose to furnish the above stated Equipment/Services for the sum of \$ 547.50

PROPANE SALES DESCRIPTION

We propose to sell propane for all of Customer's LP-Gas requirements at the initial per gallon price of \$ 2.89, or as outlined above in Equipment/Services Description, subject to the terms and conditions set forth in the written agreement between Suburban and Customer. Customer acknowledges that, unless otherwise expressly stated above by Suburban, this price is applicable to Customer's first fill only.

Customer acknowledges that this Proposal is confidential and agrees not to disclose its contents to third parties. Changes or additions to the Equipment/Services described above are subject to Suburban's approval and acceptance and may involve additional charges. This Proposal is contingent upon Customer's execution of a written agreement, completion of a credit check, and Suburban's acceptance of them. The terms and conditions of the agreement will include the Equipment/Services Description.

This Proposal may be withdrawn if not accepted within 30 days.

SUBURBAN MANAGER (SEE INSTRUCTIONS) OR REGIONAL SALES REP:

SIGNATURE:

PRINT NAME:

Brian Canepa



ACCEPTANCE OF PROPOSAL

I am authorized to accept this Proposal for work to proceed at the Delivery Address. The above Equipment/Services/Propane Sales Description, prices and conditions are hereby accepted.

CUSTOMER NAME:

Davis Unified School District Attn

CUSTOMER AUTHORIZED SIGNATURE:

Bruce E. Colby
Chief Business Officer

DATE OF ACCEPTANCE:

1/22/19

DISTRIBUTION: CUSTOMER - COPY OFFICE - COPY

Item No. 1527486 AGR-1005-0213

Suburban Propane, L.P. ("Suburban" or "Seller") Address: 1980 E Main St Woodland CA 95776			
Telephone <u>530</u> - <u>662</u> - <u>9361</u>		Fax <u>530</u> - <u>662</u> - <u>8542</u>	Email <u>bcanepa@suburbanpropane.com</u>
Agreement Date 08/14/2017	Account Number	Account Representative Name Brian Canepa	CSC Number 1613
Customer Name ("Customer") Davis Unified School District		Business Telephone Number 530-788-3533	Cell Telephone Number
Customer's Tax Identification Number		Fax Number	Email Address gparker@djusd.net
Billing Address 526 "B" Street		City Davis	State CA
Delivery Address 315 W. 14th Street		City DaVIS	State CA
Delivery Address Owner if not Customer ("Landowner")		Telephone Number	Cell Telephone Number

1. PROPANE AND EQUIPMENT: Customer agrees to purchase all requirements for LP-Gas ("Propane") from Suburban. Seller shall lease, maintain (and install when necessary) at the Delivery Address Suburban-owned storage tanks, regulators and/or meters as is necessary for Propane service, including, but not limited to, such items identified in any Suburban work order or other Suburban records ("Equipment"). Seller may replace, add or adjust Equipment if necessary in Seller's judgment or as requested by Customer, which items shall also be regarded as "Equipment" hereunder. Title to Equipment shall remain with Suburban at all times and shall not pass to Customer, any subsequent purchaser of the Delivery Address or other third party (including creditors). Equipment shall not become fixtures notwithstanding the manner in which it is affixed to property. Customer warrants that he/she has the legal right and Landowner's consent, if applicable, to have the Equipment installed and used at the Delivery Address for the duration of this Agreement. Customer agrees that only Suburban and its authorized representatives shall deliver Propane to, and have contact with, the Equipment. Title to any exterior and/or interior propane piping installed by Suburban is hereby conveyed to Customer. Customer is responsible for proper grounding/bonding of propane piping, shall arrange for protection of regulators from the elements and, where applicable, for protection of piping and Equipment from the forces of accumulated snow/ice.

2. PRICES AND FEES: As compensation for Suburban's (i) supply to Customer of Propane, (ii) lease to Customer of the Equipment, and (iii) provision to Customer of other services incidental thereto, Customer agrees to pay to Suburban (a) Suburban's per gallon price for Propane applicable to Customer on the date of delivery/meter read ("Price"), and (b) Suburban's applicable fees and charges ("Fees" or "Charges") in effect on the date of billing. Customer understands and agrees that, unless otherwise stated by Suburban in writing (including in any Addendum attached hereto), any Price quoted by Suburban on or prior to the Agreement Date applies only to Customer's first delivery of Propane and that Customer's Price for subsequent deliveries of Propane could vary with each such delivery. Customer also understands and agrees that the Price Customer will pay for each delivery is dependent on a number of different factors, which will vary over time, including, but not limited to, the direct and indirect costs incurred by Suburban to acquire, store and deliver the Propane sold to Customer, the volume of Propane purchased by Customer and prevailing conditions. Because of this variability in Price, Customer acknowledges that the Price paid by Customer for any delivery of Propane may be different from (A) the Price charged to Customer for an earlier or later delivery of Propane, (B) the price charged at any time to other purchasers of Propane by Suburban or any other company, or (C) any published price index.

The initial amounts of Fees to be charged to Customer include:

SECURITY DEPOSIT: \$ <u>0</u>	SAFETY PRACTICES & TRAINING FEE: \$ <u>9.62</u>
MINIMUM MONTHLY PURCHASE REQUIREMENT ("MMR"): \$ <u>0</u>	EARLY TERMINATION FEE: * \$ <u>0</u>
MINIMUM ANNUAL PURCHASE REQUIREMENT: <u>100</u> gallons	INSTALLATION FEE: \$ <u>547.50</u>
NONREFUNDABLE EQUIPMENT RENTAL FEE: \$ <u>55.00</u> per year	PER DELIVERY METER READ FEE: \$ <u>0</u>

*Payable if Customer terminates this Agreement prior to initial term as agreed upon damages and not as a penalty.

Suburban may also charge other Fees, including, but not limited to, a Transportation Fuel Surcharge Fee, Emergency/Special Delivery Fee and the Fees set forth elsewhere in this Agreement. Fees may be based on Propane gallons delivered to Customer or on other bases, including, but not limited to, a per delivery basis or a periodic basis.

The Safety Practices & Training Fee is charged to recover some of Suburban's safety related costs including, but not limited to, in connection with Suburban's own vehicle and facility inspections as well as Suburban's employee training and testing. The Safety Practices & Training Fee does not vary with the volume delivered and is charged separately instead of being included in the Price. The Safety Practices & Training Fee and other Fees are not specifically authorized or imposed by any local, state or federal law, and the Safety Practices & Training Fee and other Fees are not collected on behalf of, or remitted to, any governmental entity.

Customer understands and agrees that the specific Fees charged and the amount of those Fees may vary over time. Customer acknowledges and agrees that itemization of Price and Fees on Suburban's Delivery Invoice, Delivery Notice or Statement will be sufficient and adequate notice to Customer of those Price and Fees and that Suburban is not required to provide Customer with additional notice of, or prior notice of changes to, Price and/or the amount or nature of Fees. Customer may obtain information about Suburban's current Price and Fees, and delivery terms and options, applicable to Customer from Suburban's local office, and a description of Suburban's Fees can be found online at www.suburbanpropane.com/fees.

3. CUSTOMER'S RESPONSIBILITIES: Customer, at its sole cost and expense, shall be responsible for, and Seller's obligations under this Agreement shall be expressly pre-conditioned upon, Customer's timely provision, installation, operation, security and maintenance of each item checked in **Appendix A** attached hereto and made a part hereof, and trained personnel as required by law or regulation. In addition, Customer shall notify Seller of changes in fuel consumption that may require adjustment of volume and/or frequency of fuel deliveries.

4. TERM OF AGREEMENT: This Agreement shall continue for an initial term of 2 year(s) from the date hereof and thereafter shall automatically renew on a month to month basis unless terminated at the end of the initial term or subsequent anniversary dates by either party upon not less than sixty (60) days prior written notice to the other party as set forth in paragraph 14 of this Agreement. If during

the term of this Agreement Customer shall purchase Propane from a supplier other than Seller, Seller may elect to terminate this Agreement for Customer's breach.

5. **PAYMENT TERMS AND POLICY:** Invoices shall be due and payable upon Customer's receipt thereof. If Customer's credit shall for any cause be deemed unsatisfactory by Seller, Seller shall have the right to require payment in advance before making further deliveries. Invoices remaining unpaid more than thirty (30) days from Invoice date shall be subject to a Late Payment Fee consistent with applicable law. Without further notice, Seller may suspend Propane delivery and disconnect Equipment for non-payment of Invoice more than sixty (60) days from Invoice date. Reconnection of Equipment after a suspension is subject to a Reconnection Charge. Title to Propane shall transfer from Seller to Customer upon delivery, and is subject to recovery by Suburban in the event of non-payment. Customer agrees that Suburban shall have the right to access Equipment to recover its Propane not paid for by Customer and Customer agrees to pay an applicable Restocking (Pump Out) Fee and other charges relating to such recovery. Customer shall pay all taxes, and for all licenses, permits or inspections, imposed by governmental entities in connection with the sale, installation, storage or use of Propane sold or Equipment leased hereunder. Security Deposits shall not earn interest unless required by law.

6. **SAFETY:** Customer acknowledges that warnings for employees and end users and other safety literature produced by the Propane Education Research Council are available for purchase from www.propanemarc.com. Customer agrees to provide all employees and agents at the Delivery Address and all end users of the Propane sold hereunder with the safety information provided by Seller to Customer. For additional safety information, including natural disaster and weather-related warnings, visit www.suburbanpropane.com or call 1-888-223-0029. Customer shall ensure that its employees, agents and end users are familiar with the odor of Propane, and acknowledges that Suburban recommends the installation of UL-listed Propane gas detectors and carbon monoxide detectors in basements, and elsewhere as recommended by the manufacturer, to provide an additional warning of the presence of Propane or carbon monoxide.

7. **MAINTENANCE; ACCESS; SERVICE:** Customer agrees that no modification, connection or addition to Equipment or replacement, repair, disconnection or other handling of Equipment will be made except by Seller's employees, affiliates or authorized representatives. Customer shall notify Seller before any Propane-fueled unit or appliance at the Delivery Address is to be connected, disconnected or replaced, and before start-up of seasonal equipment. At all times Customer shall grant Seller the right and ability to have necessary access (without risk or liability for trespass) to Equipment in order to inspect, change or remove all or part of the Equipment, and to remove from such Equipment those gallons of Propane for which Customer has not made payment within sixty (60) days of the delivery thereof. Customer shall not tamper with Equipment and shall not move it from its original installation location, or part with its possession or encumber the Equipment in any way, and shall surrender the Equipment to Seller upon any termination of this Agreement in the same condition as received, normal wear excepted. Seller may disconnect any appliance or Equipment, regardless of ownership, deemed by Suburban to be unsafe. Customer agrees to notify Seller immediately, both orally and in writing, of any apparent malfunction in Equipment so that Seller may repair such malfunction. Customer agrees to pay for any diagnostic or service work and parts provided by Suburban for Customer-owned equipment, if offered, in accordance with mutually agreed upon labor rates and parts charges.

8. **TERMINATION:** Customer hereby grants Seller the absolute right to remove its Equipment without notice to Customer or process of law upon termination of this Agreement, and Customer shall be solely responsible to pay for all costs associated with such removal. It is further agreed that Seller shall not be liable for any injury or damage to the Delivery Address or any property of Customer located thereon occasioned by removal of Equipment, including the removal of underground tanks and piping, except arising out of the sole negligence of Seller. Upon any termination of this Agreement not resulting from a default by Seller, Customer agrees to pay to Suburban applicable Restocking (Pump Out) Fees, Closeout (Tank Pickup) Fees and other Fees relating to termination of service (see www.suburbanpropane.com/fees for a description of these Fees).

9. **INSURANCE:** While this Agreement remains in effect, Customer shall maintain commercial general liability ("CGL") insurance coverage with limits acceptable to Seller including products liability, completed operations, and contractual liability coverages; and workers' compensation and employers' liability coverages. At Seller's request, Customer agrees to provide Suburban with a Certificate of Insurance and endorsement(s), in forms acceptable to Suburban, that evidence such insurance coverage and name "Suburban Propane Partners, L.P. and its subsidiaries, affiliates and successors" as an additional insured with respect to Customer's CGL insurance policy. While this Agreement remains in effect, Suburban shall maintain CGL and other appropriate insurance coverages, in accordance with standard industry practice.

10. **RELEASE AND INDEMNIFICATION OF SUBURBAN; DAMAGES; LIMITATION OF ACTION.** Customer, for itself, its employees and agents, and all other third parties, hereby releases Suburban, waives all claims against Suburban, agrees not to sue Suburban, and agrees to indemnify and hold Suburban harmless from any and all liability, injuries, claims, losses, damages (including consequential damages), lost profits, costs, expenses, and causes of action arising out of or related to (1) any personal injury, including death, or any property damage that may be sustained unless resulting from the sole negligence or any other actionable conduct of Suburban; (2) Customer's use of Equipment or tampering or unauthorized servicing thereof; (3) installation, removal, use, misuse, breakage or malfunction of equipment or piping not owned by Suburban; (4) any Customer-owned bridge failure or other premises liability; (5) exhaustion of Customer's Propane supply; (6) service discontinuance; (7) Customer's breach of this Agreement; (8) any negligent acts or omissions on part of Customer. Customer, for itself, its employees and agents, and all other third parties, hereby agrees that Suburban's liability shall be limited to proven direct damages, not to exceed the actual amounts paid by Customer to Suburban over the twelve (12) month period prior to the events giving rise to the claim. No demand, claim, suit, or action shall be made or brought against Suburban, its related business units, employees, agents, assigns or successors more than two (2) years after the date of the event that caused any injury, damage or loss. This paragraph shall survive the termination of expiration of this Agreement.

11. **UNCONTROLLABLE INTERRUPTION OF SERVICE:** Customer agrees that Seller shall not be liable to Customer or other party for failure to supply Propane or for any delay, loss or damage, or any failure to perform this Agreement due to any "force majeure" condition such as flood, fire, lightning or other adverse weather or environmental condition, explosion, power blackout, labor dispute, unavailability of Propane, acts or omissions of carriers or transportation facilities, government order or regulation, terrorist act, war, act of God, or any other cause beyond Seller's reasonable control whether or not similar to the foregoing.

12. **DEFAULT:** Should either party default on any material condition of this Agreement, the non-defaulting party shall have the option to cancel this Agreement by providing thirty (30) days prior written notice of intent to cancel to the defaulting party and if the defaulting party does not cure such default within such notice period, except that Seller may elect to terminate this Agreement immediately if Customer fails to make payment or maintain insurance coverage as required hereunder or for any safety violation not remedied.

13. **NO WAIVER; SEVERABILITY:** No delay on the part of either party in exercising any of its rights hereunder shall prevent the exercise of such rights at a later date, and any waiver of any breach of this Agreement by either party shall not be deemed a waiver of any other or subsequent breach thereof. Should any section or clause of this Agreement be held invalid by a court of competent jurisdiction, it is agreed that the balance of this Agreement shall continue in full legal force and effect.

14. **SUCCESSORS; ASSIGNMENT; SUBCONTRACTING; NOTICES:** This Agreement shall inure to the benefit of and be binding upon the parties and their respective successors, legal representatives and assigns, except that Customer shall not assign this Agreement without the written consent of Seller. It is agreed that Seller may assign this Agreement to its affiliates at any time. Suburban also reserves the right to subcontract any or all of its obligations under this Agreement. All communications and notices provided for or permitted hereunder shall be effectively given if in writing and mailed postage prepaid (certified

mail for termination notices) to the respective address set forth above. Customer authorizes Seller to leave a notice at the Delivery Address of any condition preventing Propane delivery or resulting in service discontinuance or otherwise requiring Customer's attention.


15. APPLICABLE LAW; ENTIRE AGREEMENT: This Agreement shall be construed in accordance with the laws of the jurisdiction of where the Delivery Address is located. This Agreement, including the **Dispute Resolution Procedures Addendum** attached hereto and made a part hereof, contains the entire agreement between the parties and supersedes all prior negotiations, proposals and oral or written agreements with respect to the subject matter hereof. Subject to Suburban's right, as set forth in this Agreement, to unilaterally change Prices and Fees at any time, this Agreement may only be amended by a writing executed by both parties, and provisions herein may only be waived by Seller in writing. Any Appendix, Addendum and/or Attachment to this Agreement is governed by the terms and conditions set forth herein unless otherwise expressly stated.

16. CUSTOMER'S CREDIT CHECK AUTHORIZATION AND REPRESENTATION: Customer has authorized or hereby authorizes Suburban to conduct a credit check to evaluate Customer's credit prior to Suburban's acceptance of this Agreement. By signing below, **Customer acknowledges that Customer has become familiar with the odor of Propane and has received Suburban's Safety Tips and Safety Data Sheet attached hereto.**

17. LANDOWNER'S CONSENT: If Customer is not the owner of the Delivery Address, Customer agrees to provide Suburban with a copy of Suburban's "Landowner's Consent to Installation of Propane Gas Equipment," signed by the Landowner.

Suburban Propane, L.P. and the undersigned **Customer** hereby execute this Agreement as of the above Agreement Date and agree that facsimile signatures are as effective as originals.

SUBURBAN By: _____
Signature of Suburban Manager (see instructions)
Brian Talabis _____
Print Name and Title

CUSTOMER:  _____
Signature of Customer
Davis Unified School District **Bruce E. Colby** _____
Print Customer's Name
Bruce E. Colby
Chief Business Officer

APPENDIX A

ITEMS TO BE SUPPLIED BY CUSTOMER (SEE SECTION 3)

- | | |
|--|--|
| <input checked="" type="checkbox"/> All required permits and other necessary installation and operation approvals; | _____ Pump, motor and meter maintenance; |
| _____ Physical protection off/for Equipment and Customer-owned equipment; | _____ Required non-combustible fencing; |
| <input checked="" type="checkbox"/> Excavation, trenching and backfill for underground pipe and storage container, necessary sand beds, clearance, leveling and related site preparation for installation of Equipment including notification of underground facility markout service; | _____ Electric power, wiring and lighting (Class 1 Group D Explosion Proof); |
| <input checked="" type="checkbox"/> Concrete slabs or piers to Suburban's specifications for Propane bulk storage tank(s); | _____ Unloading riser fittings; |
| _____ All fire protection requirements and fire prevention equipment, including fire extinguishers; | _____ Vaporizer; |
| _____ Piping from Propane bulk storage tank or tank manifold terminal to other equipment; | <input checked="" type="checkbox"/> Adequate truck access for delivery of Propane and Equipment clear of obstruction, snow and debris; |
| _____ Other: _____ | |

Tax Addendum
172-gallon tank

ADDENDUM
(For Commercial Propane Gas Sales and Service Agreement)

The Commercial Propane Gas Sales and Service Agreement (the "Agreement") dated Aug. 14, 2017 between SUBURBAN PROPANE, L.P. ("Seller") and Davis Unified School Dist. ("Buyer") is amended and modified as follows:

Notwithstanding anything contained in the Agreement or otherwise to the contrary, the parties agree as follows:

1. Title to Propane stored in Seller's tank(s) located on Buyer's premises shall remain with Seller until the Propane has been converted from liquid to vapor and enters Buyer's mains or pipes. Buyer shall be invoiced for all Propane at delivery and agrees to pay for Propane in accordance with the terms of the Agreement. In exchange for Seller's willingness to provide vaporized Propane to Buyer and to defray the cost of maintaining Buyer's accounts and records, Buyer agrees to pay company an annual account service fee of \$ 12.50.
2. Upon any termination of the Agreement, any credit due Buyer for unconsumed Propane remaining in tank(s) shall be offset by any amount owed Seller, including late payment charges.
3. Except as expressly provided herein, the terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between the provisions of the Agreement and the provisions of this Addendum, this Addendum shall prevail.

(Buyer)

By: 

Title:

Bruce E. Colby
Chief Business Officer

Date:

1/22/18

(Seller) Suburban Propane, L.P.

By: 

Title:

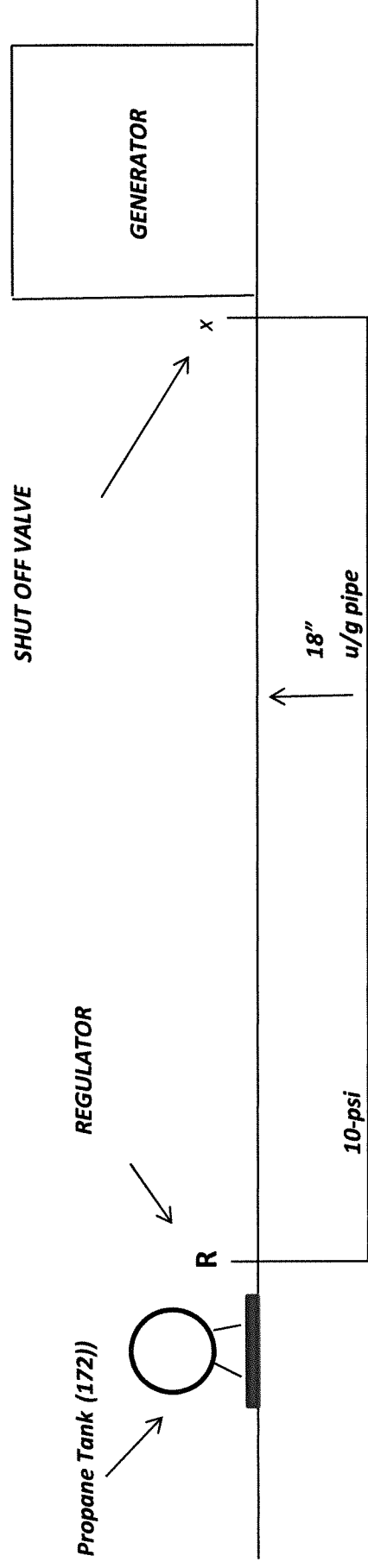
Reginald Salas

Date:

8/14/17

Propane Tank Installation, 172 gallon tank- Description of Work

- Suburban Propane will set a 172-gallon propane tank on concrete slab. (4' x 8')
- Propane tank will be a minimum of 10' from house, property line, and source of ignition
- Install a ¾" underground gas line consisting of polyethylene pipe (IPS) with steel risers at each end Pressure test to 60-psi for county inspection
- An integral 2-stage regulator will be installed at propane tank; shut off valve installed at generator
- Propane & Leak and Safety Test performed, including flow & lock up on regulator



**** Propane tank must be a minimum of 10' from house, property line, & any source of ignition**

***** Underground Gas line MUST have a minimum of 18" cover from the top of the pipe**