



AGREEMENT FOR SERVICES

This Agreement for Services ("Agreement") is made effective as of Feb. 26, 2018 ("Effective Date") by and between the William S. Hart Union High School District ("District"), a public school district organized and existing pursuant to State of California ("State") law, and SolarGnosis ("Consultant"). The District and the Consultant may be referred to herein individually as "Party" and collectively as the "Parties."

RECITALS

A. The District desires to obtain the Consultant's professional services regarding Photovoltaic Systems, Energy Efficiency Measures and Energy Conservation Measures ("Project").

B. The Consultant represents and warrants that he/she has all licenses, certifications, approvals, resources, qualifications, skills, experience and other things as are necessary to fully and satisfactorily provide the below-listed services to the District as required by this Agreement.

C. The Parties have entered into this Agreement for purposes of setting forth the terms and conditions for the Consultant to perform the below-listed services for the District.

Now, in consideration of the foregoing and of the respective rights and obligations of the Parties set forth herein, the Parties agree as follows:

AGREEMENT

PART 1: SCOPE, TIMING, AND COMPENSATION FOR CONSULTANT SERVICES

Section 1.1 Scope of Services. The scope of the services to be performed by the Consultant pursuant to this Agreement ("Scope of Services") is set forth in Exhibit "A" attached to this Agreement.

Section 1.2 Time for Services. This Agreement shall commence on March 2, 2018, and shall expire on April 13, 2018, with options to renew by written mutual consent of both Parties, to the extent allowed by law.

Section 1.3 Compensation. The District shall pay to the Consultant, in exchange for satisfactory performance by the Consultant of the Scope of Services required pursuant this Agreement, such all-inclusive compensation as is specified in Exhibit "B" attached to this Agreement.

PART 2: CONSULTANT STATUS AND ADMINISTRATION OF AGREEMENT

Section 2.1 Independent Consultant. The Consultant is, for any and all purposes of or related to this Agreement, an independent contractor to the District. In no circumstances shall the Consultant, or any employee or agent of the Consultant, be deemed or construed to be an employee or agent of the District on account of this Agreement. The Consultant shall at all times conduct his/her activities in a manner consistent with its status as an independent contractor to the District, and, except as provided in this Agreement, the Consultant shall have the right to determine the methods, means and mechanisms by which he/she shall perform the Scope of Services. The Consultant shall not suffer or permit any third party (whether person or entity) to continue in any apparent belief that the Consultant or any of the Consultant's employees or agents, is an employee, or agent of the District. The Consultant shall be responsible for ensuring compliance with all laws related to his/her employees, if any, including, without limitation, laws relating to workers' compensation. The compensation payable to Consultant hereunder shall not be increased as a result of any costs incurred by Consultant that are attributable to such compliance.

Section 2.2 District Rules, Policies, and Other Requirements. If, at any time prior to completion of the Scope of Services, the District determines that there possibly might be more than limited contact between the Consultant and any minor-aged District student, the District may, in its sole discretion, require that the Consultant complies with the requirements of Education Code Section 45125.1, regardless of whether such requirements are otherwise applicable. In such event, the Consultant, at his/her sole cost and expense, and without additional compensation from the District, shall comply with all California Department of Justice guidelines and requirements with respect to fingerprinting of the Consultant, or his/her employees, agents, or other representatives who will or might be present on or at any District facility. Moreover, the Consultant, and any of Consultant's employees, agents, and representatives shall comply with all District rules, policies, or other requirements applicable to presence on District property including, but not limited to, policies regarding discrimination and the use of drugs, alcohol, and tobacco.

Section 2.3 Consultant Capability. The Consultant represents and warrants that: (i) he/she has the technical expertise and experience required to perform the Scope of Services in an efficient and timely manner; and (ii) the Consultant has sufficient financial and/or other resources to adequately and timely perform the Scope of Services as required pursuant to this Agreement.

Section 2.4 Required Standard of Care. The Consultant shall perform or cause to be performed all Scope of Services using such levels of care as are not less than the reasonable levels of care employed by other Consultants providing similar services to school districts within the State in similar circumstances.

Section 2.5 Compliance with Law. The Consultant shall perform the Scope of Services in compliance with all applicable federal, State and local laws, regulations, ordinances and other governmental requirements, as they exist at the time of the Effective Date or as amended.

Section 2.6 Consultant Records. The Consultant shall prepare and maintain, in accordance with generally-accepted accounting principles, all financial and other records related to this Agreement and to the Scope of Services as necessary, appropriate or required by law ("Consultant Records"). Pursuant to Government Code Section 8546.7, the State Auditor has the right, for a period of three years following final payment, to review, audit and/or copy records of the contracting parties with respect to each contract providing for expenditure of public funds in excess of \$10,000. The District and other governmental entities with competent jurisdiction also shall hereby have an independent right pursuant to this Agreement, for a period of four years following final payment to Consultant, to review, audit, and/or copy the Consultant



Records. The Consultant shall make the Consultant Records available for inspection by the District, the State, and any other governmental entity with competent jurisdiction, at all reasonable times during the four-year period following final payment to the Consultant pursuant to this Agreement; provided that, if the District or any other governmental entity commences, but does not complete, an audit within such four-year period, the Consultant shall maintain the Consultant Records until such time as the audit has been completed.

PART 3: TERMINATION OF AGREEMENT AND CONSULTANT SERVICES

Section 3.1 District Termination for Convenience. The District, without need for cause, may terminate this Agreement, with respect to some or all of the Scope of Services, by providing five (5) days written notice of termination to the Consultant. Such termination shall be effective immediately after the Consultant's receipt of the notice of termination.

Section 3.2 District Termination for Breach of Warranties. If the District at any time determines that any of the representations and/or warranties of the Consultant set forth in this Agreement are materially untrue or incorrect, the District shall have the right to terminate this Agreement immediately and without liability (including, without limitation, any liability for paying any further compensation to the Consultant). The Consultant's representations and warranties pursuant to this Agreement shall survive termination of this Agreement, regardless of whether at such time the Consultant has fully completed all Scope of Services.

Section 3.3 Consultant Termination for Cause. The Consultant may give the District written notice of the Consultant's intent to terminate this Agreement for cause if the Consultant reasonably determines that the District has breached any of its material obligations pursuant to this Agreement. The District shall have: (i) fourteen days following receipt of the notice of intent to terminate (or to make arrangements satisfactory to the Consultant for cure of) a breach arising from any failure by the District to pay any undisputed amount owed to the Consultant; and (ii) thirty days following receipt of such notice to terminate (or to make arrangements satisfactory to the Consultant for cure of) a breach of any other nature. If the District fails within the applicable period to cure a breach (or to make arrangements satisfactory to the Consultant for cure of such breach), the Consultant may terminate this Agreement by giving written notice of termination to the District, and the termination shall be effective immediately upon receipt of the notice of termination by the District. Nothing in this Agreement shall be deemed or construed as a waiver by the District of any rights it may have in regard to a wrongful termination by the Consultant.

Section 3.4 Compensation to Consultant upon Termination. Subject to all other provisions of this Agreement, in the event of any termination, in whole or in part, of this Agreement pursuant to Section 3.1 or 3.3 of this Agreement, the District shall, with respect to the terminated portion of the Scope of Services, compensate the Consultant for the Scope of Services that the Consultant satisfactorily performed prior to termination, consistent with Exhibit "B" hereto. Nothing in the foregoing shall be deemed or construed to constitute a waiver or release of any damages that a Party incurs as a result of a breach by the other Party, and each Party shall be entitled to offset any and all such damages from amounts otherwise payable to the other Party pursuant to this Agreement.



PART 4: GIVING OF NOTICE

Section 4.1 General Requirements. Any and all demands and notices required or permitted to be given pursuant to this Agreement (each a "Notice") shall be in writing and shall be given or served in accordance with this Part 4.

Section 4.2 Methods of Delivery. Each Notice shall be sent via: (i) personal delivery (with name and signature of recipient obtained on delivery receipt); (ii) registered or certified United States mail (postage pre-paid and return receipt requested); (iii) FedEx, U.P.S. or other reliable, private delivery service (with name and signature of recipient obtained on electronic or other delivery receipt); or (iv) electronic mail (e-mail) transmission. Neither Party may unreasonably refuse to accept delivery of any Notice in an attempt to avoid the giving or service of the Notice, and any such refusal by a Party shall be deemed and construed as a material breach of such Party's obligations pursuant to this Agreement.

Section 4.3 Effect of Receipt. A Notice shall be deemed given or served only upon actual receipt by the addressee. In the case of e-mail, "actual receipt" shall mean delivery to the recipient's e-mail in-box. However, if any Notice (including, without limitation, any Notice sent by e-mail) is delivered after 4:00 p.m. on any weekday, on a weekend (Saturday or Sunday), on any federal or State holiday, or on any District furlough day mandated by the State or the District's Governing Board, the Notice shall be deemed to have been given or served as of 9:00 a.m. on the next subsequent business day.

Section 4.4 Applicability of Notice Requirements. The requirements of this Part 4 shall not be deemed or construed to apply to: (i) communications between the District and/or the Consultant necessary for day-to-day administration of this Agreement or performance of the Scope of Services; or (ii) service of process in accordance with any applicable law or court rule.

PART 5: INTERPRETATION OF AGREEMENT

Section 5.1 Fair and Reasonable Interpretations. Prior to execution and delivery of this Agreement, each Party has received, or had unqualified opportunities to receive, independent legal advice from its legal counsel with respect to the advisability of executing this Agreement and the meaning of the provisions herein. Therefore, the provisions of this Agreement shall be construed based on their fair and reasonable meaning, and not for or against any Party based on whether such Party or its legal counsel was primarily responsible for drafting this Agreement or any particular provision herein.

Section 5.2 Headings, Captions, Recitals, and Exhibits. The headings and captions set forth in this Agreement are for the convenience of the reader only and shall not be deemed or construed to establish, define, or limit the meaning of any Part, Section or other provision herein. Each Recital set forth herein and each Exhibit referenced herein and attached hereto is hereby incorporated as an effective and operative provision of this Agreement.

Section 5.3 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties pertaining to the performance of the Scope of Services by the Consultant, and all prior and contemporaneous agreements, representations and understandings of the Parties relating to such subject matter, whether oral or written, are hereby superseded and replaced.



Section 5.4 Modifications of Agreement. This Agreement may be modified only by means of duly-approved written agreement executed and delivered by both Parties.

Section 5.5 Waiver. A waiver by a Party of any provision of this Agreement shall be binding only if the waiver is set forth in writing and has been duly approved and signed by the waiving Party. Unless so specified in the written waiver, a waiver by a Party of any provision of this Agreement shall not constitute a waiver of any other provision(s) herein, similar or not, and shall not be construed as a continuing waiver. Except as waived in accordance with this Section, neither the failure by a Party at any time to require performance of any requirement of this Agreement, nor any forbearance or indulgence of the Party in regard to such requirement, shall in any manner affect the Party's right at a later time to enforce the same or any other provision of this Agreement.

Section 5.6 Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with the laws of the State. Any action, arbitration, or other proceeding arising from this Agreement shall be initiated and conducted only in the County of Los Angeles, California.

Section 5.7 Correct Legal Requirements Deemed Included. Each and every provision required by any applicable law to be included in this Agreement is hereby deemed to be so included, and this Agreement shall be construed and enforced as if all such provisions are so included. If, for any reason, any provision required by any applicable law is not expressly included herein, or is not correctly included herein, then, upon request of either the District or the Consultant, they shall amend this Agreement to include or incorporate, or to correctly include or incorporate, such provision.

Section 5.8 Severability. If a court of competent jurisdiction determines, for any reason, that any provision or requirement of this Agreement is invalid or unenforceable, such determination shall not invalidate or render unenforceable any other provision or requirement of this Agreement. In such event, the provisions and requirements that are not the subject of the court's determination shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the invalid or unenforceable provision or requirement. Likewise, if a court of competent jurisdiction determines, for any reason, that any provision or requirement of this Agreement is invalid or unenforceable as applied to a specific person or entity, such determination shall not affect the applicability of such provision or requirement to other persons or entities. In such event, the provisions and requirements that are not the subject of the court's determination shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the inapplicable provision or requirement.

Section 5.9 Successors and Assigns. The Consultant may not assign this Agreement without the express written consent of the District, and any attempt to do so shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding on, the Parties' authorized successors and assigns.

Section 5.10 No Third-Party Beneficiaries. The Parties have entered into this Agreement solely for their own purposes, and this Agreement shall not be deemed or construed to: (i) benefit any third party; (ii) create any right for any third party; or (iii) except as provided by law, provide a basis for any claim, demand, action, or other proceeding by any third party.

(Remainder of this page intentionally left blank)



PART 6: EXECUTION OF AGREEMENT

Section 6.1 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument. Signature pages may be detached from counterpart originals and combined to physically form one or more copies of this Agreement having original signatures of both Parties.

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Agreement as evidenced by their signatures below.

SolarGnosis

[CONSULTANT]

By:  _____

Date Signed: 3/1/2018

Print Name: Peter T. Parrish, Ph.D.

Title: President

Fed. Tax ID No: 46-4234575

William S. Hart Union High School District

By:  _____
CFD

Date Signed: 03/09/18

[Title]

EXHIBIT "A"
Scope of Services

[If additional space is required, please complete on a separate page that is initialed by both Parties]

SolarGnosis shall review documents related to the following:

Task 1: Review proposal by Alliance Building Solutions to install additional PV Systems at various Wm. S. Hart USD (the "District") sites. This review will include

- (a) A review of the proposed System Design, Terms and Conditions, Schedule and Cost Analysis;
- (b) An assessment of predicted energy production and consequent electricity bill savings to the District; and
- (c) A critique of the terms relating to construction of the system as well as the terms covering Energy Guarantees, Maintenance and Operations, Monitoring, Repairs, and Remedies should the energy production (or any other obligations) not be met per the terms of the proposal.

This Task shall be completed by March 16, 2018, and a report covering this task shall be delivered by email by this date.

Task 2: A review of proposal submitted by Alliance Building Solutions and under consideration by the District to

- (a) Retrofit/install Energy Efficient lighting, and HVAC systems;
- (b) Install Energy Conservation systems such as computer/monitor/printer power management; and
- (c) Install a Building Automation System.

This review will include a review of the Energy Savings and consequent Energy Bill savings predicted by Alliance Building Solutions.

This work shall be completed by March 30, 2018, and a report covering this task shall be delivered by email by this date.

Task 3: Review current Power Purchase Agreement (PPA) in place between PFMG Solar, Inc. and the District relating to the existing Photovoltaic Systems (the "PV Systems") at various District sites. This review will include

- (a) An assessment of previous energy production and consequent electricity bill savings to the District and a five-year, forward-looking projection of same, for two (2) representative District sites chosen by District;
- (b) Any Operation and Maintenance, Monitoring and Repair obligations on the part of PFMG Solar under the terms of the PPA;
- (c) An independent review of an existing performance evaluation by Alliance Building Solutions of the PPA and the existing PV System design; and
- (d) The Proposal under consideration by the District to "buy out" the PFMG Solar PPA PV System.

This Task shall be completed by April 13, 2018, and a report covering this task shall be delivered by email by this date.



EXHIBIT "B"
Consultant Compensation

Consultant Fee:

In exchange for satisfactory performance of the Scope of Services, the District shall pay to the Consultant an all-inclusive compensation as follows:

- (a) 30 hours at a rate of \$175/hour.
- (b) Any required travel to be reimbursed at the rate of \$0.545/mile
- (c) Any required overnight stays to be reimbursed at \$150/night for lodging and meals.
- (d) Total compensation shall not exceed \$5,750.
- (e) Each of the major tasks will be billed at approximately \$1,750.
- (f) Payment terms are 60 days after receipt of invoice.


