

PLANNED SERVICES AND ON-CALL REPAIR SERVICES AGREEMENT

PARTIES: JOHNSON CONTROLS, INC. (“JCI”)
5770 Warland Dr. Suite A
Cypress, CA 90630

and

MIRACOSTA COMMUNITY COLLEGE DISTRICT (“Customer”)
1 Barnard Drive
Oceanside, CA 92056

Scope of Services

JCI and the Customer entered into a written agreement titled “Contract” dated March 18, 2023 pursuant to which JCI designed and implemented certain Improvement Measures defined, described and specified in the Contract at the Customer’s MiraCosta College, San Elijo Campus and Community Learning Center (collectively “Facilities”). This Agreement sets forth the Services to be completed by JCI for the Improvement Measures implemented under the Contract.

Johnson Controls, Inc. (“JCI”) and the Customer (collectively the “Parties”) agree that Services, as defined in scope of work (below), will be provided by JCI at the Customer’s Facilities. This Planned Services and On-Call Repair Services Agreement (“Agreement”) sets forth the Price and Payment Terms and other terms and conditions for JCI completion of the Services.

Term / Renewal

This Agreement takes effect on the first day of the month after the month that the Implementation Measures are completed as set forth in the Certificate of Final Completion issued under the Contract and will continue for sixty (60) consecutive months thereafter (“Original Term”).

The Agreement for the Energy Management Services portion of the scope may be renewed by the Customer with the mutual agreement of JCI. The renewal notice must be delivered at least forty-five (45) days prior to the end of the Original Term or of any renewal period. JCI and the Customer agree to negotiate in good faith any renewal price adjustments.

Price and Payment Terms

The total Contract Price for JCI’s Services during the Original Term is **\$202,141**. This amount will be paid to JCI in installments of (see following table). This payment will be due and payable within thirty (30) days of the invoice date and such timely payment by Customer shall be a condition precedent to JCI’s obligation to perform its Services. A penalty of one and a half percent (1.5%) of the amount due per month shall accrue for payments received after the payment due date. If the Customer elects to cancel M&V Services, the Customer must do so in writing at least 45 days prior to the end of the annual date, otherwise full service will continue for the remainder of the year and the Customer will be responsible for payment of the full year.

Year	Planned Service Agreement
1	\$70,476
2	\$32,136
3	\$32,282

4	\$33,167
5	\$34,079
Total	\$202,141

Summary Scope of Work

The following table identifies the Scope of Work included for each site:

Item	San Elijo Campus 3333 Manchester Ave Cardiff, CA	Community Learning Center 1831 Mission Ave Oceanside, CA
Solar System Preventative Maintenance	X	X
Solar System Module Washing	X	X
Solar System Performance Guarantee	X	X
Open Blue Enterprise Manager	X	X

Detailed Scope of Work

Solar System Preventative Maintenance Services

JCI will administer the annual preventative maintenance services which include the following items:

Technical Operations Management

1. System Onboarding and Configuration. Verify system metadata, project and equipment information, and yield model. Configure alarms, thresholds, triggers, and notification groups.
2. Monitoring. Monitor for alerts and production issues 5 days per week, track service tickets, and contact client for dispatch approval as needed.
3. Monthly Production Reporting. Report actual production, expected production, budget production, actual insolation, and budget insolation in standard template.

PV Modules and DC Electrical System

Onsite IR Inspections – DC

1. DC Combiners and Disconnects. Open combiners, inspect for discoloration, signs of arcing or faults, defects, missing or blown fuses. Capture IR images of combiners and DC disconnects. Re-torque any connections displaying high resistance heat (if possible). Capture before and after IR images of any corrective actions.

Visual Inspections and Maintenance – DC

1. Arrays. Inspect arrays for soiling, evidence of pest infestation, water pooling, vegetation growth, shading or damage. Photo-document general condition of each array, noting location of any issues requiring remediation beyond PM visit time allocation.
2. Racking Structures, Ballast Blocks. Inspect for mechanical integrity, corrosion, settling, damage, pest infestation, and any condition impacting safety, performance or serviceability. Photo-document general conditions and any abnormalities.
3. DC Combiners, Disconnects and Raceways. Inspect enclosures and raceways for mechanical integrity, corrosion, damage, and evidence of overheating, moisture intrusion, or pest infestation. Verify proper operation of DC disconnects.
4. Modules. Inspect for integrity of electrical and ground connections, wire management, visible defects or damage, and proper and secure attachment to racking structures or trackers. Photo-document any damaged modules, noting locations and serial numbers.

5. Grounding System. Inspect grounding system connections for mechanical and electrical integrity, corrosion, and damage. Spot check torques.

Testing – DC

1. Grounding System. Perform electrical resistance testing to verify continuity of grounding systems. Measure current on ground cables and test for ground faults.
2. DC-Side Surge Protection Devices. Determine status of SPDs through visual inspection or electrical testing as required by device manufacturer. Note deficiencies in service report.

Inverters and AC Electrical System

Onsite IR Inspections - AC

1. Inverters - IR Inspection. Open inverter termination cabinets, inspect for discoloration, signs of arcing or faults, and defects. Capture IR images of inverter terminations. Re-torque any connections displaying high resistance heat (if possible). Capture before and after IR images of any corrective actions.
2. AC Panels and Disconnects. Capture IR images of AC Panels and Disconnects. Note any connections displaying high resistance heat. Capture before and after IR images of any corrective actions.

Visual Inspections and Maintenance - AC

1. Inverters - Visual Inspection. Inspect enclosures for corrosion, damage, mechanical integrity, and evidence of overheating, moisture intrusion, or pest infestation. Inspect inverter display screens for cracking or evidence of thermal fatigue. Verify proper operation of inverter circuit breakers. Verify fan operation, filter condition, and proper cooling airflow. Clean fans, heat sinks, and clean or replace filters as necessary to ensure optimal cooling. Photo-document each inverter during inspection, and before and after any corrective actions.
2. Inverters - Warranty Preservation. Perform all inspections and preventative maintenance procedures required by the manufacturer. Adequately document required inspections & service procedures to preserve inverter warranties.
3. AC Panels, AC Disconnects and Raceways. Inspect enclosures and raceways for mechanical integrity, corrosion, damage, and evidence of overheating, moisture intrusion, or pest infestation. Verify proper operation of AC disconnects and breakers

Testing - AC

1. Surge Protection Devices - AC. Determine status of SPDs through visual inspection or electrical testing as required by device manufacturer and replace any that are faulted.

Data Acquisition System and Instrumentation

1. DAS Equipment. Inspect enclosures and raceways for mechanical integrity, corrosion, damage, and evidence of overheating, moisture intrusion, or animal nesting.
2. Meteorological Stations, Reference Cells and Soiling Stations. If present, visually inspect sensor clusters and/or reference cells to verify secure mounting and free of debris and obstructions. Clean the dome or window of irradiance sensors per the manufacturer's recommended procedure even if there is no apparent soiling. If a soiling station is installed, wash the "clean" module and photo-document the station.
3. Module Temperature Sensor. Inspect back of module temperature sensor to ensure proper and secure attachment. Re-attach sensor if improperly secured.

Site Maintenance

1. Roof & Site Condition Monitoring. Inspect and photo-document general condition of roof surfaces including debris, drainage, pooling and staining, degradation of roofing materials, racking wear pads, and flashings. Inspect site for vegetation growth or accumulation which could shade arrays and impact PV production.
2. Pest Infestations. Inspect and photo-document evidence of any wildlife or pest infestations on the project site noting locations.
3. Safety Equipment and Placards. Confirm location and charge of fire extinguishers. Verify applicable signage and placards are present and legible. Photo-document any deficiencies noting locations.

4. Erosion and Drainage. Inspect project site for evidence of erosion greater than 3" wide and 3" deep, or which could reasonably be expected to hamper safety or project serviceability. Photo-document areas impacted by erosion noting locations.
5. General Site - Roads, Fences, Gates, Lighting, Security. Inspect and photo-document condition of any roads to access or traverse the project site. Inspect perimeter fences and gates for integrity and security. Inspect any lighting fixtures on project site. Inspect any security cameras or devices on project site for integrity and evidence of vandalism.
6. Housekeeping. Inspect project site for excessive rubbish or debris buildup. Remove reasonable amounts of rubbish and debris. Photo-document excessive amounts noting locations.

Solar System Preventative Maintenance Responsibility Matrix

#	Tasks	JCI Year 1	JCI Years 2-5	Customer Years 2-5	Equipment Manufacturer
1	Remote Triage of Alarms (via Data Acquisition System or OBEM)	X	X	-	
2	On-site Triage of Alarms	X	-	X	
3	Annual Maintenance per Planned Service Agreement	X	X	-	
4	Warranty Servicing/Covered Repair and Replacement	Per base project Contract section 7 "Warranty"	-	X	Per terms of the manufacturer's warranty
5	Annual Solar Panel Washing	X	X	-	

Solar System Module Washing Services

JCI will provide one annual module washing to remove soiling that may impact energy production. Agitate using a soft-bristled brush and de-ionized water rinse. Assumes water source is available onsite.

Solar System Performance Guarantee

I. PERFORMANCE GUARANTEE INFORMATION

Guarantee Level	Refund Rate (per kWh)	Max Refund (Annual)	Forecasted Year 1 Annual Energy (kWh)	Degradation Rate
95%	\$0.20	Annual Plan Cost	To be determined upon system start up	1%

II. WHAT SERVICES THIS AGREEMENT PROVIDES

JCI's responsibilities under this Agreement are limited to providing system monitoring, asset performance reporting, Preventive Maintenance services and Performance Guarantees, as specified and limited in the following paragraphs. JCI may also provide optional field services for additional fees, such as module cleaning and vegetation management services to help remediate Performance Shortfalls, as specified in the following paragraphs.

- A. Changes to the System.** In the event there are any changes to the System before or after the Service Start Date (e.g. it differs from the description in the "Contract" Schedule 1 Scope of Work), the following will apply:

- (i) JCI will have the right: (a) to modify this Agreement to reflect the changes to the System and adjust the annual cost of this Agreement and adjust the Forecasted Year 1 Annual Energy and/or Guarantee Level, or (b) to terminate this Agreement (i) if before the Service Start Date, on notice, and (ii) if after the Service Start Date, on thirty (30) days' notice.
- (ii) If JCI issues modifications to this Agreement pursuant to Section II.A.(i)(a), JCI will provide Customer with the modified Agreement, in written or electronic form. Customer will have thirty (30) days from the time the modified Agreement is sent to reject it. If Customer do not provide JCI with written notice of Customer's decision to reject the modifications within thirty (30) days, the modifications to the Agreement will be deemed accepted and Customer will have agreed to be bound by the terms thereof. If Customer provides JCI with written notice of Customer decision to reject the modifications within thirty (30) days, Customer and JCI will discuss the matter in good faith for five (5) business days. If the parties do not mutually agree on a solution, this Agreement will be deemed terminated.

B. System Performance Inquiries. If Customer has questions about the System's performance, Customer can contact the JCI Performance Assurance Engineer at the email and telephone number which will be identified upon the execution of this Agreement. JCI's hours of operation are between 8:00 a.m. and 5:00 p.m. Pacific Time. If Customer has a question outside of JCI's hours of operation, Customer may leave a message at the email address or telephone number provided. If JCI, in its sole discretion, determines in response to a system performance inquiry that a Performance Shortfall exists and that field services are necessary to remediate the Performance Shortfall, JCI will request Customer approval to initiate such optional services subject to additional fees, as provided for in Sections II.E. through II.G. and Section II.L.

C. Right to Monitor. As a condition of this Agreement, Customer agree to allow JCI to monitor the System to determine how it is performing relative to the Expected Energy for the System.

D. System Communications. Customer bear sole responsibility for ensuring that the System remains connected to the Internet and transmits data in accordance with JCI's Communication Requirements.

- (i) If during the coverage period of this Agreement, the System fails to comply with JCI's Communication Requirements, JCI will notify Customer and work with Customer in good faith to diagnose and resolve the issue. If field services are necessary to remediate the connectivity issue, JCI will request Customer approval to initiate such optional services subject to additional fees, as provided for in Sections II.E. through II.G. and Section II.L.
- (ii) For any loss of connectivity lasting more than 3 days due to (a) Customer refusal, non-approval, or delayed approval of JCI's services to remediate a connectivity issue per Section II.E., or (b) circumstances beyond JCI's control (such as disruption of service by a monitoring portal provider or a communications provider, loss of connectivity due to changes or disruptions in the local area network, or unavailability/delayed availability of parts to repair or replace a monitoring system), JCI may (i) suspend or reduce its monitoring services until connectivity is restored, and (ii) exclude from its Performance Guarantee any energy losses incurred during the connectivity outage.

E. Services. JCI will provide system monitoring, call center support, asset performance reporting, Preventive Maintenance services, and Auxiliary Services at the frequency and cost defined in this Agreement. Customer is responsible for ensuring that the System is accessible to Approved Field Services Technicians and for removing any hazards from the System and Premises that could endanger Approved Field Services Technicians.

If JCI, in its sole discretion, determines that the System has a Performance Shortfall, or if Customer contacts JCI to report a Performance Shortfall, JCI will initiate services by remotely diagnosing the cause of the Performance Shortfall.

If JCI diagnoses that repair services or Auxiliary Services such as module cleaning, vegetation management, aerial inspection or I-V curve tracing beyond the frequency defined on page 1 of this Agreement are necessary to remediate the Performance Shortfall (collectively "Repair Services"), JCI will contact Customer to recommend a field service visit and request Customer approval for JCI to complete Repair Services.

Where required by law and the nature of Repair Services, JCI shall pay at least prevailing wage rates and maintain/file Certified Payroll Records for personnel completing Repair Services subject to prevailing wage rate payments. The costs of Repair Services shall be based on: (i) time of JCI personnel to complete Repair Services at industry standard rates or prevailing wage rates, as applicable; (ii) costs of parts and materials; and a mark-up thereon not to exceed ten percent (10%) of (i) and (ii).

Refurbished, reconditioned, or non-original parts may be used to repair the System as long as: (i) their use does not violate the requirements of the equipment warranties; and (ii) such refurbished, reconditioned or non-original parts are subject to warranties of merchantability and fitness for use.

- F. Timing of Services.** In normal circumstances, JCI will (a) initiate its Preventive Maintenance services with prior notification to the Project Representative, and (b) initiate remote diagnostics and notify the Project Representative by the next business day after JCI's determination that the System has a Performance Shortfall or is experiencing a monitoring/connectivity issue.

Customer must approve any repair services or Auxiliary Services recommended by JCI in writing per Section II.E. within 1 business day of receiving JCI's recommendation in order to preserve the Performance Guarantee, per Sections II.H.6 and II.H.7. JCI will then make reasonable efforts to dispatch an Approved Field Services Technician to the System promptly after JCI receives Customer approval to perform repair services or Auxiliary Services.

All field services will be performed during regular working hours (7:00 a.m. and 5:00 p.m. local time) or by mutually agreed special arrangements.

- G. Approved Field Services Technicians.** Only Approved Field Services Technicians may perform the field services provided for under this Agreement. JCI is not responsible or liable in any manner for the acts, errors, or omissions of any third-party contractors, technicians, or individuals independently retained by Customer to perform any work, including, but not limited to, repairs, alterations, or maintenance, on the System, module cleaning, or vegetation management. Field Services Technicians and other JCI personnel completing Services at the Facilities shall comply with Customer Board Policies and Administrative Procedures.

- H. Performance Guarantee** If the System fails to meet the minimum guaranteed kWh energy, JCI will compensate Customer based upon the following ("Performance Guarantee"):

- (i) **Guaranteed Annual Energy.** JCI guarantees that the System will generate a certain minimum amount of kWh in each Guarantee Year based on the formula stated in the Definition of "Guaranteed Annual Energy" in Section V.L. of this Agreement.
- (ii) **Forecasted Annual Energy.** JCI forecasts that the System will generate a certain amount of kWh in each Guarantee Year. This amount will always be more than the Guaranteed Annual Energy and is calculated using the formula stated in the Definition of "Forecasted Annual Energy" in Section V.K. of this Agreement. The Forecasted Annual Energy decreases each year by the Degradation Rate.
- (iii) **Difference in Energy.** Upon the commencement of this Performance Guarantee on the Guarantee Start Date, JCI will establish an JCI Performance Guarantee Account for Customer for the purposes of tracking Customer credits and debits as calculated under

this Agreement due to a Difference in Energy at the end of each Guarantee Year. On the Guarantee Start Date, Customer JCI Performance Guarantee Account will reflect a balance in the amount of \$0.00. At the end of each Guarantee Year, JCI will calculate the Difference in Energy. If there is a Negative Difference in Energy, JCI will credit Customer JCI Performance Guarantee Account with an amount equal to the Negative Difference in Energy multiplied by the Refund Rate identified on Page 4 of this Agreement. If there is a Positive Difference in Energy, JCI will evaluate whether the System also performed above the Forecasted Annual Energy. If there is a Positive Difference in Energy and the System performed above its Forecasted Annual Energy, JCI will debit Customer JCI Performance Guarantee Account with an amount equal to the difference between the Actual Energy and the Forecasted Annual Energy multiplied by the Refund Rate identified on Page 4 of this Agreement.

- (iv) **Account Settlement.** Commencing with the end of Guarantee Year 1, JCI will begin paying credits owed to Customer from Customer's JCI Performance Guarantee Account on an annual basis after the end of each Guarantee Year. After the payment of these credits, Customer's JCI Performance Guarantee Account will be reset to \$0.00. If the balance of Customer's JCI Performance Guarantee Account results in a debit owed to JCI, Customer will not be required to make any payment to JCI, but the balance of the debits will be applied against any future credits. **Notwithstanding any provision to the contrary in this Agreement, JCI's payment of shortfall in any given year shall not exceed the annual payment under this Planned Services Agreement as set forth under the Price and Payment Terms section and JCI's aggregate liability for any liability, loss, claim or damage arising out of the Performance Guarantee shall not exceed the total amount paid under this Planned Service Agreement.**
- (v) **Effect of Termination or Default of This Agreement on Performance Guarantee.** Customer is only entitled to collect on the Performance Guarantee for a Guarantee Year if this Agreement remains in full force and effect at the end of such Guarantee Year. If this Agreement is terminated per Section III.C, D, or E. before the completion of a Guarantee Year, then all Performance Guarantee rights for the Guarantee Year in progress are forfeited.
- (vi) **Non-Approval of Recommended Field Services and Mutually-Agreed Non-Economic Field Services.** If Customer does not approve JCI's recommendations for repair services or Auxiliary Services, or if both companies agree that the cost of such services is not economic based on Customer revenue loss due to the Performance Shortfall, then the Guaranteed Annual Energy will be adjusted down to reflect the energy lost due to the Performance Shortfall if and until the recommended services are approved by Customer, or JCI confirms that the Performance Shortfall is resolved.
- (vii) **Delayed Approval of Recommended Field Services.** If Customer does not approve JCI's recommendations for non-covered repair services or Auxiliary Services within the time specified in Section II.F., then the Guaranteed Annual Energy will be adjusted down to reflect the energy lost attributable to the Performance Shortfall between (a) the date and time when Customer was notified to approve the field services recommendation per Section II.F., and (b) the date and time when Customer actually approved the field services recommendation in writing. The guarantee will revert to the Annual Energy Guarantee determined at start-up once the services have been performed, assuming that the delay in approval of Field Services does not cause a permanent decrease in system output.
- (viii) **Use of Non-Approved Field Services Technician.** If Customer elects to perform repair services without obtaining prior written JCI approval of the third-party contractors,

technicians, or individuals retained by Customer, the Performance Guarantee offered in this agreement shall be voided. Repair services performed by the original equipment manufacturer (OEM) are exempt from JCI approval providing that Customer notifies JCI in writing prior to the repair.

- I. Contingency for Lost Data.** For hardware, communication, or other failure affecting JCI's ability to retrieve the Actual Energy from the System's monitoring system, JCI will make commercially reasonable efforts to resolve the failure in a timely manner and the Difference in Energy shall be adjusted to compensate for such lost data during such period of failure. JCI will utilize commercially reasonable methods to estimate the missing kWh based on utility bills or other available information and such estimate shall be included in the calculation of Difference in Energy for such period. If no such information is reasonably accessible, JCI shall make the adjustment based on the Expected Energy attributable to such period. This Section states JCI's sole liability, and Customer's exclusive remedy, for any Difference in Energy arising from any equipment failure or lost data relating to the System's monitoring system.
- J. Performance Verification.** For all systems JCI will make commercially reasonable efforts to complete the Performance Verification Process within the first sixty (60) days after JCI begins receiving data. JCI will work with Customer to remedy any performance or installation deficiencies that might be detected during the Performance Verification Process. In the event of a performance or installation deficiency, JCI may, in its sole discretion, increase the time period to complete the Performance Verification. If JCI is not able to complete the Performance Verification Process and confirm that the system performs as expected within sixty (60) days after JCI begins receiving data and after JCI has worked in good faith with Customer to remedy any deficiencies that might impact System performance, JCI may, in its sole discretion, either (a) with Customer approval lower the Forecasted Year 1 Annual Energy or the Guarantee Level, or (b) terminate this Agreement and refund any payments made by Customer toward the Cost (to the extent already paid by Customer) identified on Page 1 of this Agreement and any costs paid by Customer, less (i) any payments made by JCI for field services and (ii) any system onboarding and preventative maintenance costs incurred by JCI. If the System experiences performance issues during the Performance Verification Process that are resolved before the process is complete, JCI may, in its sole discretion, exclude the energy losses from such shortfalls from Guarantee Year 1 Annual Energy (without any impact on Guaranteed Annual Energy for subsequent Guarantee Years).
- K. Conditions.** This Performance Guarantee is subject to the following conditions: (a) Customer approving JCI's recommended non-covered repair services and Auxiliary Services within the allotted time period specified in Section II.F; (b) no new buildings, structures, or flora overshadowing or otherwise blocking the access of the System to sunlight; (c) Customer meeting JCI Communication Requirements described in Section II.D. of this Agreement (which enables Customer to qualify for the Performance Guarantee); and (f) neither Customer nor any other external actor interfering with the operation of the System.
- L. Exclusions.** JCI's responsibilities under this Agreement are limited to the services and guarantees expressly provided for in this Section. JCI's responsibilities and liability shall further be limited as follows:
- (i) JCI shall never be responsible for the fees, costs, and expenses for repair services or emergency response.
 - (ii) JCI shall not be responsible for performing services, and shall not be responsible for resulting energy shortfalls under the Performance Guarantee, under the following circumstances:
 - a. if JCI or its Approved Field Services Technicians are prevented from accessing the System within a reasonable period of time to remediate a Performance Shortfall;

- b. vegetation, erosion, snow, or weather prevents the ability to properly access or service the System; or it would be unsafe or unreasonable for JCI or its Approved Field Services Technicians to perform services.
- (iii) JCI shall not be responsible for energy shortfalls under the Performance Guarantee due to the following circumstances:
- a. a preexisting condition of the System or its component parts;
 - b. destruction or damage to the Premises or other property prevents the operation of the System;
 - c. the System is prevented from operating, damaged, or its output is curtailed by Customer, a local utility or public utilities commission, or a financial institution, including as a result of a local power outage, a grid supply voltage outside of the standard range, or any grid event beyond the point of System interconnection;
 - d. any Force Majeure Events affecting the performance of the System or any component parts;
 - e. a Performance Shortfall due to medium voltage equipment, reclosers, or any equipment beyond the point of interconnection, or any system or equipment other than those covered in Section I. of this Agreement;
 - f. someone other than JCI or its Approved Field Services Technicians removed, re-installed, repaired, or performed any work, alterations, or maintenance on or to the System or any of its component parts during the term of this Agreement;
 - g. damage caused by an external force or actor other than JCI or its Approved Field Services Technicians, including, but not limited to, Force Majeure Events, the negligent or intentional misuse or abuse of the System, vandalism or theft of the System or any of its component parts;
 - h. System shading was modelled inaccurately causing more than 2% reduction in the System's access to sunlight from the model assumptions used to determine the Forecasted Annual Energy, or there is a change in usage of the Premises or any buildings at or near such Premises that reduces the amount of sunlight to which the System is exposed by more than 2% without the prior written approval of JCI.
- (iv) Change in Access to Sunlight. Customer agrees to obtain written approval from JCI prior to changing the usage of the Premises or any buildings or structures at or near the Premises that affect the amount of sunlight to which the System is exposed. Unless approved by JCI in writing, such change shall be treated as a 'Change to the System' per Section II.A.in this Form.
- (v) Site, Grounds and Vegetation Management. JCI does not cover costs associated with the site, grounds and vegetation management. Project Representative must ensure that vegetation does not impact solar production or the ability to properly service a system.
- (vi) Damage to the System. JCI bears no responsibility or liability for destruction or damage to the System or other property at the Premises caused by an external force or actor other than JCI or its Approved Field Services Technicians, including, but not limited to, damage to the Premises caused during the installation of the System or its component parts or resulting from the presence or operation of the System or its component parts.

III. DURATION OF THIS AGREEMENT

- A. Term.** This Agreement will begin on the Agreement Effective Date and terminate as set forth below or otherwise in the Agreement. The initial Service Term begins on the Service Start Date and will have the term set forth on Page 1 of this Agreement. Thereafter, the Service Term will automatically renew for consecutive terms of one year unless either party provides written notice of non-renewal at least forty-five (45) days prior to the end of the then-current term. The Term will also begin on the Service Start Date and will have the term set forth on the cover sheet. Upon expiration of the Term, it will become consecutive Annual Plans for the remainder of the Service Term.
- B. Cancellation by JCI.** JCI may terminate this Agreement at any time with written notice: (1) for fraud or misrepresentation by Customer; (2) for nonpayment by Customer of any amount due under this Agreement within the period designated for such payment; (3) for violation of any of the terms and conditions of this Agreement, including, but not limited to, noncompliance with JCI's Communication Requirements; (4) violation of the representations and warranties made in Section IV.A. of this Agreement; (5) if required to do so by any regulatory authority; or (6) Customer are in default pursuant to Section IV.H. of this Agreement. Written notice of the effective date of the termination and the reason for termination will be mailed to Customer at Customer's last known address contained in our records at least fifteen (15) days prior to the termination unless the reason for the termination is fraud or misrepresentation, nonpayment by Customer, or a substantial breach of duties by Customer relating to the System.
- C. Termination Upon Sale of System.** If Customer sell the System, this Agreement shall automatically terminate on the date of sale of the System unless Customer assigns Customer's rights under this Agreement in accordance with the terms of the Agreement. Customer must provide written notice of the sale before title for the System is transferred.
- D. Termination Upon Substantial Impairment of the System By External Force or Actor.** Either Party may terminate this Agreement upon written proof of substantial impairment of the System caused by an external force or actor resulting in a condition not covered by this Agreement. The System shall be deemed substantially impaired if the cost for repairing or replacing the System exceeds seventy-five (75) percent of the actual value of the System. The termination shall become effective as of the date on which the written notice and proof of substantial impairment of the System is sent.
- E. Termination Due to Premises Being Declared Uninhabitable.** Either Party may terminate this Agreement upon written notice to the other if local authorities declare the Premises uninhabitable. The termination shall become effective as of the date on which the written notice and proof of the declaration of uninhabitability of the Premises is sent.

IV. CUSTOMER DUTIES

- A. Representations and Warranties.** By entering into this Agreement, Customer make the following representations and warranties:
- (i) Customer has authority to enter into this Agreement with respect to the System, including the authority to grant JCI access to the System as required by this Agreement.
 - (ii) the System is in good working condition as of the Service Start Date.
- B. Payment Obligation.** Customer agrees to pay the Plan Cost defined in Page 1 of this Agreement prior to Service Start Date. Customer further agree to pay any additional fees charged by JCI for any other additional services that Customer elect to have performed by JCI. Such additional payments are due within thirty (30) days from receipt of invoice. Payments shall be made directly to JCI by check, credit card, or electronic funds transfer. Failure to make any payments may result in the suspension or termination of service of this Agreement.

- C. Warranty Claim Submission and Assignment of Rights to Collect on Warranty Payment.** Customer agrees to cooperate with JCI to take all steps required to submit a claim and to recover under any and all applicable manufacturer warranty(ies) or third-party warranty(ies) covering the System or any component part that requires service. In the event that JCI performs corrective maintenance on the System per Section II.E., JCI in its sole discretion may offer to repair or replace the System or component part prior to Customer actually recovering under an applicable warranty. In the event that JCI repairs or replaces the System or component part prior to Customer receiving a reimbursement or payment under a warranty, Customer agree to assign to JCI all rights to any warranty reimbursement or payment for any replacement parts or services performed by JCI on the System or component part. If Customer authorize JCI to repair or replace a module, inverter, or monitoring system prior to Customer warrantor confirming that such module, inverter, or monitoring system will be covered under the applicable warranty, Customer agree to pay the costs for the parts necessary to repair or replace such module, inverter, or monitoring system if the warrantor subsequently determines that the module, inverter, or monitoring system is not covered under the warranty.
- D. Installation of Monitoring Hardware.** Customer agrees to permit JCI to install any and all hardware necessary for JCI to monitor the System in accordance with the terms of this Agreement.
- E. Consent to Use of Monitoring and Performance Data.** Customer agrees that JCI may use the data and information it collects concerning the System, its performance, and its maintenance history for purposes other than providing monitoring or field services to Customer, including, but not limited to, generating performance statistics, and that JCI may share such information with third parties only in aggregated form (in a manner that does not specifically identify the System).
- F. Responsibility to Prevent Damages, System Interference.** Customer shall take reasonable steps to protect the System from damage. Customer shall not interfere with the operation of the System, and Customer shall take reasonable steps to prevent external forces or actors from interfering with the operation of the System. Customer shall comply with the requirements of the owner's manual for the System. Customer shall, upon discovery of damage to the System or any component part, promptly notify JCI and prevent further damage to the System or component part(s) where feasible.
- G. Responsibility to Provide Safe Access to System.** Customer shall bear the sole responsibility for ensuring that the System is accessible to JCI and its Approved Field Services Technicians and for removing any hazards from the property that could endanger Approved Field Services Technicians during field services.

V. DEFINITIONS

- A. "Annual Plan Cost"** means that amount identified on Page 1 of this Agreement.
- B. "Actual Energy"** means the total number of kWh generated by the System in a given Guarantee Year, as measured by the monitoring hardware and as communicated to us by Customer in accordance with Section II.D. of this Agreement.
- C. "Approved Field Services Technician"** means a contractor, technician, or individual specifically approved and retained by JCI to perform work on the System or any component parts. Approved Field Services Technicians are not employees of JCI but, instead, are independent contractors approved and retained by JCI to perform field services.
- D. "Communication Requirements"** means the following requirements necessary for JCI to provide the Services described in this Agreement: (a) the System must be equipped with a monitoring system as specified on page 1 of this Agreement or otherwise approved by JCI; (b) Customer must grant JCI access to the associated monitoring portal; (c) Customer must bear any

necessary costs to enable the monitoring portal to communicate with the System, including any software subscription costs and any communication line costs; (d) the monitoring portal must continuously display energy generation in fifteen (15) minute intervals or less, both in total and by inverter, and send such data to JCI's monitoring software via API (Application Programming Interface) unless otherwise approved in writing by JCI.

- E. **“Degradation Rate”** means the number identified on Page 1 of this Agreement in the box labeled “Degradation Rate.”
- F. **“Difference in Energy”** means either a Positive Difference in Energy or a Negative Difference in Energy, as applicable and defined in this Section.
- G. **“Emergency Response Services”** means any field services necessary to remediate a situation that presents immediate and material risk to health, safety or property.
- H. **“Employment Cost Index” or “ECI”** means the year over year increase in the Employment Cost Index for Total Compensation (not seasonally adjusted), private industry workers, all workers as published by the U.S. Bureau of Labor Statistics.
- I. **“Escalation Rate”** means the rate identified on Page 1 of this Agreement labeled “Escalation Rate” by which the Annual Plan Cost is adjusted annually by the greater of (a) one hundred percent (100%) of any increase in the ECI during the previous calendar year, or (b) three percent (3%).
- J. **“Excluded Energy Losses”** means for any given Guarantee Year the total kWh of lost energy attributable to causes identified as exclusions to the Performance Guarantee per sections II.F, II.I and II.J.
- K. **“Expected Energy”** means the kWh that JCI projects that the System will generate in a given time period based on JCI's internal energy generation standards. These standards consider, among other things, the System's specifications, and local weather conditions, which JCI monitors using weather feed and satellite-based irradiance data.
- L. **“Forecasted Annual Energy”** means the amount of electricity JCI forecasts that the System will generate in a given Guarantee Year. The Forecasted Annual Energy for Guarantee Year 1 is the amount identified on Page 1 of this Agreement in the box labeled “Forecasted Year 1 Annual Energy.” The Forecasted Annual Energy for each successive year is calculated using the following formula, where FAE1= the Forecasted Annual Energy for Guarantee Year 1, DR = the Degradation Rate, and y = the Guarantee Year in question:
- $$\text{Forecasted Year Y Annual Energy} = \text{FAE1} \times (1 - \text{DR})^{(y - 1)}$$
- In this way, the Forecasted Annual Energy decreases each year by the Degradation Rate. The Degradation Rate applicable to the System is identified on Page 1 of this Agreement.
- M. **“Guaranteed Annual Energy”** means the amount of electricity JCI guarantees that the System will generate in a given Guarantee Year. The Guaranteed Annual Energy for any year is calculated using the following formula, where FAEy = the Forecasted Annual Energy for the applicable year, GL = the Guarantee Level, y = the Guarantee Year in question, and EELy = the Excluded Energy Losses for the applicable year:
- $$\text{Guarantee Year Y Annual Energy} = \text{FAEy} \times \text{GL} - \text{EELy}$$
- N. **“Guarantee Level”** means the number identified on Page 1 in the box labeled “Guarantee Level.”

- O. “Guarantee Start Date”** means the date on which JCI determines that the System is in full compliance with the Communication Requirements and is able to complete the Performance Verification Process. Once the System is compliant with these requirements, JCI will provide Customer with a notice of the Guarantee Start Date.
- P. “Guarantee Year”** is each successive annual period beginning at the Guarantee Start Date.
- Q. “Hard Shading”** is defined as shading sources that stop light from reaching the solar cell such as foliage, adjacent solar panels, mechanical equipment, building structures, and the like.
- R. “kWh”** means kilowatt-hours of electric energy.
- S. “Negative Difference in Energy”** means the difference between the Actual Energy and the Guaranteed Annual Energy, if the Actual Energy is less than the Guaranteed Annual Energy range.
- T. “JCI Performance Guarantee Account”** means the internal account JCI will establish so that JCI can monitor and track the credits owed to Customer or debits incurred by Customer due to Differences in Energy during Guarantee Years.
- U. “Payment Interval”** means the time period identified on Page 1 of this Agreement in the box labeled “Payment Interval.”
- V. “Performance Guarantee”** shall have the meaning set forth in Section II.H. of this Agreement.
- W. “Performance Shortfall”** refers to a situation in which either (i) a solar inverter or the whole System stops generating energy for three (3) daylight hours, or (ii) the Actual Energy generated by the System is calculated with high statistical confidence to be less than 85% of the Expected Energy for twenty-four (24) hours.
- X. “Performance Verification Process”** means the process by which JCI verifies that the System is generating kWh in accordance with the Expected Energy for the System, and that the System is capable of generating the Forecasted Year 1 Annual Energy in typical weather conditions. This process helps JCI to verify that the System was installed correctly, that JCI has the correct specifications for the System, and that the system performs consistently with the Forecasted Year 1 Annual Energy. JCI cannot provide a performance guarantee for the System until JCI verifies System performance via this process.
- Y. “Plan Costs”** means the Prepaid Plan Costs and Annual Plan Costs.
- Z. “Positive Difference in Energy”** means the difference between the Actual Energy and the Guaranteed Annual Energy, if the Actual Energy is more than the Guaranteed Annual Energy.
- AA. “Prepaid Plan Cost”** means the amount identified in the box labeled “Prepaid Plan Cost” on Page 1 of this Agreement. “Prepaid Plan Cost” does not include any other costs or charges identified on Page 1 of this Agreement including, but not limited to, sales tax.
- BB. “Premises” and “System Address”** mean the address of the System identified on Page 1 of this Agreement in the table labeled “System Information.”
- CC. “Preventive Maintenance Services”** mean the services defined in this Agreement.
- DD. “Service Start Date”** means the date identified in as “Service Start Date” box. If the System is not yet energized at the time Agreement is executed, the date shall be filled as “Upon

Energization” and JCI will provide Customer with a notice of the Service Start Date once the System is energized.

EE. “System” means the commercial solar photovoltaic systems identified in the Contract in Schedule 1 Scope of Work.

“System Energization Date” means the date upon which the System is first energized after receiving permission to operate from the local authority having jurisdiction.

VI. Insurance and Indemnity

A JCI Insurance. JCI shall obtain and maintain the following policies of insurance with the minimum coverage limits noted below:

COVERAGES	LIMITS OF LIABILITY
Workmen's Compensation Insurance or self-insurance, including Employer's Liability	Statutory
Commercial General Liability Insurance	\$5,000,000 Per Occurrence \$5,000,000 Aggregate
Comprehensive Automobile Liability Insurance	\$5,000,000 Combined Single Limit

B. Indemnification. To the fullest extent permitted by applicable Law, JCI and Customer shall indemnify (each an “Indemnifying Party”) each other (“Indemnified Party”) for all damages, losses and expenses with respect to any third-party claims against the Indemnified Party for personal injury (including death) or tangible property damage, but only to the extent such damages, losses and expenses are caused by the negligence or willful misconduct of the Indemnifying Party in fulfilling its obligations under this Agreement. For purposes of the foregoing, Customer include the Customer’s Board of Trustees, officers, employees, agents and representatives.

Open Blue Enterprise Manager

OpenBlue Enterprise Manager Scope of Work

This project will implement a single instance of OpenBlue Enterprise Manager (OBEM). Johnson Controls [Systems] shall acquire and manage any required permits and inspections, initiate purchase process (hardware, software, sub-contractor, etc.), coordinate delivery of OBEM hardware and software, and assign a lockdown date of the BAS ontology, architecture, device, and object database.

Training:

Johnson Controls Digital Customer Success shall provide end user training on OBEM software for six, 4-hour training sessions to be delivered via Microsoft Teams. Johnson Controls shall provide MiraCosta College with the OBEM User Guide and the Customer Adoption Handbook.

Energy Manager Module

Energy Manager automatically collects, analyses, and displays information for the selected configured physical meters, virtual meters, and PV systems located in a facility’s operation.

Asset Manager Module

The Asset Manager component of OBEM provides the connectivity to monitor and troubleshoot configured PV systems (inverters) located in the MiraCosta College. Rule-driven fault detection, notification, and diagnostics display in a time series format with total duration of existence.

The Asset Manager module includes the following features. Data is displayed in dashboards and provide for developing custom equipment KPIs:

- Equipment Fault Detection and Diagnostics (FDD)

- Equipment Analysis and Dashboards
- Efficiency KPIs
- Custom Equipment Rule Editor
- Fault Notification
- Fault Dashboards
- FDD Driven Work Orders
- Standard Global Rule Library / Rule Driven Diagnostics
- Custom Rules Fault Monetization

Net Zero Advisor Module

Net Zero Advisor simplifies tracking and reporting for Overall Compliance, Greenhouse Gas Emissions, and Energy Monitoring. Net Zero Advisor provides Emissions Summaries, Emission Trends and Goals as well as Portfolio Performance.

Emission numbers are provided at a glance displaying Total GHG emissions, total emission reduction for a calendar year based on energy credits and carbon offsets.

OBEM Equipment and Meter Scope

The following tables indicate the meter, equipment, Net Zero Advisor utility accounts, and points to be configured and commissioning into the Enterprise Manager software.

Other Categories	#		Net Zero Advisor	
PV System	2		Utility Accounts	9
PV Meter	2			
Inverters	5			

Use, implementation, and deployment of software and hosted software products proprietary to JCI (“Software”) offered under this Agreement shall be subject to, and governed by, JCI’s standard terms for such Software and Software related professional services in effect from time to time at <https://www.johnsoncontrols.com/techterms> (collectively, the “Software Terms”). Applicable Software Terms are incorporated herein by this reference. Other than the right to use the Software as set forth in the Software Terms, JCI and its licensors reserve all right, title, and interest (including all intellectual property rights) in and to the Software and improvements to the Software. The Software that is licensed hereunder is licensed subject to the Software Terms and not sold. If there is a conflict between the other terms herein and the Software Terms, the Software Terms shall take precedence and govern with respect to rights and responsibilities relating to the Software, its implementation and deployment and any improvements thereto.

[CONTINUED NEXT PAGE]

Exclusions to OBEM Scope:

Repair or replacement of any existing equipment not scheduled, or not included, in this proposal such as air handling units, fan motors, motor starters, dampers, valves, and existing DDC devices.

MIRACOSTA COMMUNITY COLLEGE DISTRICT

JOHNSON CONTROLS, INC.

Signature: _____

Signature: _____

Printed Name: Tim Flood

Printed Name: _____

Title: Vice President Administrative Services

Title: _____

Date: 03/18/2023

Date: _____

[END OF DOCUMENT]