



Professional Services Agreement – Renewable Energy Consulting

Date: October 31, 2017 ("Effective Date")

This Professional Services Agreement (the "Agreement") is entered between the parties identified below: (each a "Party" and collectively the "Parties")

Legal Name	Sage Renewable Energy Consulting, Inc. ("SAGE")
Business Entity	California Corporation
Principal Place of Business	1719 5 th Avenue San Rafael, CA 94901

and

Legal Name	Mountain View Whisman School District ("CLIENT")
Business Entity	California Public School District
Principal Place of Business	750 A San Pierre Way Mountain View, CA 94043

The CLIENT and SAGE hereby agree as follows:

1. Services

SAGE agrees to provide energy consulting services and deliverables as more particularly described in mutually executed Task Orders that will be issued under, and subject to, this Agreement (the "Services"). All executed Task Orders are incorporated into this Agreement by reference, and this Agreement is likewise incorporated into each Task Order. In the event of a conflict between or among the provisions of any Task Order(s) and this Agreement, the provisions of the most recent Task Order shall prevail.

2. Compensation

CLIENT will compensate SAGE for the Services as specified in each Task Order and reimburse SAGE for expenses directly attributable to the Services, including but not limited to, printing and reproduction, shipping and postage, extraordinary computer services, supplies and other project-specific expenses resulting from the Services. SAGE invoices shall be paid within 30 days from the invoice date, and late payments will be subject to interest charged at 1.5% per month (18% per year) or such lesser rate constituting the maximum rate permitted by law.

3. Notices

All formal notice provided under this Agreement shall be provided in writing and sent by overnight courier, or registered or certified mail with return receipt requested, addressed to the Party's authorized representative listed above or the individual who signs this Agreement on that Party's behalf. Either Party may change their address or authorized representative recipient by providing the other Party notice as provided in this section.

4. Insurance

SAGE shall maintain at least the following minimum insurance coverage through the performance of the Services:

- (a) General Liability: \$2,000,000 per occurrence and \$4,000,000 aggregate;
- (b) Professional Liability: \$2,000,000 per occurrence and \$2,000,000 aggregate; and
- (c) Workers Compensation in amounts required by law.

5. Term; Termination; Suspension and Force Majeure

This Agreement takes effect on the Effective Date and continues through the performance of all Services. Either Party may terminate further performance of this Agreement and Services as provided below, in which event CLIENT shall pay SAGE for all Services rendered through the effective date of such termination.

(a) For Cause. Either Party may suspend or, at its option terminate, further performance of the Agreement or any Task Order if the other Party commits a material breach of its obligations under this Agreement and fails to remedy the same within 21 days after the first party issues written notice of the breach. If the breach cannot reasonably be cured within such time period, the breaching party shall be given a reasonable period of time to cure the breach before the noticing Party proceeds with any termination, provided that within that initial 21 day time period, the breaching Party (i) provides the other a written response explaining why the breach cannot be cured within that period and a timeline detailing the steps that will be taken to cure the breach, and then (ii) diligently commences and continues the cure according to the plan.

(b) For Convenience. Either Party may terminate further performance of the Agreement for convenience and without cause by providing the other Party written notice at least 21 days the effective date of such termination. Upon receiving such notice from CLIENT, SAGE will take reasonable steps to mitigate any expenses. The Parties will cooperate in an orderly termination or transition of the Services during the notice period, as applicable.

(c) Force Majeure. Neither Party shall be liable for any delay in the performance of its obligations due to force majeure events, including, but not limited to: acts of God; compliance

with law; extreme weather events; earthquake; acts of war, terrorism or rebellion; strike or any other labor disruption; or other events beyond the Party's reasonable control. Force majeure shall not include shortage of funds or cash flow difficulties. If the force majeure event continues for more than 60 days, the Party so affected may terminate further performance of this Agreement or any Task Order by providing the other Party 21 days prior written notice.

6. Indemnification

Each Party will indemnify and defend the other Party, and such Party's directors, board members, officers and employees, from claims, actions, losses, damages, and liabilities of every kind, that arise out of or result from the first Party's negligence, willful misconduct or failure to perform its responsibilities in accordance with this Agreement and any applicable Task Order.

7. Dispute Resolution; Arbitration

Any dispute, controversy or claim that arises out of or relates to this Agreement, any Task Order or the Services shall be resolved through binding arbitration administered by Judicial Arbitration and Mediation Services (JAMS) or any other arbitration service mutually agreeable to the Parties. Arbitration fees will be divided equally between the Parties. If either Party refuses or fails to name an arbitrator, furnish required arbitration payments or information demanded, or participate in the arbitration on or before applicable deadlines, then arbitration may proceed before an arbitrator named by the participating Party, and the arbitrator is hereby authorized to decide the dispute *ex parte* (without the other Party's participation), based upon the information presented to the arbitrator. This duty to arbitrate shall survive termination of this Agreement or either Party's performance of it. The arbitration shall be final and judgment may be entered in any court having jurisdiction. In no event may arbitration be demanded on any claim after the applicable statute of limitation for commencing litigation has expired. The Parties understand that by signing this Contract they are giving up their right to have the dispute litigated in a court or jury trial. These arbitration rights shall be specifically enforceable under the Federal Arbitration Act at 9 U.S.C. § 1.

8. Limitation of Liability

SAGE's pricing reflects the allocation of risk and limitation of liability specified in this section. Neither Party shall be liable to the other, whether in contract (including warranty), in tort or under any other legal theory or doctrine, for any indirect, special, incidental or consequential loss or damage, including without limitation, lost profits or use, even if such loss or damage was or could have been foreseen. Without limiting the generality of the foregoing, CLIENT acknowledges and agrees that SAGE's total liability for all claims arising out of this Agreement, any Task Order and the Services is limited to the amounts CLIENT paid to SAGE under this Agreement.

9. Marketing and Promotion.

SAGE is proud of its work and believes it is important to inform clients of the services it has provided to others. Accordingly, SAGE shall be permitted to identify CLIENT and the Services in its marketing materials.

10. Applicable Law

This Agreement will be governed by the laws of the State of California without regard to its rules pertaining to conflicts of law. Any dispute, arbitration, lawsuit or action will be venued in the county where CLIENT's principal place of business is located. The prevailing Party in any arbitration or court proceedings related to this Contract or its performance shall be awarded its costs, including attorneys' fees.

11. Assignment; No Third Party Beneficiaries

Neither Party shall assign or transfer their obligations or any interest in this Agreement without the other Party's prior written consent. Any assignment without such consent is void. Notwithstanding the foregoing, SAGE may subcontract with others to perform any part of the Services within their relevant area of expertise. Nothing in this Agreement shall create a contractual relationship with or give rise to a cause of action in favor of any third-party against CLIENT or SAGE.

12. Mutual Representations

Each Party warrants and represents that: (i) it has, holds, and possesses all applicable licenses, permits, and other governmental authorizations as required and necessary to conduct its business and to perform each and every one of its obligation under this Agreement; (ii) it has all requisite power, authority and capacity to enter into this Agreement and to perform each and every obligation under this Agreement; and (iii) the person signing this Agreement on behalf of each Party is fully authorized and empowered to sign this Agreement and any other documents which comprise this Agreement

13. Miscellaneous

Time is of the essence in this Agreement. No modification or waiver of any provision of this Agreement or any Task Order is valid unless written and signed by the Parties. This document, together with any subsequent Task Order(s), constitute the Parties' entire integrated agreement and supersede all prior agreements and discussions. Neither Party is bound by any representation, warranty, promise, statement, or information, unless it is specifically incorporated into this Agreement. If any part of this Agreement is held to be unenforceable for any reason, then that part will be stricken and the remainder of this Agreement will remain in full force and effect. This Agreement may be executed and initialed in one or more



counterparts, and faxed, e-mailed or other forms of electronic signatures are equally effective and binding as originals.

IN WITNESS WHEREOF, both SAGE and CLIENT have executed this Agreement as of the Effective Date set forth above.

SAGE

CLIENT

By: _____

By:  _____

Name: Tom Williard

Name: Robert Clark, Ed.D.

Title: Principal

Title: Associate Superintendent/CBO

Date: _____

Date: October 31, 2017