PALO VERDE COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES
AGENDA ITEM REQUEST

Meeting Date:

☐	Consent
☒	Action
☐	Information

AREA: Fiscal

RESOLUTION TITLE: RFP ACCEPTANCE AND AGREEMENT- Energy Protection Systems Group, Inc.

BACKGROUND:

The district went out to RFP for Interior LED Lighting Retrofit Kits for the CS Building in conjunction with the year 2 of Proposition 39 California Clean Energy Jobs Act. The district received 1 proposal from Energy Protections Systems Group, Inc.

FISCAL IMPLICATIONS:

Total cost of all products is $112,869.24. Purchase is to be paid from

$ 39,526.00 Prop 39 Allocation
$ 60,159.32 Scheduled Maintenance Funds
$ 13,183.92 SCE Utility incentive

RECOMMENDATION:

It is recommended to approve the agreement.

Administrator Initiating Item: Russi Egan/ss	College Council/Full Admin Review Date:

AGREEMENT FORM

THIS AGREEMENT, entered into this 11th day of August, 2015 in the County Of Riverside, State of California, by and between Palo Verde Community College District, hereinafter called the "DISTRICT", and _Energy Protection Systems Group, Inc., hereinafter called the "COMPANY".

WITNESSETH that the DISTRICT and the COMPANY for the consideration stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK: The COMPANY shall furnish all materials ordered in connection with Interior LED Lighting Project at Palo Verde College in strict accordance with the contract documents enumerated in Article 7 below. The COMPANY shall be liable to the DISTRICT for any damages arising as a result of a failure to comply with that obligation, and the COMPANY shall not be excused with respect to any failure to so comply by an act or omission of the Architect, Engineer, Inspector, Division of the State Architect (DSA), or representative of any of them, unless such act or omission actually prevents the COMPANY from fully complying with the contract documents and the COMPANY protests, in accordance with the contract documents, that the act or omission is preventing the COMPANY OR from fully complying with the contract documents. Such protest shall not be effective unless reduced to writing and filed with the DISTRICT office within seven (7) days of the date of occurrence of such act or omission preventing the COMPANY from fully complying with the Contract Documents.

ARTICLE 2 - TIME OF COMPLETION: The DISTRICT will give a purchase order in connection with the items included in the award of the Proposal by the DISTRICT. If the COMPANY receives the purchase order by August 20, 2015, **the** COMPANY **shall have all items delivered by September 30, 2015**. It is expressly understood that time is of the essence.

In the event that the DISTRICT desires to postpone giving the notice to proceed beyond August 20, 2015, it is expressly understood that with reasonable notice to the CONTRACTOR, giving the notice to proceed may be postponed by the DISTRICT. It is further expressly understood by the CONTRACTOR, that the COMPANY shall not be entitled to any claim of additional compensation as a result of the DISTRICT's postponement of giving the notice to proceed.

If the COMPANY believes that a postponement will cause hardship to it, the COMPANY may terminate the contract with written notice to the DISTRICT within ten (10) days after receipt by the COMPANY of the DISTRICT's notice of postponement. It is further understood by the COMPANY that in the event that the COMPANY terminates the contract as a result of postponement by the DISTRICT, the DISTRICT shall only be obligated to pay the COMPANY for the work performed by the COMPANY at the time of notification of postponement. Should the COMPANY terminate the contract as a result of a notice of postponement, the DISTRICT shall have the authority to award the contract to the next lowest responsible Respondent.

ARTICLE 3 - LIQUIDATED DAMAGES: It being impracticable and infeasible to determine the amount of actual damage, it is agreed that the COMPANY will pay the DISTRICT the sum of two hundred and fifty dollars ($250) per calendar day for each and every day of delay beyond

the time set forth in Article 2 of this Agreement for completing said work as liquidated damages and not as a penalty or forfeiture. In the event the same is not paid, the COMPANY further agrees that the DISTRICT may deduct such amount thereof from any money due or that may become due the COMPANY under the contract. This Article shall not be construed as preventing the DISTRICT from the recovery of damages under provisions of the contract documents.

ARTICLE 4 - CONTRACT PRICE: The DISTRICT shall pay to the COMPANY as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, no to exceed the sum of $115,000.00 DOLLARS ($115,000.00), said sum being the total amount stipulated in the Proposal. Pricing shall be valid and remain in effect for 6 (six) months following the acceptance of the contract. Payment shall be issued within 30 days of delivery of items or services, provided no dispute exists. Item costs and Breakdowns are as Follows:

(Cost is Per Item)

145.52	RETROFIT KIT FOR 2X4 PENDANT 2 LAMPS
145.52	RETROFIT KIT FOR 2X4 TROFFER 2 LAMPS
158.30	RETROFIT KIT FOR 2X4 TROFFER 3 LAMPS
110.92	RETROFIT KIT FOR 2X2 TROFFER 2 LAMPS
127.30	RETROFIT KIT FOR 2X2 TROFFER 3 LAMPS
3.00%	SHIPPING COST (PERCENTAGE)
N/A	DISCOUNT (PERCENTAGE)
8%	TAX (PERCENTAGE)

ARTICLE 5 - HOLD HARMLESS/ INDEMNITY: COMPANY shall defend, indemnify and hold harmless DISTRICT, Inspector, the State of California and their officers, employees, agents and independent contractors from all liabilities, claims, actions, liens, judgments, demands, damages, losses, costs or expenses of any kind arising from death, personal injury, property damage or other cause based or asserted upon any act, omission, or breach connected with or arising from the progress of Work or performance of service under this Agreement or the Contract Documents. As part of this indemnity, COMPANY shall protect and defend, at its own expense, DISTRICT, Inspector, the State of California and their officers, employees, agents and independent contractors from any legal action including attorneys' fees or other proceeding based upon such act, omission, breach or as otherwise required by this Article.

COMPANY, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its officers, agents or employees, on account of or founded upon any cause, damage, or injury identified herein Article 5 and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its

officers, agents or employees in any action, suit or other proceedings as a result thereof.

ARTICLE 6 - PROVISIONS REQUIRED BY LAW: Each and every provision of law and clause required to be inserted in this contract shall be deemed to be inserted herein, and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party the contract shall forthwith be physically amended to make such insertion or correction.

ARTICLE 7 - COMPONENT PARTS OF THE CONTRACT: The Contract entered into by this Agreement consists of the following Contract Documents, all of which are component parts of the Contract as if herein set out in full or attached hereto:

Request for Proposals and Attachments Thereto
Non-Collusion Declaration
Proposal Guarantee Form
Proposal Form
Certificate Regarding Worker's Compensation Acknowledgment of Practices Regarding Indemnity Agreement Form
Guarantee
General Conditions
All Addenda as Issued
Attachments

All of the above named Contract Documents are intended to be complementary. Work required by one of the above named Contract Documents and not by others shall be done as if required by all.

ARTICLE 8 - RECORD AUDIT: In accordance with Government Code Section 8546.7, records of both the DISTRICT and the COMPANY shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above named parties, on the day and year first above written.

Palo Verde Community College District

By: _____

By: _____

Dated: _____

COMPANY

Paul Chamberlain
Typed or Printed Name

President
Title

Paul Chamberlain
Signature

_____
Typed or Printed

_____
Title (Authorized Officers or Agents)

_____
Signature

(Corporate Seal)