

SYSTEM ORDER**SYSTEM ORDER FCS000.Z**

Parties	“Customer” The County of Fresno, a California Corporation	“Supplier” BE Development, Inc., a Delaware corporation
Bill-To Address	2281 Tulare St Suite 304 Fresno, CA 93721 Attn: Accounts Payable Email: [Billing Email]	4353 North 1 st Street, 4 th Floor San Jose, California 95134 Attn: Accounts Receivable Email: Accounts.Receivable@bloomenergy.com
“Site”	2280 Tulare St Fresno, CA 93721	
Owner of the Site	County of Fresno	
Customer’s Interest in the Site	100% equity owner	

This “**System Order**”, dated as of the date of last signature hereto (the “**Order Date**”), is governed by the Master Fuel Cell Power Purchase Agreement, dated as of the date of the last signature thereto, by and between Customer and Supplier, attached as Addendum A hereto (the “**Master Agreement**”). Addendum A and the Schedules listed below are incorporated in their entirety by reference and made part of this System Order, constituting a distinct System Agreement.

Schedule 1 – Basis of Design

Schedule 2 – Scope of Work

Schedule 3 – Performance Specifications

Exhibit A – Fresno County Sheriff’s Office Jail Division Policies and Procedures

Exhibit B - Background Investigations and Identification (ID) Badges

Addendum A – Master Fuel Cell Power Purchase Agreement

Basic Terms	
Site ID	FCS000.Z
“Installed Capacity”	2,210 kW
“Payment Terms”	45 days
“Term”	20 years
Customer Solution (“System”), as described in Basis of Design (Schedule 1)	Tier 1 Microgrid
“Guaranteed Critical Output” (if applicable)	1,802kW
Customer Incentives (if any)	None
“Aggregate Liability Cap”	\$2,210,000.00
“Base Rate Adjustment Termination Amount”	\$0.0100/kWh.
“Guaranteed COD Date”	24 months from the Order Date
COD Deadline Liquidated Damages” (per day)	\$500.00
“COD Deadline Liquidated Damages Cap”	\$52,000.00

Note: Pricing and Termination Values set forth in this System Order are subject to change until finalization of installation site diligence pursuant to Section 2.1(c) of the Master Agreement.

System Order Valid Until Date: The pricing in this System Order is valid only if executed by December 9th, 2025.

1. Services Fee

- 1.1 Calculation of Services Fee: The Services Fee will be equal to the product of (x) the sum of all electricity delivered to Customer, as measured by the revenue grade meter in the System and all Deemed Delivered Energy, in each case during each billing period, multiplied by (y) the “**Total Payment Rate**” set forth below. The Total Payment Rate for a given Contract Year is set forth in the table below.

Services Fee Table	
Term: 20 Years	Rate
Contract Year	“Total Payment Rate”
1	\$0.0924 kW/h
2	\$0.0942 kW/h
3	\$0.0961 kW/h
4	\$0.0981 kW/h
5	\$0.1000 kW/h
6	\$0.1020 kW/h
7	\$0.1041 kW/h
8	\$0.1061 kW/h
9	\$0.1083 kW/h
10	\$0.1104 kW/h
11	\$0.1126 kW/h
12	\$0.1149 kW/h
13	\$0.1172 kW/h
14	\$0.1195 kW/h
15	\$0.1219 kW/h
16	\$0.1244 kW/h
17	\$0.1268 kW/h
18	\$0.1294 kW/h
19	\$0.1320 kW/h
20	\$0.1346 kW/h

2. Termination Values

Termination Values (\$ / 100 kW)							
Month Number	Termination Value	Month Number	Termination Value	Month Number	Termination Value	Month Number	Termination Value
1	\$1,435,721	61	\$1,142,156	121	\$806,516	181	\$424,816
2	\$1,430,764	62	\$1,136,863	122	\$800,487	182	\$417,974
3	\$1,425,808	63	\$1,131,570	123	\$794,458	183	\$411,131
4	\$1,420,851	64	\$1,126,277	124	\$788,428	184	\$404,289
5	\$1,415,895	65	\$1,120,984	125	\$782,399	185	\$397,446
6	\$1,410,938	66	\$1,115,691	126	\$776,370	186	\$390,604
7	\$1,405,981	67	\$1,110,398	127	\$770,340	187	\$383,762
8	\$1,401,025	68	\$1,105,105	128	\$764,311	188	\$376,919

9	\$1,396,068	69	\$1,099,812	129	\$758,282	189	\$370,077
10	\$1,391,112	70	\$1,094,519	130	\$752,252	190	\$363,235
11	\$1,386,155	71	\$1,089,226	131	\$746,223	191	\$356,392
12	\$1,381,199	72	\$1,083,933	132	\$740,193	192	\$349,550
13	\$1,376,169	73	\$1,078,498	133	\$734,008	193	\$342,535
14	\$1,371,140	74	\$1,073,064	134	\$727,822	194	\$335,520
15	\$1,366,110	75	\$1,067,629	135	\$721,637	195	\$328,505
16	\$1,361,081	76	\$1,062,195	136	\$715,451	196	\$321,490
17	\$1,356,051	77	\$1,056,760	137	\$709,266	197	\$314,476
18	\$1,351,022	78	\$1,051,326	138	\$703,080	198	\$307,461
19	\$1,345,993	79	\$1,045,891	139	\$696,894	199	\$300,446
20	\$1,340,963	80	\$1,040,457	140	\$690,709	200	\$293,431
21	\$1,335,934	81	\$1,035,022	141	\$684,523	201	\$286,416
22	\$1,330,904	82	\$1,029,588	142	\$678,338	202	\$279,401
23	\$1,325,875	83	\$1,024,153	143	\$672,152	203	\$272,387
24	\$1,320,846	84	\$1,018,719	144	\$665,966	204	\$265,372
25	\$1,316,136	85	\$1,013,140	145	\$659,621	205	\$258,181
26	\$1,311,427	86	\$1,007,561	146	\$653,277	206	\$250,990
27	\$1,306,717	87	\$1,001,982	147	\$646,932	207	\$243,799
28	\$1,302,008	88	\$996,403	148	\$640,587	208	\$236,609
29	\$1,297,298	89	\$990,825	149	\$634,242	209	\$229,418
30	\$1,292,589	90	\$985,246	150	\$627,897	210	\$222,227
31	\$1,287,879	91	\$979,667	151	\$621,552	211	\$215,036
32	\$1,283,170	92	\$974,088	152	\$615,207	212	\$207,845
33	\$1,278,460	93	\$968,509	153	\$608,862	213	\$200,655
34	\$1,273,751	94	\$962,931	154	\$602,517	214	\$193,464
35	\$1,269,041	95	\$957,352	155	\$596,172	215	\$186,273
36	\$1,264,332	96	\$951,773	156	\$589,827	216	\$179,082
37	\$1,259,600	97	\$946,047	157	\$583,320	217	\$171,712
38	\$1,254,868	98	\$940,321	158	\$576,812	218	\$164,342
39	\$1,250,136	99	\$934,595	159	\$570,305	219	\$156,972
40	\$1,245,404	100	\$928,869	160	\$563,797	220	\$149,601
41	\$1,240,672	101	\$923,143	161	\$557,290	221	\$142,231
42	\$1,235,940	102	\$917,417	162	\$550,782	222	\$134,861
43	\$1,231,208	103	\$911,691	163	\$544,275	223	\$127,491
44	\$1,226,476	104	\$905,964	164	\$537,767	224	\$120,120
45	\$1,221,744	105	\$900,238	165	\$531,260	225	\$112,750
46	\$1,217,012	106	\$894,512	166	\$524,752	226	\$105,380
47	\$1,212,280	107	\$888,786	167	\$518,245	227	\$98,010
48	\$1,207,548	108	\$883,060	168	\$511,737	228	\$90,639
49	\$1,202,540	109	\$877,184	169	\$505,064	229	\$83,086
50	\$1,197,532	110	\$871,308	170	\$498,391	230	\$75,533
51	\$1,192,523	111	\$865,432	171	\$491,718	231	\$67,980
52	\$1,187,515	112	\$859,555	172	\$485,044	232	\$60,426
53	\$1,182,507	113	\$853,679	173	\$478,371	233	\$52,873
54	\$1,177,498	114	\$847,803	174	\$471,698	234	\$45,320
55	\$1,172,490	115	\$841,927	175	\$465,025	235	\$37,766
56	\$1,167,482	116	\$836,051	176	\$458,351	236	\$30,213
57	\$1,162,474	117	\$830,174	177	\$451,678	237	\$22,660
58	\$1,157,465	118	\$824,298	178	\$445,005	238	\$15,107
59	\$1,152,457	119	\$818,422	179	\$438,332	239	\$7,553
60	\$1,147,449	120	\$812,546	180	\$431,658	240	\$0

3. LD Rate Schedules

Efficiency LD Rate Schedule	
Contract Year	Efficiency LD Rate (\$/MMBtu)
1	10.1474
2	10.1675
3	10.2820
4	10.4082
5	10.6549
6	10.6306
7	10.7989
8	10.8997
9	11.6045
10	12.0632
11	12.4235
12	12.8813
13	13.2734
14	13.7378
15	14.2003
16	14.7142
17	15.3323
18	15.8238
19	16.3399
20	16.8818

4. Other Site-Specific Terms

4.1 Site Access Conditions

- (a) **Site Security Requirements.** Supplier's personnel shall cooperate with all Customer's security personnel at all times, and shall be subject to and conform to Customer security rules and regulations, including, but not limited to Customer security rules and procedures, as detailed in Exhibits A and B, attached hereto. Any violations or disregard of these rules may be cause for denial of access to the Site. Background checks required, and policies listed below, may change over the course of the term of this System Order. It is the Supplier's responsibility to request updates from the Customer. All of the Supplier's employees, agents, and subcontractors must read the policies listed below:

- (i) Exhibit A – Fresno Sheriff Sheriff's Office Jail Division Policy & Procedure – Hostage Situation; and
- (ii) Exhibit B – Background Investigations & Identification (ID) Badges.

Security provisions will be strictly enforced. All parties who are required to perform their individual services at the site shall be limited to the area required to complete the work. Such access shall be obtained by notification to the Customer's Facility Services Manager, or his or her designee, of the time and place, prior to commencing the work.

All keys used during work shall be numbered. Each key issued shall be recorded, and its prompt return shall be strictly enforced. Duplication of any keys issued is strictly prohibited. These

keys shall be returned to the Customer's representative at the end of each working day, when required.

Some of the work to be done under this Agreement may be in secured facilities such as jails. Prior to commencement of work, the Supplier, including all subcontractor and contractors, shall obtain security clearances for all employees that will be working or making deliveries to the sites.

When work is performed in secured facilities, it is incumbent upon the Supplier to alert all workmen of the necessity for extreme care in accounting for, and keeping all areas free of any and all types of hand tools, power tools, small parts, scrap material, and all other materials which might be concealed upon the person of an inmate/ward/patient, at all times when such tools and materials are not used for the task at hand.

Each work area shall be kept clean and in order both during working hours and at the completion of the working day.

4.2 Hazardous Materials

None


- 4.3 Licensing Requirements.** With reference to Section 6.1 (*Performance Standards*) of the Master Agreement, Supplier has the following licenses: California Class B General Building Contractor Lic. #964578. If Supplier obtains any additional license following COD, Supplier shall provide written notice to Customer of such license after which, this Section 4.3 shall automatically be deemed amended to include the license set forth in the notice.

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IN WITNESS WHEREOF, the undersigned have executed and delivered this System Order as of the Order Date:

THE COUNTY OF FRESNO

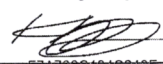
BE DEVELOPMENT, INC.

By: 

Name: Ernest Buddy Mendes

Title: Chairman of the Board of Supervisors of
the County of Fresno

Date: 12/9/25

DocuSigned by:

By: PTA786C194C240E...


Name: Kevin Passalacqua

Title: Vice President, Project Finance

Date: December 4, 2025

Attest:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: 

FOR ACCOUNTING USE ONLY:

Org: 8935
Account: 7431
Fund: 1045
Subclass: 10000

SCHEDULE 1 TO SYSTEM ORDER **BASIS OF DESIGN**

1. Overview

This document will provide the technical description and application specifications for the System proposed to be installed at the Fresno County Sheriff's Office Jail Buildings in Fresno, California 93721. The goal is to provide the information necessary to describe the Customer requirements and present the technical details of the proposed System.

2. System Design Intent

The intent of this document is to summarize the requirements and operational parameters of the System to address the problem statements of the Customer as follows:

- Provide a resilient power system that operates both when the grid is present, in Grid-Parallel (GP) mode, and when the grid is not available, in the Stand-Alone (SA) mode. The transition between the GP mode and SA mode will be an Open Transition with steps described in Section 4 (Modes of Operation).

3. System Description

The System is comprised of Energy Servers (ES) interconnected to Customer facility switchgear as shown in the Preliminary Conceptual Design.

Modes of Operation

- 3.1. Grid-Parallel (GP) Mode. This System is designed to operate in parallel with the utility grid as a baseload generation resource.
- 3.2. Stand-Alone (SA) Mode. This mode of operation is expected to be utilized during extended utility grid outages and needs to supply the microgrid power to the "MV SWITCHGEAR-01".

4. Load Management

The Customer hereby consents to the responsibility for the management of any load supplied by Microgrid Equipment to operate within the Guaranteed Critical Load Output and Step Load specified in the Microgrid Performance Specification.

5. Preliminary Conceptual Design

To be provided separately for security considerations.

SCHEDULE 2 TO SYSTEM ORDER

SCOPE OF WORK

This Scope of Work (“**SOW**”) describes the Installation Work to be performed by Supplier under the System Order and Customer’s related obligations. Defined terms used in this SOW and not otherwise defined have the meaning given to such term in the System Order.

1. Turn-Key Design and Installation

- (a) Supplier will perform the design, engineering, permitting, procurement, construction, installation, start-up, testing, and commissioning of the System in accordance with the System Order and this Scope of Work (the “**Installation Work**”). Additionally, the Installation Work will include:
 - (i) preparation of gas and, if required, electric interconnection service applications (the “**Utility Applications**”) for Customer’s review and execution;
 - (ii) all required rigging activity for Supplier-provided equipment; and
 - (iii) installation of Broadband.
- (b) Supplier may commission the System in advance of completing the Installation Work if the completion of such Installation Work is not integral to the operation of the System.
- (c) All change orders regardless of cause – such as a change in Customer requirements, scope addition, utility or permitting asks, or any other cause - will be billed at cost + 20% overhead.

2. Schedule; Estimated Delivery Date; Updated Installation Cost. Within five (5) months (or earlier in Supplier’s sole discretion), from the date Customer has satisfied all of the Customer Install Obligations.

- (a) Supplier will submit to Customer a schedule for completion of the Installation Work (the “**Project Schedule**”), including (i) the Estimated Delivery Date; estimated dates for the achievement of any key milestones and COD, (which are contingent on the completion of Customer’s Install Obligations within the designated timeframe), and (ii) timing and duration of shutdowns or curtailments, including any other envisioned material impacts on the Site.
- (b) Supplier will complete post-contract Site due diligence, electrical switchgear, and design for submission to permit and, prior to submission for building permit, will revise the installation estimate (the “**Updated Installation Cost**”) and review such with the Customer.

3. Critical Installation Assumptions

- (a) Notwithstanding any other provision in the System Order, Supplier’s obligation to perform the Installation Work at the Installation Cost in accordance with the Project Schedule is based upon the conditions below being true regarding the Installation Work, Customer Install Obligations, the System, and/or the Site (the “**Critical Installation Assumptions**”).
 - (i) These are the Critical Installation Assumptions:
 - the System will be designed, installed and operated as described in the Basis of Design and the Preliminary Conceptual Design as set out in Schedule 1 to the System Order;
 - ground shipping and rigging of Supplier-provided System equipment only to the Ship-to-Address in accordance with the System Order is included;

- the System Location shall be comprised of a flat (site slope of 5% or less), hardscape (concrete or asphalt) outdoor location upon which the System can be mounted or placed on the ground; surface restoration, inclusive of asphalt patching, is restricted only to the areas disturbed by direct fuel cell installation activities performed by the Supplier;
- the Site has stable, uncontaminated soils and it does not have any abnormal sub-surface conditions, and there are no Hazardous Materials at, upon, or under the Site;
- no utility runs or equipment placement crosses or ingresses up any railroad easement, communication easement, freeway or highway right-of-way, or any other such easement, whether or not the easement is officially recorded;
- equipment location and all utility runs are outside of designated wetlands, flood way, floodplain, and flood hazard area;
- all of the existing buildings, structures, fixtures, electrical equipment, machinery and other improvements at the Site were constructed, and the construction of which remain in compliance with, Applicable Law, including applicable zoning and building codes and ordinances;
- all piping and cabling will be run above ground within the System Location, in accordance with local codes;
- no impact protection provided;
- while a study to verify existing lightning protection is sufficient is included, it is assumed existing lightning protection on Site is adequate to protect the System in accordance with NFPA 780; any additional lightning protection design, supply, and construction will be subject to a change order;
- there are no restrictions on construction activities during normal business hours or specific days of the week;
- the entirety of this System Order may be shared with Supplier's subcontractors;
- any expenses and/or associated fees relating to the completion of gas, water, or electric utility interconnection, any upgrades, or any other work required by the utility, inclusive of any net generating metering (NGOM) and their installation, or PSCAD or any other modeling, will be at cost + 10% to the Customer;
- the System will require only one single shutdown and disconnect and such shutdown will not be rescheduled or delayed; a \$75,000 allowance per interconnection is carried for generator rental to support electrical interconnection; any shutdown costs above and beyond that allowance, including for customer delays to scheduled shutdowns, will be a change order to the customer; shutdowns rescheduled by the customer must have a new date provided within ten (10) days of the original date;
- \$7,500 is the total budgeted cost for material and labor to modify the existing equipment necessary for outage scope necessary for electrical tie-in; any costs above and beyond that allowance will be a change order to the customer;
- Sixty (60) LF of 8' standard chain link fencing included;
- Customer Install Obligations will be completed in accordance with Section 4;
- the System will be physically connected to utility gas, utility water, and ethernet service from each applicable utility's point of connection, in accordance with specifications detailed in Supplier Standards (<https://bloomenergy.egnyte.com/fl/VJrpHHM6tp86>), and

as described in the Basis of Design and the Preliminary Conceptual Design as set out in Schedule 1 to the System Order; electrical connections and facility tie-in points are also as described in the Basis of Design and the Preliminary Conceptual Design as set out in Schedule 1 to the System Order; any changes to utility connection(s) locations or requirements and associated cost increases due to run lengths or any other requirements, shall be subject to a change order + 20%;

- the System will use a 12kV interconnection and have a maximum of one interconnection;
 - the System will be interconnected behind the utility meter to the customer facility as detailed in the Basis of Design and Preliminary Conceptual Design, as set out in Schedule 1 to this System Order, and will be capable of operating as a microgrid; each interconnection includes one (1) four-wire PDS with revenue-grade metering, one (1) DC switchgear, one (1) MV transformer, one (1) MV Disconnect, and (1) MV breaker-pair switchgear, as well as only other equipment specifically shown on the Preliminary Conceptual Design; any additional interconnection equipment, including but not limited to breakers, metering, or relaying dictated by the Customer, utility, or any other party excluding the Supplier, will be provided as a change order to the Customer at cost + 20%;
 - \$100,000 commissioning allowance per 3250kW or fraction thereof, including generator and load bank based on Supplier-defined commissioning script; any additional commissioning costs incurred by Supplier beyond this allowance will be issued as a change order to Customer;
 - the System will be commissioned based on Supplier Standards to verify the System operates as described in the Basis of Design through the PDS; MV and transformer commissioning and testing, if applicable, is not included unless otherwise specified in the Basis of Design; commissioning of equipment not provided by the Supplier is excluded; integrated testing with facility loads or use of a commissioning agent is not included. No noise abatement is planned or budgeted for during commissioning; if required, this will be an additional cost.
- (ii) The Installation Cost does not include any deviation from the Critical Installation Assumptions. Any deviation the Supplier considers as excluded from the Installation Cost will be identified in Supplier's Site Diligence Evaluation Report to the extent within Supplier's knowledge. Further, for example, the following is not included in the Installation Cost (and where applicable, would be identified by Supplier in its site due diligence evaluation report):
- any construction work not related to the construction of the System, including but not limited to: any AHJ, utility, or other inspections not directly related to the construction of the System; the integration of the System with any building management systems or other third-party control or monitoring systems; any load control for Customer and/or the facility served by the System;
 - any design or construction standards specified by Customer in addition to those required by or otherwise not required by Applicable Law;
 - any costs associated with unforeseen underground impediments or obstacles, or any other unforeseen costs associated with meeting the requirements of Applicable Law that are not otherwise inherent in the installation of Energy Servers;
 - demolition of existing structures or movement of existing equipment, even if such structures are located at the System Location; any grading necessary to meet System Location slope requirements;

- any trenching or excavation method other than with heavy equipment, including but not limited to hydro excavation or vacuum truck;
- more than a single shutdown of any utility Service Provider interconnection;
- SWPPP design, BMPs, and any other location- or AHJ-specific requirements are excluded; creation or modification of existing storm water management systems, including any updates or revisions to existing calculations, are excluded; spill prevention and any associated costs are excluded;
- environmental studies and air permitting, if applicable;
- any jobsite security systems, guards, or watchmen;
- reimbursement of power and water consumption costs during construction;
- unless specifically identified in the BOD or conceptual drawings included in this System Order, any improvement, upgrades, restoration, permanent or temporary shoring walls, or other work to the Site (including buildings, real property, hardscapes, landscapes, services or utilities) which (i) is not required by Applicable Law, (ii) consists of improvements such as landscaping, screening, painting, fencing or lighting; (iii) is required by Applicable Law in order to bring any pre-existing buildings, structures, fixtures, machinery and other Site improvements into compliance with applicable zoning and building codes and ordinances, or (iv) are not codified or exceed the requirements of similarly situated projects, but are nonetheless required by a Governmental Authority as a condition to the issuance of any Permit;
- warranty assumption or warranty invalidation for any existing facilities, Customer Equipment, or materials, even if such facilities, equipment, or materials are a part of the Energy Server installation;
- any special accommodations required by the owner of the Site or Customer not included in this SOW.

4. Customer Install Obligations

- (a) Customer will perform, or cause to be performed, all obligations set forth in this Section 4 without delay or condition. Timely and complete performance of all these obligations is a necessary condition for Supplier to complete the Installation Work in accordance with the Project Schedule. The obligations of the Customer in Sections 4(b) – (h) are the “***Customer Install Obligations***”. Any delay in the completion of Customer Install Obligations will result in a day-for-day delay in any liquidated damages or other penalties. For projects with a contractual commitment to a COD deadline within six (6) months or less of System Order Date, all obligations below must be complete within (1) business day.
- (b) Customer will:
 - (i) maintain each load level on each meter affected by this Installation, such that the System sizing methodology, and, if applicable, Microgrid sizing methodology, detailed in the Basis of Design remains valid. Failure to maintain loads by meter will result in rendering the financial model invalid, and any future changes to the system architecture or interconnection following COD will be the sole responsibility of the Customer;
 - (ii) within ten (10) Business Days following the Order Date, identify to Supplier the personnel or other agents of Customer responsible for or with authority on behalf of Customer to:

- provide any information related to utilities requested by Supplier, review and execute Utility Applications;
 - provide any information related to Permits requested by Supplier, review, and execute any Permit (or application therefore) required to be held in Customer's name;
 - provide design review and acknowledgement;
 - approve utility service shut downs and other material impacts on the Site;
 - if applicable, provide Supplier (or its designated Subcontractor) third-party authorization to represent Customer in connection with the Utility Applications; and
 - coordinate and grant access to Supplier for Site investigations, including the interior of the facility served by the System; access is assumed to be provided inclusive of parking, without need for parking fees or shuttle services
- (iii) within ninety (90) Business Days following the Order Date, provide up-to-date copies of the following documents for the Site, in electronic format and in accordance with applicable industry standard requirements, or confirm in writing that such documents do not exist or are otherwise impossible for Customer to provide:
- an existing site plan, an electrical one-line, mechanical as-built drawing, electrical as-built drawings, architectural documents;
 - existing breaker studies; arc flash details;
 - most recent available geotechnical reports or soil studies; title report dated within 12 months; most recent available ALTA, boundary, or similar surveys; most recent available Phase 1 ESA, or more extensive environmental survey; most recent available topographical survey.
- (c) within ninety (90) Business Days following the Order Date, provide Supplier with all consents and approvals of any applicable third parties having rights to the Site (including any Site landlord, mortgagor, or other Site tenant) necessary for the Installation Work.
- (d) Design & Schedule. Customer will:
- (i) review and respond to the Conceptual Design with approval or identification of any errors within thirty (30) Business Days from the date of receipt; failure to respond within thirty (30) Business Days will automatically be deemed approval; and
 - (ii) review and respond to the Project Schedule with approval or identification of any conflicts within thirty (30) Business Days from the date of receipt; failure to respond within thirty (30) Business Days will automatically be deemed approval; and
 - (iii) prior to the date for construction mobilization set in the Project Schedule, ensure that the System Location and surrounding area is clear from any above-ground interference and obstructions that would interfere with the Installation Work, and maintain immediate area of construction as unoccupied by Customer for the duration of construction.
- (e) Permits; Utilities. Customer will, or will cause its landlord, if applicable, to:
- (i) within ninety (90) Business Days of Supplier's request, review, execute and deliver to Supplier:
 - each Permit required to be held in Customer's (or its landlord's) name or any application thereof;

- any letter of authorization or similar document required for Supplier to obtain Permits in Customer's (or its landlord's) name;
 - review, execute, and deliver to Supplier any agreements with a Utility Service Provider for utility service and interconnection;
- (ii) upon request, provide reasonable assistance requested by Supplier to obtain any Permit, Utility Application, or, if applicable, any other necessary permissions; and
- (iii) provide all accommodations required at the Site and/or the facility served by the System in connection with any utility shutdown required in connection with the Installation Work, such as generators, cables, and any other equipment identified by Supplier in advance of such shut down. Shutdowns rescheduled by the Customer must have a new date provided within thirty (30) days of the original date; and
- (iv) Customer will pay ongoing Internet Service Provide (ethernet/TI data) invoices to Supplier's telemetry and utility SCADA, if required, for the duration of the contract.
- (f) Customer shall be solely responsible for completing any additional/unanticipated work at the Site (necessary to achieve COD), within a mutually-agreed upon schedule that aligns with the Project Schedule, that arises from or relates to circumstances or physical condition(s) at the Site (which includes the System Location) that are of an unusual nature, which differ materially from those normally encountered and generally recognized as inherent in the installation of the System (and are not expressly covered by the Critical Installation Assumptions).
- (g) Customer will provide, as Supplier may reasonably request in connection with its performance of the Installation Work, such other support and deliver such other documents, including providing any certificates or consents required or requested by third parties within the time periods fixed by such third parties.
- (h) Customer's failure to complete the Customer Install Obligations may result in delays of the Installation Work and cause Supplier to incur additional costs in order to complete the Installation Work. Any increase in the Installation Cost or schedule incurred by Supplier due to: (i) Customer's failure to perform the Customer Install Obligations in accordance with this Section 4, (ii) a Customer Delay, (iii) the failure of a Critical Installation Assumption to be true and accurate; or (iv) as a result of additional work requested by Customer or required to be performed by Supplier outside this SOW, in each case will be passed onto the Customer.

SCHEDULE 3 TO SYSTEM ORDER
PERFORMANCE SPECIFICATIONS

The following is a table (the “**Efficiency Specifications Summary Table**”) summarizing key terms of the Efficiency Warranty and Efficiency Guaranty (the “**Efficiency Specifications**”):

Efficiency Specification	Warranted Heat Rate (HHV Btu/kWh)	Warranted Efficiency Percentage LHV¹	Measurement Date	Measurement Period
Efficiency Warranty	7,554	50%	Calendar Year	Cumulative
Efficiency Guaranty	6,995	54%	Calendar Year	Cumulative

(A) “**Warranty**”: Supplier warrants that the System, over each Measurement Period during the Term, will maintain an average Heat Rate of no more than the Warranted Heat Rate.

“**Efficiency Specification**” means the applicable Specification in the Efficiency Specifications Summary Table.

“**Efficiency Percentage**” means the percentage identified as the “Warranted Efficiency Percentage LHV” in the Efficiency Specifications Summary Table.

“**Warranted Heat Rate**” means the applicable number of HHV Btus per kWh identified as the “Warranted Heat Rate (HHV Btu/kWh)” in the Efficiency Specifications Summary Table.

“**Warranted Efficiency Percentage**” means the percentage identified as the “Warranted Efficiency Percentage LHV” in the Efficiency Specifications Summary Table.

“**Measurement Date**” means, as of a given year during the Term, the last day of the applicable calendar year (or the last day of the Term, if earlier).

“**Measurement Period**” means the period (X) commencing on the later of (A) the System’s COD or (B) the date of a Warranty Correction, and (Y) continuing until the applicable Measurement Date.

(B) **Exclusions.** Notwithstanding clause (A) above, the Efficiency Specifications do not apply during any period in which a Customer Exclusion or a Warranty Exclusion exists, occurs, and/or continues.

“**Customer Exclusion**” means, as applicable: (i) any event within the reasonable control of Customer which prevents Supplier from performing the Maintenance Work or prevents the System from producing or delivering electricity up to its full Installed Capacity (including scheduled outages, any System Outage, or operating the System at less than its full Installed Capacity); (ii) Customer’s failure to comply with any of its obligations under the System Order (including failure to pay) or the failure of a Critical Service Assumption to be and remain true on and after COD; (iii) Customer’s failure to take all electricity generated by the System up to its full Installed Capacity; (iv) any down-time attributable to any phased installation of the System, if applicable; or (v) any ramp-up period required to resume full operation of the System following a suspension due to any of the foregoing.

¹ Note: This value is the Warranted Heat Rate converted into an efficiency percentage in LHV for illustration purposes.

“Warranty Exclusion” means, as applicable: (i) a Force Majeure Event or a Grid Event, including any failure of or damage to the System as a result of any Force Majeure Event or Grid Event; (ii) failure of the System in part or in whole due to the operation, repair, modification or tampering with any part of the System by anyone other than a Supplier Person; (iii) a Government Authority, a Utility Service Provider, or the Fuel Supplier requires disconnection and/or curtailment from the applicable distribution system; or (iv) any ramp-up period required to resume full operation of the System following a suspension due to any of the foregoing.

(C) Calculations

- (1) The **“Heat Rate”**, expressed as Btu HHV/kWh, is calculated over a given Measurement Period as follows:

$$\text{Heat Rate HHV} \frac{\text{Btu}}{\text{kWh}} = \frac{\text{Fuel Usage HHV (Btu)}}{\text{Delivered Energy (kWh)}}$$

“HHV” means higher heating value. It is also known as gross energy, upper heating value, gross calorific value or higher calorific value.

“Btu” means the British thermal unit, which is a unit of heat.

“Fuel Usage” means the amount of natural gas (or other fuel supply source, if applicable, as set forth in the relevant System Order) consumed by System, expressed in Btu, as measured by the System.

“Delivered Energy” means the number of kilowatt-hours of electricity delivered by the System as measured by the System’s revenue grade meter during the applicable Measurement Period.

- (2) The Efficiency Percentage is a conversion of the Heat Rate into an efficiency percentage in LHV. It is calculated over a given Measurement Period as follows:

$$\text{Efficiency Percentage LHV} = \frac{\text{Delivered Energy (kWh)} \times \left(\frac{3,412 \text{ Btu}}{\text{kWh}} \right) \times 1.1 \left(\frac{\text{HHV}}{\text{LHV}} \right)}{\text{Fuel Usage HHV (Btu)}}$$

“LHV” means the lower heating value. It is also known as net calorific value or the lower calorific value.

- (D) **Deficiencies.** Supplier will maintain a ledger recording the cumulative Efficiency Bank as of each Measurement Date.

“Efficiency Bank” is measured over the applicable Measurement Period and calculated as follows:

$$\text{Efficiency Bank (mmBtu)} = \frac{\text{Forecasted Fuel Usage (Btu)} - \text{Fuel Usage (Btu)}}{1,000,000}$$

“Forecasted Fuel Usage” means the number of Btus that would be consumed by the System if such System operated at a Heat Rate equal to the Warranted Heat Rate, measured over the applicable Measurement Period and calculated as follows:

$$\text{Forecasted Fuel Usage (Btu)} = \text{applicable Warranted Heat Rate} \left(\frac{\text{Btu}}{\text{kWh}} \right) \times \text{Delivered Energy (kWh)}$$

Efficiency Warranty:

“Warranty Deficiency” means the System has failed to perform in accordance with Efficiency Warranty as evidenced by the Efficiency Bank having a value less than zero as of a given Measurement Date.

Efficiency Guaranty:

“Guaranty Deficiency” means the System has failed to perform in accordance with the Efficiency Guaranty as evidenced by the Efficiency Bank having a value less than zero as of a given Measurement Date.

(E) Remedies

Efficiency Warranty. If the System fails to perform in accordance with the Efficiency Warranty as of a given Measurement Date, Customer may make a written warranty claim. Supplier will verify if the Efficiency Bank has a value less than zero as of such Measurement Date to validate the claim. If validated, Supplier will perform a Warranty Correction within ninety (90) days thereof. After a Warranty Correction is complete (the **“Warranty Correction Date”**), the Efficiency Bank will be reset to zero as of the Warranty Correction Date and the System will maintain an average Heat Rate equal to or greater than the Warranted Heat Rate over the ninety (90) days after the Warranty Correction Date, failing which, a new Warranty Deficiency will be deemed to have occurred and Supplier will perform a new Warranty Correction.

“Warranty Correction” means after the occurrence of a Warranty Deficiency, the System is repaired or replaced to perform in accordance with the Efficiency Warranty.

Efficiency Guaranty. If the System fails to perform in accordance with the Efficiency Guaranty as of a given Measurement Date, Customer will make a written guaranty claim. Supplier will verify if the Efficiency Bank for the Efficiency Guaranty has a value less than zero as of such Measurement Date to validate the claim. If validated, Supplier will pay Customer the applicable amount of Efficiency LDs as liquidated damages and not as a penalty, within 60 days of such verification. Efficiency LDs are limited to and will not exceed \$204,425.00. Upon payment of the Efficiency LDs to Customer, the Efficiency Bank for the Efficiency Guaranty will be reset to zero

“Guaranty Correction” means after the occurrence of a Guaranty Deficiency, the Efficiency LDs are paid.

“Efficiency LDs” means, as of a given Measurement Date, the product of (i) the Efficiency Bank for the Efficiency Guaranty as of such Measurement Date and (ii) the Efficiency LD Rate applicable as of such Measurement Date.

The Parties acknowledge and agree that it would be impracticable or impossible to determine with precision the amount of damages that would or may be incurred by Customer as a result of the Project’s failure to satisfy the Efficiency Guaranty. It is therefore understood and agreed by the Parties that: (a) Customer may be damaged by Provider’s failure to satisfy the Efficiency Guaranty; (b) it would be impractical or impossible to fix the actual damages to Customer resulting therefrom; and (c) payment of the Efficiency LDs are in the nature of liquidated damages, are not a penalty, and are a fair and reasonable estimate of appropriate compensation for the losses that Owner may reasonably be anticipated to incur by such failure.

THE REMEDIES SET FORTH HERE ARE CUSTOMER’S SOLE REMEDIES FOR THE SYSTEM’S FAILURE TO PERFORM IN ACCORDANCE WITH THE EFFICIENCY SPECIFICATIONS.

The following are the “**Microgrid Specifications**”:

To be provided separately for security considerations.

- (A) **Microgrid Warranty.** Supplier warrants that during a Grid Event, the System will produce power based on Customer’s facility load requirement in compliance with the Microgrid Specifications up to the Guaranteed Critical Output (the “**Microgrid Warranty**”).

“**Microgrid Equipment**” means equipment (i) configured to allow the System to autonomously generate electricity up to the Guaranteed Critical Output and deliver it to Customer’s facility without an active connection to the electric grid, and (ii) designed to operate in compliance with the Microgrid Specifications.

“**Microgrid Specifications**” means the specifications set forth in the table above.

“**Grid Event**” means a curtailment, malfunction or other failure of the electric grid interconnected to the System, such as brownouts, blackouts, and imposed load shedding by the local electric utility.

“**Guaranteed Critical Output**” is set forth in the System Order.

- (B) **Exclusions.** Notwithstanding clause (A) above, the Microgrid Warranty does not apply during any period during which a Customer Exclusion or Warranty Exclusion occurs.

“**Customer Exclusion**” means (i) any event within the reasonable control of Customer which prevents Supplier from performing the Maintenance Work or prevents the System from producing or delivering electricity (including scheduled outages or any System Outage); (ii) Customer’s failure to comply with any of its obligations under the System Agreement (including failure to pay) or the failure of a Critical Service Assumption to be and remain true on and after COD; (iii) any down-time attributable to any phased installation of the System, if applicable; or (iv) Customer’s failure to operate the Microgrid Equipment in accordance with the applicable Microgrid Specifications.

“**Warranty Exclusion**” means (i) a Force Majeure Event, including any failure of or damage to the System as a result of any Force Majeure Event; (ii) failure of the System in part or in whole due to the operation, repair, modification or tampering with any part of the System by anyone other than a Supplier Person; or (iii) a Governmental Authority, a Utility Service Provider, or the Fuel Supplier requires disconnection and/or curtailment from the applicable distribution system; or (iv) any ramp-up period required to resume full operation of the System following a suspension due to any of the foregoing.

- (C) **Deficiency**

“**Warranty Deficiency**” means the System has failed to perform in accordance with Microgrid Warranty, as evidenced by (1) the Microgrid Equipment failing to operate in compliance with the Microgrid Specifications, and/or (2) the System failing to operate at the Guaranteed Critical Output during a Grid Event when Customer’s load is at least equal to the Guaranteed Critical Output.

- (D) **Remedies**

In the event of a Warranty Deficiency, Supplier shall notify Customer accordingly. If Customer recognizes a Warranty Deficiency prior to notification from Supplier, Customer shall notify Supplier accordingly. Upon notification, Supplier shall:

- (1) Dispatch an authorized service technician within eight (8) hours of notification; and
- (2) Determine whether the System effectively is not performing in accordance with the Microgrid

Specifications within twenty-four (24) hours of dispatch, and, if no Customer Exclusion or Warranty Exclusion is applicable, begin a Warranty Correction.

- a. Subject to Sections (D)(2)(b), (D)(2)(c), and (D)(2)(d) below, for each hour until a Warranty Correction is achieved, Supplier will pay Customer \$442.00, as liquidated damages and not as a penalty (“**Microgrid Liquidated Damages**”).
- b. Notwithstanding the foregoing, Supplier shall only be required to begin paying Microgrid Liquidated Damages until after the System has experienced twenty-four (24) cumulative hours of Warranty Deficiency over the lifetime of the Term.
- c. Notwithstanding the foregoing, if Supplier notifies Customer that a Customer Exclusion or Warranty Exclusion applies and Customer objects in writing to such notice, then, if such Customer Exclusion or Warranty Exclusion can be resolved by a root cause analysis, then the Parties shall mutually select a qualified third-party to perform (at Supplier’s cost) an objective root cause analysis (“**Root Cause Analysis**”). If the third-party performed Root Cause Analysis determines that a Customer Exclusion or Warranty Exclusion is applicable, then Supplier shall have no obligation to pay Customer Microgrid Liquidated Damages.
- d. Supplier’s payment of Microgrid Liquidated Damages is capped at and shall not exceed \$442,000.

“**Warranty Correction**” means after a Warranty Deficiency, the Microgrid Equipment and/or System is repaired to perform in accordance with the Microgrid Warranty.

THE REMEDIES SET FORTH ABOVE ARE CUSTOMER’S SOLE REMEDIES FOR THE SYSTEM’S OR MICROGRID EQUIPMENT’S FAILURE TO PERFORM IN ACCORDANCE WITH THE MICROGRID WARRANTY.

EXHIBIT A
FRESNO COUNTY SHERIFF'S OFFICE
JAIL DIVISION POLICIES AND PROCEDURES

TITLE: HOSTAGE SITUATIONS
FILE: HOSTAGE

NO: B-130

EFFECTIVE DATE: 12-18-89 REVISED: 08-06-90, 12-25-94, 05-06-96, 09-01-99,
12-01-10

AUTHORITY: Sheriff M. Mims APPROVED BY: Assistant Sheriff T. Gattie

REFERENCE: California Code of Regulations, Title 15, Section 1029(a)(7)(B) and
Penal Code Section 236.

PURPOSE:

The purpose of this policy is to establish procedures which provide for the resolution of a hostage-taking incident while preserving the safety of staff, public, inmates, and hostages, and maintaining facility security.

POLICY:

The Fresno County Sheriff's Office Jail Division maintains a **NO HOSTAGE FACILITY** and will not consider bargaining with hostage takers for ANY reason.

It is the policy of the Fresno County Sheriffs Office Jail Division that once any staff member is taken hostage, they immediately lose their authority and any orders issued by that person will not be followed regardless of their rank or status.

It is the policy of the Fresno County Sheriffs Office Jail Division that the primary responsibility of all staff members in a hostage situation is to protect every person involved, if possible, from serious injury or death.

PROCEDURES:

I. DEFINITION

HOSTAGE SITUATION: any staff member, citizen or inmate held against their will by another person for the purpose of escape, monetary gain or any reason which may place an individual in danger of losing life or suffering serious injury.

II. NOTIFICATIONS, CONTAINMENT AND CONTROL OF THE SITUATION

A. Emergency procedures and notifications shall be implemented as per Emergency Planning procedures (B-101/FILE: EMERGENCY).

B. The Watch Commander will notify the Patrol Watch Commander and apprise them of the incident.

The Patrol Watch Commander may be requested to activate the Crisis Negotiations Team (CNT), outside support agencies, equipment, personnel, and dispatch a detective to the scene for the crime report.

III. DURING NEGOTIATIONS

- A. While at the scene, the CNT members will conduct all verbal or written communications between the hostage taker(s) and the Incident Commander. CNT will immediately notify the Incident Commander of any changes in the following situations:
 - 1. Hostage status
 - 2. Incident changes and developments
 - 3. Hostage taker demands
 - 4. Any and all pertinent information concerning the incident
- B. Staff members at the scene not actively involved with negotiations will not act or speak out to the hostage taker(s) or hostages.
- C. The Tactical Commander will formulate a plan to take the necessary actions, using the appropriate force, to terminate the hostage situation in the event negotiations fail. Hostage safety will be of paramount concern.

IV. HOSTAGE SURVIVAL STRATEGIES

- A. If taken hostage, it is important to make the transition from being a victim to being a survivor. The following are not strict rules that must be rigidly followed, but rather general guidelines. There will always be exceptions.
 - 1. Regain/maintain composure. Try to be calm, focused and clear-headed at all times. Do not stand out from other hostages. Drawing unnecessary attention increases the chance of being singled out and victimized.
 - 2. Maintain a low-key, unprovocative posture. Overt resistance is usually counterproductive in a hostage situation.
 - a. Remain calm and follow instructions. Comply with the hostage takers when at all possible.
 - b. Be stoic. Maintain an outward face of acceptance of adversity with dignity. Avoid open displays of cowardice and fear. Inmates will view frailty and feebleness as weakness, which may lead to victimization.
 - c. Do not antagonize, threaten or aggravate the hostage takers. Avoid saying "no", or arguing with the hostage takers. Do not act authoritative. The hostage takers must make it known that they are in charge.
 - d. Eye contact may be regarded as a challenge; make eye contact with the hostage takers sparingly.
 - e. Fight off basic instincts, such as anger and hostility. Be polite and remain alert. Speak normally and don't complain.

3. Hostages should try to establish a level of rapport or communication with their captors in attempt to get the captors to recognize them as human beings.
 - a. Find a mutual ground, an association with the hostage takers. Foster communication on non-threatening topics (e.g., family, hobbies, sports, interests).
 - b. Use the captors' first names, if known. However, if hostage takers are attempting to conceal their identity, do not give any indication that they are recognized.
 - c. Listen actively to the captors' feelings and concerns, but never praise, participate in, or debate their "cause". If they want to talk about their cause, act interested in their viewpoints. Avoid being overly solicitous, which may be viewed as patronizing or insincere.
 - d. Do not befriend the inmates; such an attempt will likely result in exploitation.
 - e. Try asking for items that will increase personal comfort. Make requests in a reasonable, low-key manner.
 4. Be prepared to be isolated and disoriented.
 - a. Do not talk to other hostages. The hostage takers may think a plot is being formed.
 - b. Develop mind games to stimulate thinking and maintain mental alertness.
 5. Be tolerant of fellow hostages. Just as each person has different reactions to stress, each individual will have different methods of coping as a hostage. Some methods are not effective and may endanger the group, or be annoying to other hostages (e.g., constant talking). Try to help these people cope in other ways.
 6. Gather intelligence. Hostages should take in and store as much detail, about their captors as possible without drawing attention to their efforts. Make mental notes and attempt to gather the following information: identification of the ring leader, the number of hostage takers, the type of weapons they are using, their tactics, location within the area, etc.
 7. Maintain hope. Depending on the circumstances, resolution of hostage situations can be a lengthy process.
- B. Stay away from doors and windows through which rescue teams may enter or shoot. If a rescue is attempted, drop to the floor and keep hands in view.
- C. If there is a chance to escape, the hostage should be certain of their success.
1. Balance the likely payoff of any behavior with the possible consequences. Hostage takers may use violence or death to teach a lesson.
 2. Realize that Central Control will not open any doors for anyone.
- D. Hostages should be aware of the "Stockholm Syndrome", whereby hostages begin to show sympathy toward their captors. Hostages who develop Stockholm Syndrome often view the captor as giving life by simply not taking it. Such hostages often misinterpret a lack of abuse as kindness and may develop feelings of appreciation for the perceived benevolence.

EXHIBIT B
BACKGROUND INVESTIGATIONS AND IDENTIFICATION (ID) BADGES

Background Investigations

Prior to the beginning of any services, one (1) background check may be required for every member of the Contractor's personnel providing services to a building location for the life of the agreement. The background check may be required before access is given to any County facility/property. Clearance will only be granted after a successful background check, completed by the County of Fresno Sheriff's Department. Background checks provided by any agency other than the County of Fresno Sheriff's Department will not be accepted.

The current cost of a background check is \$52 per person. This cost will be incurred by the Contractor. One check covering the cost of background checks for all employees shall be made payable to: Sheriff, County of Fresno. The Contractor will be notified regarding the result of background checks. Those that are accepted will report to County of Fresno Security to have their photo taken and ID badge issued.

Background checks are done on a first-come, first serve basis between the hours of 7:00 a.m. and 12:00 noon. Monday through Friday. The process takes approximately 20 minutes time. The amount of time it takes to receive the result of background checks varies from one day to a month (or longer), dependent upon the individual's history.

Individuals who are cleared through this process are entered into the Department of Justice database. Their records are flagged and the County of Fresno Sheriff's Department is notified if the person is ever arrested in the future.

When required by County, applicants' background checks must be approved prior to entering any County facility. Approval will not be granted to any individual possessing any of the following circumstances:

1. They have been convicted of a felony, or any crime involving moral turpitude, or carrying or possessing a dangerous weapon.
2. They have been charged with a felony or are currently under investigation for a felony.
3. They are charged with or convicted of any crime committed in or at a correctional institution.
4. They are currently on parole or probation or are a sentenced inmate at any correctional facility.
5. They have been refused a license as a private investigator or had such license revoked.
6. They have fraudulently represented themselves, their credentials, their employment or their criminal or arrest record on their application.
7. Make omissions or false statements on their application.
8. They have no valid reason for entering a facility.
9. Their admission into a facility could represent a threat to security, staff or inmate safety.
10. Further information regarding the criteria for background check clearance, including an appeal for process for someone who may be denied clearance, is available upon request.

Identification (ID) Badges

The Contractor's employees will be issued a badge that must be worn and be visible at all times during performance of work in any County building to identify the wearer as an individual who is authorized to enter County facilities.

1. ID badges will be given only after successfully completing the background investigation. ID badges will be issued when the photo is taken. If electronic access to any County facility is required, activation of the badge may take an additional 48 hours to complete.
2. The wearer will not escort or bring any other individuals into any County facilities. County issued ID badges are for the exclusive use of the individual named and pictured on the badge.
3. All ID badges will remain the property of the County and are returnable upon demand or upon the expiration of the contract. The Contractor will be responsible for collecting all ID badges issued and turning them in to the County Security Office when a contract ends or when an employee leaves employment. The Contractor will assume all responsibility for their employee's use of and the return of the County ID badges.
4. The ID badges will only be issued to individuals passing the Background check. Each individual will need to present themselves in person with a valid, clean, and legible copy of a Driver's license or State-issued Identification Card to receive an ID badge.

ADDENDUM A
MASTER FUEL CELL POWER PURCHASE AGREEMENT