STATE OF CALIFORNIA

LOAN AGREEMENT

CEC-142 (05/10)

CALIFORNIA ENERGY COMMISSION

BORROWER	AGREEMENT NUMBER
Recipient Name	XXX-XX-XXX
ADDRESS	AGREEMENT TERM / / to / / The effective date of this Agreement is the date the California Energy Commission signs the Agreement. No work is authorized, or shall begin until the California Energy Commission signs the Agreement. See the signature date below for effective start date.

The parties agree to comply with the terms and conditions of the following Exhibits which are by this reference made a part of the agreement.

Exhibit A – Energy Conservation Assistance Act Loan Agreement	Page(s): 09
Exhibit A – Attachment 1 – Budget Detail/Project Cost and Savings	Page(s): 02
Exhibit B – Promissory Note	Page(s): 03
Exhibit B – Attachment 1 – Estimated Amortization Schedule	Page(s): 01
Exhibit C – Contacts	Page(s): 01
Exhibit D – Prop 39 Terms and Conditions	Page(s): 04

REIMBURSABLE AMOUNT	$ 0.00
MATCH SHARE	$ 0.00
TOTAL	$ 0.00

The undersigned parties have read the attachments to this agreement and will comply with the standards and requirements contained therein.

CALIFORNIA ENERGY COMMISSION		RECIPIENT	
AUTHORIZED SIGNATURE	DATE	AUTHORIZED SIGNATURE	DATE
NAME Rachel L. Grant Kiley	PHONE (916) 654-4379	NAME	PHONE
TITLE Contracts, Grants and Loans Office Manager			
CALIFORNIA ENERGY COMMISSION ADDRESS 1516 9th Street, MS-18, Sacramento, CA 95814			

EXHIBIT A

ENERGY CONSERVATION ASSISTANCE ACT LOAN AGREEMENT

This Loan Agreement (the "Agreement") is entered into as of the date it is executed by both parties hereto, between the California Energy Resources Conservation and Development Commission (the "Energy Commission") and the [Insert Recipient Name] (the "Borrower") located in [Insert Recipient County], CA.

1. **STATUTORY AUTHORITY AND LOAN**

   A. Pursuant to the purposes authorized by section 25410, et seq., of the California Public Resources Code (the "Energy Conservation Assistance Act"), the Energy Commission has approved the Borrower's loan application dated [Insert Loan Application Date], which is not attached but is expressly incorporated by reference herein.

   B. Subject to the terms, covenants, conditions, and including Special Conditions (if applicable) contained herein, and the Budget Detail/Summary of Project Cost and Savings attached as Exhibit A, Attachment 1 hereto to the extent it modifies the Borrower's loan application, the Energy Commission shall make a loan to the Borrower (the "Loan") in the amount of [Spell Out Loan Amount] dollars ($[Insert Loan Amount]) evidenced by a Promissory Note (the "Promissory Note") for loan number [Insert Loan Number] attached hereto as Exhibit B.

2. **PURPOSE**

   The Borrower agrees to expend all funds disbursed pursuant to this Agreement only for the purposes and in the amounts set forth in Exhibit A, Attachment 1 (the "Project"). Any other use of funds disbursed hereunder shall require prior written approval by the Energy Commission.

3. **LOAN DISBURSEMENT SCHEDULE**

   A. The Energy Commission agrees to disburse funds to the Borrower upon the Borrower's execution of the attached Promissory Note and required supplemental documents, including invoices as required in Section 3.B below.

   B. Loan funds shall be disbursed on a reimbursement basis based on invoices submitted by Borrower in a form approved by the Energy Commission. Backup documentation for actual expenditures (such as timecards, vendor invoices, etc) and proof of payment must be provided to substantiate the request. Energy Commission staff will approve invoices

only after verifying requested amounts against backup billings and determining that expenses are appropriate and used for the authorized purposes of this Loan. For executed Agreements, invoices for expenses incurred during the Agreement Term are eligible for reimbursement.

C. All invoices must be submitted within sixty (60) days after Project completion.

D. The final ten percent (10%) of the Loan amount will be withheld as retention until the final report is received from the Borrower and the Commission's Project Manager determines the Project has been satisfactorily completed.

4. LOAN REPAYMENT AND INTEREST

All funds disbursed hereunder, together with all interest payable thereon, shall be repaid to the Energy Commission in accordance with the terms of the Promissory Note. The Loan shall bear simple interest at the annual rate set forth in the attached Promissory Note on the principal balance of Loan funds disbursed to the Borrower. Payment of said interest shall be due at the time of semiannual scheduled Loan repayment installments to the Energy Commission, and interest shall accrue from the time of disbursal of funds to the Borrower until receipt of full Loan repayment to the Energy Commission.

5. TERM

A. The effective date of this Agreement shall be the date on which it has been executed by both parties hereto. No work is authorized, or shall begin until the Energy Commission signs the Agreement.

B. The Borrower agrees to complete performance of its obligations under this Agreement within the applicable periods stated in this Agreement.

6. PREPAYMENT

The Borrower shall have the right to prepay all or any part of the amount of this Loan at any time without penalty.

7. PROMISSORY NOTE

In order to evidence its debt to the Energy Commission hereunder, the Borrower agrees to, contemporaneously with the execution of this Agreement, execute and deliver to the Energy Commission the Promissory Note (attached as Exhibit B hereto).

8. ACCOUNTS, AUDITS, AND RECORDS

A. The Borrower agrees to establish on its books a separate account for this Loan. This account shall be maintained as long as the Loan obligation remains unsatisfied.

B. The Borrower further agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures drawn on said account for three (3) years after this Loan is repaid in full unless the Energy Commission requests a longer retention period.

C. The Borrower further agrees to utilize a voucher system by which all expenditures from said account will be authorized and authenticated.

D. The Borrower further agrees to allow the Energy Commission or any other agency of the State of California (the "State") or their designated representatives, on written request, to have reasonable access to, and the right of inspection of, all records that pertain to said account or the Project. The Borrower also agrees to submit to an independent audit, if requested by the Energy Commission, at the expense of the Borrower. Borrower agrees to maintain all such records for a minimum of three years after this Loan is repaid in full unless the Energy Commission notifies the Borrower, prior to the expiration of such three-year period, that a longer period of record retention is necessary.

9. SOURCE OF REPAYMENT; OPERATION OF PROJECT

A. Semiannual payments due to the Energy Commission under this Agreement shall be made from savings in energy costs or other legally available funds as the Borrower chooses. If the Borrower is a county, city, town, township, board of education, or school district, the Borrower agrees that the amount of the semiannual Loan repayment shall not be raised by the levy of additional taxes and shall not be an obligation against tax revenues, but shall be obtained either from savings in energy costs resulting from the subject energy conservation projects or other legally available funds as the Borrower chooses.

B. Energy cost savings as determined by the Energy Commission are based on energy usage and serving utility rate schedules at the time of the issuance of this Loan, except as specified in Special Conditions, if any, as detailed in this Agreement, and the information and data contained in the Borrower's loan application and technical study. The following will not affect the Energy Commission's initial finding of energy cost savings, and are not a basis for claiming a lack of energy savings: a) changes in energy use and/or rate schedules which occur after issuance of the Loan,

except as specified in Special Conditions, if any, as detailed in this Agreement, b) deviations in the Project work scope from what was approved by the Energy Commission, c) changes in the Borrower's facility and/or equipment which occur after the issuance of the Loan, including, but not limited to maintenance, operations, schedules, employees and facility alterations and expansions, d) deviations, omissions or errors found in the loan application and technical study after the Loan award. The Borrower is responsible for ensuring the accuracy of the information contained in its loan application and technical study. In the event annual energy cost savings resulting from the Project, as determined by the Energy Commission, fail to equal or exceed the amount due under this Agreement, this Agreement may be renegotiated to assure that the repayment amount does not exceed the actual energy savings or avoided costs resulting from the Project, and the Promissory Note will be revised accordingly. In no event, however, will the number of semiannual installments payable hereunder and under the Promissory Note exceed forty.

C. The Borrower shall obtain and maintain in its records any and all permits and licenses required to install or operate the Project and shall comply with all local, state, and federal laws, rules and codes concerning the Project. The Borrower shall maintain the Project in good working order for the duration of the Loan and shall insure that staff members are provided appropriate training on the operation and maintenance of the Project. The Borrower shall maintain insurance on the Project and**,** in the event of any casualty loss covered by such insurance policy, apply the proceeds to the repair of the Project or, with the approval of the Energy Commission, may use the insurance proceeds to install alternate projects to generate alternative energy cost savings to repay the Loan.

D. The Borrower agrees to provide the Energy Commission with the following information for three years following completion of the Project, unless the Energy Commission requests a longer period: (1) the annual computation, required by Section 25414 of the Energy Conservation Assistance Act, of energy cost savings for the most recent fiscal year, calculated in the manner and provided in the format prescribed by the Energy Commission; and (2) any information or change in assumptions or operations which might affect the Energy Commission's initial determination of energy savings.

E. The Borrower authorizes any official or agent of the Energy Commission or the State to conduct physical inspections of the Project before the commencement; during construction, installation and implementation of the Project; and at any time prior to the complete repayment of the Loan. In each contract entered into with suppliers of goods and services to

install, conduct, or operate the Project, including management services, the Borrower shall include terms which allow any officer or agent of the Energy Commission or the State access to the Project site and to any books, documents, or records directly relevant to the Project.

F. If, prior to final repayment of the Loan, the Borrower sells the equipment or material installed with the proceeds of the Loan or sells the building, facility or system in which the Project has been implemented, then the Borrower shall apply the sale proceeds to repay any remaining balance due under this Agreement in full at the time of such sale. The Borrower shall notify the Energy Commission within five business days of the date on which the Borrower enters into an agreement to effect such transaction. The Borrower shall repay the Energy Commission within 30 calendar days of receiving an invoice from the Energy Commission for the balance due.

G. In accordance with Section 25415 of the Energy Conservation Assistance Act, the Borrower covenants to take such action as may be necessary to include all payments due hereunder in its annual budget and to make the necessary annual appropriations for all such payments. The obligation of the Borrower to make such payments shall be limited to the savings realized by the Borrower as a result of implementing the Project funded by the Loan.

10. DEFAULT

A. The Borrower's failure to comply with any of the terms of this Agreement shall constitute a breach of this Agreement and an event of default. In such case, the Energy Commission may declare this Agreement to have been breached and be released from any further performance hereunder.

B. In the event of any default or breach of this Agreement by the Borrower, the Energy Commission, without limiting any of its other legal rights or remedies, may, to the extent permitted by law, declare the Promissory Note evidencing this Loan to be immediately due and payable.

11. TERMINATION

A. With Cause

The Energy Commission may, at its option, terminate this Agreement with cause in whole or in part, at any time prior to the funding of the Loan, upon giving five (5) days advance notice in writing to the Borrower. "Cause" includes without limitation:

1) Failure to perform or breach of any of the terms or covenants at the time and in the manner provided in this Agreement; or

2) Significant change in Energy Commission or State policy such that the work or product being funded would not be supported by the Energy Commission; or

3) Reorganization to a business entity unsatisfactory to the Energy Commission.

B. Without Cause

The Energy Commission may, at its option, terminate this Agreement without cause in whole or in part, at any time prior to the funding of the Loan, upon giving thirty (30) days advance notice in writing to the Borrower.

12. **REPORTING**

A. Progress reports are due each calendar quarter until Project completion. At a minimum, Borrower shall submit progress reports in accordance with the following schedule:

PROGRESS REPORT SCHEDULE	
For the Period Covering	**Report Due Date**
January 1 through March 31	April 5th
April 1 through June 30	July 5th
July 1 through September 30	October 5th
October 1 through December 31	January 5th

B. A final report is due no later than (sixty) 60 days after Project completion.

C. The Energy Commission will not process an invoice unless the Borrower's report submittals are up to date.

D. If requested by the Energy Commission, Borrower shall submit, within ten (10) days after the Energy Commission's written request, a status report on its activities to date, pursuant to this Agreement.

E. Reports shall be in a format as determined by the Energy Commission.

F. The Borrower shall submit reports regarding energy savings as described in Section 9.D above.

13. GENERAL TERMS

A. Indemnification by the Borrower. The Borrower agrees to indemnify, defend, and save harmless the Energy Commission, the State, and their officers, agents, and employees from any and all claims, losses, or costs (including reasonable attorney fees) arising out of, resulting from, or in any way connected with the Loan or this Agreement, or the financing or the operation of the facilities financed with the Loan.

B. Ownership of Equipment and Material. All equipment and material acquired under this Agreement shall become the property of the Borrower at time of purchase. The Borrower shall obtain and maintain in its records a written waiver of all claims, other than those previously made in writing and still unsettled, from each contractor who supplies goods and services, including management services, in connection with the Project.

C. Independent Capacity. The Borrower, and the agents and employees of the Borrower, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the Energy Commission or the State of California.

D. Assignment. Without the written consent of the Energy Commission, this Agreement is not assignable or transferable by the Borrower either in whole or in part. The Energy Commission may assign its rights under this Agreement for security purposes, and in such event the assignee of this Loan Agreement, including the bond trustee of any bonds which may be secured by repayment of this Loan**,** shall be entitled to enforce the provisions hereof and shall be a third party beneficiary of this Agreement.

E. Time of the Essence. Time is of the essence in this Agreement. Borrower is required to take timely actions which, taken collectively, move to completion of the purpose for which this Loan was awarded. The Commission Project Manager will periodically evaluate the progress toward completion. If the Commission Project Manager determines that the Borrower is not progressing toward completion within one (1) year after the effective date of this Agreement, the Commission Project Manager may, without penalty or prejudice to any of the Energy Commission's other remedies, terminate this Agreement.

F. Amendment. No amendment or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

G. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

H. Governing Law and Venue. This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California. Venue shall be in Sacramento County.

I. Non-discrimination. During the performance of this Agreement, the Borrower and its contractors and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and family care leave. The Borrower and its contractors and subcontractors shall insure the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Borrower and its contractors and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this agreement by reference and made a part hereof as if set forth in full. The Borrower and its contractors and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. The Borrower and its contractors shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

J. Incorporation of Energy Conservation Assistance Act. The Energy Conservation Assistance Act, together with any applicable rules, regulations or procedures authorized by such statute, is incorporated by reference in this Agreement.

K. Borrower Authorization. The Borrower certifies it has full power and authority to enter into this Agreement, and this Agreement has been duly authorized, executed and delivered by the Borrower. The Borrower acknowledges the resolution of its governing body or other official action authorizing it to enter into this Agreement. The Borrower also authorizes such further acts as are necessary, including execution of the Promissory Note, to implement and further the intent of this Agreement.

L. Prevailing Wage. The Borrower shall comply with Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code relating to the payment of prevailing wage for work performed on the Project financed in whole or in part with the proceeds of the Loan.

M. Funding Eligibility. By signing this Agreement, Borrower certifies it is eligible to receive state funding under all applicable laws, including but not limited to Chapter 2.8 "Project Labor Agreements", of Part 1, of Division 2 of the Public Contract Code.

14. **NOTICE**

Any notice required to be given to the Energy Commission hereunder shall be sent to the person and address listed under Legal Notices in Exhibit G, Contacts, or at such other address as the Energy Commission may designate in writing to the Borrower. Any notice required to be given to the Borrower hereunder shall be sent to the address shown for Borrower in this Agreement, or at such other address as the Borrower shall designate in writing to the Energy Commission. Notice to either party may be given using the following delivery methods: U.S. mail, overnight mail, or personal delivery, providing evidence of receipt, to the respective parties identified in this Agreement. Delivery by fax or e-mail is not considered notice for the purposes of this Agreement. Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery in which case the effective date shall be postponed 24 hours, or whenever the next business day occurs.

EXHIBIT A
ATTACHMENT 1
BUDGET DETAIL/PROJECT COST AND SAVINGS

This Loan is made to the [Insert Recipient Name] ("Borrower") for an energy savings Project. The Project consists of the energy efficiency measures listed in Table 1 below to be installed at the [Describe Facilities] in the [Insert City(ies) and County(ies) Where Measures to be Installed], CA.

The Table below summarizes the estimated Project cost(s), saving(s) and simple payback(s) for the Project.

TABLE 1: Summary of Project Cost and Savings:

Energy Efficiency Measures	Estimated Total Project Cost	Energy Commission Loan	Estimated Annual Energy Cost Savings	Simple Payback* (Years)
[Insert EEM #1. Add additional rows as necessary]	[Insert EEM Cost]	$00.00	[Insert Cost Savings]	[Insert EEM Payback]
TOTALS:	[Insert Total Project Cost]	[Insert Loan Amount]	[Insert Total Annual Energy Cost Savings]	[Insert Overall Payback]

*The simple payback is based on the Loan amount.

The Borrower shall implement each measure listed in Table 1.

If Borrower does not complete one or more of the measures or deviates from the quantities and specifications listed in Table 1, the Commission Project Manager will calculate the maximum Loan amount supported by the Project. The Loan amount will be determined by the lesser of: 1) multiplying the annual energy cost savings by [Insert Maximum Simple Payback Period]; 2) total Project costs; or 3) approved Loan amount.

Borrower shall notify the Commission Project Manager in writing if Borrower expects any information in Table 1 to change. Energy Commission staff will advise Borrower of the procedure to approve any changes. Written documentation is required for any changes to the information included in this Attachment.

If the Borrower has received disbursements exceeding the maximum Loan amount supported by the Project, the Borrower shall refund the difference to the Energy Commission within 30 days of notification.

EXHIBIT B

PROMISSORY NOTE

LOAN NUMBER: **[Insert Loan #]**
PRINCIPAL AMOUNT: **$[Insert Loan Amt]**
INTEREST RATE: **[Interest Rate]%**

1. For value received, the undersigned, (hereinafter referred to as the "Borrower"), promises to pay to the order of the State of California, Energy Resources Conservation and Development Commission (hereinafter referred to as the "Energy Commission"), at its principal place of business at 1516 Ninth Street, Sacramento, California 95814, or at such other place as the Energy Commission may designate the principal sum of [Spell Out Loan Amount] dollars ($[Insert Loan Amount]) or such lesser amount as shall equal the aggregate amount disbursed to the Borrower by the Energy Commission pursuant to the above-referenced Energy Conservation Assistance Act Loan Agreement (the "Loan Agreement") between the Borrower and the Energy Commission, together with interest thereon at the rate of Insert Interest Rate]% percent per annum on the unpaid principal, computed from the date of each disbursement to the Borrower. Principal, together with interest thereon, is due and payable in semiannual installments as specified in the Estimated Amortization Schedule, attached hereto as Exhibit B, Attachment 1 and as amended in the Final Amortization Schedule, beginning on or before December 22 of the fiscal year following the year in which the Project is completed and continuing thereafter on each June 22 and December 22 until said principal and interest shall be paid in full. The Final Amortization Schedule, and any amended Final Amortization Schedule(s), are not attached but are expressly incorporated by reference herein.

2. Payments received will be first applied to billed interest, if any, and the balance, if any, to principal. If all principal is repaid, the balance is applied to accrued interest.

3. Payment of any scheduled installment received within thirty (30) days of the due date shall be considered to have been received on the due date. Interest on the principal portion of the payment accrues through the due date.

4. Payment of any scheduled installment received more than thirty (30) days after the due date shall be considered late. Interest on the principal portion of the payment accrues through the actual date payment is received.

5. The Borrower may prepay this Promissory Note in full or in part, without penalty.

6. In accordance with Section 25415 of the Energy Conservation Assistance Act, the Borrower covenants to take such action as may be necessary to include all payments due hereunder in its annual budget and to make the necessary annual appropriations for all such payments. The obligation of the Borrower to make

such payments shall be limited to the savings realized by the Borrower as a result of implementing the Project funded by the Loan.

7. If any installment is not paid within thirty (30) days after its due date, the Energy Commission, at its option, may require the Borrower to pay a late charge equal to five percent (5%) of the amount of the installment or Five Dollars ($5.00), whichever is greater.

8. On the occurrence of any event of default, the Energy Commission, at its sole election and without limiting any of its other legal rights or remedies, may, to the extent permitted by law, declare all or any portion of the principal and accrued interest on this Promissory Note to be immediately due and payable and may proceed at once without further notice to enforce this Promissory Note according to law.

9. Each of the following occurrences shall constitute an event of default:

   A. Failure of the Borrower to repay any principal or interest when due under the terms of this Promissory Note;

   B. Termination of the Loan Agreement pursuant to the terms thereof or breach by the Borrower of any terms of said Loan Agreement;

   C. Failure of the Borrower to undertake in a timely way the express and implied activities for which said Loan Agreement has been executed;

   D. Failure of the Borrower to obtain prior written Energy Commission approval before undertaking a change in the scope of the activities for which said Loan Agreement has been executed; or

   E. Occurrence of: (1) the Borrower becoming insolvent or bankrupt or being unable or admitting in writing its inability to pay its debts as they mature or making a general assignment for the benefit of or entering into any composition or arrangement with creditors; (2) proceedings for the appointment of a receiver, trustee, or liquidator of the assets of the Borrower or a substantial part thereof, being authorized or instituted by or against the Borrower; or (3) proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law, or any jurisdiction being authorized or instituted against the Borrower.

10. No delay or failure of the Energy Commission in the exercise of any right or remedy hereunder or under any other agreement which secures or is related hereto shall affect any such right or remedy, and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof, and no action taken or omitted by the Energy Commission shall be deemed a waiver of any such right or remedy.

11. Any notice to the Borrower provided for in this Promissory Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to the Borrower at the address stated in the Loan Agreement, or to such other address as the Borrower may designate by notice to the Energy Commission. Any notice to the Energy Commission shall be given by mailing such notice by certified mail, return receipt requested, to the Energy Commission at the address stated in the Loan Agreement, or at such other address as may have been designated by notice to the Borrower.

12. If suit is brought to collect any part of this Promissory Note, the Energy Commission shall be entitled to collect all reasonable costs and expenses of said suit and any appeal therefrom, including reasonable attorney's fees.

13. This Promissory Note shall be binding upon the Borrower and its permitted successors and assigns and upon the Energy Commission and its permitted successors and assigns. Without the written consent of the Energy Commission, this Promissory Note is not assignable or transferable by the Borrower either in whole or in part. The Energy Commission may assign its rights under this Promissory Note for security purposes, and in such event the assignee of this Promissory Note, including the bond trustee of any bonds which may be secured by repayments of this Promissory Note, shall be entitled to enforce the provisions hereof and shall be a third party beneficiary of this Promissory Note.

14. This Promissory Note shall be construed and enforced in accordance with the laws of the State of California.

Insert Recipient Name _____
BORROWER

_____
PRINTED NAME OF AUTHORIZED REPRESENTATIVE

_____
AUTHORIZED SIGNATURE

_____
TITLE

_____
DATE

EXHIBIT B

ATTACHMENT 1

ESTIMATED AMORTIZATION SCHEDULE

EXHIBIT C

CONTACTS

Energy Commission Project Manager: (Name) California Energy Commission 1516 Ninth Street, MS - 23 Sacramento, CA 95814 Phone: (916) Fax: (916) e-mail:	**Borrower Project Manager:** (Name) (Contractor Name) Address Phone: Fax: e-mail:
Energy Commission Loan Officer: Cory Irish California Energy Commission 1516 Ninth Street, MS - 18 Sacramento, CA 95814 Phone: (916) 654-4739 Fax: (916) 654-4076 e-mail: Cory.Irish@energy.ca.gov	**Borrower Administrator:** (Name) (Contractor Name) Address Phone: Fax: e-mail:
Energy Commission Accounting Officer: Molly Zhong California Energy Commission 1516 Ninth Street, MS - 2 Sacramento, CA 95814 Phone: (916) 653-8555 Fax: (916) 653-1435 e-mail: Molly.Zhong@energy.ca.gov	**Borrower Accounting Officer:** (Name) (Contractor Name) Address Phone: Fax: e-mail:
Energy Commission Legal Notice: Rachel Grant-Kiley Grants and Loans Manager 1516 9th Street, MS-18 Sacramento, CA 95814-5512 Phone: (916) 654-4379 Fax: (916) 654-4076 e-mail: Rachel.Grant-Kiley@energy.ca.gov	

EXHIBIT D

CLEAN ENERGY JOB CREATION FUND TERMS AND CONDITIONS

1. CLEAN ENERGY JOB CREATION FUND

This Loan is funded in whole or in part from the Energy Conservation Assistance Act - Education (ECAA-Ed) Subaccount, transferred from the Clean Energy Job Creation Fund established in Public Resources Code section 26205.

This ECAA-Ed Loan is subject to and Borrower shall comply with the provisions of Public Resources Code Division 16.3, the California Clean Energy Jobs Act.

Public Resources Code sections 26200 – 26220 became law through passage of Proposition 39 in the November 2012 election. Public Resources Code sections 26225 – 26240 became law through the enactment of SB 73 (2013-14 Session) and as amended by SB 97 (2013-14 Session). Funding is specifically provided in Public Resources Code section 26227, which established the Education Subaccount in the State Energy Conservation Assistance Account created pursuant to Public Resources Code section 25416.

2. REPORTING

A. During Construction/Before Project Completion

The Borrower shall comply with the reporting requirements in the Loan Agreement section 12.

B. After Project Completion

The following reporting requirements apply to this Loan Agreement, and replace the requirements in the Loan Agreement Section 9.D.

Between 12-15 months after Project completion, Borrower shall submit a report of its Project expenditures to the Citizens Oversight Board created pursuant to Public Resources Code section 26210, containing the information in this section with a copy to the Commission Project Manager. The Energy Commission will post a format and data collection method for the report on its Proposition 39 Web page. *Public Resources Code section 26240(b) & (d).*

1. The total final gross Project cost before deducting any incentives or other grants and the percentage of total Project cost derived from the Clean Energy Job Creation Fund.

2. The estimated amount of energy saved, accompanied by specified energy consumption and utility bill cost data for the individual facility where the

Project is located, in a format to be specified by the Commission Project Manager.

3. The nameplate rating of new clean energy generation installed.

4. The number of trainees.

5. The number of direct full-time equivalent employees and the average number of months or years of utilization of each of these employees.

6. The amount of time between awarding of the Loan and the completion of the Project.

7. Borrower's energy intensity before and after Project completion, as determined from an energy rating or benchmark system, to be determined by the Energy Commission.

3. AUDIT

The following audit requirements apply, in addition to the auditing requirements in the Loan Agreement section 8.
Public Resources Code section 26206(e).
Public Resources Code section 26240(g).

A. Funding provided to a school district, county office of education, charter school or state special school is subject to annual audits required by Section 41020 of the Education Code.

B. Funding provided to community college districts is subject to annual audits required by Section 84040 of the Education Code.

4. ELECTRIC & GAS USAGE/BILLING DATA

Pursuant to Public Resources Code section 26240(a), Borrower must provide ongoing usage and billing records at the site of the Project installation.

A. For School Districts, County Offices of Education, Charter Schools and State Special Schools, this is done through the Proposition 39 energy expenditure plan submittal process.

B. For Community Colleges and Community College Districts, this is done through the Proposition 39 project plan process with the Chancellor's Office.

5. **CONTRACTS**

Contracts funded by Loan proceeds shall identify the project specifications, costs and projected energy savings. *Public Resources Code section 26206(d).*

6. **ENERGY SAVINGS, EVALUATION, ENERGY AUDIT, MEASUREMENT AND VERIFICATION**

Borrower shall:

A. Compute energy saved as a result of implementing the Project using a method and format provided by the Commission Project Manager.
Public Resources Code section 26235(a)(1).

B. Evaluate the Project effectiveness using the method and factors provided by the Commission Project Manager.
Public Resources Code section 26235(a)(3).

C. Employ energy audit, measurement and verification procedures to ensure energy savings and greenhouse gas emissions reductions occur as a result of the Project.
Public Resources Code section 26235(a)(4).

7. **CHARTER SCHOOLS**

Borrower shall maintain an active valid charter until the Loan is repaid in full.
If Borrower operates as a non-profit corporation, Borrower shall remain as a corporation in good standing with the California Secretary of State until the Loan is repaid in full.

8. **LEASED FACILITIES**

A. If the Project is located in a leased facility, the lease must be in effect until the Loan is repaid in full.

B. In addition, if Borrower leases a privately-owned facility or building that does not have a separate meter, or Borrower leases a privately-owned facility or building, and the lease payment includes the utility cost, then: Borrower shall provide to the Energy Commission, a certificate from the building owner before signing the Loan Agreement, indicating that building owner has committed to transferring the cost savings of the energy improvements to Borrower, either through a reduced lease payment, or other form of monetary reimbursement.

9. REPAYMENT OF INCENTIVES

If after the Project is completed and Borrower draws down Loan proceeds, Borrower receives a state, federal or local incentive (not including a utility rebate/incentive) for all or a portion of the Project costs that have been funded by this Loan, then Borrower must submit principal repayment to the Energy Commission in the amount of the incentive within 10 working days of receipt of the incentive. This repayment will be considered an unscheduled principal repayment.

10. SOURCE OF LOAN REPAYMENT

The Loan must be repaid with energy savings or other legally available sources, <u>but shall not be repaid with Proposition 39 award funds</u> (money Borrower is allocated pursuant to Public Resources Code section 26233, the California Clean Energy Jobs Act).