

2018

Request for Proposal
for the Replacement of the HVAC Systems

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Strategic Energy Consulting, LLC

05/02/2018

Table of Contents

Definitions	3
I. Executive Overview	4-5
II. Schedule of Submittals	6
III. Acknowledgement of Terms and Conditions	7
IV. Mandatory Minimum Qualifications	8-17
<ul style="list-style-type: none"> Qualification- 1 Qualification- 2 Qualification- 3 Qualification- 4 Qualification- 5 Qualification- 6 Qualification- 7 	
V. Personnel and Installation Approach	18
<ul style="list-style-type: none"> Key Personnel and Resumes Overview of Installation Approach 	
VI. Warranty	19
VII. Training	20
VIII. Scope of Work	21-22
IX. Project Pricing	23
X. Exhibits	24-31
<ul style="list-style-type: none"> 1. Scoring Criteria 2. Relevant California Government Sections 	

Definitions

Client	Lodi Unified School District
Contractor	Design Build Contractor
Project	Work completed through this request
Energy Services	Services associated with energy conservation
Response	The Contractors Response to this Document
Energy	Electricity and Natural Gas
Engineer	Turley and Associates
SEC	Strategic Energy Consulting, Inc
Request	This Documents its attachments and any addendum
Company	Responding Contractor
Monitoring	Equipment used to monitor gas and electricity consumption
Bid Packet	This document and the associated plans and specifications along with any addenda or additional information posted on the Lodi Unified School District website

I. Executive Overview

Lodi Unified School District, herein referred to as “Client” is requesting proposals from qualified HVAC contractors, herein referred to as ‘Contractor” with experience in retrofit and replacement projects in a K-12 setting.

This project is being funded by Proposition 39 funds and therefore all contractors wishing to be considered for this project must comply with all requirements outlined in the Proposition, as well as all Federal, State and local requirements. The guidelines can be found at the following website (<http://energy.ca.gov/2014publications/CEC-400-2014-022/CEC-400-2014-022-CMF.pdf>). These requirements include the following:

Contractors and subcontractors on funded projects will be required to furnish certified payroll records directly to the Department of Industrial Relations in accordance with Labor Code Sections 1771.4(a) and 1776. The LEA’s bid and contract documents must include notice of this requirement. In addition, contractors and subcontractors must be registered with the Department of Industrial Relations in order to bid or work on any public works project. The Department maintains a list of registered contractors and subcontractors on its website at <https://efiling.dir.ca.gov/PWCR/Search>.

The scope of work includes the replacement of HVAC systems at five (5) school sites. They include Davis Elementary, Delta Sierra Middle, John Muir Elementary, Wagner Holt Elementary and Washington Elementary. The scope of the project is detailed in the attached site plans.

Client has contracted the services of Strategic Energy Consulting, LLC (SEC) in the management of the selection process of the Contractor. All technical inquiries regarding this request are to be directed to:

Tom Spivey
SEC
Phone: 602.430.7504
Email: strategicenergyinc@gmail.com

Contact with any other Client employee during the selection process without the consent of SEC with regard to this proposal may result in the disqualification of the Contractor.

Responses will follow the format described in this request.

The scoring criteria in Exhibit 1 will assist Client in making this selection.

In the event the selected Contractor and/ or Client cannot agree on contract terms, Client has the right to contract with another Contractor of its choice.

This RFP does not bind Client to enter into an agreement to one or any of the participating Contractors. Client reserves the right to accept or reject in part or in its entirety, any submitted response.

The full Request for Proposal (RFP) document for this bid is posted on the Lodi Unified School District website at: <http://www.lodiusd.net>.

Contractors are required to review these prior to response submission and to acknowledge such review as part of the submission.

Any addenda or additional information will be posted on the District website at: <http://www.lodiusd.net>.

It is the Contractor's responsibility to check this website prior to response submission and to include the response to any addenda.

Contractor is required to adhere to the following schedule of events:

Schedule of Events

Request for Proposals Advertised	5/4/18 & 5/11/18
Mandatory Job Walk/meeting at Washington Office @ 10:00am	5/18/18
Proposal Response Due	6/15/18
Internal Review	6/22/18
Contractor Interviews (if necessary)	TBA
Notification of Selected Contractor	6/23/18
Board of Education Approval	TBA

Responders must return this entire packet along with any additional pages of information and addenda.

Completed responses are to be delivered by mail or in person no later than 11:00 am on June 15, 2018 to LUSD Facilities and Planning Department Located at 1305 E. Vine Street, Lodi, California 95240.

II. SCHEDULE OF SUBMITTALS

AT BID OPENING:

(must be included to be considered responsive)

- Acknowledgement of Terms and Conditions
- Qualification Information , along with a copy of Class C-20 license
- References
- Financial statement or annual report
- Proof of insurance as specified in bid packet
- Proof of ability to post Performance and Payment bonds
- Bid Security as specified in bid packet
- Bid Form
- Sub-Contractors List
- Non-Collusion Declaration

DUE AT OR BEFORE CONTRACT SIGNING:

- Workers Compensation Certificate
- Fingerprinting/Criminal Certification
- Prevailing wage and Related Labor Requirements Certificate
- Drug Free Workplace Certification
- Tobacco Free Environment Certification
- Hazardous Materials Certification
- Lead-Based Materials Certification
- Escrow Bid Documentation
- Escrow Agreement in Lieu of Retention
- Certificate of Insurance (Liability, Workers Comp, etc)
- Payment Bond
- Performance Bond
- General Construction Contract
- Letter from manufacturer approving contractor, specifications and scope of work for warranty, if applicable when there is a manufacturer's warranty
- Employment Certification

AT END OF PROJECT:

- Wavier of lien from principle suppliers
- All warranties and guarantees.

(must be included to be considered responsive)

III. ACKNOWLEDGEMENT OF TERMS AND CONDITIONS

By signing below, you acknowledge that you have read the Terms and Conditions outlined in the Bidding Requirements Specification documents posted on the Lodi Unified School District's website at:

<http://www.lodiusd.net>.

You acknowledge that you have reviewed, understand and have complied with the associated plans and specifications. Contractor is responsible for viewing any addenda or additional information that is posted on that site prior to the bid opening and that you will include such addenda in your bid response. You further acknowledge that the final contract document shall include Prop 39 language identifying this as an energy saving project.

Signature

Name (printed)

Title

Date

IV. Mandatory Minimum Qualifications

Qualification-1

Legal Name of Contractor

Requirement:

Please fill out the appropriate selection below pertaining to Contractor.

Identify Contractor as an individual, a partnership, a corporation or a subsidiary. Disclosure of who is authorized to bind the individual, partnership or corporation is also required.

The undersigned hereby represents and warrants that,

_____ is duly incorporated and is in good standing in the State of California

_____.

Legal Name of Contractor:

Name of Individual Authorized to Bind:

Signature of Individual Authorized to Bind:

Qualification- 2

State Contractors License

Requirement:

Possession of a valid California C-20 contractor license. The undersigned hereby warrants that the Contractor has an appropriate license. Such license will be in full force and in effect throughout the duration of performance under this contract; and that any and all subcontractors to be employed will have appropriate licenses and maintain those license (s) throughout the duration of the project. The undersigned hereby warrants that the Contractor has the appropriate license(s).

License(s) #:

IV. Mandatory Minimum Qualifications

(continued)

Qualification- 3

Contractor Qualification Information

Please provide your responses to the following qualification information in the same order and format.

1. Indicate the number of years Contractor has been in business and the number of years it has provided lighting retrofit services:

2. Is Contractor or its owners connected with any other companies as a subsidiary, parent affiliate, or holding company?

Yes___ No___

(If Yes, describe that relationship on a separate page)

3. Has Contractor ever defaulted on a contract forcing a surety to suffer a loss?

Yes___ No___

(If Yes, please describe on another page)

4. In the past three (3) years, has Contractor had any project which was terminated by the owner (Client) and which required completion by another party?

Yes___ No___

(If Yes, state the project name, location owner/contact person, telephone number, contract value, dispute amount, date and reason for termination/dispute.)

5. Has Contractor, an affiliate company, or any owner ever declared bankruptcy or been in receivership?

Yes___ No___

(If Yes, please describe on a separate page)

6. Does Contractor have any outstanding liens or stop notices for labor and/or materials filed against it on any contracts which have been done or are being done by Contractor?

Yes___ No___

(If Yes, describe on a separate page. State the project name, location, owner/contact person, telephone number, amount of dispute and a brief description of the situation)

7. Please indicate the physical business location within the closest proximity to Client from where Contractor would provide project management and on-going maintenance services if awarded this project:

8. Has the contractor had any labor claims (NCECA, etc) in the past 3 years?

Yes___ No___

(If Yes, describe on a separate page. State the project name, location, owner/contact person, telephone number, amount of dispute and a brief description of the situation)

Note: All work conducted on this project is subject to prevailing wage requirements. Certified payroll records shall be provided per the Department of Industrial Relations requirements for all Proposition 39 funded projects.

THE UNDERSIGNED DECLARES UNDER PENALTY OF PERJURY THAT ALL OF THE INFORMATION SUBMITTED WITH THIS PROPOSAL IS TRUE AND CORRECT.

Signature: _____

Name: _____

Title: _____

IV. Mandatory Minimum Qualifications
(continued)

Qualification- 4

Please fill out reference information for three (3) past HVAC projects.

Contractor Reference #1

1. Customer Name:
2. Address (City, State & Zip):
3. Customer Contact Name:
4. Phone:
5. Amount of Project:
6. Contract Signing Date:
7. Project completion date:
8. Provide a brief description of the scope of the project.

IV. Mandatory Minimum Qualifications
(continued)

Qualification- 4

Contractor Reference #2

1. Customer Name:
2. Address (City, State & Zip):
3. Customer Contact Name:
4. Phone:
5. Amount of Project:
6. Contract Signing Date:
7. Project Completion Date:
8. Provide a brief description of the scope of the project.

IV. Mandatory Minimum Qualifications
(continued)

Qualification- 4

Contractor Reference #3

1. Customer Name:
2. Address (City, State & Zip):
3. Customer Contact Name:
4. Phone:
5. Amount of Project:
6. Contract Signing Date:
7. Project Completion Date:
8. Provide a brief description of the scope of the project.

IV. Mandatory Minimum Qualifications
(continued)

Qualification-5

Financial Statement

Requirement:

A copy of the Contractor's most recent balance sheet (preferably audited by an outside firm) listing assets, liabilities and owners (or stockholders) equity for the legal entity identified in Qualification #1.

Client will require Contractor to have minimum annual sales in excess of \$1,000,000 U.S. dollars in any one fiscal year between 2013 and 2016.

An annual report can be substituted in lieu of Qualification #5.

List audit firm for the most recent audit

Firm:

Contact Person:

Telephone:

Qualification-6

Performance and Payment Bond

Requirement:

A 100% **performance and payment bond** will be required prior to final contract execution. The firm is to submit proof of Contractor's ability to post a single performance bond not less than the proposed contract amount.

Satisfactory proof of bonding ability should include:

A letter from AA best related surety insurer, addressed to the Client, referencing unused bonding capacity in an amount not less than the proposed contract amount.

IV. Mandatory Minimum Qualifications

(continued)

Qualification-7

Insurance

Requirement:

Proof of insurance per the following requirements: Commercial General Liability Product Liability and Completed Operations, Fire Damage Liability – Split Limit \$2,000,000 per occurrence; \$4,000,000 aggregate, Automobile Liability – Any Auto Combined Single Limit \$1,000,000, Workers Compensation Statutory limits pursuant to State Law Employers' Liability \$1,000,000, Builder's Risk (Course of Construction) Issued for the value and scope of Work indicated herein. Pollution Liability \$1,000,000 per claim; \$2,000,000 aggregate.

Satisfactory proof of insurance can be demonstrated by attaching a certificate of insurance. The document(s) must include:

1. Type of Insurance
2. Policy Number(s)
3. Effective and expiration dates
4. Dollar limits and coverage

V. Installation Approach

1. Overview of Installation Approach and Schedule

Please provide an installation schedule for this project based upon the contract date of July 1, 2018. For purposes of this schedule assume classes will be in session during construction and work will have to be done after school and on the weekends. Points will be awarded for those who can complete the scope of work in the most efficient manner. However, contractors must be aware that liquidated damages in the amount of \$500 per day may be levied for failure to meet the timeline they provide within their proposal. In addition, please provide an overview of your project installation approach as well as key personnel and their experience. The schedule and overview should be submitted on a total of no more than three (3) additional pages.

Notes:

1.) All areas of the site must be fully operational and available at the start of each school day should the project extend into the school year.

2.) Contractor should plan to conduct all work during summer vacation or after-hours unless prior negotiated authority is granted to work during school hours. All work conducted during student contact hours requires that staff conducting said work is either Department of Justice (DOJ) cleared or supervised by a DOJ cleared responsible party as staffed by contractor. In addition all work shall be in accordance with California Education code 45125.2

VI. Warranty Service

Warranty Service

Please identify all manufacturer warranties for specified equipment and who will handle those warranties during the warranty period. The Client requires a minimum two (2) warranty on all work completed in the District.

VII. Training

Client Training

Contractor will be required to provide any necessary in service and training to Client maintenance staff on new equipment that is not currently installed in the District as necessary. Please include the cost for this training as well as a brief description of the training in your proposal.

VIII. Scope of Work

The scope of work of this project entails a like for like replacement of existing roof and wall mounted HVAC units at five (5) LUSD sites. Plans detailing which units are to be replaced at each site can be found at <http://www.lodiusd.net>. The work included in this RFP has been evaluated and determined to comply with IRA-22 and thus not require DSA involvement. As such, it is a requirement that the proposed replacement units meet the weight and mounting criteria outlined in the attached plans. Failure to do so will result in a proposal being eliminated from consideration. Other considerations for the unit replacements are as follows:

1. Unit efficiency - in addition to meeting the weight and mounting requirements preference will be given to contractors proposing the most efficient units (per the scoring criteria Exhibit 1). While potential replacement units are identified on the plans, these are listed only as suggestions. Contractors have the flexibility to recommend alternative manufacturers they feel offer the best quality and efficiency.
2. Existing EMS/controls may be reused or replaced if necessary
3. Electric disconnects shall be replaced with new equipment.
4. Condensate drains shall be replaced. Ground mount units may drain to landscape, they may not drain to hardscape.

The following is a list of sites included in the project and the number of units to be replaced:

Site	# of Units
Davis	24
Delta Sierra	8
John Muir	34
Wagner Holt	21
Washington	24
Total	101

The project shall be turnkey including proper disposition of all removed equipment and include all components and equipment to provide a fully functional system. All materials used in the project must be of the highest quality, from a long standing reputable company with warranties that match or exceed the Client's requirement.

All work must be in accordance with all local, state and federal codes and requirements.

Prior to the start of construction the Client will be performing environmental testing to determine the presence of lead paint and asbestos. In the event either

is found at the site at locations where it will be disrupted during the course of the project the Contractor must notify the Client of any penetrations or other work that will cause the disruptions. Upon notification, the Client will have its environmental firm make the penetrations and remove the hazardous material from the site at its expense.

On a separate sheet(s) identify your proposed scope. Include the proposed equipment manufacturer, model #s and efficiency rating (SEER) for each unit being replaced. Additionally, provide any and all information relevant to your proposed scope of work including exclusions.

IX. Pricing Requirement

By responding to this RFP, Contractor acknowledges it is required to submit the following pricing schedule of project costs. This format is mandatory and no exceptions will be made to its content.

This information will be treated as confidential and proprietary. It will not be released to any outside party by SEC other than the Client and its agents.

Site		Cost
Davis	Labor	
	Material	
Delta Sierra	Labor	
	Material	
John Muir	Labor	
	Material	
Washington	Labor	
	Material	
Wagner Holt	Labor	
	Material	
Subtotal		
Other fees not included		
Project Total		

X. Exhibit 1: Scoring Criteria

Requirements	Available Points
Mandatory Minimum Requirements	30
Miscellaneous Requirements	
Company References	
Pricing Schedule	100
Equipment Efficiency	100
Installation Approach	50
Installation Approach	
Schedule	75
Warranty	20
Interview (As Necessary)	25
Total Points Available	400

Exhibit 2
RELEVANT CALIFORNIA CODE SECTIONS

1.1. EDUCATION CODE

§45122.1 Violent or serious felonies; classified employees without permanent status; notice regarding applicants; proof of rehabilitation; suspension and termination procedures.

(a) In addition to any other prohibition or provision, no person who has been convicted of a violent or serious felony shall be employed by a school district pursuant to this chapter. A school district shall not retain in employment a current classified employee who has been convicted of a violent or serious felony, and who is a temporary, substitute, or a probationary employee who has not attained permanent status.

(b) This section applies to any violent or serious offense which, if committed in this state, would have been punishable as a violent or serious felony.

(c) (1) For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

(2) For purposes of this section, the term "school district" has the same meaning as defined in Section 41302.5.

(d) When the Department of Justice ascertains that an individual who is an applicant for employment by a school district has been convicted of a violent or serious felony, the department shall notify the school district of the criminal information pertaining to the applicant. The notification shall be delivered by telephone and shall be confirmed in writing and delivered to the school district by first-class mail.

(e) Notwithstanding subdivision (a), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a violent or serious felony if the person has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(f) Notwithstanding subdivision (e), a person shall not be denied employment or terminated from employment solely on the basis that the person has been convicted of a serious felony that is not also a violent felony if that person can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of school employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is a resident.

(g) Notwithstanding any other provision of law, when the Department of Justice notifies a school district by telephone that a current temporary, substitute, or probationary employee who has not attained permanent status, has been convicted of a violent or serious felony, that employee shall immediately be placed on leave without pay. When the school district receives written notification of the fact of conviction from the Department of Justice, the employee shall be terminated automatically and without regard to any other procedure for termination specified in this code or school district procedures unless the employee challenges the record of the Department of Justice and the Department of Justice withdraws in writing its notification to the school district. Upon receipt of written withdrawal of notification from the Department of Justice, the employee shall immediately be

reinstated with full restoration of salary and benefits for the period of time from the suspension without pay to the reinstatement.

(h) Notwithstanding Section 47610, this section applies to a charter school.

§45125.1 Fingerprints; employees of entity providing services to school district; contact with pupils.

(a) Except as provided in subdivisions (b) and (c), if the employees of any entity that has a contract with a school district, as defined in Section 41302.5, to provide any of the following services may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the department for its costs incurred in processing the application:

- (1) School and classroom janitorial.
- (2) School site administrative.
- (3) School site grounds and landscape maintenance.
- (4) Pupil transportation.
- (5) School site food related.

(b) This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

(c) This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district when the school district determines that the employees of the entity will have limited contact with pupils. In determining whether a contract employee has limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a school district has made this determination, the school shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees.

(d) A school district may determine, on a case-by-case basis, to require an entity providing schoolsite services other than those listed in subdivision (a) or those described in Section 45125.2 and the entity's employees to comply with the requirements of this section, unless the school district determines that the employees of the entity will have limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds, whether pupils will be in proximity with the site where the contractors will be working, and whether the contractors will be working by themselves or with others. If a school district makes this determination, the school district shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees. If a school

district requires an entity providing services other than those listed in subdivision (a) and its employees to comply with the requirements of this section, the Department of Justice shall comply with this subdivision.

- (e)
 - (1) The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it pursuant to subdivision (a) has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the department. Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the department shall ascertain the information required pursuant to this section within three working days. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it pursuant to subdivision (a) has a pending criminal proceeding for a felony as defined in Section 45122.1 or has been convicted of a felony as defined in Section 45122.1, the department shall notify the employer designated by the individual of that fact. The notification shall be delivered by telephone or electronic mail to the employer.
 - (2) The Department of Justice, at its discretion, may notify the school district in instances when the employee is defined as having a pending criminal proceeding described in Section 45122.1 or has been convicted of a felony as defined in Section 45122.1.
 - (3) The Department of Justice may forward one copy of the fingerprints to the Federal Bureau of Investigation to verify any record of previous arrests or convictions of the applicant. The Department of Justice shall review the criminal record summary it obtains from the Federal Bureau of Investigation and shall notify the employer only as to whether or not an applicant has any convictions or arrests pending adjudication for offenses which, if committed in California, would have been punishable as a violent or serious felony. The Department of Justice shall not provide any specific offense information received from the Federal Bureau of Investigation. The Department of Justice shall provide written notification to the contract employer only concerning whether an applicant for employment has any conviction or arrest pending final adjudication for any of those crimes, as specified in Section 45122.1, but shall not provide any information identifying any offense for which an existing employee was convicted or has an arrest pending final adjudication.
- (f) An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Section 45122.1.
 - (1) This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a felony if the employee has obtained a certificate of rehabilitation and pardon pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

- (2) This prohibition does not apply to an employee solely on the basis that the employee has been convicted of a serious felony that is not also a violent felony if that employee can prove to the sentencing court of the offense in question, by clear and convincing evidence, that he or she has been rehabilitated for the purposes of schoolsite employment for at least one year. If the offense in question occurred outside this state, then the person may seek a finding of rehabilitation from the court in the school district in which he or she is resident.
- (g) An entity having a contract as specified in subdivision (a) and an entity required to comply with this section pursuant to subdivision (d) shall certify in writing to the school district that neither the employer nor any of its employees who are required by this section to submit or have their fingerprints submitted to the Department of Justice and who may come in contact with pupils have been convicted of a felony as defined in Section 45122.1.
- (h) An entity having a contract as specified in subdivision (a) on the effective date of this section and an entity required to comply with this section pursuant to subdivision (d) by a school district with which it has a contract on the effective date of the amendments made to this section during the 1997-98 Regular Session shall complete the requirements of this section within 90 days of that date.
- (i) For purposes of this section, a charter school shall be deemed to be a school district.
- (j) Where reasonable access to the statewide electronic fingerprinting network is available, the Department of Justice may mandate electronic submission of the fingerprinting cards and other information required by this section.

§45125.2

- (a) A school district contracting with an entity for construction, reconstruction, rehabilitation, or repair of a school facility where the employees of the entity will have contact, other than limited contact, with pupils shall ensure the safety of the pupils by one or more of the following methods:
 - (1) The installation of a physical barrier at the worksite to limit contact with pupils.
 - (2) Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony. For purposes of this paragraph, an employee of the entity may submit his or her fingerprints to the Department of Justice pursuant to subdivision (a) of Section 45125.1 and the department shall comply with subdivision (d) of Section 45125.1.
 - (3) Surveillance of employees of the entity by school personnel.

- (b) An entity that contracts with a school district for the construction, reconstruction, rehabilitation, or repair of a school facility is not required to comply with the requirements of Section 445125.1 if one or more of the methods described in subdivision (a) is utilized.
- (c) For purposes of this section, a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code and a serious felony is any felony listed in subdivision (c) of Section 1197.27 of the Penal Code.
- (d) This section shall not apply to an entity providing construction, reconstruction, rehabilitation, or repair services to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

1.2. PENAL CODE

§667.5 Prior prison terms; enhancement of prison terms for new offenses

- (c) For the purpose of this section, “violent felony” shall mean any of the following:
 - (1) Murder or voluntary manslaughter.
 - (2) Mayhem.
 - (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
 - (4) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
 - (5) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
 - (6) Lewd acts on a child under the age of 14 years as defined in Section 288.
 - (7) Any felony punishable by death or imprisonment in the state prison for life.
 - (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Section 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5 or 12022.55.
 - (9) Any robbery.
 - (10) Arson, in violation of subdivision (a) or (b) of Section 451.
 - (11) The offense defined in subdivision (a) of Section 289 where the act is accomplished against the victim’s will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.
 - (12) Attempted murder.
 - (13) A violation of Section 12308, 12309 or 12310.
 - (14) Kidnapping.

- (15) Assault with the intent to commit mayhem, rape, sodomy, oral copulation in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) A violation of Section 264.1.

- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

§1192.7 Plea bargaining; limitation; definitions; amendment of section

- (c) As used in this section, "serious felony" means any of the following:
 - (1) murder or voluntary manslaughter;
 - (2) mayhem;
 - (3) rape;
 - (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
 - (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person;
 - (6) lewd or lascivious act on a child under the age of 14 years;
 - (7) any felony punishable by death or imprisonment in the state prison for life;
 - (8) any other felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm;
 - (9) attempted murder;
 - (10) assault with intent to commit rape or robbery;
 - (11) assault with a deadly weapon or instrument on a peace officer;
 - (12) assault by a life prisoner on an inmate;
 - (13) assault with a deadly weapon by an inmate;
 - (14) arson;
 - (15) exploding a destructive device or any explosive with intent to injure;
 - (16) exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem;
 - (17) exploding a destructive device or any explosive with intent to murder;

- (18) any burglary of the first degree;
- (19) robbery or bank robbery;
- (20) kidnapping;
- (21) holding of a hostage by a person confined in a state prison;
- (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life;
- (23) any felony in which the defendant personally used a dangerous or deadly weapon;
- (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code;
- (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person;
- (26) grand theft involving a firearm;
- (27) carjacking;
- (28) any felony offense, which would also constitute a felony violation of Section 186.22;
- (29) assault with the intent to commit mayhem, rape sodomy, or oral copulation, in violation of Section 220;
- (30) throwing acid or flammable substances, in violation of Section 244;
- (31) assault with a deadly weapon, firearm, machinegun, assault weapon or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245;
- (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5;
- (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246;
- (34) commission of rape or penetration by a foreign object in concert with another person, in violation of Section 264.1;
- (35) continuous sexual abuse of a child, in violation of Section 288.5;
- (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 12034;
- (37) intimidation of victims or witnesses, in violation of Section 136.1;
- (38) terrorist threats, in violation of Section 422;
- (39) any attempt to commit a crime listed in this subdivision other than an assault;
- (40) any violation of Section 12022.53; and
- (41) any conspiracy to commit an offense described in this subdivision.