FACILITIES LEASE

and

CONSTRUCTION PROVISIONS

By and Between

[contractor name]

as Contractor

and

COTATI ROHNERT PARK UNIFIED SCHOOL DISTRICT

as Lessee

FACILITIES LEASE

THIS FACILITIES LEASE ("Facilities Lease" or "Agreement") is dated and entered into as of **[date]** for reference purposes only, and is made by and between **[CONTRACTOR NAME]** as Contractor ("Contractor"), and the **Cotati Rohnert Park Unified School District**, a school district duly organized and validly existing under the Constitution and laws of said State of California, as Lessee ("District").

RECITALS

WHEREAS, District desires to construct certain facilities on property described in the Site Lease;

WHEREAS, Contractor has reviewed the General Construction Provisions set forth in the Project Manual (Exhibit B to this Facilities Lease) and incorporated herein;

WHEREAS, District and Contractor agree that the General Construction Provisions shall govern the construction of the Project;

WHEREAS, District has or will (as described herein) leased to Contractor, for the development and construction of the Project, the Site ("Site"), as more particularly described in the Description of the Site, Exhibit C to this Facilities Lease, pursuant to the terms of a Site Lease by and between District and Contractor;

WHEREAS, District is authorized under section 17406 of the Education Code of the State of California to lease the Site to Contractor and to have Contractor develop and construct the Project on the Site and to lease the Site and the improvements back to District, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, Contractor is authorized to lease the Site as Lessee and to develop the Project and to have the Project constructed at the Site and to lease the Site back to District, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, by approving this Agreement, the District's Board of Trustees ("Board") determines that it is in the best interests of District to this Agreement and make Lease Payments on the dates and in the amounts set forth in the payment schedule attached to this Facilities Lease as Exhibit D ("Lease Payment Schedule");

WHEREAS, the parties have performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Facilities Lease and all those conditions precedent do exist, have happened, and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Facilities Lease;

WHEREAS, District has a substantial need for the Project and has entered into the Site Lease and this Facilities Lease under the authority granted to District by section 17406 of the Education Code of the State of California in order to fill that need; and

WHEREAS, District and Contractor further acknowledge and agree that they have entered into the Site Lease and this Facilities Lease pursuant to Education Code section 17406 as the best available means for District to satisfy its need to complete the Project described in Architect's Plans and Specifications for the Project.

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, the parties hereto do hereby agree as follows:

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ARTICLE 1
DEFINITIONS AND EXHIBITS

1.1. Definitions: Unless the context otherwise requires, the terms defined in this Article 1.1 shall, for all purposes of this Facilities Lease, have the meanings herein specified.

1.1.1 "District" means the school district identified on the first page of this Facilities Lease, a school district duly organized and existing under the laws of the State of California.

1.1.2 "District Representative" means the District's Superintendent or her designee. The person or persons so designated to act as District Representative(s) shall be authorized in writing with notice served to Contractor's Authorized Representative.

1.1.3 "Event of Default" means one or more events as defined in Article 8.1 of this Facilities Lease.

1.1.4 "Facilities Lease" means this Facilities Lease together with any duly authorized and executed amendment hereto.

1.1.5 "Lease Payment" means any payment required to be made by District pursuant to Article 4.5 of this Facilities Lease, and as set forth in the Lease Payment Schedule, Exhibit D attached to this Facilities Lease.

1.1.6 "Lease Payment Schedule" shall mean the payment schedule attached to this Facilities Lease as Exhibit D.

1.1.7 "Permitted Encumbrances" means, as of any particular time: (i) liens for general and valorem taxes and assessments, if any, not then delinquent, or which District may, pursuant to provisions of Article 5.3 of this Facilities Lease, permit to remain unpaid; (ii) the Site Lease; (iii) this Facilities Lease, (iv) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date of this Facilities Lease, (v) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of any recordation of this Facilities Lease and to which Contractor and District consent in writing which will not impair or impede the operation of the Site.

1.1.8 "Plans and Specifications" means the plans and specifications for the Project as referenced in Exhibit A.

1.1.9 "Project" or "Work" means the improvements and equipment to be constructed and installed by Contractor as more particularly described in the Plans and Specifications and the Project Manual (Exhibit B to this Facilities Lease).

1.1.10 "Contractor" means Contractor organized and existing under the laws of the State of California, and its successors and assigns.

1.1.1 "Contractor's Representative" means Contractor, its President or Vice President, or any person subsequently authorized in writing to act on behalf of Contractor under or with respect to this Facilities Lease as evidenced by a resolution conferring upon that subsequently named representative with such authorization adopted by the Board of Directors of Contractor.

1.1.11 "Site" means that certain parcel of real property and improvements thereon more particularly described in the Legal Description of the Property (Exhibit C to this Facilities Lease).

1.1.12 "Site Lease" means the Site Lease executed herewith, by and between District and Contractor together with any duly authorized and executed amendments thereto under which District leased the Site to Contractor.

1.1.2 "Tenant Improvement Payment[s]" means payment(s) for Work as set forth and further defined in Article 3 of the Facilities Lease and discussed in Section 12 of the General Conditions.

1.1.3 "Term of this Facilities Lease" or "Term" means the time, commencing with District issuing to Contractor a Notice to Proceed, through the period during which District's obligation to make the Lease Payments under this Facilities Lease is in effect, as provided for in Article 4.2 of this Facilities Lease, unless terminated earlier pursuant to Article 4 of this Facilities Lease. The provisions of this agreement relating to preconstruction services shall be effective upon its execution.

1.1.4 "Adverse Weather" means severe weather that causes unsafe conditions.

1.1.5 Capitalized terms defined in this Facilities Lease shall have the same meaning in the other Contract Documents and capitalized terms defined in the other Contract Documents will have the same meaning in this Facilities Lease.

1.2. PROJECT SPECIFIC CONDITIONS

Contractor Information

Name: _____

_____

_____

_____

The class of license required for this Project, which shall at all times be carried by Contractor, is Class B, General Building Contractor.

Liquidated Damages

For each day past the time specified in Exhibit A that Contractor fails to achieve "Completion" as defined in Section 21.05 of the General Conditions (as may be extended consistent with the Contract Documents) for any phase of the project, Contractor may be assessed liquidated damages at the daily rate of:

Three Thousand Dollars ($3,000.00)

This project [is/is not] subject to a Project Labor Agreement ("PLA") requiring the Contractor to comply with all of its terms and execute an agreement to be bound thereby.

The cost for preconstruction services shall not exceed: Not Applicable.

Insurance Coverage Levels

Commercial General Liability

Commercial general liability insurance coverage shall be maintained on policy forms at least as broad as ISO form CG 0001 covering all operations performed by or on behalf of General Contractor, including but not limited to, the following coverages and minimum limits:

i. Premises & Operations
ii. Products and Completed Operations, which shall be maintained through the expiration of all applicable statutes of limitation following completion of the work
iii. Personal and Advertising Injury Liability
iv. Contractual Liability insuring the obligations assumed by Subcontractor in this Agreement
v. Broad Form Property Damage, including Completed Operations

For projects with anticipated GMP to be $7 million or less, the Limits shall be at least:

$1,000,000 Each Occurrence for Bodily Injury and Property Damage liability
$1,000,000 Personal Injury and Advertising Liability
$1,000,000 Products and Completed Operations Aggregate
$3,000,000 General Aggregate

For projects with anticipated GMP above $7 million and up to $20 million, the Limits shall be at least:

$2,000,000 Each Occurrence for Bodily Injury and Property Damage liability
$2,000,000 Personal Injury and Advertising Liability
$2,000,000 Products and Completed Operations Aggregate
$5,000,000 General Aggregate

For projects with anticipated GMP that exceed $20 million in Project Costs, the Limits shall be at least:

$5,000,000 Each Occurrence for Bodily Injury and Property Damage liability
$5,000,000 Personal Injury and Advertising Liability
$5,000,000 Products and Completed Operations Aggregate
$10,000,000 General Aggregate

Automobile Insurance

Automobile liability insurance shall be at least as broad as ISO form CA 0001 covering Automobile Liability, Code 1 (any auto). Limits shall be at least One Million Dollars ($1,000,000) for bodily injury and property damage each accident limit.

Workers' Compensation

Per statute

Employer's Liability Insurance

Employer's liability insurance shall be at least One Million Dollars ($1,000,000) per accident for bodily injury and disease.

Preconstruction Rates and Amounts

[insert preconstruction instructional rates from Request for Contractor's Proposal or write "Not Applicable".]

1.2.1 Exhibits. The following Exhibits are attached to and, by reference, incorporated in and made a part of this Facilities Lease:

Exhibit A - GUARANTEED MAXIMUM PRICE, CONTINGENCY, FINAL SCHEDULE MILESTONES, AND EXCLUSIONS

Exhibit B - THE PROJECT MANUAL:

The description of the Project, General Construction Provisions, and General Conditions.

Exhibit C - THE SITE:

The descriptions of the real property constituting the Site.

Exhibit D - LEASE PAYMENT SCHEDULE:

The schedule of Lease Payments to be paid by District hereunder.

ARTICLE 2
REPRESENTATIONS, COVENANTS AND WARRANTIES

2.1. Representations, Covenants and Warranties of District. District represents, covenants and warrants to Contractor as follows:

2.1.1 Due Organization and Existence. District is a school district, duly organized and existing under the Constitution and laws of the State of California; has the power to enter into this Facilities Lease and the Site Lease; is possessed of full power to own, rent and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

2.1.2 Authorization. District has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

2.2. Representations, Covenants and Warranties of Contractor. Contractor represents, covenants and warrants to District as follows:

2.2.1 Due Organization and Existence. Contractor is a corporation duly organized and existing under the laws of the State of California; has the power to enter into this Facilities Lease and the Site Lease; is possessed of full power to own, rent and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

2.2.2 Authorization. Contractor has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

2.2.3 No Litigation. There is no pending or, to the knowledge of Contractor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Contractor to perform its obligations under this Facilities Lease.

2.2.4 No Encumbrances. Contractor shall not pledge the Lease Payments or other amounts derived from the Site and from its other rights under this Facilities Lease, and shall not mortgage or encumber the Site, except as allowed under the provisions of this Facilities Lease and/or the Site Lease to finance construction of the Project.

2.2.5 Continued Existence. For up to one (1) year following the term of this Lease, Contractor shall not voluntarily commence any act intended to dissolve or terminate the legal existence of Contractor, provided District is not in uncured default under this Facilities Lease. Contractor shall give District sixty (60) days written notice prior to dissolving or terminating the legal existence of Contractor.

ARTICLE 3
CONSTRUCTION OF PROJECT

3.1. Site Conditions and Plans and Specifications. Contractor acknowledges that it has investigated the Site (or will prior to finalization of the GMP), pursuant to Section 5 of the General Conditions, to the extent necessary to complete the Project and to prepare its Guaranteed Maximum Price. Contractor further acknowledges that it has (or that prior to commencement of construction, it will have) performed services, including value engineering and a constructability review of the Plans and Specifications as necessary to satisfy itself that said documents are adequate for the Project's construction and that Contractor has not identified any errors or omissions in the Plans and Specifications that will adversely affect construction of the Project. Contractor has reviewed the Site and the Plans and Specifications as necessary to prepare its GMP.

3.1.1 Intentionally left blank.

3.1.2 Preconstruction Activity, Schedule and GMP Development.

3.1.2.1 Pursuant to this Agreement, Contractor shall provide pre-construction development and related services required during the Project's design and approval phases. Such services shall commence upon approval of this Agreement by District.

3.1.2.2 Contractor's pre-construction development and service arrangements shall include:

a. Contractor shall work with District staff and Architect and any other applicable consultants of the District related to the Project to develop an overall Project budget and Project schedule.

b. Contractor shall work with District staff and Architect and any other applicable consultants of the District related to the Project to develop an overall Project budget and Project schedule.

c. Contractor shall assist the District with providing plans and specifications for the buildings to be constructed.

d. Contractor shall assist District by providing detailed and on-going evaluations of the Project, including the Plans and Specifications, detailed construction budget cost projections, project schedule and phasing requirements, analysis of the District's overall Project budget, project constructability reviews of Architect's work. Such evaluations shall include alternative approaches to design, development and construction of the Project.

e. Contractor shall attend regular meetings during Project design, development, and document production phases between the District's Architect, any Construction Manager hired by the District, and any pertinent District staff, and any other applicable consultants of District, as required.

f. Contractor shall assist with considering operating or maintenance costs with respect to selecting systems (mechanical, electrical, lighting, bell/intercom, etc.) for the Project. Contractor will provide life cycle costing analyses as requested by District.

g. Contractor shall perform a detailed analysis of both the preliminary and the final Plans and Specifications and provide District with value engineering and recommendations regarding scope and budget of the Project, suggested value engineering items, long lead purchases and a plan for revising the Plans and Specifications to the extent necessary to achieve District's goals and objectives, including Project completion dates.

h. Contractor shall assist District in obtaining all local and State licenses, permits, requirements, and approvals including, but not limited to, approval from the Division of the State Architect ("DSA"), approval from the Office of Public School Construction, and requirements of the California Environmental Quality Act.

i. Contractor shall work with District's legal counsel to prepare necessary agreements for the completion of the Project.

j. Contractor shall assist District in the District's design for the Project and with obtaining materials and long lead items necessary to facilitate completion of the Work according to the District's schedule for completion. Contractor shall not be responsible for designing the Project, but shall provide consultation on cost estimates, schedule implications, construction feasibility, and coordination of long-lead item procurements.

k. Contractor shall provide construction cost estimates at the following design milestones; Schematic Design, Design Development, and 50% Construction Documents (or as directed by District Representative).

l. Contractor shall provide budget tracking during the course of design to determine the cost impact of the development of the design and scope changes.

m. During the Construction Document phase of the design the Contractor shall coordinate the work of the Subcontractors.

n. Contractor shall negotiate with District a GMP for the construction of the Project, a milestone schedule, and any exclusions. Once completed, these shall be presented to the school board for final approval and upon approval, shall be attached as Exhibit A to this Facilities Lease.

o. Contractor shall perform any other services ordered by the District to facilitate the timely and cost effective completion of the Project.

Contractor's total cost of services provided under this Article 3.1.2.2 shall be based upon rates, and not to exceed amounts set forth in the Project Specific Conditions.

3.1.2.3 The cost of services provided under Article 3.1.2.2 shall be in addition to the GMP. Contractor shall be paid monthly for the value of services provided in the previous month. The costs shall be included in all Project budgets.

No work for which a contractor is required to be licensed in accordance with Article 5 (commencing with section 7065) of Chapter 9 of Division 3 of the Business and Professions Code and for which Division of the State Architect approval is required can be performed before receipt of the required Division of the State Architect approval.

Contractor shall invoice District in thirty (30) day increments for preconstruction services actually rendered in the previous month. Payment for the preconstruction services shall be made for all undisputed amounts invoiced by Contractor within thirty (30) days after the Contractor submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be subsequently made.

3.2. Construction of Project. Contractor agrees to cause the Project to be diligently developed, constructed, and installed in accordance with the express provisions of the Contract Documents, including those things reasonably inferable from the Plans and Specifications as being within the scope of the Project and necessary to produce the stated result, for the GMP. Contractor shall time construction of the Project to commence within five (5) days after receiving the District's Notice to Proceed.

Contractor shall provide District a complete copy of the executed construction contract documents consistent with the General Conditions and the Plans and Specifications. District may also approve additional changes in the Work for the Project as provided in the Contract Documents. District and Contractor will cooperate at all times in bringing about the timely completion of the Project.

Contractor shall cooperate with District's efforts to obtain State funding for the Project by complying with any State requirements as reasonably requested by District, including, without limitation sections 1859.104 to 1859.106 of Title 2 of the California Code of Regulations.

3.3. Guaranteed Maximum Price. Contractor will cause the Project to be constructed within the Guaranteed Maximum Price ("GMP") as set forth in the Contract Documents, and as calculated per Exhibit A to this Facilities Lease.

District shall only be responsible for costs in addition to the GMP if:

a. the District orders changes to the Work pursuant to Section 15 of the General Conditions after the GMP is established and such changes are not: (i) clarifications that could have been reasonably inferred from the Plans and Specifications at the time of finalizing the GMP; or (ii) clarified during preconstruction services;

b. costs increase due to Compensable Delays, each in a manner consistent with Section 14.01 of the General Conditions, or

c. there are concealed or unknown Site conditions (including Pre-Existing Hazardous Materials) discovered after the execution of this Facilities Lease which could not reasonably have been foreseen by Contractor in its review of the Site and which require additional costs.

Unless one of these conditions apply, in no event shall the cumulative total of the Tenant Improvement Payments, along with the balance of the Construction Contingency, District Contingency, Lease Payments and anticipated retention, ever exceed the GMP.

The GMP includes the Lease Payments, which shall be paid by District, as set forth in Exhibit D.

A "Construction Contingency" for Contractor's benefit shall be included in Exhibit A to this Facilities Lease. The Construction Contingency shall be a line item within the GMP. The Construction Contingency may be drawn upon only to cover Contractor's errors and omissions in its review of the Plans and Specifications to satisfy itself that said documents are adequate for the Project's construction for the GMP, or errors and omissions in carrying out the Completion of the Project or for costs that are incurred in performing the Work that are not included in a specific line item or the basis for a Change Order under the Contract Documents. By way of example, and not as a limitation, such costs include scope gaps and work and material not explicitly stated but reasonably inferable from plans, subcontract buy-out gaps, delays in receipt of material (regardless of contractor’s fault), corrections in the work, and costs to correct damage or fixes resulting from activity without a clearly responsible party, and coordination issues. The Construction Contingency shall not be used for changes to the Work ordered by the District pursuant to Section 15 of the General Conditions. Once the Construction Contingency has been exhausted, the Contractor shall have no further recourse against the District with respect to any category of cost intended to be covered by the Contractor Contingency Fund, including, but not limited to, errors and omissions in its review of the Plans and Specifications to satisfy itself that the Project can be completed for the GMP or for work defectively performed by the Contractor.

Should the amount of the Construction Contingency be exceeded, unless one of the conditions enumerated above applies, the unfunded costs shall be borne by Contractor without increase to the total cost under the GMP.

A "District Contingency" for District's benefit shall be included in Exhibit A to this Facilities Lease. The District Contingency shall be a line item within the GMP. The District may, in its sole discretion, use the District Contingency for:

a. the District orders changes to the Work pursuant to Section 15 of the General Conditions after the GMP is established and such changes are not: (i) clarifications that could have been reasonably inferred from the Plans and Specifications at the time of finalizing the GMP; or (ii) clarified during preconstruction services;

b. cost increases due to Compensable Delays, in a manner consistent with Section 14.01 of the General Conditions, or

c. concealed or unknown Site conditions (including Pre-Existing Hazardous Materials) discovered after the execution of this Facilities Lease which could not reasonably have been foreseen by Contractor in its review of the Site and which require additional costs.

The District Contingency shall not be used without the District's prior written consent.

Any balance remaining in the Construction Contingency and the District Contingency shall remain the property of the District on termination of this Agreement.

All proposed Construction Contingency and District Contingency draws must be approved in writing prior to payment by District, and shall be supported by detailed Contractor estimates or job cost records, including full documentation of the labor, material, equipment and Subcontractor costs involved, as described in Section 15 of the General Conditions. The timing and processing of approvals of requested Construction Contingency and District Contingency payments shall be the same as the timing of the approval of Contractor's application for normal Tenant Improvement Payments.

No Construction Contingency or District Contingency draws will be permitted before Contractor executes an Allowance Expenditure Directive (or similar document).

3.4. Tenant Improvement Payments. As further set forth in Section 12 of the General Conditions, each month while Contractor is providing construction services, District shall pay Contractor a sum equal the value of the Work performed through the last day of the prior month, less the aggregate of previous payments, less the Lease Payments due for that month as shall be shown on Exhibit D, less the Lease Payments due after the Work is Complete (5%) which shall be shown on Exhibit D, and less retention (5%) (the "Tenant Improvement Payments").

Tenant Improvement Payments shall not exceed estimates of the value of Work completed which shall be prepared by Contractor on a form approved by District and certified by the Architect and District's Project Inspector and any other approved representative of District, and filed before the fifth (5^{th}) day of the month during which payment is subsequently to be made.

Work completed as estimated shall be an estimate only and no inaccuracy or error in said estimate shall release Contractor or any surety from responsibility for the satisfactory performance of such Work or from enforcing each and every provision of the Contract Documents.

District shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall not be entitled to have any payment estimates processed or be entitled to have any payment made for Work performed so long as District, or any of the public agencies with jurisdiction, has not accepted or waived compliance with any lawful or proper direction concerning non-complying Work or any portion thereof.

District may withhold from the Tenant Improvement Payments one hundred fifty percent (150%) of the estimated value of disputed amounts pursuant to Section 12.06 of the General Conditions, as determined by District, unless corrected or remedied to District’s satisfaction. To the extent a Tenant Improvement Payment is made that is less than the stated amount, the balance may be added to the next scheduled Tenant Improvement Payment. Payment of Tenant Improvement Payments and retention on such payments shall be as set forth in the Contract Documents.

ARTICLE 4
AGREEMENT TO LEASE; TERMINATION OF LEASE; LEASE PAYMENTS; TITLE TO THE SITE

4.1. Lease of Project and Site; No Merger. Contractor hereby leases the Project to District, and District hereby leases said Project from Contractor, upon the terms and conditions set forth in this Facilities Lease. The leasing by Contractor to District of the Project shall not effect or result in a merger of District's leasehold estate pursuant to this Facilities Lease and Contractor's title to improvements (prior to the end of the Facility Lease's Term) under the Site Lease, and Contractor shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the term thereof and the term of this Facilities Lease. As to the Site, this Facilities Lease shall be deemed and constitute a sublease.

4.2. Term of Facilities Lease. The terms of this Facilities Lease relating to preconstruction services shall be effective upon its execution. With respect to its other terms, the Term of this Facilities Lease shall commence with the District issuing a Notice to Proceed, and shall remain in effect through the period during which District's obligation to make the Lease Payments under this Facilities Lease is in effect, as provided for in Article 4.5 of this Facilities Lease, unless terminated earlier pursuant to Article 4 of this Facilities Lease.

4.3. Termination of Term. Notwithstanding Article 4.2 hereof, the Term of this Facilities Lease shall terminate upon the earliest of any of the following events:

4.3.1 An Event of Default by District and Contractor's election to terminate this Facilities Lease pursuant to Article 8.2 of this Facilities Lease; or

4.3.2 Termination of this Facilities Lease for convenience pursuant to section 18 of the General Conditions.

4.3.3 The arrival of the last day of the Term of this Facilities Lease and payment of all Lease Payments and Tenant Improvement Payments hereunder; provided, however, that if on the scheduled date for expiration of this Facilities Lease, the Lease Payments shall not have been fully paid by District, then the Term of this Facilities Lease and Site Lease shall be extended until the date upon which all such Lease Payments shall be fully paid, notwithstanding anything to the contrary in this Facilities Lease and the Site Lease, and all terms and conditions of the Site Lease and Facilities Lease shall continue in full force and effect.

4.3.4 Exercise of District's Purchase Option pursuant to Article 9.1 of this Facilities Lease.

4.4. Project Completion. Upon final completion of the Work, District may record a Notice of Completion that shall be filed with the County Clerk at District's expense. District may record the Notice of Completion on or within fifteen (15) days after the date of completion of the work as discussed in Section 21.05. Failure to record a Notice of Completion shall not be deemed a breach of this Facilities Lease.

4.5. Lease Payments.

4.5.1 Obligation to Pay. Subject to the provisions herein, District agrees to pay to Contractor, its successors and assigns, as rental for the use and occupancy of the Project, without deduction or setoff, the Lease Payments during the Term in the manner and amounts specified in the Lease Payment Schedule, attached as Exhibit D. Lease Payments shall be payable in arrears on the last day of each calendar month. All Lease Payments are part of, and shall not increase the final GMP.

4.5.2 Lease Payments to Constitute Current Expense of District. District and Contractor understand and intend that the obligation of District to pay Lease Payments and other payments hereunder constitutes a current expense of District and shall not in any way be construed to be a debt of District in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of District. Lease Payments due hereunder shall be payable only from current funds which are budgeted and appropriated or otherwise made legally available for such purpose. This Facilities Lease shall not create an immediate indebtedness for any

aggregate payments which may become due hereunder. Contractor acknowledges that District has not pledged the full faith and credit of District, State of California or any state agency or state department to the payment of Lease Payments or any other payments due hereunder. District shall not finalize and enter into an addendum to this contract to add Exhibit A (the GMP) to this Facilities Lease with Contractor unless current funds are or will be available equal to or greater than the GMP as adjusted.

4.5.3 Quiet Enjoyment. Contractor shall provide District with quiet use and enjoyment of the Project and the Site, and District shall, during such Term, peaceably and quietly have and hold and enjoy the Site subject to Contractor's construction of the Project, without suit, trouble or hindrance from Contractor, except as otherwise may be set forth in this Facilities Lease and as necessary to construct the Project. Notwithstanding the foregoing, Contractor shall have the right to inspect the Project and the Site as provided in Article 7.1 of this Facilities Lease.

4.6. Title. During the Term of this Facilities Lease, District shall hold fee title to the Site. During the Term of this Facilities Lease, Contractor shall have a leasehold interest in the Site pursuant to the Site Lease. If District exercises its Purchase Option to accelerate the termination of this Facilities Lease pursuant to Article 9 hereof, or if it terminates this Facilities Lease under Article 4, or if it pays all Lease Payments during the Term of this Facilities Lease as the same become due and payable, all right, title and interest of Contractor, its assigns and successors-in-interest in and to the Project and the Site shall be transferred to and vested in District at the expiration of the Term or upon the payment by District of the final Lease Payment, whichever shall come first. Upon the expiration, completion, or termination of this Facilities Lease, the Site Lease shall expire and Title to all improvements made hereunder shall be transferred to and vested in District without the necessity for any further instrument or transfer, provided, however, that Contractor agrees to execute any instrument requested by District to memorialize such termination of this Facilities Lease and transfer title to District.

4.7. Fair Rental Value. The Lease Payments constitute the total rental for the Project and shall be paid by District as set forth in Exhibit D and in consideration of the right to use and occupy, and the continued quiet use and enjoyment of, the Site during each month. District and Contractor have agreed and determined that the total Lease Payments do not exceed the fair rental value of the Site. In making such determination, consideration has been given to the obligations of the parties under this Facilities Lease and the Site Lease, the uses and purposes which may be served by the Site, and the benefits there from which will accrue to District and the general public.

ARTICLE 5
MAINTENANCE; TAXES; INSURANCE AND OTHER MATTERS

5.1. Maintenance. Following delivery of possession of the Project by Contractor to District, the repair, improvement, replacement and maintenance of the Project and the Site shall be at the sole cost and expense and the sole responsibility of District, subject only to all warranties against defects in materials and workmanship provided in the Project Manual (Exhibit B to this Facilities Lease) hereto, and District shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Project resulting from ordinary wear and tear.

5.2. Utilities. Contractor may reasonably use the District's existing utilities at no cost to the Contractor.

5.3. Taxes and Other Impositions. Contractor shall keep the Project and Site free and clear of all levies, liens and encumbrances and shall pay all license fees, registration fees, assessments and charges.

5.4. Intentionally Left Blank.

5.5. Liability Insurance. District shall at all times during the Term of this Facilities Lease carry and maintain in force a policy of Commercial General Liability Insurance.

5.6. Contractor Insurance. Contractor shall at all times comply with the insurance requirements in the General Conditions included in the Project Manual (Exhibit B to this Facilities Lease), and as stated in the Project Specific Conditions.

5.7. Compliance with Laws and Regulations. Except as otherwise disclosed and/or discussed in the Plans and Specifications, District has no actual knowledge and has not given or received any written notice indicating that the Site or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business, materially violates any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Site. Excluded from the representations and warranties are those hazardous materials in those amounts ordinarily found in the inventory of, or used in the maintenance of, school buildings and facilities.

5.8. Disabled Veteran Business Enterprises. The District is an equal opportunity employer and encourages the participation of disabled veteran business enterprises (DVBE) businesses.

In accordance with the Education Code section 17076.11, The District has a participation goal for disabled veteran business enterprises (DVBE) of at least three percent (3%) per year of the overall dollar amount of funds expended each year by the District for construction on District property.

Contractor shall submit all certifications required under Section 1896.61 et seq. of the regulations adopted by the State Allocation Board on the appropriate forms as part of closeout so that the District can assess its success at meeting this goal. Pursuant to the terms of applicable law, the District may withhold funds until Contractor submits all necessary DVBE certifications and documentation.

ARTICLE 6
EMINENT DOMAIN; DAMAGE AND DESTRUCTION

6.1. Eminent Domain.

6.1.1 Total Taking. If the Project and the Site shall be taken permanently under the power of eminent domain, the Term of this Facilities Lease shall cease as of the day possession shall be so taken and the remaining balance of any earned but unpaid amounts shall become immediately due and payable and all proceeds of the eminent domain proceedings shall be paid to the District. If the Total Taking occurs before the final Tenant Improvement Payment has been made, earned but unpaid amounts shall be equivalent to the value of the portion of the Work completed by Contractor through the date of the Total Taking.

6.1.2 Partial Taking. If less than all of the Project and the Site shall be taken permanently, or if all of the Project and the Site or any part thereof shall be taken temporarily, under the power of eminent domain: (i) this Facilities Lease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary; and (ii) the net proceeds of any eminent domain award may be applied towards the prepayment of the Lease Payments hereunder. No partial taking shall limit District's obligation to pay any Tenant Improvement Payments earned and otherwise owed under this Facilities Lease. District shall revise the design of the Project so that any buildings on the Project affected by the partial permanent taking are useable by District and a Change Order will be issued to Contractor to modify the Project in accordance with the revised design. Notwithstanding the foregoing, Contractor shall be entitled to Tenant Improvement Payments only for work satisfactorily performed and accepted. Nothing herein shall restrict District's ability to terminate this Facilities Lease for convenience pursuant to Section 18 of the General Conditions.

6.2. Damage and Destruction. If the Project and the Site are totally or partially destroyed due to fire, acts of vandalism, flood, storm, earthquake, Acts of God, or other casualty beyond the control of either party hereto, Contractor and District agree that the obligation to repair or replace the Project and the Site shall be in accordance with the following provisions:

6.2.1 Escrow. Any proceeds payable to Contractor and District from property insurance policies shall be immediately deposited in an escrow (the "Escrow").

6.2.2 Total Destruction. In the event that ninety percent (90%) or more of the Project and the Site is destroyed or damaged (a "Total Destruction"), then District, at District's option, may elect to terminate this Facilities Lease and the Site Lease, and shall use any funds available to it (including but not limited to insurance proceeds) to pay an amount to Contractor equal to the earned but unpaid balance of the Lease Payments, any earned but unpaid Tenant Improvement Payments, including any earned but unpaid and undisputed retainage and the value of all work completed by Contractor pursuant to the provisions found in the Project Manual (Exhibit B to this Facilities Lease), with any remaining insurance proceeds to be retained by District. In the alternative, District may elect to continue with this Facilities Lease in effect and have the Project and the Site rebuilt utilizing the insurance proceeds. Contractor shall have no obligation to contribute funds for the rebuilding of the Project should the cost of rebuilding exceed the insurance proceeds. Anything less than a Total Destruction of the Project and the Site shall be deemed a "Partial Damage or Destruction."

6.2.3 Partial Damage or Destruction. In the event that the Project and the Site are partially damaged or destroyed, District may repair or have repaired the Site utilizing the proceeds from insurance which were deposited into the Escrow.

6.2.4 Deductibles; Self Insurance. Where any loss is covered by insurance required by this Facilities Lease which contains provisions for any deductible amount, the party making a claim on the insurance policy shall pay the cost of rebuilding any such deductible amount or the amount of any self-insurance maintained by District.

6.2.5 Intentionally Left Blank.

6.2.6 Personal Property. Any insurance proceeds payable to District for losses to personal property contents within the Site shall be for the exclusive use of District, and may be utilized in whatever manner District, in its sole discretion, may designate.

ARTICLE 7
ACCESS; WARRANTIES

7.1. By Contractor. Contractor shall have the right at all reasonable times to enter upon the Site to construct the Project pursuant to this Facilities Lease. Following the Completion of the Project, Contractor may enter the Project at reasonable times with advance notice and arrangement with District for purposes of making any repairs required to be made by Contractor and for purposes of inspection to ascertain whether District is satisfying its obligation to maintain and repair the Project as required by this Facilities Lease.

7.2. By District. Prior to the Completion of the Project, District, and its agents and consultants, shall have the right to enter upon the Site at all times provided that they shall comply with all reasonable safety precautions required by the Contractor. District shall have the right to utilize any portions of the Site for any purpose it deems appropriate, provided that District shall not unreasonably interfere with Contractor's ability to complete the Project. Following the Completion of the Project, District shall thereafter have the right at all times to enter upon the Site.

7.3. Warranties. Contractor agrees that materials and equipment used by the Contractor will be new and of good quality unless otherwise required, the work will be free from defects other than those inherent in the work as specified, and the work will conform to the requirements of the contract documents. In addition, Contractor agrees to use its best efforts to assist District in enforcing any product warranty.

ARTICLE 8
EVENTS OF DEFAULT AND REMEDIES

8.1. Events of Default by District Defined. The following shall be "Events of Default" under this Facilities Lease and the terms "Event of Default" and "Default" shall mean, whenever they are used in this Facilities Lease (unless context requires otherwise), any one or more of the following events:

8.1.1 Failure by District to pay any Lease Payment required to be paid hereunder at the time specified herein (unless properly withheld pursuant to provisions found in the Project Manual, Exhibit B to this Facilities Lease) when due and payable hereunder, and the continuation of such failure for a period of thirty (30) days after District's receipt of written notice from Contractor.

8.1.2 Failure by District to pay any Tenant Improvement Payment (unless properly withheld pursuant to provisions found in the Project Manual, Exhibit B to this Facilities Lease) when due and payable hereunder, and the continuation of such failure for a period of thirty (30) days after District's receipt of written notice from Contractor.

8.2. Remedies on Default. Upon an Event of Default referred to in Article 8.1 hereof, Contractor's sole remedy shall be an action for monetary damages.

8.3. Intentionally Left Blank.

8.4. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Facilities Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. There shall be no waiver unless it is confirmed in writing. The conduct of the parties shall not modify the terms of this Agreement.

8.5. Application of Proceeds. All amounts derived by Contractor as a result of an Event of Default hereunder shall be applied by Contractor to any obligation of District owing to Contractor and in any order, in Contractor's sole discretion.

ARTICLE 9
PURCHASE OPTION

9.1. District's Option. If District is not then in Default hereunder, District shall have the option to purchase not less than all of Contractor's interests under this Facilities Lease and terminate this Facilities Lease and Site Lease, and shall pay Contractor for Work satisfactorily performed, as that term is defined in the Project Manual (Exhibit B to this Facilities Lease) and Exhibit A to this Facilities Lease, less any Lease Payments paid and Tenant Improvement Payments previously paid by District. Upon payment as aforesaid and payment of all other amounts owed, this Facilities Lease and Site Lease shall terminate and be of no further force and effect without the need for recording any document, however, Contractor shall deliver to District all reasonably necessary documents in recordable form as requested to evidence termination of this Facilities Lease and the Site Lease and transfer of title of any improvements to the District. District may record any such documents at District's cost and expense.

Notwithstanding the above, the warranty provision found in Article 7.3 of this Facilities Lease and the indemnification provisions found in the Project Manual (Exhibit B to this Facilities Lease) shall survive the termination of this Facilities Lease under this Article 9.1.

ARTICLE 10
MISCELLANEOUS

10.1. Notices. Any notice to either party shall be in writing and given by delivering the same to such party to the addresses set forth below in any of the following ways: (i) by personal delivery; (ii) by deposit in the United States express mail or first class mail, registered or certified, return receipt requested, postage prepaid; (iii) by overnight courier service, or (iv) by e-mail transmission, provided that a copy of such e-mail notice, is sent by certified U.S. Mail, postage prepaid, no later than one (1) business day following such e-mail transmission. All such notices shall be deemed delivered upon actual receipt (or upon the first attempt at delivery pursuant to the methods specified in clauses (a), (b) or (c) above if the intended recipient refuses to accept delivery).

If to District:	Cotati Rohnert Park Unified School District 7165 Burton Ave. Rohnert Park, CA 94928 Attention: Josh Savage
With copy to:	Fagen Friedman & Fulfrost, LLP 621 Capitol Mall, Suite 1525 Sacramento, CA 95814 Attention: James Traber Telephone: (916) 443-0000 Facsimile: (916) 443-0030
If to Contractor:	See Project Specific Conditions

Any party may change its mailing address at any time by giving written notice of such change to the other parties in the manner provided therein. All notices under this Facilities Lease shall be deemed given, received, made or communicated on the date personal delivery is effected, or if mailed or sent by overnight delivery service, on the delivery date or attempted delivery date shown in the return receipt. No party shall refuse or evade delivery of any notice.

10.2. Binding Effect. This Facilities Lease shall inure to the benefit of and shall be binding upon Contractor and District and their respective successors, transferees and assigns.

10.3. Severability. In the event any provision of this Facilities Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless elimination of such invalid provision materially alters the rights and obligations embodied in this Facilities Lease or the Site Lease.

10.4. Amendments, Changes and Modifications. This Facilities Lease shall not be amended, changed, modified or altered without the written agreement of both parties hereto.

10.5. Further Assurances and Corrective Instruments. Contractor and District agree that they will, from time-to-time, execute, acknowledge and deliver such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site or the Project hereby leased or intended to be leased.

10.6. Execution in Counterparts. This Facilities Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

10.7. Applicable Law. This Facilities Lease shall be governed by and construed in accordance with the laws of the State of California. The parties further agree that any action of proceeding brought to enforce the terms

and conditions of this Facilities Lease shall be maintained in the county in which the District's administrative offices are located.

10.8. Prequalification. Contractor must be prequalified in accordance with subdivisions (b) to (m), inclusive, of Section 20111.6 of the Public Contract Code. Contractor has completed and submitted a standardized prequalification questionnaire and financial statement, verified under oath.

10.9. Captions. The captions or headings in this Facilities Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Facilities Lease.

10.10. Interpretation. It is agreed and acknowledged by District and Contractor that the provisions of this Facilities Lease and its Exhibits have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise portions of this Facilities Lease and its Exhibits and to have such provisions reviewed by legal counsel. Therefore, the rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Facilities Lease and its Exhibits.

10.11. Time. Time is of the essence of each and all of the terms and provisions of this Facilities Lease and its Exhibits.

10.12. Force Majeure. A party shall be excused from the performance of any obligation imposed in this Facilities Lease and the exhibits hereto for any period and to the extent that a party is prevented from performing such obligation, in whole or in part, as a result of delays caused by the other party or third parties, a governmental agency or entity, an Act of God, war, terrorism, civil disturbance, forces of nature, fire, flood, earthquake, strikes or lockouts, and such non performance will not be a default hereunder or a grounds for termination of this Facilities Lease.

10.13. Recitals Incorporated. The Recitals set forth at the beginning of this Facilities Lease are hereby incorporated into its terms and provisions by this reference.

10.14. Challenges to Transaction.

10.15. In the event any proceeding is filed that contests, directly or indirectly, the validity of this Agreement, including any of the Contract Documents, whether pursuant to Code of Civil Procedure section 860, et. seq., or any other regulation, statute, ordinance, or law (hereinafter referred to as a "Reverse Validation Action"), the Contractor's rights and obligations under this Agreement and any of its part may be immediately suspended and/or terminated for convenience, at District or Contractor's option. If either party elects to terminate for convenience, Contractor's compensation shall be in accordance with the Termination for Convenience provisions in the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have caused this Facilities Lease to be executed by their respective duly authorized officers, to be effective as of the day and year first written above.

COTATI ROHNERT PARK UNIFIED SCHOOL DISTRICT, a school district organized and existing under the laws of the State of California

By: _____

Date: _____

_____

By: _____

Date: _____

EXHIBIT A TO THE FACILITIES LEASE

GUARANTEED MAXIMUM PRICE, CONTINGENCY,
FINAL SCHEDULE MILESTONES, AND EXCLUSIONS

1. Scope

The Scope of Work to be completed for the GMP stated herein is **DSA Application No. _____**, which is incorporated herein by reference.

GMP Spreadsheet (Schedule of Values, including Overhead and Profit margins for Contractor and all subcontractors)

[To be Inserted.]

No work for which a contractor is required to be licensed in accordance with Article 5 (commencing with Section 7065) of Chapter 9 of Division 3 of the Business and Professions Code and for which Division of the State Architect approval is required can be performed before receipt of the required Division of the State Architect approval.

2. GMP and Contingencies

The Guaranteed Maximum Price (GMP) referenced in section 3.3 and elsewhere within this Facilities Lease for completion of all Work contemplated by **DSA Approved Application No. _____** shall be **_____ Dollars ($_____)**.

The Construction Contingency referenced in section 3.3 and elsewhere within this Facilities Lease shall be **_____ Dollars ($_____)**. The Construction Contingency shall be a line-item within the GMP.

The District Contingency referenced in section 3.3 and elsewhere within this Facilities Lease shall be **_____ Dollars ($_____)**. The District Contingency shall be a line-item within the GMP.

Any exclusions to the GMP shall be listed upon finalization of the GMP.

3. Schedule

Milestone and Substantial Completion deadlines:

The Deadline for "Completion" (as defined in Section 21.05 of the Facilities Lease) of all work contemplated by [Specify DSA Application Number or Refer to Plans Provided With Request for Proposals, incorporated herein by Reference] shall be [insert deadline]. Failure to timely achieve such completion shall subject the contractor to liquidated damages as discussed in the Project Specific Conditions and Section 14.05 of the Project Manual.

EXHIBIT B TO THE FACILITIES LEASE

PROJECT MANUAL

PART I: GENERAL CONSTRUCTION PROVISIONS

These General Construction Provisions are included as an exhibit to the Facilities Lease and shall govern the construction of the Project by Contractor.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and in exchange for valuable considerations hereinafter mentioned, the receipt and adequacy of which is hereby acknowledged, District and Contractor agree as follows:

Article I. The Work and Contractor.

Contractor agrees to furnish all labor, materials, apparatus, facilities, transportation, tools and equipment and to perform all the Work required to construct and complete the Project in a good and workmanlike manner and in strict accordance with these General Construction Provisions.

Article II. Purpose of Document.

These General Construction Provisions set forth the construction provisions which will govern Contractor's construction of the Project, as that term is defined herein.

Article III. Guaranteed Maximum Price.

District agrees to pay Contractor, and Contractor agrees to receive and accept, for the performance of the Work, the amount specified as the GMP in Exhibit A of this Facilities Lease as full compensation for furnishing all materials, labor, apparatus, facilities, transportation, tools, and equipment, and for doing all the Work contemplated and embraced in this Facilities Lease and for all risks of every description connected with the Work and for all expenses incurred by or in consequence of the suspension or discontinuance of the Work, and for well and faithfully completing the Work and the whole thereof in the manner and according to these General Construction Provisions and the requirements of the Architect under them. Contractor expressly agrees that the Work contemplated hereby shall be performed in a good and workmanlike manner under the direction of and to the satisfaction of the Architect and/or District as provided in these General Construction Provisions.

Article IV. Payments.

District shall make payments on the account of this Facilities Lease as specified in the General Conditions and the Lease Payment Schedule (Exhibit D to this Facilities Lease).

Article V. Time of Performance.

Upon the District's Board approving the GMP, DSA's approval of the Plans, and upon Contractor's receipt of a Notice to Proceed with construction Work from District for commencement of the construction Work, Contractor shall prepare the schedule(s) identified in Section 13 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease) Section 13.05.

PART II: GENERAL CONDITIONS

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SECTION 1
DEFINITIONS AND PRINCIPLES OF INTERPRETATION

Section 1.01. Whenever the following terms, titles, or phrases are used in the Contract Documents, as defined below, the intent and meaning thereof shall be as defined in this Section.

Section 1.02. Architect

The "Architect" is the architectural firm engaged as an agent by District to perform the services set forth in the Contract Documents.

The Architect is designated by District as District's agent to perform all functions delegated to the Architect by the Contract Documents.

Section 1.03. Intentionally left blank

Section 1.04. Intentionally left blank

Section 1.05. Board of Education

"Board of Education" shall mean the duly elected officials constituting the Board of Trustees of the District named in the first page of the Facilities Lease.

Section 1.06. Change Order

"Change Order" shall mean a written order to Contractor, issued after execution of the Contract, signed by the District Representative, authorizing a change in the Work and, potentially, use of the Construction Contingency.

Section 1.07. Closeout Documents

"Closeout Documents" are documents as required to meet the requirements of final completion as defined in Section 21 of the General Conditions.

Section 1.08. Construction Change Directive (CCD)

"Construction Change Directive" shall mean a written order to Contractor, issued after execution of the Contract, signed by the District Representative and/or Architect and Contractor, authorizing a change in the Work and potentially a Change Order.

Section 1.09. Contract Documents

The "Contract Documents" shall include the Site Lease, Facilities Lease, the Performance Bond, the Payment Bond, the General Construction Provisions, these General Conditions, the Project Specific Conditions, Exhibits, the Plans and Specifications, all duly issued Addenda, Interpretations, Change Orders, Supplemental Drawings, Contractor's Guarantee and Bond, the Hazardous Materials Requirements, Preliminary Construction Schedule, the Contract Schedule, and any amendments to this Facilities Lease.

Section 1.10. Contract Drawings or Plans

The "Contract Drawings" or "Drawings" are the plans and working drawings which show the location, character, dimensions and details of the Work to be performed, and all supplemental drawings issued by District. Once approved, all such drawings are incorporated into and become a part of the Contract Documents.

Section 1.11. Contract Schedule

The "Contract Schedule" is the schedule produced by Contractor in response to the requirements of the Contract Documents. See Section 13 hereof, for specific requirements.

Section 1.12. Date of Commencement

"Date of Commencement" is the date established in the Notice to Proceed with construction Work. If there is no Notice to Proceed, it shall be the date of the executed Facilities Lease or such other date as may be established therein.

Section 1.13. Date of Completion

The terms "Date of Completion" and "Completion" shall have the meaning set forth in Section 21.05 of the General Conditions.

Section 1.14. Day

Unless otherwise expressly defined, a "day" shall mean a calendar day of twenty-four (24) hours, including each and every day of the year.

Section 1.15. District

"District" shall mean District named in the first page of the Facilities Lease District, a California school district.

Section 1.16. District Representative

"District Representative" shall mean District's designated agent engaged to perform all functions delegated to the District Representative by the Contract Documents. The District Representative is the Superintendent or Designee. The District Representative will be Contractor's primary contact during construction of the Project.

Section 1.17. Division of the State Architect (DSA)

"Division of the State Architect" is the California State agency responsible for checking contract documents for compliance with Title 24, California Code of Regulations, and monitoring compliance on the Site. The Division of the State Architect also approves inspectors on all public school projects.

Section 1.18. Equal (as in "or equal")

"Equal" shall mean a system, process, product or material which is similar in all respects to that shown or specified but produced by a manufacturer not listed in the specification. See also: Substitution.

Section 1.19. First Line Supervision

"First Line Supervision" shall mean a working foreman or lead craft worker other than the project superintendent.

Section 1.20. Interpretations

"Interpretations" are all clarifications, additional instructions, and explanations issued by the Architect pursuant to Section 5 of the General Conditions, after execution of this Facilities Lease.

Section 1.21. Intentionally left blank

Section 1.22. Intentionally left blank

Section 1.23. Contractor

"Contractor" shall mean the person or persons, partnership, or corporation, who has entered into this Facilities Lease with District or its legal representatives, or successors, assigns, executors, or heirs. Contractor is required by law to be licensed and will perform work or render services as a Prime Contractor in or about the construction of the Work.

Section 1.24. Materials

"Materials" is a generic term which shall include all building materials, articles, supplies, and equipment delivered to the Project for incorporation in the Work. "Materials" includes everything incorporated into the Work except labor, unless otherwise noted.

Section 1.25. Equipment

"Equipment" shall mean all pre-manufactured or partially preassembled products or components, assembled or partially assembled before delivery to the Site.

Section 1.26. Intentionally left blank

Section 1.27. Notice to Proceed

"Notice to Proceed" is the notice given to Contractor according to Article 5 of the General Construction Provisions. The Notice to Proceed establishes the start of the Work and authorizes Contractor to begin construction.

Section 1.28. Office of Public School Construction (OPSC)

"Office of Public School Construction" is the California State agency responsible for apportionment, disbursement and monitoring of State-provided school district capital improvement funds.

Section 1.29. Preliminary Construction Schedule

"Preliminary Construction Schedule" is a schedule that establishes the milestone dates for completion of each major trade activity as well as the phasing of work by building and the overall duration of the Project.

Section 1.30. Product Data

"Product Data" shall mean illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by Contractor to illustrate a material, product or system for some portion of the Work.

Section 1.31. Project

"Project" shall be as defined in the Facilities Lease at Article 1.1.9.

Section 1.32. Project Inspector / Inspector of Record

The "Project Inspector" shall mean the person or persons employed or engaged as (an) independent contractor(s) by District to inspect the performance of the Work by Contractor for compliance with the Contract Documents. The Project Inspector is hereby designated as an agent of District for such purpose and no other. The Project Inspector is supervised by, and reports to, District. The authority of the Project Inspector to monitor the Work shall be strictly limited to that authority specified herein and in Title 24, California Code of Regulations, and no additional authority has been granted nor shall be inferred.

Section 1.33. Provide

"Provide" shall mean to furnish, install, and connect, complete and ready for use.

Section 1.34. Reference to Codes

Unless otherwise noted, all references to statutes are to the laws of the State of California and/or of the United States, as codified in the various specified codes.

Section 1.35. Request for Information (RFI)

"Request for Information" is the name given to a document issued by Contractor seeking clarification and/or additional information regarding an aspect of the Work. The response to the RFI does not constitute authorization or direction to proceed with any changed or additional work. Changed or additional work must be separately authorized by District.

Section 1.36. Request for Proposal (RFP)

"Request for Proposal" is the name given to a document issued by the District Representative or Architect requesting pricing information and/or an adjustment in the Term of this Facilities Lease for a described scope of work. An RFP is not a Change Order or a direction to proceed with the scope of work described in the RFP. Contractor's response to the RFP shall be in the form of a Proposed Change Order (PCO).

Section 1.37. Samples

"Samples" shall mean physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Section 1.38. Shop Drawings

"Shop Drawings" shall mean drawings, diagrams, schedules and other data specifically prepared by Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work as more particularly described in Section 11.02.

Section 1.39. Site

"Site" is the area within which the Project is to be constructed.

Section 1.40. Special Inspector

The "Special Inspector" shall mean the person or persons employed or engaged as (an) independent contractor(s) by District to inspect the performance of specific aspects of the work as required by Title 24, California Code of Regulations.

Section 1.41. Specifications

"Specifications" include the special provisions, general conditions, general requirements, and technical specifications applicable to the Work, all duly executed and issued addenda and interpretations, and all modifications approved by District pursuant to a Change Order.

Section 1.42. Subcontractor

"Subcontractor" shall mean each person or firm who is required by law to be and who is licensed to and qualified to, and will perform work, labor, or render services to Contractor in or about the construction of the Work, or who, under subcontract to the Contractor, fabricates and installs a portion of the Work or improvement.

"Subcontractor" shall include all persons or firms within the authority of the Subletting and Subcontracting Fair Practices Act, Chapter 2 of Division 5, Title I of the Public Contract Code, commencing with Section 4100.

Section 1.43. Submittal

"Submittal" shall mean all product data, Shop Drawings, manufacturers' instructions, samples, Equals, substitution requests and all other submissions that Contractor is required to provide to District and/or the Architect.

Section 1.44. Substitution

"Substitution" shall mean a system, process, product or material similar in form or function and equal in quality and performance to that shown or specified, but differing in some essential element, *e.g.*, chemical composition, mechanism of action, surface finish, dimensions, durability, electrical or mechanical or plumbing requirements. See also: Equal.

Section 1.45. Project Specific Conditions

The "Project Specific Conditions" are specific clauses setting forth conditions or requirements peculiar to the Project and supplementary to these General Conditions and Technical Specifications.

Section 1.46. Supply

"Supply" shall mean to furnish only, complete and ready for installation, including shipping, delivery, protection, and any assembly required prior to installation.

SECTION 2
CONTRACT DOCUMENTS

Section 2.01. The Facilities Lease

This Facilities Lease and all other Contract Documents represent the entire and integrated agreement between District and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. The Work described in this Facilities Lease may be amended or modified only by a Change Order as defined in Section 1.06 of these General Conditions. Nothing contained in the Facilities Lease or other Contract Documents shall create any contractual relationship between District, the District Representative or the Architect and any Subcontractor or sub-Subcontractor, or between the District Representative or the Architect and Contractor.

Section 2.02. General Intent of Contract Documents

It is the overriding intent of the Contract Documents that the Work performed shall result in a complete and operable Project in satisfactory condition for occupancy, with all mechanical equipment in functional operating condition and fit for the use for which it is intended, and which complies with the Contract Documents. No extra compensation will be allowed for anything omitted but fairly implied to be included in the Contract Documents. The GMP shall include full compensation for furnishing all labor, materials, tools, equipment and incidentals, and doing all items necessary to complete the Work as provided by the Contract Documents.

Unless otherwise specified in the Contract Documents, all materials shall be new and the best of their representative kinds and grades as noted or specified, and workmanship shall be of good quality.

Section 2.03. Labor and Materials

Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, light, heat, utilities, transportation and other facilities and services necessary for the execution and completion of the Work in accordance with the Contract Documents and perform its Work in compliance with applicable codes or statutes, whether or not specifically described herein, as long as same is reasonably inferable therefrom as being necessary to produce the intended results, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

Section 2.04. Complementary Feature of Various Parts of Contract Documents

The Contract Documents, including the Plans and Specifications and Contract Drawings, are complementary, and what is called for by any shall be as binding as if called for by all. In case of conflict, large scale (detail) drawings shall govern over small-scale drawings, the specifications shall govern over the Contract Drawings except as noted below, special provisions shall govern over both the Contract Drawings and the General Conditions, and subsequent addenda, interpretations, or approved Change Orders shall govern over the original documents, unless a different order of precedence is noted elsewhere in conjunction with a specific portion of the documents. Amendments to this Facilities Lease shall take precedence over conflicting terms pre-dating the amendment.

In case of conflict between the Drawings and Specifications, the Drawings shall govern in matters of quantity and size, the Specifications in matters of quality. In case of conflict within the Drawings involving quantities or within the Specifications involving quality, the greater quantity and the higher quality shall be provided.

Where on any Drawing a portion of the Work is drawn out and the remainder is indicated in outline, the drawn-out parts shall apply to all other like portions of the Work. Where ornament or other detail is indicated as starting, such detail shall be continued throughout the courses or parts in which it occurs and shall also apply to other similar parts in the Work, unless otherwise indicated.

Scale drawings, full-size details, and specifications are intended to be fully coordinated and to agree. Where not specifically stated otherwise, all labor and materials necessary for each unit of construction, even though only briefly mentioned or indicated, shall be furnished and installed fully and completely, including, but not limited to, the manufacturer's instructions and/or recommendations, as part of this Facilities Lease.

Any material specified by reference to the number, symbol, or title of a specified standard such as a Commercial Standard, a Federal Specification, a trade association standard, or other similar standards, shall comply with the requirements in the latest approved revision thereof and any amendments or supplements thereto in effect on the date of this Agreement, except as limited to type, class, or grade, or modified in such reference. The standards referred to, except as modified in the Specifications, shall have full force and effect as though printed in the Specifications.

Section 2.05. Detail Drawings and Instructions

In case of ambiguity or lack of information, Architect shall furnish additional instructions by means of drawings or otherwise, necessary for proper execution of work. All such drawings and instructions shall be consistent with Contract Documents, true developments thereof, and reasonably inferable therefrom. Such additional instructions shall be furnished with reasonable promptness, provided that Contractor informs the Architect of the relationship of the request to the critical path of construction.

Work shall be executed in conformity therewith and Contractor shall do no work without proper drawings and instructions.

The Architect will furnish necessary additional details to more fully explain the Work, which details shall be considered as part of the Contract Documents.

Should any details be more elaborate, in the opinion of Contractor, than scale drawings and specifications warrant, Contractor shall give written notice thereof to the Architect within ten (10) days of the receipt of same. In case no notice is given to the Architect within ten (10) days, it will be assumed the details are reasonable developments of the scale drawings. In case notice is given, then it will be considered, and if found justified, the Architect will either modify the drawings or shall recommend to District a Change Order for the extra work involved.

All parts of the described and shown construction shall be of the quality of their respective kinds required by the Contract Documents and Contractor is hereby advised to use all diligence to become fully involved as to the required construction and finish, and in no case to proceed with the different parts of the Work without obtaining first from the Architect such directions and/or drawings as may be necessary for the proper performance of the Work.

If it is found at any time, before or after completion of the Work (but subject to the period for correction of the Work under Section 17.02 below) that Contractor has materially varied from the Drawings and/or Specifications, in materials, quality, form or finish, the Architect shall make a recommendation:

(a) that all such improper Work should be removed, remade and replaced, and all work disturbed by these changes be made good at Contractor's expense; or

(b) that District deduct from any amount due Contractor, the sum of money equivalent to the difference in value between the Work performed and that called for by the Drawings and Specifications. Architect shall determine such difference in value for District review. District, at its option, may pursue either recommendation made by the Architect.

If it is determined that Contractor has varied from the Contract Documents and described above, District Representative will contact Contractor for their input and cooperation on resolving any related issue.

Section 2.06. Ownership and Use of Documents

All original drawings, specifications and other incidental architectural and engineering work or materials and other project documents prepared by the Architect and furnished by District are and shall remain the property of District. They are not to be used by Contractor in other work and are to be returned to District on request at completion of the Work, and may be used by District as it may require, without any additional costs to District.

Section 2.07. Successors and Assigns

District and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Contract Documents. Contractor shall not assign this Facilities Lease or sublet it in whole or part without the written consent of District nor shall Contractor assign any moneys due or to become due to it hereunder without the prior written consent of District. Any other attempt to assign, transfer, convey, sublet, or otherwise dispose of this Agreement or its right, title or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease, or other disposition shall be null, void and of no legal effect whatsoever; and this Facilities Lease may, at the option of District, be terminated, revoked and annulled, and District shall thereupon be relieved and discharged from any and all liability and obligations flowing out of the same to Contractor, and to its purported assignee or transferee.

Section 2.08. Written Notice

Written notice may be accomplished by email, personal delivery, United States mail, telegram, facsimile or any other form of commercially accepted communication. The written notice shall become effective upon delivery. Delivery is complete when the notice is hand-delivered to Contractor's home office, job-site office, or to Contractor's superintendent; or when the facsimile transmission is complete; or two (2) days after mailing by U.S. mail; or upon actual delivery as evidenced by a delivery receipt.

Section 2.09. Rights and Remedies

The duties and obligations of Contractor imposed by the Contract Documents and the rights and remedies of District available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

The failure of District, the District Representative, the Project Inspector or the Architect to insist in any one or more instances upon the strict performance of any one or more of the provisions of this Facilities Lease or to exercise any right herein contained or provided by law, shall not be construed as a waiver or relinquishment of the performance of such provision or right(s) or of the right to subsequently demand such strict performance or exercise such right(s) and the rights shall continue unchanged and remain in full force and effect.

Contractor agrees that it can be adequately compensated by money damages for any breach of this Facilities Lease which may be committed by District; and hereby agrees that no default, act or omission of District, the District Representative, the Project Inspector or the Architect, shall constitute a material breach of this Facilities Lease entitling Contractor to cancel or rescind the provisions of this Facilities Lease or to suspend or abandon performance of all or any part of the Work. Contractor hereby waives any and all rights and remedies to which it might otherwise be or become entitled, saving only its right to money damages.

Section 2.10. Unenforceability of Any Clause

If any clause or provision of the Contract Documents is held to be unenforceable or invalid, then that provision of this Facilities Lease shall be stricken and the remaining portion shall remain in full force and effect.

Section 2.11. Other Contracts

District reserves the right to award or enter into other contracts in connection with this Work. Contractor shall afford other contractors reasonable opportunity for introduction and storage of their materials and execution of their work and shall properly connect and coordinate its Work with such other contractors.

If any part of Contractor's Work depends on proper execution or results upon work of any other contractor, Contractor shall inspect and promptly report to the District Representative in writing any defects in such work that render it unsuitable for such proper execution and results. Contractor's commencement of its Work shall serve as its certification that it has satisfied itself that the other contractor's work is fit and proper. Contractor will be held accountable for damages to District for that work which it failed to inspect or should have inspected. Contractor's failure to review and report shall constitute its acceptance of other contractor’s work as fit and proper for reception of its Work, except as to defects which may develop in other contractor's work after execution of Contractor's Work.

To ensure proper execution of its subsequent Work, Contractor shall measure and review work already in place and shall at once report to the District Representative in writing any discrepancy between executed work and Contract Documents.

Contractor shall ascertain to its own satisfaction the scope of the Project and nature of any other contracts that have been or may be awarded by District in prosecution of the Project to the end that Contractor may perform this Facilities Lease in the light of such other contracts, if any.

Nothing herein contained shall be interpreted as granting to Contractor exclusive occupancy at the site of the Project. Contractor shall not cause any unnecessary hindrance or delay to any other contractor working on the Project. If simultaneous execution of any contract for the Project is likely to cause interference with performance of some other contract or contracts, District shall decide which contractor shall cease work temporarily and which contractor shall continue or whether work can be coordinated so that contractors may proceed simultaneously.

District shall not be responsible for any damages suffered or extra costs incurred by Contractor resulting directly or indirectly from award or performance or attempted performance of any other contract or contracts on Project, or caused by any decision or omission of District respecting the order of precedence in performance of contracts.

SECTION 3
BONDS AND BONDING; INDEMNIFICATION AND INSURANCE

Section 3.01. Bonds

Contractor shall furnish a surety bond in an amount equal to one hundred percent (100%) of contract price as security for faithful performance of this Facilities Lease and shall furnish a separate bond in an amount of one hundred percent (100%) of the contract price as security for payment to persons performing labor and furnishing materials in connection with this Project. Bonds shall be in the form set forth in these Contract Documents.

Only bonds executed by admitted surety insurers as defined in Code of Civil Procedure section 995.120 shall be accepted. Surety must be a California-admitted surety and listed by the U.S. Treasury with a bonding capacity in excess of the Project cost.

Section 3.02. Bonds: Time to Submit

Before District will issue a Notice to Proceed, Contractor shall furnish and deliver to District bonds as set forth below in Sections 3.03, 3.04, 3.05 and 3.06 (if applicable).

Section 3.03. Qualifications of Surety

All bonds shall be duly executed by a responsible corporate surety listed in the current version of the United States Department of the Treasury circular entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," admitted by the State of California Department of Insurance to do business in the State of California and acceptable to District.

Only bonds executed by admitted surety insurers as defined in Code of Civil Procedure section 995.120 shall be accepted. Surety must be a California-admitted surety and listed by the U.S. Treasury with a bonding capacity in excess of the Project costs.

Section 3.04. Performance Bond

The Contractor shall submit a faithful Performance Bond on the form provided in this contract conditioned upon the faithful performance by Contractor of all requirements of the Contract Documents. The amount of the bond shall be in a sum no less than one hundred percent (100%) of the total GMP (including the Construction Contingency), as set forth in Exhibit A to the Facilities Lease.

Section 3.05. Labor and Materials Payment Bond

Contractor shall also submit a bond on the form provided with the Contract Documents, which in all respects complies with Civil Code sections 9550-9566, inclusive. This bond, hereinafter referred to as a "Payment Bond," shall be in a sum no less than one hundred percent (100%) of the GMP (including any Contingencies), as set forth in Exhibit A to the Facilities Lease.

Section 3.06. Reserved.

Section 3.07. Additional Bonding Requirements

All bonds submitted shall include the following:

(a) Full name and address of Contractor, Surety, and District,

(b) Contract Date,

(c) Guaranteed Maximum Price,

(d) Project name, address, and job number,

(e) Signature of Contractor,

(f) Corporate Seal, if applicable,

(g) Signature of authorized Surety Representative,

(h) Notarization of Contractor and Surety,

(i) Power of Attorney,

(j) Local contact for Surety, with name, phone number, and address to which legal notices may be sent.

Section 3.08. Indemnification

To the extent allowed by the laws of the State of California, Contractor shall indemnify, defend with legal counsel reasonably acceptable to the District, keep and hold harmless the District, and its respective board members, officers, representatives, and employees, in both individual and official capacities and its Architect and Consultants (and their respective Owners, Officers and Employees) ("lndemnitees"), against all suits, claims, damages, losses, and expenses ("Indemnification Claims") asserted by third parties (including but not limited to Subcontractors) that result from any act, or omission, or negligence or willful misconduct by Contractor or its officers, agents, employees or Subcontractors, including, without limitation, Indemnification Claims for bodily injury, sickness, disease, death, patent violation or copyright infringement, or to injury to or destruction of tangible property (including damage to the Work itself not covered by Contractor's and/or District's insurance policy(s)), except to the extent caused by the negligence or willful misconduct of the lndemnitees, or by proven defects in designs furnished by, or at the direction of, one or more the Indemnitees. This Agreement and obligation of Contractor shall not be construed to negate, abridge, or otherwise reduce any right or obligation of indemnity that would otherwise exist as to any party or person described herein. The indemnification obligation for a violation of a patent or copyright infringement shall not apply to any product, equipment, goods, material, design, service or other information specifically required by District.

Contractor shall give prompt notice to the District in the event of any injury (including death), loss, or damage included herein. Without limitation of the provisions herein, if Contractor's agreement to indemnify, defend, and hold harmless the lndemnitees as provided herein against damage arising out of bodily injury to persons or damage to property caused by or resulting from the negligence of any of the lndemnitees shall to any extent be or be determined to be void or unenforceable, it is the intention of the Parties that these circumstances shall not otherwise affect the validity or enforceability of Contractor's agreement to indemnify, defend, and hold harmless the rest of the lndemnitees, as provided herein, and in the case of any such suits, claims, damages, losses, or expenses caused in part by the default, negligence, or act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, and in part by any of the lndemnitees, the Contractor shall be and remain fully liable on its agreements and obligations herein to the full extent permitted by law.

In any and all claims against any of the lndemnitees by any employee of Contractor, or of any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, Contractor's indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

To the extent allowed by the laws of the State of California, District shall indemnify, but shall not be obligated to defend, Contractor from and against any claims, damages, expenses or liabilities connected with this Facilities Lease, only (1) if those claims, damages, expenses or liabilities relate to District's status as a sublessee under this Facilities Lease; (2) to the extent that those claims, damages, expenses or liabilities arise from the negligence or willful acts or omissions of District, its officers, agents or employees and (3) only if those claims, damages, expenses or liabilities are unrelated to District's obligations to pay the GMP.

Section 3.09. Reserved.

Section 3.10. Insurance

Contractor shall obtain, and maintain during the entire Term of this Facilities Lease, at its sole cost and expense, all insurance required by this Section and Sections 3.13 – 3.19 hereof. Certificates of such insurance and copies of the insurance policies and endorsements shall be delivered to District before execution of this Facilities Lease.

Every policy shall be endorsed to state that it shall not be assigned, canceled, or reduced in coverage without thirty (30) days' prior written notice to District. Every policy shall also be endorsed to state that District shall be given notice of non-renewal at least thirty (30) days prior to the non-renewal date.

Contractor shall not commence Work until all required insurance documentation has been submitted to and accepted by District.

Failure of Contractor to maintain all required insurance during the entire Term of this Facilities Lease shall constitute a default entitling District to all rights and remedies that exist in the Contract Documents and/or by law.

Section 3.11. Subcontractor's Insurance

Contractor shall not allow any Subcontractor to commence Work on its subcontract until the Subcontractor has provided the insurance specified below. Contractor shall require each of its Subcontractors to procure and to maintain, during the life of the subcontract, bodily and personal injury liability and property damage insurance, and workers' compensation insurance, of the type and in the same amount as specified herein, including, without limitation, the requirement that the Subcontractor's policy shall be endorsed (1) to include by name Contractor, District, District Representative, and their officers and employees as additional insured and shall provide that they are primary with any insurance maintained by District as non-contributory and will have severability of interest endorsement, and (2) to waive all rights of subrogation against Contractor, District, or the District Representative.

It shall be the responsibility of Contractor to ensure that all Subcontractors comply with this provision, and to verify their compliance when requested by District.

If requested by District, Contractor shall deliver certificates of insurance or copies of the insurance policies and endorsements of all Subcontractors; provided, however, that this authority shall not relieve Contractor of its obligation to ascertain the existence of such insurance.

Section 3.12. Effective Date of Policies

The insurance required by this Section shall be maintained by Contractor in full force and effect at all times during prosecution of the Work and (unless otherwise noted below) until two (2) years after the Date of Completion.

Builder's Risk insurance needs only to be in place during construction as discussed below.

Section 3.13. Liability Insurance

Contractor and its Subcontractors shall procure and maintain insurance on all of their operations during the progress of the Work, with reliable insurance companies, on forms acceptable to District, for the following minimum insurance coverage's:

(a) Commercial general liability insurance, including but not limited to protection for claims of bodily injury and property damage liability, personal and advertising injury liability and products completed operations liability. Coverage shall be with limits of not less than the limits stated in the Project Specific Conditions.

The insurance shall cover all operations of Contractor and its Subcontractors, including but not limited to the following:

(1) premises, operations and mobile equipment liability;

(2) completed operations and products liability;

(3) contractual liability insuring the obligations assumed by Contractor, its Subcontractors and independent contractors under the Contract Documents;

(4) explosion, collapse, and underground property damage;

(5) broad form property damage liability endorsement.

(b) Automobile bodily injury and property damage insurance, including all owned, hired and non-owned equipment with combined bodily injury and property damage liability of in the amounts stated in the Project Specific Conditions.

(c) Any excess liability coverage used to supplement both the general and automobile liability must either (1) be from the same carrier as the primary insurance, or (2) include the policy statement wherein it describes what the underlying primary coverage must be before the excess liability coverage takes effect.

(d) Additional coverage's and/or limits may be required in the Project Specific Conditions. If the Project Specific Conditions require limits of the General Liability and Automobile Liability insurances exceeding those stated above, Contractor shall carry excess or umbrella liability insurance providing excess coverage at least as broad as the underlying coverage with a limit equal to the amount stated in the Project Specific Conditions per occurrence and aggregate.

Section 3.14. Liability and Property Damage Insurance

Before the commencement of the Work, Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in California as admitted carriers with a financial rating of at least A, Class VII status as rated in the most recent edition of Best's Insurance Reports, such insurance, in amounts as set forth in the Contract Documents, covering the type of claims set forth below, which may arise out of or result from Contractor's operations under this Facilities Lease and for which Contractor may be legally liable, whether such operations are by Contractor, by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(a) Claims for damages because of bodily injury, sickness, disease, or death of any person other than Contractor's employees;

(b) Claims for damages insured by usual personal injury liability coverage, which are sustained by a person as a result of an offense directly or indirectly related to employment of such person by Contractor or by another person;

(c) Claims for damage because of injury or destruction of tangible property, including loss of use resulting therefrom, arising from operations under the Contract Documents;

(d) Claims for damages because of bodily injury, death of a person, or property damage arising out of the ownership, maintenance, or use of a motor vehicle, all mobile equipment, and vehicles moving under their own power and engaged in the work;

(e) Claims involving blanket contractual liability applicable to Contractor's obligations under the Contract Documents, including liability assumed by and the indemnity and defense obligations of Contractor and the Subcontractors; and

(f) Claims involving Completed Operations, Independent Contractors' coverage, and Broad Form property damage, without any exclusions for collapse, explosion, demolition, underground coverage, and excavating. (XCU)

Contractor shall require its Subcontractors to take out and maintain similar general liability insurance and property damage insurance required in this Section in like amounts. A "claims made" or modified "occurrence" policy shall not satisfy the requirements of this Section without prior written approval of District.

District shall be responsible for purchasing and maintaining District's usual liability insurance. Optionally, District may purchase and maintain other insurance for self protection against claims which may arise from operations under this Facilities Lease. Contractor shall not be responsible for purchasing and maintaining this optional District's liability insurance unless specifically required by the Contract Documents.

Contractor shall name, on any policy of insurance required under this Section, District, its trustees, officers, agents, employees and volunteers, the Architect and the Architect's consultants, individually and collectively, as additional insureds. Subcontractors shall name additional insured's per Section 3.11 hereof. The Additional Insured Endorsement included on all such insurance policies shall state that coverage is afforded the additional insured with

respect to claims arising out of operations performed by or on behalf of the insured. If the additional insureds have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurer's liability shall not be reduced by the existence of such other insurance.

Contractor shall submit proof of insurance and shall provide endorsements on the forms provided by District or on forms approved by District. Such endorsements shall be submitted concurrently with the Contract Documents.

Section 3.15. Fire Insurance

Contractor will procure at Contractor's own expense and before commencement of any work under this Facilities Lease, fire insurance on the Project with course of construction, without exclusions, vandalism, and malicious mischief clauses attached. Amount of fire insurance shall be sufficient to protect against loss or damage in full until Completion, as defined in Section 21.05. Contractor shall submit proof of insurance and shall provide endorsements on forms provided by District or on forms approved by District. Such endorsements shall be submitted concurrently with the Contract Documents. Contractor may provide such coverage through its Builder's Risk policy as described in section 3.17 below.

Section 3.16. Workers' Compensation Insurance

In accordance with the provisions of section 3700 of the California Labor Code, Contractor and every Subcontractor shall be required to secure the payment of compensation to its employees.

Contractor shall provide, during the life of this Facilities Lease, workers' compensation insurance for all of its employees engaged in Work under this Facilities Lease, on or at the site of the Project, and, in case any of its Work is sublet, Contractor shall require the Subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by Contractor's insurance. In case any class of employees engaged in work under this Facilities Lease, on or at the Site of the Project, is not protected under the workers' compensation statute, Contractor, upon learning of the situation, shall cause a Subcontractor to provide, adequate insurance coverage for the protection of such employees not otherwise protected before Subcontractor commences Work. Contractor shall file with District certificates of its insurance protecting its employees and a 30-day notice shall be provided to District before the cancellation or reduction of any policy of Contractor or Subcontractor. Contractor shall submit proof of insurance and shall provide endorsements on the forms provided by District or on forms approved by District. Such endorsements shall be submitted concurrently with the Contract Documents.

Section 3.17. Builder's Risk/"All Risk" Insurance

Contractor, during the progress of the work and until the Date of Completion, as defined in Section 21.05, shall maintain Builder's Risk/"All Risk," course-of-construction insurance issued on a completed value basis on all insurable work included under the Contract Documents. Coverage is to provide extended coverage and insurance for damage to the work and related materials including but not limited to vandalism, malicious mischief, perils of fire, sprinkler leakage, collapse, wind, lightning, smoke, debris removal (including demolition), including completed work and work in progress to the full insurable value thereof. Such insurance shall include District, its trustees, officers, agents, employees and volunteers, the Architect and the Architect's consultants, and any other person with an insurable interest designated by District, individually and collectively, as additional insureds.

The risk of the damage to the work due to the perils covered by the Builder's Risks/"All Risk" Insurance, as well as any other hazard which might result in damage to the work, is that of Contractor and the surety, and no claims for such loss or damage shall be recognized by District nor will such loss or damage excuse the complete and satisfactory performance of this Facilities Lease. Earthquake and Flood coverage is not required and Contractor shall not be responsible for damage caused by such perils. Notwithstanding the foregoing, if other insurance policies also provide coverage damage covered by Contractor's builder's risk policy Contractor's builder's risk insurer may pursue any existing subrogation rights it may have, if any. This Builder's Risk insurance does not need to be in place during preconstruction work, if applicable, but must be in place before construction work begins.

Section 3.18. Other Insurance

Contractor shall provide all other insurance required to be maintained under applicable laws, ordinances, rules, and regulations.

Section 3.19. Proof of Carriage of Insurance

Contractor shall not commence work nor shall it allow any Subcontractor to commence work under this Facilities Lease until all required insurance certificates and endorsements have been obtained and delivered in duplicate to and approved by District, subject to the requirements contained in this Section.

Certificates and insurance policies shall include the following:

(a) A clause stating:

"This policy shall not be non-renewed, canceled or reduced in required limits of liability or amount of insurance until notice has been mailed to District. Date of non-renewal, cancellation or reduction may not be less than thirty (30) days after date of mailing notice."

(b) Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

(c) Statement that District, its trustees, officers, agents, employees and volunteers, the Architect and the Architect's consultants individually and collectively, as additional insureds under the policy described and that such insurance policy shall be primary to any insurance or self-insurance maintained by District.

(d) In the event of the failure of any by Contractor to furnish and maintain any insurance required by this Facilities Lease, Contractor shall be in default under this Facilities Lease. Compliance by Contractor with the requirement to carry insurance and furnish certificates or policies evidencing the same shall not relieve Contractor from liability assumed under any provision of the Contract Documents, including, without limitation, the obligation to defend and indemnify District, its trustees, officers, agents, employees and volunteers, the Architect and the Architect's consultants, individually and collectively, as additional insureds.

(e) Contractor and its Subcontractors shall produce a certified copy of any insurance policy required under this Facilities Lease upon written request of District.

(f) In case of Contractor's failure to provide insurance as required by this Facilities Lease, District may, at District's option, take out and maintain at the expense of Contractor, such insurance in the name

of Contractor, or Subcontractor, as District may deem proper and may deduct the cost of taking out and maintaining such insurance from any sums which are due or to become due to Contractor under this Facilities Lease.

SECTION 4
PERMITS, LICENSES, ORDINANCES, AND REGULATIONS

Section 4.01. Basic Standard

Contractor shall conduct the Work so that all laws and ordinances for the protection of the public and the workers shall be obeyed fully both by Contractor and by all Subcontractors on the Site.

Contractor shall comply with the requirements of the California State Licensing Board and have a valid contractor's license which is to be active as to the date of the receipt of project proposals and/or quotes and maintained in "Good Standing" from the receipt of project proposals and/or quotes throughout the Project. The class of license required is as indicated in the Project Index.

Section 4.02. Permits

District will pay all fees required by the Division of the State Architect, Department of General Services, State of California. District will reimburse Contractor for utility connection fees, encroachment permits, utility service charges other than temporary utility charges; as necessary for the completion of the Work (unless otherwise indicated in the Contract Documents). All other fees and permits shall be at the expense of Contractor and shall be part of the GMP (see Exhibit A to the Facilities Lease). If specific fees are listed in the Contract Documents, those fees will also be the responsibility of Contractor and shall be part of the GMP. Proper documentation of fee, permit, and utility service charges shall be submitted to District through the District Representative for review. No mark-up shall be allowed to Contractor on these reimbursable charges.

Contractor shall give all notices and comply with all laws, ordinances, rules, regulations or orders of any public authority bearing on the performance of the Work.

Except as provided above, District shall secure and pay for necessary approvals, easements, assessments and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

Section 4.03. Compliance with Laws and Regulations

Contractor shall keep itself fully informed of and shall observe and comply with, and shall cause any and all persons, firms, or corporations employed by it or under it to observe and comply with all federal and state laws, and county or municipal ordinances, regulations, orders, and decrees which in any manner affect those engaged or employed on the Work, or the materials used in the Work, or in any way affect the conduct of the Work.

All Work shall be performed in accordance with the rules and regulations, Title 24, Parts 1-5 and 9, California Code of Regulations, and Division of the State Architect, and a copy shall be kept on the job at all times during construction.

Contractor shall give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work as indicated and specified.

If Contractor observes that Plans or Specifications or Contract Drawings are at variance therewith, in consultation with District, Contractor shall promptly notify Architect in writing and any changes deemed necessary by the Architect shall be adjusted as provided for changes in Work. If Contractor performs any Work which it knew, or through exercise of reasonable care should have known, to be contrary to such laws, ordinances, rules or regulations, and without such notice to District, Contractor shall bear all additional direct costs arising therefrom. Contractor shall not be liable if the Architect's Plans and Specifications unambiguously require Work that is inconsistent with law. If Contractor suspects any of Architect's Plans and Specifications require Work that is inconsistent with law, Contractor shall ask Architect for clarification. Where Plans or Specifications or Contract Drawings state that materials, processes, or procedures must be approved by the Division of State Architect, State Fire Marshall, or other body or agency, Contractor shall be responsible for satisfying requirements of such bodies or agencies.

Contractor shall be responsible for familiarity with the Americans with Disabilities Act ("ADA") (42 U.S.C. § 12101 et seq.). Installations of equipment and other devices shall be in compliance with all ADA regulations. If Contractor discovers that the Contract Drawings are at variance with such regulations, Contractor shall submit a RFI to Architect under Section 5.05 below.

SECTION 5
INTERPRETATION OF DRAWINGS AND SPECIFICATIONS

Section 5.01. Familiarity with Project Site Conditions and Contract Documents

By entering into this Facilities Lease, Contractor represents that Contractor has visited the Site, is satisfied as to the nature and location of the Work, is satisfied as to the character, quality and quantity of the Work, has become familiar with the local conditions under which the Work is to be performed, has made whatever contact and investigation with utility companies that it deems necessary, and has correlated its site observations with the requirements of the Contract Documents. Failure to visit the Site will not relieve Contractor of responsibility for observing and considering those conditions which a reasonable and qualified contractor would have observed. Contractor warrants that prior to finalization of the GMP, it will have thoroughly reviewed the Plans and Specifications, asked any clarifying questions about them that may be needed, and agrees they shall be deemed to include and require everything necessary and reasonably incidental to the completion of all work described and indicated in such Plans and Specifications, whether particularly mentioned or shown, or not.

Section 5.02. Subsurface Conditions

Where investigations of subsurface conditions have been made by or on behalf of District with respect to subsurface conditions, utilities, foundations, or other structural designs, and that information is shown on the Contract Drawings or Plans, it represents only a statement by District as to the character of the materials which have been encountered by District's investigation. This information is only included for the convenience of prospective Contractors, the Contractor and Subcontractors.

Investigations of subsurface conditions are made for the purpose of design only. District assumes no responsibility with respect to the sufficiency or accuracy of borings or of the log of test borings or other preliminary investigations or of the interpretation thereof. There is no guaranty, express or implied, that the conditions indicated are representative of those existing throughout the Project or the Work, or any part of the Project or the Work, or that unanticipated conditions may not occur. When a log of test borings, soils studies and/or any other report of subsurface conditions is included with the Contract Drawings or Plans, it is expressly understood that such log, soils studies and/or report of subsurface conditions are not a part of the contract, represents only a consultant's opinion as to the character of the materials to be encountered but Contractor may reasonably rely on the information in such report. The District makes no warranty regarding the completeness or accuracy of any such report or other information regarding subsurface conditions.

Nothing herein contained shall be deemed a waiver by Contractor to pursue any available legal right or remedy it may have at any time against any third party who may have prepared any report and/or test relied upon by Contractor.

Section 5.03. Concealed or Unknown Conditions

If conditions are encountered at the Site which are subsurface or otherwise concealed physical conditions, which differ materially from those indicated in the Contract Documents, or unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than ten (10) calendar days after first observance of the conditions. Architect, in consultation with District, will promptly investigate such conditions, and if they differ materially and cause an increase or decrease in Contractor's cost of, time required for, or performance of any part of the work, will recommend an equitable use of contingency. If Architect, in consultation with District, determines that the conditions at the Site are not materially different from those indicated in the Contract Documents the Architect, in consultation with District, shall so notify Contractor in writing, stating the reasons. Architect's response to the claim must be made within ten (10) calendar days of receipt of the claim, if possible.

Section 5.04. Sections of Drawings and Specifications

For convenience, the Plans, Specifications and Contract Drawings in the Contract Documents are arranged in several sections, but this separation shall not be considered as the limits of the work required of any separate trade. The scope

of work is that indicated in the Project Index (which is part of this Project Manual). The terms and conditions of the work to be performed by any Subcontractor are strictly between Contractor and the Subcontractor.

Section 5.05. Interpretation and Additional Instructions

Should Contractor discover any conflicts, omissions, or errors in the Contract Documents, or have any question concerning interpretation or clarification of the Contract Documents, or if it appears that the Work to be done or any matters relative thereto are not sufficiently detailed or explained in the Contract Documents, then before proceeding with the work affected, Contractor shall within forty-eight (48) hours notify the District Representative in writing and request interpretation, clarification, or additional detailed instructions and/or drawings concerning the work. All such questions shall be resolved and instructions to Contractor issued by the Architect, in consultation with District.

Should Contractor proceed with the Work affected before receipt of instructions from the Architect, and, in the case of a change to the Work, before receipt of authorization to proceed, it shall remove and replace or adjust any Work which is not in accordance therewith, and it shall be responsible for any resultant damage, defect, or added cost without an extension of the Term of this Facilities Lease.

Section 5.06. Construction Change Directive (CCD)

In addition to the Contract Drawings incorporated in the Contract Documents, the Architect, through the District Representative, may furnish such supplemental drawings or instructions from time to time as may be necessary to make clear or to define in greater detail the intent of the Contract Drawings and Specifications. In furnishing additional drawings or instructions, District, via the Architect, shall have the authority to make minor changes in the Work, not involving any extra cost, and not inconsistent with the overall design of the Project. These supplemental drawings and instructions shall become a part of the Contract Documents; and Contractor shall make its work conform to them.

Section 5.07. Notification of Disagreement Regarding Scope of Work

If agreement cannot be reached as to cost, and Contractor does not agree that work due to an interpretation or supplemental drawing or instruction is within the scope of the Contract Documents, Contractor shall, within seven (7) days after receipt of the interpretation or instruction, submit a change request to the District Representative specifying in detail in what particulars the contract requirements were exceeded and request that a Change Order be issued to adjust the GMP and/or the Date of Completion resulting therefrom. The District Representative shall then determine whether a Change Order is issued.

Contractor shall nevertheless perform such work without delay.

The time during which any such change order request is pending shall not affect the Term of this Facilities Lease.

Section 5.08. As-Built Drawings and Specifications

Contractor will prepare and maintain on a current basis an accurate and complete set of Record Drawings showing clearly all changes, revisions, and substitutions during construction, including, without limitation, field changes and the final location of all mechanical equipment, utility lines, ducts, outlets, structural members, walls, partition, and other significant features, and annotated specifications showing clearly all changes, revisions, and substitutions during construction. Record drawings are to remain on site. Contractor shall require each trade to do its own Record Drawings. A copy of such Record Drawings and annotated specifications will be delivered to District in accordance with the schedule prepared by Contractor.

The information to be recorded by Contractor, will be determined by the Architect. Contractor's as-built information shall be clear and legible, and at a minimum, the following information shall be inserted and dimensioned on those drawings and specifications, in RED, by Contractor: the exact horizontal and vertical location of all installations in their finished condition; posting of all issued addenda and Architectural/Engineer CCD’s and RFI’s to the approved project documents; adequate dimensional data, both horizontal and vertical, to allow location of covered installations; the identification of changes authorized by Change Order, and the number of that Change Order. The updated drawings and specifications shall be available for review by the District Representative and the Project Inspector.

Written confirmation from the District Representative that the as-builts have been properly updated weekly shall be submitted with each pay application request, and the existence of such properly updated as-builts shall be a condition precedent to payment. Failure to comply with the preparation and submission of as-builts may result in District withholding the current Tenant Improvement Payment.

As a condition to certification of final completion, Contractor shall provide the original as-built drawings and specifications, together with all additional information requested by the Architect to enable the Architect to prepare a set of final, reproducible as-built drawings and specifications. Timely submission of complete as-built documents shall be a condition precedent to certification of final completion and to issuance of the final Tenant Improvement Payment. Delays in the submission of complete as-built documents may subject Contractor to liquidated damages. Final as-builts may be provided in an electronically generated format mutually agreeable to District's Representative and Contractor.

Section 5.09. Drawings and Compliance with the Law

Contract Drawings and Specifications are intended to comply with all laws, ordinances, rules and regulations of constituted authorities having jurisdiction, and where referred to in the Contract Documents, said laws, ordinances, rules and regulations shall be considered as a part of this Facilities Lease within the limits specified. Contractor shall bear all expenses of correcting work done contrary to said laws, ordinances, rules, regulations, and the Contract Documents.

Section 5.10. Layout and Field Engineering

All field engineering required for laying out of this Work and establishing grades for earthwork operations shall be furnished by Contractor at its expense. Such Work shall be done by a licensed surveyor or qualified engineer. Any required Record Drawings of site development shall be prepared by the approved licensed surveyor or qualified engineer.

Section 5.11. Ownership Of Drawings, Specifications And Other Documents

All Contract Drawings, Specifications, and other incidental architectural and engineering work or materials and other Contract Documents and copies thereof furnished by District are District’s property. They are not to be used in other work and are to be returned to District on request at completion of the Work, and may be used by District as it may require, without any additional costs to District, and without approval from Contractor.

Section 5.12. Notification of Non-compliance

Before commencing any portion of the Work (in its capacity as a contractor and not a design professional), Contractor shall check and review the Drawings and Specifications for such portion for conformance and compliance with all laws, ordinances, codes, rules and regulations of all governmental authorities and public utilities affecting the construction and operation of the physical plant of the Project, and quasi governmental and other regulations affecting the construction and operation of the physical plant of the Project, and other special requirements, if any, designated in the Contract Documents. In the event Contractor observes any violation of any law, ordinance, code, rule or regulation, or inconsistency with any such restrictions or special requirements of the Contract Documents, Contractor shall promptly notify Architect and District in writing of same and shall ensure that any such violation or inconsistency shall be corrected in the manner provided hereunder prior to the construction of that portion of the Project.

SECTION 6
SUBCONTRACTOR LISTING AND SUBSTITUTION

Section 6.01. Subcontracting

If Contractor subcontracts any Work to be performed or materials to be supplied pursuant to this Facilities Lease, Contractor shall be as fully responsible to District for the acts and/or omissions of such Subcontractor or supplier and of the persons either directly or indirectly employed or engaged as Subcontractor by such Subcontractor or supplier as it is for its own acts and omissions.

Contractor shall bind every Subcontractor or supplier, and every subcontractor of a Subcontractor, by the terms of the Contract Documents.

Contractor shall cause each of its Subcontractors, by contract, to have a valid contractor's license pertaining to its classification of Work maintained in "good standing" from receipt of project proposals throughout the Project.

Contractor shall cause each of its mechanical, electrical, and plumbing Subcontractors, by contract, to be prequalified pursuant to Education Code section 17406 and Public Contract Code section 20111.6.

Contractor shall not perform Work on the Project with a Subcontractor who is ineligible to perform work on public works project pursuant to Labor Code sections 1777.1 or 1777.7.

Section 6.02. Disputes Between Subcontractor and/or The Contractor

If, through acts or neglect on the part of Contractor, including failure to supervise and control its subcontractor or suppliers, any other contractor, subcontractor or supplier, or worker suffers loss or damage, Contractor agrees to settle with such other contractor, subcontractor, supplier, or worker by agreement or arbitration, if such other contractor, subcontractor, or worker shall assert any claim against District or any of its officers, agents, or employees, on account of any damage alleged to have been so sustained.

In the event of the receipt of any such claim, District shall notify Contractor, who shall defend, indemnify, and save harmless District and all of its officers, agents, and employees against any such claim.

Section 6.03. Subcontractor Listing for Labor Compliance Program

The Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. In accordance with Labor Code section 1771.1, all bidders, contractors and subcontractors working at the Site shall be duly registered with the Department of Industrial Relations at time of submission of a Proposal and at all relevant times. Proof of registration shall be provided as to all such contractors prior to the commencement of any work. Contractor shall not substitute a person or entity as a Subcontractor in place of a Subcontractor on the subcontractor list from commencement of the Work through final completion of the Project without prior written consent from the District.

Section 6.04. Dealings with Subcontractor

District and its representatives will deal only with Contractor, and Contractor shall be responsible for the proper execution of the Work. Any and all discussions between any Subcontractor or supplier and District or any of its representatives shall be initiated through Contractor or its representative.

Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor or supplier and District or any of its representatives, nor shall this Facilities Lease be construed to be for the benefit of any Subcontractor or supplier.

However, a copy of each subcontract shall be filed with District within a reasonable time after any request by the District. Each subcontract shall contain a reference to this Facilities Lease between District and Contractor and the terms of this Facilities Lease and all parts of the Contract Documents shall be made a part of such subcontract insofar as applicable to the work covered thereby. Each subcontract will provide for termination in accordance with Section 18 of these General Conditions.

Section 6.05. Termination of Unsatisfactory Subcontractor

When any portion of the Work that has been subcontracted by Contractor is not being prosecuted in a satisfactory manner, or when materials supplied do not conform to the Contract Documents and these deficiencies form the basis of a default notice issued pursuant to Section 16 of these General Conditions, District may direct Contractor to discharge the Subcontractor or supplier.

Any Subcontractor or supplier which is discharged shall not again be employed on this Project.

Any termination of a Subcontractor pursuant to this Section 6.05 shall be with the District's prior written consent in strict conformity with the requirements of the Subletting and Subcontracting Fair Practices Act, Part 1 of Division 2 of the Public Contract Code, commencing with Section 4100.

Section 6.06. Selection of Subcontractors

In the interest of minimizing the expenditure of funds for the Work necessary to Complete the Project, Contractor acknowledges that it will provide public notice of availability of Work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the school district, including a fixed date and time on which qualifications statements, bids, or proposals will be due. Contractor shall award the subcontract either on a best value basis or to the lowest responsible bidder upon approval of the District.

Section 6.07. Self Performance of Work

Nothing in this section shall be construed to prohibit Contractor from self-performing Work required to be Completed under this Facilities Lease, so long as such self-performance is in compliance with all other provisions of this Facilities Lease, subject to the GMP.

SECTION 7
STATE REQUIREMENTS REGARDING WAGE, HOUR, AND EQUAL OPPORTUNITY

Section 7.01. Wage Rates

Pursuant to the provisions of Article 2 (commencing at Section 1770), Chapter 1, Part 7, Division 2 of the California Labor Code, the governing body of District has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification, or type of workmen needed to execute the contract.

Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, travel time and subsistence pay as provided in Labor Code section 1773.1 apprenticeship or other training programs authorized by Labor Code section 3093, and similar purposes when the term "per diem wages" is used herein.

Each worker needed to execute the Work must be paid travel and subsistence payments as defined in the applicable collective bargaining agreements filed in accordance with Labor Code section 1773.1(f).

Holiday and overtime Work when permitted by law shall be paid for at rates specified by law and the applicable prevailing wage classification.

Each worker of the Contractor or any of its Subcontractors engaged in Work on the Project shall be paid not less than the prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any Subcontractors and such workers.

Copies of the determined prevailing wage rates are on file and available upon request from the District and are otherwise available at http://www.dir.ca.gov/. Contractor shall be responsible for knowing and implementing all prevailing wage rates at all times during the Project. Contractor shall post, at appropriate conspicuous points on the site of the Project, a schedule showing all determined general prevailing wage rates.

Section 7.02. Labor Compliance Program; Record of Wages Paid; Inspection

Contractor shall be required to comply with all the requirements of the California Labor Code and the California Code of Regulations, including, but not limited to: Chapter 1 of Part 7 of Division 2 of the Labor Code (§ 1720 et seq.); California Code of Regulations, Title 8, Chapter 8, Subchapters 3 & 4 (§ 16000 et seq.); and California Code of Regulations, Title 8, Chapter 8, Subchapter 4.5 (§ 16450 et seq.). It shall be the Contractor's responsibility to evaluate the cost of complying with the Department of Industrial Relations. The Contractor shall include all costs of compliance with specified requirements in the GMP.

a. Contractor and Subcontractors shall not be qualified to bid on, be listed on a bid proposal (subject to the requirements of Public Contract Code section 4104), or engage in the performance of any public work unless currently registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5, except under the limited circumstances set forth in Labor Code section 1771.1, subdivision (a).

b. Pursuant to Labor Code section 1771.4, this Agreement is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each Contractor and Subcontractor performing Work under the Agreement shall be required to comply with the provisions of the California Labor Code section 1720 et seq., and the regulations of the Department of Industrial Relations' Division of Labor Standards Enforcement (i.e., the Labor Commissioner), including, but not limited to, the standard provisions requiring payment of prevailing wages, maintenance and submission of certified payroll records, and the hiring of apprentices as appropriate. Unless otherwise specified, the Contractor shall be required to post job site notices regarding the requirements of this paragraph, as prescribed by regulation.

The requirements of Labor Code section 1776 are incorporated herein by reference.

The requirements of Government Code section 8546.7 are incorporated herein by reference.

Section 7.03. Wage Rate for Crafts Not Listed

The responsibility to check prevailing wage rates is Contractor's. Pursuant to Labor Code section 1773.4, Contractor may file with the Director of DIR or the Chief of the Division of Labor Standards Enforcement ("DLSE") a petition to review a determination of any rate or rates made by the Director of DIR. Contractor may also petition the Director of DIR to make a determination for a particular craft, classification or type of work not covered by a general determination. Pending the review or determination, the wages may be assumed to be those in the applicable collective bargaining agreement, but no adjustment in the project proposal or Contract Price shall be made if such assumption is incorrect.

Section 7.04. Records of Hours Worked and Wages

Contractor shall maintain, and shall cause all Subcontractors on the Project to maintain, records of the hours and wages of all employees employed on the Project in accordance with existing law.

Section 7.05. Intentionally left blank.

Section 7.06. Intentionally left blank.

Section 7.07. Penalties

The penalties prescribed by Articles 2 and 3, Chapter 1, Part 7, Division 2 of the Labor Code, particularly sections 1775, 1776, 1777.7 and 1813 are incorporated herein by reference.

Section 7.08. Apprentices

Contractor acknowledges and agrees that, if this Facilities Lease involves a dollar amount greater than or a number of working days greater than that specified in Labor Code section 1777.5, this Facilities Lease is governed by the provisions of Labor Code section 1777.5. It shall be the responsibility of Contractor to ensure compliance with this Section and with Labor Code section 1777.5 for all apprenticing occupations. Contractor shall comply with all applicable laws regarding apprentices.

Section 7.09. Hours of Work; Approval of Schedules

Eight (8) hours of labor constitutes a legal day's work, and forty (40) hours constitutes a legal work week. No worker employed at any time by Contractor, or by any Subcontractor upon the Project, shall be required or permitted to work more than eight (8) hours in any one (1) calendar day or forty (40) hours in any one week, except as provided in Labor Code sections 1810 through 1815.

All applicable laws and penalties pertaining to hours of work and overtime and related penalties are incorporated herein by reference.

Section 7.10. Compliance with State Anti-Discrimination Laws

Contractor shall comply with section 1735 of the Labor Code, which provides as follows:

> "A contractor shall not discriminate in the employment of persons upon public works on any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, except as otherwise provided in Section 12940 of the Government Code. Every contractor for public works who violates this section is subject to all the penalties imposed for a violation of [Chapter 1 of Part 7, Division 2 of the Labor Code]."

Section 7.11. Job Start Meeting

District may, at its option, conduct a mandatory labor compliance pre-job meeting ("Job Start Meeting"), which is for Contractor and Subcontractors. The Job Start Meeting will discuss the payment of prevailing wages, apprenticeship training, penalties, certified payroll records as well as non-discrimination in employment, kickbacks, acceptance of prohibited fees, proper licensing, unfair competition, and worker's compensation insurance. Follow up web conference training session may be required and should be planned by Contractor and Subcontractor in advance of submitting certified payroll records.

Section 7.12. Indemnity

Contractor agrees to hold harmless and indemnify the District, its Board members, and its officers, employees and agents from any and all claims, liability, loss, costs, damages, expenses, fines and penalties, of whatever kind or nature, including all costs of defense and attorneys' fees, arising from any alleged failure of Contractor or its subcontractors to comply with the Prevailing Wage Laws of the State of California. If the District or any of the indemnified parties are named as a party in any Dispute arising from the failure of Contractor or its subcontractors to pay prevailing wages, Contractor agrees that the District and the other indemnified parties may appoint their own independent counsel, and Contractor agrees to pay all attorneys' fees and defense costs of the District and the other indemnified parties as billed, in addition to all other damages, fines, penalties and losses incurred by the District and the other indemnified parties as a result of the action.

SECTION 8
SUPERVISION AND LABOR

Section 8.01. Supervision Procedures

Contractor shall supervise and direct the Work using its best skill and attention. Contractor shall be solely responsible for all construction means, methods, techniques, and procedures and for coordinating all portions of the Work under this Facilities Lease.

Contractor shall be responsible to District for the acts and omissions of its employees, Subcontractor and their agents and employees and other persons performing any of the Work. Contractor shall supervise and direct the work competently and efficiently, devoting such attention thereto and applying such skills as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall carefully study and compare all Contract Drawings, specifications, and other instructions and shall at once report to District Representative any error, inconsistency or omission which Contractor or its employees may discover. Contractor represents itself to District as a skilled, knowledgeable, and experienced contractor. Contractor shall carefully study and compare the Contract Documents with each other, and shall at once report to District Representative any errors, inconsistencies, or omissions discovered. Contractor shall be liable to District for damage resulting from errors, inconsistencies, or omissions in the Contract Documents that Contractor recognized and which Contractor knowingly failed to report and which a similarly skilled, knowledgeable, and experienced contractor would have discovered.

Contractor shall hire and supervise employees and Subcontractors in accordance with law.

Contractor shall not be relieved from its obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Architect or the District Representative in their administration of this Facilities Lease or by inspections, tests or approvals (or the lack thereof) required or performed under Section 9 of these General Conditions by persons other than Contractor.

Section 8.02. Skilled Labor

Use the following language if there is a Project Labor Agreement:

[Contractor shall execute an agreement to be bound by, and shall comply with the provisions of the District's Project Labor Agreement.]

Use the following language if there is not a Project Labor Agreement:

[All non-apprentice labor shall have the skills of a journeyman in the applicable trade. All workmanship shall be of the quality and finish required by the Contract Documents in all respects.

The Contractor shall comply with Education Code section 17407.5, Public Contract Code section 2600 et seq., as modified by AB 3018, and applicable provisions of law which require the Contractor and its Subcontractors at every tier to employ a "skilled and trained workforce", to perform all Work on the Project that falls within an apprenticeable occupation in the building and construction trades. For the purpose of this Section, the definitions set forth in Public Contract Code section 2600 et seq. shall apply.

Contractor shall provide written compliance reports to the Owner on a monthly basis while the Project is being performed, using in a format acceptable to the District and sufficient to demonstrate compliance with this Section. Such compliance reports shall be subject to the California Public Records Act (commencing with Gov. Code, § 7920.000), and shall be open to public inspection.

The reports will include: (a) each Subcontractor's name and license number, or list the Contractor if the Contractor is self-performing the applicable scope of Work; (b) that each worker is either a registered apprentice in an apprenticeship program approved by the State or a skilled journeyperson; (c) that of the skilled journeypersons for

each Subcontractor and the Contractor, which are graduates of an approved apprenticeship program. It shall be sufficient for the Contractor to state the number of workers in each applicable category.

Each report must be submitted within 30 days of the end of the preceding month and shall include all work performed during the preceding month. If reports are unsubmitted or incomplete, the District shall withhold payments from the Contractor equal to 150% of the value of the monthly billing for the relevant Subcontractor(s), which the Contractor shall be entitled to withhold from the Subcontractor(s).

If Contractor submits to the District an acceptable plan to achieve substantial compliance the District shall resume making payments to the Contractor, unless it rejects the plan as insufficient, in which case District shall explain its rejection.

District shall forward to the Labor Commissioner a copy of any Contractor's monthly report submitted to the District that fails to comply with Public Contract Code section 2602, et seq. In the event that the Contractor submits a plan to the District to achieve substantial compliance with Public Contract Code 2601 et. seq., the District shall forward a copy of that plan to the Labor Commissioner.]

Section 8.03. No Tenancy

All workers, contractors, or contractors representatives are admitted to the Site only for the proper execution of the Work, and have no tenancy.

Section 8.04. Dismissal of Unsatisfactory Employees

All employees engaged in the Work will be considered employees of Contractor or the specific Subcontractor that retained the individual.

Contractor shall at all times enforce strict discipline and good order among all employees including compliance with the District Guidelines for Conduct on the School Site and shall not employ on the Work any unfit person or anyone not skilled in the assigned task as defined in Section 8.02 hereof. Contractor shall remove, or cause a Subcontractor to remove from the Project, any incompetent employee, or any employee not skilled for the type of work required as defined in Section 8.02 hereof, or any employee who does not comply with the District Guidelines for Conduct on the School Site. District may require that Contractor immediately remove from the Work any employee for cause.

Section 8.05. Personal Attention and Superintendence; Contractor's Agent

Contractor shall supervise the Work to the end that it shall be faithfully prosecuted. Contractor shall at all times, while Contractor's Work is in progress, keep a full-time superintendent who is fully empowered to act as agent for Contractor on the Site. If the Facilities Lease includes more than one site, the Contractor shall keep a full-time superintendent on each of the sites while the Contractor's scope of work is in progress. The superintendent must be competent, English-speaking and satisfactory to District. Contractor shall advise District in writing of its agent prior to the start of any Work. Contractor shall provide résumés for all of Contractor's supervisory employees to be assigned to the Project for District review, and District may reject any supervisory employees not deemed to be qualified at the sole discretion of District. Contractor shall be responsible for the faithful observation of all instructions delivered to its authorized agent(s).

If Contractor's superintendent performs labor on the Project, Contractor shall cause the superintendent to be paid at the prevailing wage for the classification of Work performed and in accordance with law without any increase to the GMP.

Section 8.06. Inspection of the Work of Other Contractors or Subcontractors

It shall be the duty of Contractor and all of its Subcontractors, before beginning any Work, to examine all construction and work of other contractors that may affect their Work, and to satisfy themselves that everything is in proper condition to receive such Work. Contractor shall notify the District Representative in writing prior to starting Work of any discrepancies or conditions which deviate from the Contract Documents or are otherwise unacceptable. Failure

on the part of Contractor to so notify the District Representative shall constitute an acceptance by Contractor and all Subcontractors of all construction in place as being suitable in all respects to receive further work by Contractor or Subcontractors.

Notwithstanding the foregoing, Contractor's examination shall be limited to a reasonable visual inspection, except where circumstances would cause a reasonable contractor to conduct further examination. Contractor shall not be responsible for latent conditions or conditions which could not be discovered based on said examination.

Section 8.07. Contractor's Coordination of Work

District reserves the right to do other work in connection with the Project by separate contract or otherwise. Contractor shall at all times conduct its work so as to impose no hardship on District or others engaged in the Work. Contractor shall adjust, correct and coordinate its work with the work of others so that no delays or discrepancies shall result in the whole Project. District shall also adjust, correct, and coordinate its work by separate contract so that no delays or discrepancies shall result in the whole Project.

Section 8.08. Reports

No less than on a weekly basis, Contractor’s superintendent shall submit to the District Representative daily field reports on a form mutually acceptable to Contractor and District's Representative. Daily field reports shall include, without limitation, the identity of Subcontractor on the Site; an accurate headcount of workers on the Site; materials and equipment delivered to the Site; visitors to the Site; and any problems encountered.

Section 8.09. Fingerprinting

In accordance with Education Code section 45125.2 the Contractor shall, at Contractor's own expense, either (a) install a physical barrier to limit contact with students by Contractor and/or Contractor's employees, or (b) provide for the continuous supervision and monitoring of the Contractor and/or Contractor's employees (including but not limited to any employees involved in the contract closeout process), by an employee of the Contractor who has received fingerprint clearance from the California Department of Justice, or (c) provide for the surveillance of the Contractor and Contractor's employees by a District employee; and (d) Contractor and Contractor's employees shall not use student restroom facilities.

SECTION 9
INSPECTION AND TESTING

Section 9.01. Inspection

Tests and inspections will comply with California Code of Regulations Title 24, Section 4-335.

If this Facilities Lease, District's instructions, laws, ordinances, or any public authority require any Work to be specially tested or approved, Contractor shall give notice in accordance with such authority of its readiness for observation or inspection at least two (2) working days prior to being tested or covered up. Contractor shall complete and submit a Request for Inspection form to the District Representative and/or Project Inspector. If inspection is by authority other than District, Contractor shall inform the District's Project Inspector of the date fixed for such inspection. Required certificates of inspection shall be secured by Contractor. Observations by District's Project Inspector shall be promptly made, and where practicable, at source of supply. If any Work should be covered up without approval or consent of District's Project Inspector, it must be uncovered for examination and satisfactorily reconstructed at Contractor's expense in compliance with this Facilities Lease. Costs of any tests, inspections or any materials found to be not in compliance with this Facilities Lease shall be paid for by Contractor. Other costs for test and inspection shall be paid by District.

Section 9.02. Authority of Project Inspector; Stop Work Notices

One or more Project Inspector (s), including special inspectors, as required, will be employed by District in accordance with requirements of Title 24 of the California Code of Regulations and will be assigned to the Project. Duties of an Inspector are specifically defined in Section 4-342 of Title 24. The Project Inspector shall have all rights and duties prescribed by law.

No Work shall be performed by Contractor solely upon the instructions or comments by the Project Inspector. The Project Inspector has no authority to interpret the Contract Documents or order extra work and any extra work performed without the written instruction of District shall be at Contractor's sole cost and expense and there will be no delay damages incurred by District for such work. The Project Inspector is not authorized to make changes in the Contract Drawings or Specifications nor shall the Project Inspector's approval of the Work and the methods relieve Contractor of responsibility for the correction of subsequently discovered defects, or from its obligation to comply with the Contract Documents.

No Work shall be carried on except with the knowledge and under the inspection of said Project Inspector(s). He/she shall have free access to any or all parts of work at any time. Contractor shall furnish Project Inspector reasonable opportunities for obtaining such information as may be necessary to keep Project Inspector fully informed respecting progress and manner of Work and character of materials. Inspection of the Work shall not relieve Contractor from any obligation to fulfill the Contract Documents. District and District's Representative shall have authority to stop Work whenever provisions of Contract Documents are not being complied with and such noncompliance is discovered. In addition, District and District Representative may stop any Work which poses a probable risk of harm to persons or property. Additionally, the Division of the State Architect may stop Work at its discretion. Contractor shall instruct its employees, Subcontractors, material and equipment suppliers, etc., accordingly. The absence of any Stop Work order or rejection of any portion of the work shall not relieve Contractor from any of its obligations pursuant to the Contract Documents.

Upon issuance of a stop work notice, Architect shall review the Work in question and determine whether it does or does not comply with the Contract Documents. The decision of District shall be final. Contractor shall thereafter comply with the instructions of the Architect regarding corrections needed to cure the defect, subject to the dispute resolution process below. The suspended Work shall be resumed only when the instructions are fulfilled. Contractor shall not be entitled to an extension of time in the event of such suspension of Work.

Prior to issuing a Stop Work Notice whenever provisions of Contract Documents are not being complied with, the Project Inspector or Architect may elect to notify Contractor with a "Notice of Non-Compliance" whenever provisions of Contract Documents are not being complied with. Contractor shall thereafter comply with the instructions of the District Representative regarding corrections needed to cure the defect. Should Contractor comply with the Notice of Non-Compliance, Work will not be suspended and a Stop Work Notice will not be issued. Should Contractor not

comply with the Notice of Non-Compliance, District may correct the same and charge the expense to the GMP, per Section 17 of these General Conditions.

District and District's Representative have the option of not issuing a Notice of Non-Compliance and may issue a Stop Work Notice immediately.

Section 9.03. Effect of Inspections

Neither the final inspection and payment, nor any interim inspection or Tenant Improvement Payment shall relieve Contractor of its obligation to fulfill this Facilities Lease as required by the Contract Documents.

Any Work, materials or equipment not meeting the requirements of the Contract Documents may be rejected, and unsuitable Work or materials shall be made good, notwithstanding the fact that such Work or materials may previously have been inspected and/or payment therefore may have been made.

Notwithstanding the foregoing, Contractor shall not be required to comply with the Contract Documents if such deviation has been agreed upon in writing between Contractor and District.

Section 9.04. Notice to District of Inspection

Where the Contract Documents, instructions by the Project Inspector, District Representative or the Architect, laws, ordinances, or any public authority having jurisdiction require Work to be inspected, tested or approved before the Work proceeds, such Work shall not proceed, nor shall it be covered up without inspection. If any part of the Work is covered prior to inspection, District may order the work to be uncovered so that inspection may be accomplished. Contractor shall bear all expenses of such examination and satisfactory reconstruction.

Contractor shall provide written notice to the Project Inspector at least twenty-four (24) hours in advance of the readiness for inspection. Contractor shall complete and submit the Request for Inspection form to the District Representative and/or the Project Inspector, per Section 9.01 hereof.

All Work shall be available for inspection and the Project Inspector shall have full access to review all Work during all working times. Contractor shall provide all necessary means of safe access (e.g. ladders) for the Project Inspector to perform his/her duties. Contractor shall furnish the Project Inspector with any information necessary to fully inform him/her of conditions. Inspection does not relieve Contractor from fulfilling the requirements of the Contract Documents.

Section 9.05. Inspector's Field Office

Contractor may be required to establish a field office, at the District’s discretion. If so, Contractor shall comply with the requirements of the Project's specifications.

Section 9.06. DSA Field Representative

For contracts requiring DSA approval, the Division of the State Architect will designate a field representative who will visit the Site periodically to review with the Project Inspector compliance of the Project with CCR Title 24 requirements. The DSA field representative may require certain modifications to the Project as constructed. Such information may also be disseminated through the District's Representative or the Architect. In the event Contractor believes they are outside the scope of this Facilities Lease, it shall proceed as set forth in Section 5.07 of these General Conditions.

Section 9.07. Overtime work

Whenever Contractor arranges to Work at night or any time when Work is conducted other than the normal 40-hour week, or to vary the period during which Work is carried on each day, it shall give the District Representative and the Project Inspector a minimum of forty-eight (48) hours written notice so that inspection may be provided. Contractor shall complete and submit the Request for Inspection form to the District Representative and/or the Project Inspector, per Section 9.01 hereof. Additional inspection costs incurred because of overtime or shift work shall be paid by

District. If this overtime work is necessitated by Contractor's error or failure to perform, the cost of inspection will be borne by Contractor.

Section 9.08 Materials Which May be Tested

District reserves the right to require Contractor to provide samples, and to perform tests on any materials, articles, equipment, installations, or construction performed by Contractor in addition to those specified in the Contract Documents. District shall assume the cost of sampling and testing materials only when the Contract Documents do not require Contractor to do so.

Section 9.08. Testing

All tests shall be performed under the supervision of the testing laboratory or consultant employed by District, and approved by DSA and at such times as are convenient to District. Contractor shall provide written notice to the District Representative or Project Inspector at least twenty-four (24) hours prior to the need for off-site tests or inspections, and the District Representative and/or the Project Inspector will arrange such tests or inspections. Contractor shall complete and submit the Request for Inspection form to the District Representative and/or the Project Inspector, per Section 9.01 hereof. Contractor shall bear all additional expenses (if any) of tests performed where Contractor failed to provide this minimum notice.

Section 9.09. Selection of Samples

All samples and specimens for testing shall be selected by the Project Inspector or by the testing laboratory, but not by Contractor. All samples submitted for testing shall remain the property of District.

Section 9.10. Delivery of Samples

As part of the costs covered by the GMP, Contractor shall provide and deliver all samples to be tested at locations other than the Site. Samples shall be delivered either to the Project Inspector or to the testing laboratory or such other address specified in the Contract Documents.

Delivery of all samples to the testing laboratory shall be made in ample time to allow the test to be made without delaying construction. No extra time will be allowed for the completion of the Work by reason of delay in testing samples required by the Contract Documents or due to Contractor's request for substitution.

Contractor shall allow free access at all times to the representatives of the testing laboratory to the Work, and shall point out the sources from which samples are taken.

All test reports shall be sent to all parties specified in the Contract Documents.

Section 9.11. Approval of Samples

No materials or Work of which samples and/or tests are required shall be used or covered until the District Representative or the Project Inspector informs Contractor that such samples and/or tests have been approved. If Contractor installs, uses, or covers any such material, article, or Work prior to testing and approval, such shall be at Contractor's sole risk and expense, and it shall bear all costs of uncovering, repair, and replacement thereof.

The approval of any samples shall be for the characteristics thereof, or for the uses named in such approval, and no other. No approval of any samples shall be deemed a change or modification in any requirement of the Contract Documents. Upon testing of any sample of material or work, no additional sample shall be considered. All material or Work installed after the sampling and testing is performed and approved shall be equal to or better than the approved sample in all respects and shall be accompanied by documentary proof that the material and Work sampled is actually representative of that installed.

Section 9.12. Intentionally left blank.

Section 9.13. Retesting

If as a result of any test, whether originally specified or not, any material or Work is found to be unacceptable, it shall be rejected, and all further sampling and testing required by District or District Representative shall be at Contractor's expense.

Section 9.14. Effect of Sampling and Testing

District assumes no obligation, and Contractor shall be relieved of no obligation undertaken pursuant to the Contract Documents by virtue of sampling and testing specified in this Section.

The responsibility for incorporating satisfactory materials and workmanship which meet the Contract Documents in the Work rests entirely with Contractor, notwithstanding any prior samples or tests.

SECTION 10
PROTECTION OF WORKERS, PUBLIC AND PROPERTY

Section 10.01. Safety Precautions and Programs

Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work, for maintaining all safety and health conditions on the Site and for ensuring against and/or correcting any hazardous conditions on the Site. Also, in no case shall District, the District Representative, the Architect, the Project Inspector, or their agents, employees or representatives, have either direct or indirect responsibility for the means, methods, techniques, sequences or procedures utilized by Contractor, or for safety precautions and programs in connection with the Work, or for maintaining any safety or health conditions on the Site, or for ensuring against or correcting any hazardous conditions on the Site created by the performance of the Work.

Certain Work may be ongoing at the time school is in session; therefore, Contractor shall take precautions to prevent injury and access to children and staff and shall comply with District's Guidelines for Onsite Safety. Material storage and vehicle access and parking shall be subject to District approval.

The use of alcohol, drugs, or tobacco will not be permitted on District property. Contractor access to areas outside construction area is prohibited, unless accompanied by the District Representative. Only incidental contact will be allowed with students. All representatives of Contractor will present themselves with appropriate language, actions and work wear while on construction site.

Contractor shall designate a responsible member of its organization at the Site whose duty shall be the prevention of accidents and overall jobsite safety for Contractor/Subcontractor employees and visitors. This person shall be the Contractor superintendent unless otherwise designated by Contractor in writing to the District Representative.

Section 10.02. Labor – First Aid

Contractor shall maintain emergency first aid treatment for Contractor's workers on the Project which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C.A., § 651 *et seq.*).

Section 10.03. Protection of Persons and Property

Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of this Facilities Lease and shall take all reasonably necessary measures and be responsible for the proper care and protection of all materials delivered to Contractor and Work performed by Contractor until Completion as defined in Section 21.05 (such risk may be covered by insurance required to be maintained under this Facilities Lease). Contractor shall provide such heat, covering, and enclosures as are necessary to protect all Work, materials, equipment, appliances, and tools against damage by weather conditions. By way of example only, Contractor shall not be responsible for damage caused by "acts of God" as defined in Public Contract Code section 7105.

Contractor shall take, and require Subcontractors to take, all necessary precautions for safety of workers and shall comply with all applicable federal, state, local and other safety laws, standards, orders, rules, regulations, and building codes to prevent accidents or injury to persons on, about, or adjacent to the Site and to provide a safe and healthful place of employment due to conditions created by the performance of the Work. Contractor shall furnish, erect and properly maintain at all times, as directed in writing by District or Architect or required by conditions and progress of Work, all necessary safety devices, safeguards, construction canopies, signs audible devices for protection of the blind, safety rails, belts and nets, barriers, lights, and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible employee, whose duty shall be to post information regarding protection and obligations of workers and other notices required under occupational safety and health laws, to comply with reporting and other occupational safety requirements, and to protect the life, safety and health of workers due to conditions created by the performance of the Work. Name and position of person so designated shall be reported in writing to District by Contractor. Contractor shall correct any violations of safety laws, standards, orders, rules, or regulations due to conditions created by the performance of the Work. Upon the issuance of a citation or notice of violation by the Division of Occupational

Safety and Health caused by Contractor or its Subcontractors, such violation shall be corrected immediately by Contractor at Contractor's expense.

In an emergency affecting safety of person or of the Work or of adjoining property, Contractor is hereby permitted to act, at its discretion, to prevent such threatened loss or injury; and Contractor shall so act if so authorized or instructed by Architect or District in writing. Any compensation or extension of time claimed by Contractor on account of emergency work shall be determined by written agreement with District.

Contractor shall take adequate precautions to protect existing roads, sidewalks, curbs, pavements, utilities, adjoining property and structures (including, without limitation, protection from settlement or loss of lateral support), and to avoid damage thereto, and repair any damage thereto caused by construction operations.

Contractor shall (unless waived by District in writing):

(a) When performing new construction on existing sites, become informed and take into specific account the maturity of the students on the site; and perform work which does not interfere with school routine before or after school hours; enclose working area with a substantial barricade; and arrange work to cause a minimum amount of inconvenience and danger to students and faculty in their regular school activities.

(b) Provide substantial barricades around any shrubs or trees indicated to be preserved.

(c) Deliver materials to building area over route designated by Architect.

(d) Take preventive measures to eliminate objectionable dust.

(e) Enforce all instructions of District and Architect regarding signs, advertising, fires, and smoking and require that all workers comply with all regulations while on construction site.

(f) Take care to prevent disturbing or covering any survey markers, monuments, or other devices marking property boundaries or corners. If such markers are disturbed by accident, they shall be replaced by an approved civil engineer at no cost to District.

Section 10.04. Trenches

Contractor shall provide adequate sheeting, shoring, and bracing, or equivalent method, for the protection of life and limb in trenches and open excavation which conform to applicable safety standards.

If the Contract Documents involve the excavation of any trench or trenches four feet or more in depth, Contractor shall, in advance of excavation, submit to the District Representative:

(a) A detailed plan showing the design or shoring, bracing, sloping or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches.

(1) If such plan varies from the Shoring System Standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by Contractor, and all costs therefore shall be included in the price named in this Facilities Lease for completion of the work as set forth in the Contract Documents.

(2) In no case shall such plan be less effective than that required by the Construction Safety Orders.

(3) No excavation of such trench or trenches shall be commenced until said plan has been accepted by CAL-OSHA and a CAL-OSHA permit for such plan delivered to the District. Labor Code sections 6500 and 6705; Health and Safety Code section 17922.5.

Section 10.05. Pre-Existing Hazardous Materials

If the Contract Documents involve the digging of trenches or excavations that extend deeper than four (4) feet below the surface, the following shall apply:

(a) Contractor shall promptly, and before the following conditions are disturbed, notify District, in writing, of any:

(1) Material that Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

(2) Subsurface or latent physical conditions at the site different from those indicated.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Facilities Lease.

(b) District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, shall issue a change order under the procedures described in Article 15 of these General Conditions.

(c) In the event a dispute arises between District and Contractor, whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the contractor's cost to, or time required for, performance of any part of the Work, Contractor shall not be excused from any scheduled completion date provided for by the Contract Documents, but shall proceed with all the work to be performed under the Contract Documents. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes regarding requests for additional time and money and protests between the contracting parties. (Pub. Contract Code, § 7104.)

(d) No utilization of the Contingency will be allowed unless Contractor has provided the required written notice under paragraph (a) of this Section 10.05 hereof.

(e) No contract adjustment will be allowed under the provisions specified in this Section 10.05 for any effects caused on unchanged work.

Section 10.06. Existing Utility Lines: Removal, Restoration

Pursuant to Government Code section 4215, District assumes the responsibility for removal, relocation, and protection of utilities located on the Site at the time of commencement of construction under this Facilities Lease with respect to any such utility facilities which are not identified in the Contract Drawings, Plans and Specifications. Contractor shall not be assessed for liquidated damages for delay in completion of the Project caused by failure of District to provide for removal or relocation of such utility facilities. If Contractor, while performing Work under this Facilities Lease, discovers utility facilities not identified by District in the plans or specifications, Contractor shall immediately notify District and the utility in writing. Contractor shall be compensated according to the provisions governing changes in the Work.

This Section shall not be construed to preclude assessment against Contractor for any other delays in completion of the Work. Nothing in this Section shall be deemed to require District to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Site can be inferred from the presence of other visible facilities, such as buildings, meter junction boxes, on or adjacent to the Site of the construction.

As part of the work to be performed, Contractor shall provide the notices and proceed in accordance with Government Code sections 4216.2, 4216.3 and 4216.4, and pay all fees charged pursuant to Government Code section 4216, *et seq.*

Section 10.07. Protection and Repair of Work

Contractor shall protect District's structures, facilities, equipment, tools, materials, and any other property on or adjacent to the Site against damage or loss caused by the performance of the Work. Contractor will provide adequate security measures for the Work and shall, until the Date of Completion of the Work, maintain such measures to protect its Work under this Facilities Lease from theft, defacement, or vandalism.

Contractor shall repair or replace any damage and remove any damaged or defaced material and/or equipment from the Site at no cost to District prior to the Date of Completion, and Section 17 of these General Conditions shall apply to such material or equipment.

Section 10.08. Protection of Workers

Contractor shall take every precaution for the safety of all employees performing the Work, and to comply with all applicable provisions of federal, state and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the Work is being performed.

Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workers and the public, and shall post danger signs warning against hazards created by construction.

Contractor shall immediately replace or repair any unsafe ladder, scaffolding, shoring, or bracing, or correct any other dangerous or hazardous situation that may exist.

The responsibility for maintaining a safe working site shall be Contractor's, and District and the District Representative undertake no obligation to suspend the Work or notify Contractor of any hazardous conditions or noncompliance with safety laws.

In no case shall District, the District Representative, the Architect, the Project Inspector, or their agents, employees or representatives, have either direct or indirect responsibility for maintaining any safety or health conditions, or for ensuring against or correcting any hazardous conditions on areas of the Site where Contractor's work is occurring.

Section 10.09. Working Limits and Regulations

Contractor shall confine its apparatus, storage and materials, and construction operations within the limits established by the District Representative, and shall not unreasonably encumber the Site or adjacent areas with its materials and/or equipment.

Contractor shall enforce any instructions from District or the District Representative regarding fires, placement of signs, danger signals, barricades, radios, noise and smoking.

Section 10.10. Protection of Existing Improvements

Contractor shall clean the portions of existing improvements and facilities which are used by, traversed or dirtied by the workers on the Work, normal maintenance due to use by District employees, activities of the District’s separate contractors or the public excepted.

Contractor shall take all necessary precautions to protect all existing improvements and facilities from any damage resulting from the operations, equipment or workers of Contractor during the course of the construction and Contractor shall be strictly liable for failure to adequately protect any existing improvements and/ or facilities.

Contractor shall take all necessary precautions to protect existing facilities against the effects of the elements and Contractor shall be strictly liable for failure to adequately protect any facility.

All damaged improvements and facilities shall be replaced, repaired, and restored to their original condition without additional cost to District and without an extension of the Term of this Facilities Lease.

Section 10.11. Traffic Signals and Traffic Control

Existing signs, lights, traffic signals, control boxes, hydrants, meters, and other similar items occurring within the street or sidewalk areas shall be kept free of obstructions and accessible at all times. All such items shall be protected from Contractor's operations and shall not be obliterated or obscured by its equipment or materials.

Should it be necessary to cover up, move, or alter such items, this shall be done only with permission of the authorities having jurisdiction over the items involved.

Should it be necessary to block a street or sidewalk, Contractor shall first notify the District Representative and the police and fire departments and other agencies with jurisdiction, and shall comply with their instructions, including scheduling limitations.

Section 10.12. Security of the Site

Contractor's attention is directed to Specifications Section of this Project Manual regarding requirements for fencing the Site, gates, and screening.

Section 10.13. Removal of Barricades

Upon completion of the Work, Contractor shall remove from the Site all materials used for barricades, temporary scaffolding, or any other temporary uses.

Section 10.14. Protection of Adjacent Property; Notices

In addition to any requirements imposed by law, Contractor shall shore up, brace, underpin, and protect as may be necessary all foundations and other parts of all existing structures on the Site or adjacent to the Site which are in any way affected by the excavations or other operations connected with the completion of the Work.

Prior to excavation, Contractor shall notify all public utilities and governmental agencies of the Work proposed, and shall ascertain from them the exact location of their utilities.

Prior to commencing any Work which in any way affects adjoining or adjacent land or buildings thereon, or public utilities, Contractor shall notify the District Representative, who will send District and occupants thereof a notice, which specifies the type of Work to be done, the schedule of the Work, the impacts expected from the Work and the protective measures being taken by Contractor. The notice shall also specify that any person receiving notice who has questions regarding it may contact the District Representative.

Whenever any notice is required to be given to any adjoining or adjacent landowner, utility, governmental agency or other party before commencement of any work, the notice shall be given by Contractor at least seven (7) days in advance of the work, or longer if required by law or regulation, with a copy delivered to the District Representative. Contractor shall, at the written instruction of the District Representative, meet with any recipient of such notice to explain and discuss the proposed work.

Section 10.15. Fire Protection

Contractor shall take all steps necessary to protect all structures from fires and sparks originating from the Work prior to Completion as defined in Section 21.05, shall comply with all laws and regulations regarding fire protection, and shall comply with all instructions of the fire department with jurisdiction.

Contractor shall notify the District Representative and the fire department in writing at least seventy-two (72) hours prior to disconnection of either water or electrical service to the Site, and shall comply with the fire department's instructions regarding fire safety.

Contractor must not take any action to render fire and intrusion detection systems inoperative throughout the duration and scope of its work, to the extent that they are currently operational. If such systems must be rendered inoperative for the necessary completion of the Work, Contractor shall ensure that alternative systems are available in the interim for the safety and security of the Site in accordance with CalOSHA and any other applicable law. This provision shall not be interpreted to require Contractor to provide continuous monitoring of the Site or install temporary water delivery systems.

Section 10.16. Repairs or Replacement

Any damage to existing conditions, or to any other improvement or property above or below the surface of the ground, whether private or public, arising from Contractor's performance of the Work shall be repaired within forty-eight (48) hours by Contractor without any addition to the GMP, unless disruption of school operation or creation of a safety hazard has occurred, in which case damage will be corrected immediately.

If the best interest of District requires that repairs be made prior to the execution of any further work, the District Representative will so notify Contractor who shall delay or discontinue that part of the Work until the necessary repair has been made. Such delay shall be considered non-compensable, and no extension of the Term of this Facilities Lease will be granted therefore unless the delay arises from site conditions that could not have reasonably been foreseen or additional work ordered by the District.

Upon the failure of Contractor to comply with any such order, or upon Contractor's failure to make immediate emergency repairs which are necessary to protect the Work, District shall do that work itself as is necessary to protect life and property, in its sole discretion, and deduct the total cost of such work from the next Tenant Improvement Payment. No prior notice to Contractor shall be necessary for District to take this action.

Section 10.17. Emergency Safety Actions

In an emergency affecting the safety of life or property, including adjoining property, Contractor, without previous instructions or authorizations from District, is authorized and shall act at its discretion and risk to prevent such threatened loss or injury, and Contractor shall bear all costs of that action, unless an addition to the GMP is warranted under Article 3 of the Facilities Lease. Contractor shall immediately notify the District Representative of such actions, and thereafter shall comply with any instructions issued by the District Representative.

SECTION 11
SUBMITTALS

Section 11.01. Submittals

Contractor shall without addition to the GMP furnish to the District Representative, via the Architect, all Submittals and other descriptive material as are required by the specifications or requested by the District Representative.

Contractor shall submit a "schedule of submittals" within ten (10) days of the issuance of a Notice to Proceed. Contractor shall submit shop drawings, samples and product data to the District Representative, via the Architect, according to the requirements of the Contract Documents. All submittals must be submitted no later than sixty (60) days after the date of Notice to Proceed ("Submittal Period") or earlier as required to meet the construction schedule as agreed upon by the parties.

All submittals shall be made to the District Representative, via the Architect, by way of Submittal Transmittal. The Submittal Transmittal shall be on a form mutually agreeable to District Representative and Contractor. A submittal log will be maintained by the Architect and Contractor. Updated logs are to be presented at the weekly construction meetings for review. Each Submittal shall, at a minimum, include the information per this Section 11.

Section 11.02. Shop Drawings, Product Data And Samples

The term "Shop Drawings" as used herein means drawings, diagrams, schedules, and other data, which are prepared by Contractor, Subcontractors, manufacturers, suppliers, or distributors illustrating some portion of the Work, and includes: illustrations; fabrication, erection, layout and setting drawings; manufacturer's standard drawings; schedules; descriptive literature, instructions, catalogs and brochures; performance and test data including charts, wiring and control diagrams, and all other drawings and descriptive data pertaining to materials, equipment, piping, duct and conduit systems, and methods of construction as may be required to show that the materials, equipment, or systems and their position conform to the requirements of the seismic and other calculations; and all product data from equipment manufacturers.

The term "product data" as used herein are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by Contractor to illustrate a material, product, or system for some portion of the Work.

The term "manufactured" as used herein, applies to standard units usually mass-produced, and "fabricated" means items specifically assembled or made out of selected materials to meet individual design requirements.

The term "samples" as used herein are physical examples furnished by Contractor to illustrate materials, equipment, or quality and includes natural materials, fabricated items, equipment, devices, appliances, or parts thereof as called for in the specifications, and any other samples as may be required by the Architect to determine whether the kind, quality, construction, finish, color, and other characteristics of the materials, etc., proposed by Contractor conform to the required characteristics of the various parts of the Work. All Work shall be in accordance with the approved samples.

Shop Drawings shall: establish the actual detail of all manufactured or fabricated items; indicate proper relation to adjoining work; amplify design details of mechanical and electrical systems and equipment in proper relation to physical spaces in the structure; and incorporate minor changes of design or construction to suit actual conditions.

Contractor shall obtain and shall submit all required Shop Drawings and samples in accordance with Contractor's "Schedule for Submission of Shop Drawings and Samples" as required in the Specifications with such promptness as to cause no delay in its own Work or in that of any other contractor or Subcontractor.

Each Subcontractor shall submit all Shop Drawings, samples, and manufacturer's descriptive data for the review of District, Contractor, and the Architect through Contractor.

No extensions of time will be granted to Contractor or any Subcontractor because of its failure to have Shop Drawings and samples submitted in accordance with the schedule.

By submitting Shop Drawings, product data, and samples, Contractor or submitting party (if other than Contractor) represents that it has determined and verified all materials, field measurements, catalog numbers, related field

construction criteria, and other relevant data in connection with each submission, and that it has checked, verified, and coordinated the information contained within such Submittals with the requirements of the work and of the Contract Documents. At the time of submission, any deviation in the Shop Drawings, product data, or samples from the requirements of the Contract Documents shall be narratively described in a transmittal accompanying the Submittal. However, Submittals shall not be used as a means of requesting a substitution, the procedure for which is defined in Section 11.09 hereof.

Review by District and Architect shall not relieve Contractor or any Subcontractor from its responsibility in preparing and submitting proper Shop Drawings in accordance with the Contract Documents. Contractor shall stamp, sign, and date each Submittal indicating its representation that the Submittal meets all of the requirements of the Contract Documents.

Any submission, which in Architect's opinion is incomplete, contains numerous errors, or has been checked only superficially, will be returned unreviewed by the Architect for resubmission by Contractor.

In reviewing Shop Drawings, the Architect will not verify dimensions and conditions existing in the field. The Architect will review and approve shop drawings, product data, and samples for aesthetics and for conformance with the design concept of the work and the information given in the Contract Documents. The Architect's review shall neither be construed as a complete check nor relieve Contractor, Subcontractor, manufacturer, fabricator, or supplier from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents unless Contractor has, in writing, called the Architect's attention to the deviations at the time of submission. The Architect's review shall not relieve Contractor or Subcontractors from responsibility for errors of any sort in Shop Drawings or schedules, for proper fitting of the work, or from the necessity of furnishing any work required by the Contract Documents, which may not be indicated on Shop Drawings when reviewed. Contractor and Subcontractors shall be solely responsible for any quantities, which may be shown on the Shop Drawings.

Contractor shall check and coordinate all Submittals with the Work of all Subcontractors involved before they are submitted. Contractor shall review each Submittal for conformance with the requirements of the Contract Documents.

All Submittals for the Project shall be made within the Submittal Period; however, the Contractor shall have the additional responsibility to coordinate the schedule of its Submittals with the requirements of the Contract Schedule so as not to delay the Project. District shall not be required to approve any delay claim related to Submittals which were originally received after the Submittal Period. District will not be required to accept limitations in materials, colors, quality, or any other aspect of products or materials due to Contractor's failure to provide Submittals as required.

Contractor shall submit a schedule of Submittals organized by specification section required for the Project. It shall delineate whether product data, installation instructions, Shop Drawings, samples, extra stock or mock-ups are required. This schedule of Submittals shall be submitted within ten (10) calendar days of the issuance of the Notice to Proceed. Any omissions or inaccuracies shall not relieve Contractor of the obligation for conforming to the requirements in the Contract Documents. Contractor's submittal schedule shall provide sufficient time for delivering the Submittal to the Architect, the Architect's review of each Submittal, delivering the Submittal to Contractor and re-submittal, as necessary. In no case shall Contractor allow fewer than fourteen (14) days, exclusive of delivery time, for the District Representative and the Architect to review each Submittal.

Section 11.03. Submittals of Drawings

All Shop Drawings must be properly identified with the name of the Project and dates, and each lot submitted must be accompanied by a letter of transmittal referring to the name of the Project and to the specification section number for identification of each item clearly stating in narrative form, as well as "clouding" on the submissions, all qualifications, departures, or deviations from the Contract Documents, if any. Shop Drawings, for each section of the Work, shall be numbered consecutively, and the numbering system shall be retained throughout all revisions. All Subcontractor submissions shall be made through Contractor. Each drawing shall have a clear space for the stamps of Architect and Contractor. Only Shop Drawings required to be submitted by the Contract Documents shall be reviewed.

Each submittal shall include electronic drawings, including fabrication, erection, layout and setting drawings, and such other drawings as required under the various sections of the specifications. Subcontractor shall submit copies, in an amount as requested by Contractor, of: manufacturers' descriptive data for materials, equipment, and fixtures,

including catalog sheets showing dimensions, performance, characteristics, and capacities; wiring diagrams and controls; schedules; all seismic calculations and other calculations; and other pertinent information as required.

Contractor shall make any corrections required by Architect and shall resubmit as required by Architect the required number of corrected copies of Shop Drawings until approved. Contractor shall direct specific attention in writing or on resubmitted Shop Drawings to revisions other than the corrections required by the Architect on previous submissions. Professional services required for more than one (1) re-review of required Submittals of shop drawings and/or product data are subject to charge to Contractor. The costs for such additional services shall be deducted by District from the amounts due to Contractor for such additional Architect's fees and paid directly to the Architect.

No portion of the Work requiring a Shop Drawings submission shall be commenced until the submission has been reviewed by District and approved by Architect unless specifically directed in writing by District. All such portions of the Work shall be in accordance with approved Shop Drawings.

All Shop Drawings submitted shall become District's property.

The Submittals shall be submitted promptly, so as to cause no delay in the Work. The Submittals shall be submitted so as to allow the District Representative and the Architect a review period of no less than fourteen (14) days.

Section 11.04. Submittal of Samples

In case a considerable range of color, graining, texture, or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials shall be furnished by Contractor to indicate the full range of characteristics, which will be present in the finished products; and products delivered or erected without submittal and approval of full range samples shall be subject to rejection. Except for range samples, and unless otherwise called for in the various sections of the specifications, samples shall be submitted in duplicate. All samples shall be marked, tagged, or otherwise properly identified with the name of the submitting party, the name of the Project, the purpose for which the samples are submitted, and the date and shall be accompanied by a letter of transmittal containing similar information, together with the specification section number for identification of each item. Each tag or sticker shall have clear space for the review stamps of Contractor and Architect.

Samples of materials, which are generally furnished in containers bearing the manufacturers' descriptive labels and printed application instructions, shall, if not submitted in standard containers, be supplied with such labels and application instructions.

Contractor shall make any corrections required by Architect and shall resubmit as required by Architect the required number of new samples until approved. Contractor shall direct specific attention in writing or on resubmitted samples to revisions other than the corrections required by the Architect on previous submissions. Professional services required for more than one (1) re-review of required submittals of samples are subject to charge to Contractor. The costs for such additional services shall be deducted by District from the amounts due Contractor for such additional Architect's fees and paid directly to the Architect.

No portion of the work requiring a sample submission shall be commenced until the submission has been reviewed by District and approved by Architect unless specifically directed in writing by District. All such portions of the work shall be in accordance with approved samples.

Unless specified otherwise, sampling, preparation of samples and tests shall be in accordance with the latest standards of the American Society for Testing and Materials.

Samples shall, upon demand of Architect or District, be submitted for tests or examinations and considered before incorporation of same into the work. Contractor shall be solely responsible for delays due to samples not being submitted in time to allow for tests.

All samples submitted shall become District's property.

Section 11.05. Review of Submittals

Following submission, the Submittals will be returned with one (1) or more of five (5) possible responses by the District Representative or Architect. These possible responses are as follows:

(a) Unreviewed: If the Submittal is not required, or if it is not complete, or if it does not meet the form, format, and number requirements specified, it may be returned unreviewed. If the Submittal is not required, Work may commence; if the Submittal was returned due to form requirements, it shall be resubmitted and approval obtained prior to commencement of the Work.

(b) Reviewed and No Exceptions Taken: In the event the Submittal is acceptable as submitted, it will be returned with this status. Work may proceed upon receipt of a no exceptions taken notification.

(c) Make Corrections Noted: If the Submittal is acceptable except for certain items which have been noted by the Architect, it will be so designated. Work may proceed with the corrections made, and no resubmittal is necessary.

(d) Revise and Resubmit: This status indicates that revisions are noted on the Submittal, and an additional Submittal is required to reflect those revisions and/or additional information. Work may not commence until the resubmittal is approved.

(e) Rejected: A Submittal may be rejected if it is not in compliance with the Contract Documents, or if it proposes an "or equal" or substitution which is not acceptable to District or Architect. A superseding Submittal shall be submitted and approved prior to commencement of the work.

Should Contractor proceed with the Work shown on a Submittal before approval is received, it shall remove and replace or adjust any Work which is not in accordance with the Submittal as ultimately approved, and it shall be responsible for any resultant damage, defect, or added cost. District shall be under no obligation to pay for Work installed prior to approval of Submittals, until the Submittals are approved and the Work in place is found to be in compliance with the Contract Documents.

Contractor shall resubmit Submittals in categories (d) and (e), above, after making any changes required so that Submittals will comply with the Contract Documents. When resubmitting, Contractor shall direct specific attention to deficient areas. Resubmittals shall be made in the same number of copies as the original Submittal. Resubmittals shall be made within ten (10) days of return of the previous Submittal, and in any event in sufficient time so as to avoid delay to the Work. No delay claims related to resubmittals will be entertained on the Project for any resubmittal originally received after the ten (10) days.

The Architect shall determine the adequacy and completeness of all Submittals. Where the Architect deems a Submittal to be inadequate, incomplete, or otherwise unsuitable for proper review, Contractor shall submit all additional information requested by the Architect. There shall be no change to the Term of this Facilities Lease or the GMP when such additional information is required.

Section 11.06. Submittals Showing Variation from Contract

It shall be the responsibility of Contractor to specifically point out any variation or discrepancy between the Submittals submitted and the Contract Documents. Contractor shall make specific mention of all variations, along with an explanation of why they are requested, in its letter of transmittal.

FAILURE BY CONTRACTOR TO IDENTIFY IN ITS LETTER OF TRANSMITTAL ANY VARIATION, DISCREPANCY, OR CONFLICT WITH THE CONTRACT DOCUMENTS SHALL RENDER THE APPROVAL NULL AND VOID, AND CONTRACTOR SHALL BEAR ALL RISK OF LOSS AND RECONSTRUCTION COSTS OR DELAYS.

If any architectural, plumbing, mechanical, electrical, or structural modifications are required as a result of the approval of Submittals which deviate from or do not comply with the Contract Documents, those modifications shall be made without extra cost to District, and without extension of the Term of this Facilities Lease. Any other resultant costs, including but not limited to design fees, construction management fees, costs incurred by other contractors, or inspection fees, shall be at the expense of Contractor.

Section 11.07. Effect of Approval of Submittals

The approval of Submittals shall not relieve Contractor of the obligation for accuracy of dimensions and details; for conforming the work to the requirements of the Contract Documents; or from responsibility to fulfill this Facilities Lease at no extra cost to District, within the Term of this Facilities Lease.

Section 11.08. Deferred Approvals

Items requiring "Deferred Approval" are noted in the Plans and Specifications. Contractor shall submit complete design documents and calculations to the Architect and its consultants. The Contractor is responsible for prompt submission of these Deferred Approval submittals to the Architect and for making any changes, as required by DSA, at no additional costs to the Owner, and prior to incorporation of the product or system into the Work. Approval of these items is contingent upon approval by DSA. Deferred Approval submittals shall be submitted as described herein:

A. Submit complete drawings, details, specifications, calculations and other information necessary to fully describe and substantiate the submittal, signed and stamped by a Structural Engineer licensed in the State of California.

B. Deferred Approval items will be checked for general design concept conformance only and will be submitted to the Division of the State Architect for review. If necessary, submittals will be returned to the Contractor for corrections and/or additional information, as required by DSA. The Contractor shall make necessary changes and resubmit for additional review.

C. The Architect and Engineer will review the submittal one time only and will not perform extensive calculations nor prepare drawings required for DSA. If the Contractor fails to provide proper information for approval or the Architect or Engineer is required to perform additional duties, such services will be reimbursed by the Owner and back-charged to the Contractor.

D. Do not proceed with fabrication until deferred approval documents have been approved by DSA.

Section 11.09. Substitutions

Unless otherwise provided in the technical specifications, Contractor may make proposals for Substitutions to systems, process, products or materials shown or specified only under one or more of the following conditions:

(a) Unavailability: If the specified system, process, product, or material, or an Equal, is no longer available in the marketplace.

(b) Delay: If obtaining the specified system, product, process or material, or an Equal, will delay completion of the Work through no fault of Contractor.

(c) Better system, process, product or material: If a better system, product, process or material is available at no additional cost.

(d) Savings: If a system, process, product or material which meets all of the performance requirements of that specified is available at a savings to District.

All substitutions shall be made to the District Representative, via the Architect, by way of Submittal Transmittal. A proposal for Substitution shall include all information relevant (and such additional information as may be requested by the Architect and District) to evaluate the substitute system, process, product or material. Such proposal constitutes a certification that Contractor:

(a) Has investigated the proposed Substitution and determined that it meets or exceeds the performance requirements of the specified system, process product or material.

(b) Will provide the same or better warranty for the proposed Substitution as for specified system, process, product or material.

(c) Will coordinate installation and make other changes which may be required for the work to be complete in all respects at no additional cost to District.

(d) Waives claims for additional costs and/or extension of the Term of this Facilities Lease, which may subsequently become apparent.

In addition, Contractor will certify that the proposed substitution:

(a) Is equal in quality and serviceability to the specified item.

(b) Will entail no changes in detail and construction of related work.

(c) Will be acceptable in consideration of the required design and artistic effect.

(d) Will provide no cost disadvantage to District.

(e) Will require no excessive or more expensive maintenance, including adequacy and availability of replacement parts.

The District Representative and the Architect shall evaluate a timely Substitution request, and shall approve, deny, approve with conditions, or initiate the procedure for a change order in response to Contractor's request. This decision shall be final. If the request is not accepted, Contractor shall provide the specified system, process, product or material without an increase in the Guaranteed Maximum Price and/or Term of this Facilities Lease.

Failure by Contractor to identify all deviations from the Contract Documents in its request for substitution shall render any District action taken thereon null and void. Contractor shall bear all costs resulting from any error in the request for Substitution.

Only one request for Substitution will be considered for each product.

Neither the submission of a request for substituted systems, processes, products or materials, nor the District Representative's and/or Architect's review of the application, will extend the time for submission of any required Submittals.

Section 11.10. Time for Proposing Substitution

All requests for Substitutions shall be made within ten (10) days of the issuance of a Notice to Proceed. Failure to timely submit a Substitution request shall constitute a waiver by Contractor and an acceptance of the specified systems, processes, products and materials. Late Submittals may be considered only when the District Representative consents in writing, and the District's best interests so require.

Section 11.11. Samples and Testing of Proposed Substitutions; Costs of Adapting to Work

When the District Representative or Architect determines that samples and testing are required to evaluate a request for a Substitution, the District Representative shall so advise Contractor, and specify the systems, processes, products, materials or work to be sampled. Contractor shall, at no cost to District, provide samples as required by these General Conditions dealing with samples and testing, or the Plans and Specifications.

Contractor shall bear all costs of sampling and testing required to decide a request for Substitution, and if a Substitution is accepted, Contractor shall bear all costs associated therewith, without any increase to the GMP.

Section 11.12. Effect of Approval of Equal Materials or Substitution Request

The District shall have the discretion to approve or reject an equal or substitution request. If an application for an Equal or Substitution request is approved, Contractor shall be responsible for setting approved Equal or Substitution systems, processes, products, materials and/or equipment into the available space, and for the proper operation of the Equal or Substitution systems, process, products, materials and/or equipment with all other systems, processes, products, materials and/or equipment with which it may be associated, all in a manner acceptable to District.

No time extensions nor any increases in the GMP shall be granted on account of an Equal or Substitution.

Section 11.13. Quality of Materials and Products

Contractor shall, if required by the Architect, Project Inspector, or District Representative, furnish satisfactory evidence as to the kind and quality of materials provided.

The District Representative may require, and Contractor shall submit if required, a list designating the source of supply of each item of materials incorporated into the Work, and in such event, those materials or products shall not be delivered to the Work nor installed therein until after the District Representative has approved the list.

Contractor shall certify that the materials and equipment installed comply with the Contract Documents and to the best of Contractor's knowledge, no installed materials or equipment contain asbestos.

In the event of a specification that allows Contractor to select one of several brands, makes, or types of material or equipment, the annotations shall show which of the allowable items Contractor has furnished. Contractor will update the Record Drawings and annotate specifications as often as necessary to keep them current but no less often than weekly. The Record Drawings and annotated specifications shall be kept at the work site and available for inspection by District and the Architect.

Section 11.14. Non-Utilization of Asbestos Material

Contractor will be required to execute and submit the Certificate Regarding Non-Asbestos Containing Materials.

Should asbestos containing materials be installed by Contractor in violation of this certification, or if removal of asbestos containing materials is part of the Project, decontaminations and removals will meet the following criteria:

(a) Decontamination and removal of Work found to contain asbestos or work installed with asbestos containing equipment shall be done only under the supervision of a qualified consultant, knowledgeable in the field of asbestos abatement and accredited by the Environmental Protection Agency (EPA).

(b) The asbestos removal contractor shall be an EPA accredited contractor qualified in the removal of asbestos and shall be chosen and approved by the asbestos consultant who shall have sole discretion and final determination in this matter.

(c) The asbestos consultant shall be chosen and approved by District who shall have sole discretion and final determination in this matter.

(d) The Work will not be accepted until asbestos contamination is reduced to levels deemed acceptable by the asbestos consultant.

Cost of all asbestos removal, including, but not necessarily limited to the cost of the asbestos removal contractor, the cost of the asbestos consultant, analytical and laboratory fees, time delays and additional costs as may be incurred by District shall be borne entirely by Contractor.

Hold Harmless: Interface of work for the Project with work containing asbestos shall be executed by Contractor at his/her risk and at his/her discretion with full knowledge of the currently accepted standards, hazards, risks and liabilities associated with asbestos work and asbestos containing products. By execution of this Facilities Lease, Contractor acknowledges the above and agrees to hold harmless District, its Governing Board, employees, agents, and Architect and assigns for all asbestos liability which may be associated with this work. Contractor further agrees to instruct his/her employees with respect to the above mentioned standards, hazards, risks and liabilities.

Section 11.15. Different Material or Process and Related Cost

In the event that Contractor furnishes a material, product, process, or article better than that specified in the Contract Documents, the difference in cost of that material, product, process, or article shall be borne by Contractor. The Contractor shall, in the event that a substitute is less costly than that specified, credit the District with one hundred percent (100%) of the net difference between the substitute and the originally specified material. In this event, the Contractor agrees to execute a deductive Change Order to reflect that credit.

Section 11.16. Industry Standards

Any material specified by reference to the number, symbol, or title of a specified standard such as a Commercial Standard, a Federal Specification, a Trade Association Standard, or other similar standard, shall comply with the requirements in the latest revision thereof, including any amendments or supplements thereto, in effect on the date of execution of this Facilities Lease, except as limited to type, class, or grade, or modified in that reference.

The standard referred to, except as modified in the specifications, shall have full force and effect as though printed in these specifications. These standards are not furnished to the Contractor for the reason that the manufacturers and trades involved are assumed to be familiar with their requirements.

(a) Where Federal Specifications are referred to as a measure of quality and standard, they refer to Federal Specifications established by the Procurement Division of the United States Government and are available from the Superintendent of Documents, U.S. Government Printing Office.

(b) Where Federal Specification numbers are used, they refer to the latest edition including amendments thereto.

(c) Where Commercial Standards (CS) or Product Standards (PS) are referred to as a measure of quality, standard, and method of fabrication, they refer to Commercial Standards and Product Standards issued by the U.S. Department of Commerce.

(d) Where ASTM serial numbers are used, they refer to the latest tentative specifications, standard specifications, standard method or standard methods of testing, issued by the American Society for Testing Materials, unless specifically noted.

Section 11.17. Materials and Products Storage

Contractor shall confine the on-Site storage of all materials, products, and equipment required in the performance of this contract to the areas specified by District. Contractor shall obtain prior approval from the District Representative regarding areas for storage and methods of protection. All material, products, and equipment shall be brought and used upon the premises in such manner as to leave driveways and parking areas clear for the regular use of the public and District employees.

Section 11.18. Original Packages or Containers; Labels

All materials delivered to the Site shall be new, unless otherwise specified, of the type, capacity, and quality specified, and free from defects. All materials shall remain in their original packages or containers until ready for use. The labels of all packages or containers shall remain affixed, and kept legible. No product shall be stored in any container, the label of which does not accurately describe the contents of the container.

Section 11.19. Protection of Materials and Equipment

Contractor shall protect the Work, materials, and equipment from damage due to the action of the elements, trespassers, or other causes. Contractor shall properly store materials and equipment and, when necessary, erect temporary structures to protect them from damage. Contractor shall replace any items damaged as a result of improper protection at no expense to District. Nothing in this Section 11.19 shall limit Contractor's rights to any insurance proceeds from any insurance coverage required by the Facilities Lease or these General Conditions.

Section 11.20. Providing and Paying for Materials

Except as otherwise specifically stated in the Contract Documents, Contractor shall provide and pay for all materials, products, articles, processes, labor, tools, equipment, and installation, and all associated superintendence of every nature whatsoever necessary to execute and complete the Work within the Term of this Facilities Lease.

Section 11.21. Warranty of Title

Contractor shall complete the Work using materials that are not subject to liens or similar interests by third parties. Contractor shall not use materials or supplies to complete the Work that would result in valid claims of ownership of the materials or supplies by third parties. Contractor warrants good and sufficient title to all material, supplies, and

equipment installed or incorporated in the Work, and agrees upon completion of the Work to deliver the premises, together with all improvements and appurtenances, constructed or placed thereon by Contractor, to District, free from any claims, liens, or charges.

Contractor agrees that neither it nor any person, firm, or corporation furnishing any materials or labor for any work covered by this Facilities Lease shall have any right to a lien upon the premises or any improvement or appurtenances thereon; provided, however, that nothing contained in this Section 11.21 shall defeat or impair the rights of persons furnishing materials or labor under the payment bond given by Contractor, nor any rights under any law permitting such persons to look to funds due to Contractor but retained by District.

Contractor shall cause the provisions of this Section 11.21 to be inserted in all subcontracts and material contracts executed by Contractor and notice of this provision shall be given to all persons furnishing materials for the Work. This Section 11.21 shall not disallow Contractor's installing any devices or equipment of utility companies or of governmental agencies, the title to which is commonly retained by the utility company or the agency.

Section 11.22. Patents and Royalties

All fees, claims, or royalties for any patented or copyrighted invention, article, arrangement, or plan that may be used upon or in any manner connected with the doing of the work or any part thereof shall be included in the project proposal for doing the work. Contractor and its sureties shall protect and hold harmless District, the District Representative, the Project Inspector, the Architect and its consultants, and each of their respective officers, agents, and employees against any and all demands made for such fees or claims and against any and all suits, demands, claims or causes of action brought or made by the holder of any invention, patent, copyright, or trademark, or arising from any alleged infringement of any invention, patent, copyright, or trademark.

Before final payment is made on account of this Facilities Lease, Contractor shall furnish acceptable proof to District of proper release from all such fees or claims.

Section 11.23. Ownership of Submittals

Upon submission, all Submittals shall become District’s property.

Section 11.24. Payment of Federal or State Taxes

Any federal, state or local tax, specifically including sales and use taxes, payable on materials furnished by Contractor pursuant to this Facilities Lease, shall be included in the GMP and paid by Contractor. If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, District, upon request, will execute documents necessary to show (1) that District is a political subdivision of the State for the purposes of such exemption and (2) that the sale is for the exclusive use of District. No excise tax for such materials shall be included in any project proposal price.

SECTION 12
MEASUREMENT AND TENANT IMPROVEMENT PAYMENTS

Section 12.01. Scope of Tenant Improvement Payment

Contractor shall accept the compensation provided in the GMP, Exhibit A to the Facilities Lease (including Lease Payments), as full payment for furnishing all labor, materials, tools, equipment, and incidentals necessary to complete the Work and for performing all Work contemplated and embraced under this Facilities Lease; also for loss or damage arising from the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the Work until the acceptance by District and for all risks of every description connected with the prosecution of the Work, also for all expenses incurred in consequence of the suspension or discontinuance of the Work as provided in this Facilities Lease; and for completing the Work according to the Specifications and Plans. Neither the payment of any estimate nor of any retained percentage shall relieve Contractor of any obligation to make good any defective Work or material.

No compensation will be made in any case for loss of anticipated profits.

The Work includes the preparatory work and operations needed for mobilization and demobilization of the Project.

Section 12.02. Progress Estimate

Within ten (10) days following the end of each calendar month, Contractor will prepare on the District's standard "Application for Payment" Form and deliver to the Architect or District a written payment request setting forth Contractor's estimate of the percentage of Work completed during that month and the value of all such Work. In arriving at the value of the Work done, the Architect or District will give consideration to the value of labor and materials which have been incorporated into the permanent work, including any and all shop fabrication, by Contractor during the preceding month. Consideration will not be given to preparatory work done or for materials or equipment on hand.

In order to assist the Architect, Contractor shall furnish the Architect with copies of invoices for all such items delivered to the job site.

Section 12.03. Tenant Improvement Payments

District's and/or the Architect's acceptance of any payment request and estimate delivered by Contractor pursuant to Section 12.02 hereof, shall not release Contractor or any surety from responsibility for the satisfactory performance of such Work and shall not prevent District from enforcing each and every provision of the General Construction Provisions (the Project Manual, Exhibit B to this Facilities Lease). District shall have the right subsequently to correct any error made in any estimate for payment. Contractor shall not be entitled to have any payment requests processed or be entitled to have any payment made for Work performed so long as District, Architect or any of the public agencies with jurisdiction has not accepted or waived compliance with any lawful or proper direction concerning non-complying Work or any portion thereof. District may withhold from the Tenant Improvement Payments one hundred fifty percent (150%) of the estimated value of disputed amounts pursuant to Section 12.06 of the General Conditions, as determined by District, unless and until such Work is corrected or remedied to District's reasonable satisfaction. Failure of District to make any Tenant Improvement Payments (unless properly withheld by District under this Facilities Lease, Site Lease or the provisions found herein) as set forth shall be a Default under the Site Lease.

District will pay Contractor the undisputed amount of each Tenant Improvement Payment, plus any Lease Payment within thirty (30) days after receipt of an undisputed and properly submitted payment request less the Lease Payment due for that month. If District fails to pay an undisputed payment within the allotted thirty (30) days, District shall pay interest to Contractor equivalent to the legal rate set forth in subdivision (a) of section 685.010 of the Code of Civil Procedure. Contractor may elect to complete and comply with the Escrow Agreement for Security Deposit in Lieu of Retention Form.

(a) Upon receipt of a payment request from Contractor, District shall act in accordance with both of the following:

(1) Each payment request shall be reviewed by District as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.

(2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to Contractor as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this Section 12.03, shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

(i) The number of days available to District to make a payment without incurring interest pursuant to this Section 12.03 shall be reduced by the number of days by which District exceeds the seven-day return requirement set forth in paragraph (2).

(ii) Contractor may, in accordance with the provisions of Public Contract Code section 22300, substitute securities for any monies which District may withhold to ensure performance under this Facilities Lease.

(iii) Reserved.

(iv) No payment shall be considered to be an approval or acceptance of any Work, materials or equipment. Estimated amounts and values of Work done and materials and equipment furnished will be confirmed with actual amounts and values as they become available in subsequent progress estimates, payments and the final estimate and payment. All estimates and payments will be subject to correction in subsequent estimates and payments and the final estimate and payment.

(v) It is mutually agreed between the parties to this Facilities Lease that no payments made under this Facilities Lease, including Tenant Improvement Payments, and the final Tenant Improvement Payment shall be evidence of the performance of this Facilities Lease, either wholly or in part, and no payment shall be construed to be an acceptance of any defective or incomplete Work or improper materials.

Section 12.04. Liens and Stop Notices

Contractor agrees to keep the Work, the site of the Work and all monies held by District free and clear of all liens and stop notices related to labor and materials furnished in connection with the Work, if permitted by law. Furthermore, Contractor waives any right it may have to file any type of lien or stop notice in connection with the Work. Notwithstanding anything to the contrary contained in the General Construction Provisions (Part I of the Project Manual, Exhibit B to this Facilities Lease), if any such lien or stop notice is filed, District may withhold sufficient funds as permitted by applicable law, due or to become due to the direct contractor to pay the claim stated in the stop payment notice and to provide for the public entity's reasonable cost of any litigation pursuant to the stop payment notice. District may withhold such payment unless or until Contractor, shall furnish satisfactory evidence that the indebtedness and any lien or stop notice in respect thereof has been satisfied, discharged and released of record, or that Contractor has legally caused such lien or stop notice to be released of record pending the resolution of any dispute between Contractor and any person or persons filing such lien or stop notice. This Section 12.04 shall be specifically included in all Subcontracts and purchase orders entered into by Contractor.

Section 12.05. Final Acceptance and Date of Completion

Whenever Contractor shall deem all Work under this Facilities Lease to have been completed in accordance therewith, he shall so notify the Architect in writing, and the Architect shall promptly ascertain whether the Work has been satisfactorily completed and, if not, shall advise Contractor in detail and in writing of any additional Work required. When all the provisions of this Facilities Lease have been fully complied with, to the satisfaction of the Architect, the Architect shall proceed with all reasonable diligence to recommend the District accept the Work as completed.

Section 12.06. Right to Withhold Payments

(a) In addition to all other rights and remedies of District hereunder and by virtue of the law, District may withhold up to one hundred fifty percent (150%) of claimed or bona fide disputed amounts from any Tenant Improvement Payment (any progress payment, final payment, retention funds, or Lease Payments) to such extent as may reasonably be necessary to protect District from loss on account of:

(1) Failure of Contractor to comply with the Contract Documents, including but not limited to incomplete or defective Work not remedied, irrespective of when any such Work is found to be defective;

(2) Claims or liens filed including, but not limited to claims under sections 1775, 1776, or 1777.7 of the Labor Code, or as recodified in the future;

(3) Failure of Contractor to make payments for labor, materials, equipment, or other facilities, or to Subcontractors and/or suppliers, where such failure results in the delivery of a stop notice to District;

(4) Unsatisfactory prosecution of the Work by Contractor, and/or failure of Contractor to complete the Work by the Date of Completion to the extent of any associated liquidated damages sums that are due and owing; or

(5) Damage directly caused by Contractor to District, Work or property.

(6) Claims against Contractor or any Subcontractors for labor/materials furnished in and about the performance of Work on the Project, for which a Stop Notice or other appropriate documentation has been received by District.

(7) Failure of Contractor to make proper payments to Subcontractors for material or labor.

(8) Failure to complete the Project in accordance with the Project Documents, if there exists reasonable doubt that the Project can be completed on the agreed upon schedule for the contract balance then unpaid.

(9) Damage to another contractor as may be applicable to the terms of this Agreement.

(10) Site clean-up.

(b) Whenever District shall, in accordance herewith, withhold any monies otherwise due to Contractor, written notice of the amount withheld and the reasons therefore will be given to Contractor. After Contractor has corrected the enumerated deficiencies, District will promptly pay to Contractor the amount so withheld. When monies are withheld to protect District against claims or liens of mechanics, material men, Subcontractors, etc., District may at its discretion permit Contractor to deliver a surety bond in terms and amount satisfactory to District, indemnifying District against any loss or expense, and upon acceptance thereof by District, District shall release to Contractor monies so withheld.

Section 12.07. Final Tenant Improvement Payment

Within thirty (30) days after the Date of Completion, District may file in the Office of the County Recorder a Notice of Completion of the Work herein agreed to be done by Contractor. Within sixty (60) days of the Date of Completion, the difference between the GMP and all payments theretofore made to Contractor shall be due and payable to Contractor excepting only such sum or sums as may be withheld or deducted in accordance with the terms of this Facilities Lease. All prior certifications, upon which partial Tenant Improvement Payments may have been made, being merely estimates, shall be subject to correction in the final certificate.

Section 12.08. Final Release

Final payment of Tenant Improvement Payments to Contractor in accordance with the final estimate is contingent upon Contractor furnishing District with a signed written release of certain claims against District. Disputed Contract claims in stated amounts may be specifically excluded by Contractor from the operation of the release. The release shall be in substantially the following form:

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant: _____

Name of Customer: _____

Job Location: _____

Owner: _____

Through Date: _____

Conditional Waiver and Release
This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below. This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check: _____

Amount of Check: _____

Check Payable to: _____

Exceptions
This document does not affect any of the following:
1) Retentions and Disputed claims.
2) Extras for which the claimant has not received payment.
3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:
Date(s) of waiver and release: _____
Amount(s) of unpaid progress payment(s): $_____

Signature: _____

Claimant's Signature: _____

Claimant's Title: _____

Date of Signature: _____

Section 12.09. Waiver of Interest

District shall have no obligation to pay and Contractor hereby waives the right to recover interest with regard to monies which District is required to withhold by reason of judgment, order, statute or judicial process.

SECTION 13
TIME OF WORK

Section 13.01. Preliminary Contract Schedule

No later than thirty (30) days after receiving the Notice to Proceed under Article 5 of the General Construction Provisions, Contractor shall furnish to the District Representative three (3) hard copies and one copy in electronic format of a Preliminary Contract Schedule.

The Preliminary Contract Schedule shall be based on and incorporate the Contract Milestones and Completion Date specified in the Work Plan and Schedule (Attachment 1 to the Project Manual, Exhibit B to the Facilities Lease).

The Preliminary Contract Schedule shall indicate the detailed plan for the Work to be completed in the first ninety (90) days; details of planned mobilization of plant and equipment; sequence of early operations; and procurement of materials and equipment. Work beyond ninety (90) days shall be shown in summary form.

(a) The Preliminary Contract Schedule shall be a time-scaled Critical Path Method (CPM) type schedule, prepared in software mutually agreed by the Parties.

(b) Overall time of completion and time of completion for each milestone shown on the Preliminary Contract Schedule shall adhere to the times in the Contract Documents, unless an earlier (advanced) initial time of completion is requested by Contractor and agreed to by the District Representative. Any such agreement shall be formalized by a change order.

The District Representative will review the Preliminary Contract Schedule for conformance with the requirements of this Facilities Lease. The District Representative will return the Preliminary Contract Schedule with comments within seven (7) days after receiving it from Contractor.

Section 13.02. Contract Schedule Development

Within thirty (30) days after receiving the Notice to Proceed under Article 5 of the General Construction Provisions, Part I of the Project Manual, Contractor shall submit a detailed Proposed Contract Schedule presenting an orderly and realistic plan for completion of the Work, in conformance with the requirements of this specification. The Proposed Contract Schedule shall be in hard copy and electronic format.

The Contract Schedule shall furnish or comply with the following requirements:

(a) A time-scaled CPM type schedule.

(b) No activity on the schedule shall have duration longer than twenty one (21) days, with the exception of fabrication and procurement activities, unless otherwise approved by the District Representative. Activity durations shall be the total number of actual days required to perform that activity including consideration of weather impact on completion of that activity.

(c) Procurement of major equipment, through receipt and inspection at the job site, identified as a separate activity.

(d) District-furnished materials and equipment if any, identified as separate activities.

(e) Dependencies (or relationships) between activities.

(f) Processing/approval of Submittals and shop drawings for major equipment. Activities that are dependent on Submittal acceptance and/or material delivery shall not be scheduled to start earlier than the expected acceptance or delivery dates.

(g) Separate buildings and other independent project elements shall be individually identified in the network.

(h) Fourteen (14) days for developing punch list(s), completion of punch list items, and final clean up for the work or any designated portion thereof.

(i) Interface with the work of other contractors (or entities).

The District Representative will review the Proposed Contract Schedule for conformance with the requirements of this Facilities Lease. Within seven (7) days after receipt, the District Representative will approve the Contract Schedule or will return it with comments. If the Proposed Contract Schedule is not approved, Contractor shall revise the schedule to incorporate comments and resubmit the schedule for approval within seven (7) days after receiving it. The approved schedule shall become the Contract Schedule.

The Contract Schedule shall be the basis for evaluating job progress, payment requests, and time extension requests. The responsibility for developing the Contract Schedule and monitoring actual progress as compared to the schedule rests with Contractor.

Failure of the Contract Schedule to include any element of the Work or any inaccuracy in the Contract Schedule will not relieve Contractor from responsibility for accomplishing all the Work in accordance with this Facilities Lease.

Approval of the Contract Schedule will not relieve Contractor of the responsibility for accomplishing the Work in accordance with this Facilities Lease.

Failure to obtain the approved Contract Schedule within sixty (60) calendar days of the Notice to Proceed may result in District withholding ten percent (10%) of each Tenant Improvement Payment, or One Thousand Dollars ($1,000), whichever is greater, until an approved Contract Schedule is obtained. This in addition to retention and Lease Payments.

Section 13.03. Monthly Updates

Contractor shall submit to the District Representative each month an up-to-date status report of the Work. The status report shall include:

(a) Contractor's estimated percentage complete and remaining duration for each activity not yet complete.

(b) Actual start/finish dates for activities as appropriate.

(c) Identification of processing errors, if any on the previous update reports.

(d) Revisions, if any, to the assumed activity durations including revisions for weather impact for any activities due to the effect of the previous update on the schedule.

(e) Identification of activities that are affected by requested or proposed changes to the Work.

(f) Resolution of conflict between actual Work progress and schedule logic. When out of sequence activities develop in the Contract Schedule because of actual construction progress, Contractor shall submit revision to schedule logic to conform to current status and direction.

The District Representative will review the updated information and meet with Contractor each month at the Site to determine the status of the Work. If agreement cannot be reached on any issue, Contractor will use the District Representative's determination in the processing of the update.

Tenant Improvement Payments pursuant to this Facilities Lease will be based on the update of the Contract Schedule. No Tenant Improvement Payments will be made without the required monthly update of the Contract Schedule.

Section 13.04. Schedule Revisions

If the sequence of construction differs significantly, as determined by the District Representative and/or Architect, from the Contract Schedule, Contractor shall submit within fifteen (15) days a revised schedule to the District Representative for approval.

When a requested or proposed change to the Work will have an impact on the critical path, Contractor shall submit a schedule fragment showing this impact. If the requested or proposed change is accepted by District, the schedule fragment shall be incorporated into the Contract Schedule. Time extensions will be considered only to the extent there is insufficient remaining float to accommodate these changes, and pursuant to Section 14 of these General Conditions. No additional cost will be allowed for the incorporation of approved changes into the Contract Schedule.

Should Contractor, after approval of the Contract Schedule, intend to change its plan of construction, it shall submit its requested revisions to the District Representative, along with a written statement of the revision, including a description of the logic for rescheduling the Work, methods of maintaining adherence to intermediate milestones and other specific

dates and the reasons for the revisions. If the requested changes are acceptable to the District Representative, they will be incorporated into the Contract Schedule in the next reporting period.

Schedule revisions shall be submitted at least seven (7) days prior to the date of submission of update information. District will have seven (7) days to review the revisions.

Section 13.05. Contract Schedule Reports

Contractor shall submit the following reports for the Proposed Contract Schedule, Contract Schedule, Contract Schedule Updates, Contract Schedule Revisions and Recovery Schedules:

(a) A Schedule Logic Report listing the activities, their early/late and actual start and finish dates, duration, float and the logic relationship of activities sorted by early start.

(b) A cost report listing each activity and its associated cost, percentage of Work accomplished, earned value to date, previous payments and amount earned for the update period.

(c) A narrative report with the updated progress analysis, which shall include a description of problem areas, current and anticipated delaying factors and their impact, an explanation of corrective action taken and proposed revisions for recovery. Narrative report on Proposed Contract Schedule will outline Contractor's overall plan, strategy, crew movement and utilization and other considerations in developing the schedule.

(d) Network Plots presenting time scaled network diagram showing activities and their relationships.

Contractor will provide an electronic copy of all reports.

Section 13.06. Three Week Schedules

Contractor shall prepare a Three Week Schedule to be used throughout the duration of Work. The Three Week Schedule shall include all current activities and projected activities for the succeeding two (2) weeks. The Three Week Schedule shall include actual start/finish dates for the preceding one (1) week. Using a form mutually agreeable to Contractor and District Representative, the Three Week Schedule shall be submitted to the District Representative prior to the weekly construction meeting. Contractor shall participate in Three Week Schedule coordination during the weekly construction meetings.

Section 13.07. Commencement of Work

Contractor shall commence procurement of long lead materials and equipment after execution of this Facilities Lease. It is Contractor's responsibility to procure such items sufficiently in advance of the Work. Any costs or delays caused by Contractor's failure to timely procure long lead materials shall be borne entirely by Contractor.

Section 13.08. Time of Essence

Time is of the essence of this Facilities Lease. Contractor shall, to the fullest extent possible, carry on the various classes or parts of the Work concurrently, and shall not defer construction of any portion of the Work in favor of any other portion of the Work, without the express approval of the District Representative.

Section 13.09. Contract Time

"Contract Time" is the duration between Contractor's receipt of a Notice to Proceed to commence construction and the deadline to achieve Completion as defined in Section 21.05 as defined herein. The Contract Time shall be established in conjunction with the GMP and made part of Exhibit A to the Facilities Lease. Contractor shall achieve Completion of the Work within the Contract Time.

Section 13.10. Utilities

Contractor shall furnish and install necessary temporary distribution systems, if needed to complete the Work or requested by District, from distribution points to points on site where utility is necessary to carry on the work. The cost of such systems and their installation shall be covered by the GMP. Upon completion of work, Contractor shall remove all temporary distribution systems.

Section 13.11. Responsibility for Completion

Contractor shall furnish sufficient manpower, materials, facilities and equipment and shall work sufficient hours, including night shifts, overtime operations, Sundays and holidays as may be necessary to insure the prosecution and completion of the Work in accordance with the Term of this Facilities Lease. If work on the critical path is fourteen (14) days or more behind the currently updated Contract Schedule and it becomes apparent that the Work will not be completed within the Term of this Facilities Lease, Contractor will implement whatever steps it deems necessary to make up all lost time. If Contractor's solution is not successful, it will make further attempts using the following sequence of events:

(a) Reschedule activities to achieve maximum practical concurrence of accomplishment of activities.

(b) If the above cannot be achieved then:

(1) Contractor shall increase manpower in such quantities and crafts as will substantially eliminate, in the judgment of the District Representative, the backlog of work; or increase the number of working hours, shifts per working day, working days per week or the amount of equipment or any combination of the foregoing sufficiently to substantially eliminate in the judgment of the District Representative the backlog of work.

(2) In addition, the District Representative may require Contractor to submit a Recovery Schedule demonstrating its program and proposed plan to make up a lag in scheduled progress and to ensure Completion of the Work within the Contract Schedule. If the District Representative finds the proposed Recovery Schedule unacceptable, it may require the Contractor to submit a new plan. If the actions taken by Contractor or the second plan proposed are unsatisfactory, the District Representative may require Contractor to take any of the actions set forth in the previous paragraph without additional cost to District to make up the lag in scheduled progress.

Failure of Contractor to comply with the requirements of this Section 13.11 shall be considered grounds for a determination by District, pursuant to Section 12.05 of these General Conditions, that Contractor is failing to prosecute the Work with such diligence as will ensure its completion within the time specified.

Section 13.12. Daily Reports

Contractor shall submit a Daily Field Report to the District Representative for each workday including weekends and holidays, when worked. The Daily Field Report shall be delivered weekly for the previous week.

Section 13.13. Payments Withheld

Payments to Contractor may be withheld in whole or in part if Contractor fails to comply with the requirements of this Section.

Section 13.14. Computation of Time / Adverse Weather

Section 13.14.01

The Contractor will only be allowed a time extension for Adverse Weather conditions if requested by Contractor in compliance with the time extension request procedures and only if all of the following conditions are met:

(a) The weather conditions constitute Adverse Weather, as defined herein and further specified in the Project Specific Conditions;
(b) Contractor can verify that the Adverse Weather caused delays in excess of four (4) hours of the indicated labor required to complete the critical scheduled tasks of Work on the day affected by the Adverse Weather, which includes residual weather effects of flooding, mud and other impacts as a result of the Adverse Weather;
(c) The Contractor's crew is dismissed as a result of the Adverse Weather;
(d) Said delay adversely affects the critical path in the Construction Schedule; and
(e) The number of days for delay caused by Adverse Weather for the month(s) in which the delay occurs exceeds the following:

January	4	July	0
February	4	August	0
March	3	September	1
April	1	October	1
May	1	November	3
June	0	December	3

Section 13.14.02

If the aforementioned conditions are met, a non-compensable day-for-day extension will only be allowed for those days in excess of those indicated in Exhibit A.

The Contractor shall work seven (7) days per week, if necessary, irrespective of inclement weather, to maintain access and the Construction Schedule, and to protect the Work under construction from the effects of Adverse Weather, all at no further cost to the District.

Section 13.15. Temporary Access through Construction Areas

Contractor shall provide temporary access to existing occupied facilities when scheduled work is not completed by the as provided in the Contract Schedule. Contractor will submit to the District Representative, for review and approval, a detailed plan for temporary access for approval prior to installation. The submitted plan shall include solution to recover delay.

SECTION 14
DELAYS AND EXTENSIONS OF TIME

Section 14.01. Extensions of Time; Unavoidable Delays

Contractor shall not be granted an extension of time except on the issuance of a Change Order by District, upon a finding of good cause for such extension.

(a) As used herein, the following terms shall have the following meanings:

(1) "Excusable Delay" means any delay that adversely impacts the critical path of the Work caused by conditions beyond the control and without the fault or negligence of Contractor. These events may include force majeure events, strikes, embargoes, fire, unavoidable casualties, national emergency, and Adverse Weather (per Section 13.14 of these General Conditions) in which the District Representative, Architect and Project Inspector agree that work on the critical path cannot continue.

The financial inability of Contractor or any Subcontractor or supplier and any default of any Subcontractor, without limitation, shall not be deemed conditions beyond Contractor's control. An Excusable Delay may entitle Contractor to an extension of the Contract Time, in accordance with this Section 14.01, but shall not entitle Contractor to an adjustment of the GMP.

(2) "Compensable Delay" means any delay that adversely impacts the critical path of the Work caused by acts or omissions by District, Architect or its separate contractors or requests by District to change the scope of Work after the GMP is established which causes a delay. A Compensable Delay may entitle Contractor to an extension of the Contract Time, in accordance with this Section 14.01, and/or an increase in the GMP. Except as provided herein, Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption. If District directs Contractor to perform additional work that requires additional time, the Parties may agree to a time extension and incorporate it by Change Order.

(3) "Inexcusable Delay" means any delay that adversely impacts the critical path of the Work resulting from causes other than those listed in Subparagraphs (a)(1) or and (a)(2) above due to the acts or omissions of Contractor or its Subcontractors. An Inexcusable Delay will not entitle Contractor to an extension of the Term of this Facilities Lease or an adjustment of the GMP.

(b) Contractor may make a claim for an extension of the Contract Time, for an Excusable Delay or a Compensable Delay, subject to the following:

(1) If an Excusable Delay and a Compensable Delay occur concurrently, the maximum extension of the Contract Time of this Facilities Lease shall be the number of days from the commencement of the first delay to the cessation of the delay which ends last.

(2) If an Inexcusable Delay occurs concurrently with either an Excusable Delay and/or a Compensable Delay, the maximum extension of the Contract Time shall be the number of days, if any, by which the duration of the Excusable Delay and/or the Compensable Delay calculated in accordance with subparagraph (b)(1), above, if applicable, exceeds the Inexcusable Delay. The duration of the concurrence is non-compensable.

Delays in the prosecution of parts or classes of the Work which do not prevent or delay the Completion of the whole Work within the Contract Time are not to be considered Excusable or Compensable.

Section 14.02. Notice of Delays; Requests for Time Extensions

Whenever Contractor foresees any delay in the prosecution of the Work, and in any event immediately upon the recognition of an occurrence of any delay which Contractor regards as good cause for an extension, Contractor shall notify the District Representative in writing of the delay. The notice shall specify with detail the cause asserted by Contractor to constitute good cause for an extension together with a detailed schedule analysis showing the effect of the delay on the critical path of the Contract Schedule and a quantification of the length of the requested extension of time. Failure of Contractor to submit such a notice within seven (7) days after Contractor discovers the initial occurrence of the event giving rise to the delay shall constitute a waiver by Contractor of any request for extension, and waiver of any claim for any related costs, and no extension shall be granted as a consequence of such delay.

District shall have no obligation to consider any time extension request unless the requirements of the Contract Documents are complied with. District shall not be responsible or liable to Contractor for any constructive acceleration due to failure of District to grant time extensions under the Contract Documents should Contractor fail to comply with the submission and justification requirements of the Contract Documents for time extension requests. Contractor's failure to perform in accordance with the Contract Schedule shall not be excused because Contractor has submitted time extension requests, unless and until such requests are approved by District.

Section 14.03. Investigation; Procedure

Upon receipt of a request for extension, the District Representative shall conduct an investigation of the facts asserted by Contractor to constitute good cause for an extension. District Representative shall report the results of this investigation, as well as the propriety of the time extension requested, to Contractor in writing within ten (10) days of receipt of the request and shall indicate whether it will recommend for or against the extension.

Upon receiving the District Representative’s recommendation, Contractor may either concur in the recommendation, or reject the recommendation and proceed with a claim as provided for in Sections 21 and 23 of these General Conditions.

Section 14.04. Discretionary Time Extensions for Best Interest of District

District reserves the right to extend the time for completion of the Work if District determines that such extension is in the best interest of District. In the event that a discretionary extension is granted at the request of Contractor, District shall have the right to charge to Contractor all or any part, as District may deem proper, of the actual cost of construction management, engineering, inspection, supervision, incidental and other overhead expenses that accrue during the period of the extension, and to deduct all or any portion of that amount from the final payment for the Work.

Section 14.05. Liquidated Damages

If the Work is not Completed by Contractor in the Contract Time specified in Exhibit A to the Contract Documents or within any period of extension authorized pursuant to this Section 14, Contractor acknowledges and admits that District will suffer damage, and that it is impracticable and infeasible to fix the amount of actual damages. Therefore, it is agreed by and between Contractor and District that Contractor shall pay to District as fixed and liquidated damages, and not as a penalty, the sum specified in the Project Specific Conditions in the Facilities Lease for each calendar day of delay in achieving Completion as defined in Section 21.05 within the Contract Time, as adjusted by all time extensions that are memorialized in a duly executed change order, and that both Contractor and Contractor's surety shall be liable for the total amount thereof, and that District may deduct Liquidated Damages from any monies due or that may become due to Contractor. If it appears during the course of construction that Contractor is behind schedule and the imposition of liquidated damages is likely, or if liquidated damages begin to accrue prior to the time for final payment of Tenant Improvement Payments, the amount accrued may be withheld from any progress payment for Tenant Improvement Payments or the final Tenant Improvement Payment that would otherwise be due. This right to withhold funds is intended to complement District's rights under Section 12 of these General Conditions, as well as any other rights of District under the Facilities Lease.

This liquidated damages provision shall apply to all delays of any nature whatsoever, save and except only delays found to be excusable or compensable pursuant to Section 14.01 hereof, or time extensions granted by District pursuant to Section 14.04 hereof.

Contractor shall not pay fixed and liquidated damages for delay in Completion of the Project, as defined by Section 21.05 caused by the failure of District or the owner of utility facilities located on the Project Site to provide for removal or relocation of such facilities.

Payment by District of any Tenant Improvement Payments after expiration of the Term of this Facilities Lease shall not constitute a waiver by District of its right to claim liquidated damages in accordance with this Section 14.05.

Section 14.06. Extension of Time Not a Waiver

Any extension of time granted Contractor pursuant to this Section shall not constitute a waiver by District of, nor a release of Contractor from Contractor's obligation to perform this Facilities Lease in the time specified by the Agreement, as modified by the particular extension in question.

District's decision to grant a time extension due to one circumstance set forth in one request, shall not be construed as a grant of an extension for any other circumstance or the same circumstance occurring at some other time, and shall not be viewed by Contractor as a precedent for any other request for extension.

Section 14.07. Suspensions by District

(a) The District may at any time, by notice in writing to Contractor, suspend any part of the Work on the Project by Contractor, its Subcontractors, or agents, for such period of time as may be necessary to prevent improper execution of the Work, or for other reasons in District's discretion, on the Project by Contractor, its Subcontractors or agents.

(b) In the event of any suspension of the Work, through no fault of Contractor, then the following shall apply:

(1) If Contractor does not choose to terminate the Contract, as set forth in Subsection (b)(2) hereof, Contractor shall be entitled to an extension of time, consistent with the policies and procedures set forth in this Section, wherein to complete the Work to the extent of the delay caused and reasonable compensation for all resulting damage such suspension caused, including Contractor's reasonable general condition and remobilization costs. Contractor agrees to provide District documentation supporting such costs prior to District having to provide such compensation.

(2) Contractor may, at its option, by written notice to District, terminate the Contract along with the Facilities Lease and Site Lease, if the Project as a whole is suspended for more than sixty (60) days. If Contractor terminates the Facilities Lease pursuant to this Section 14.07 (b)(2), then Contractor shall be entitled to: (1) all amounts owing to it under the Facilities Lease, these General Construction Provisions and the other Contract Documents for Work completed, and accepted by District, as of the date on which the termination notice is delivered including retentions and bond and insurance premiums; (2) any reasonable costs incurred by Contractor in canceling orders and contracts relative to this Contract that Contractor had placed or entered into prior to receipt of the cancellation notice and which Contractor cannot use on other unrelated work; and (3) any reasonable costs incurred by Contractor in preserving and protecting material and equipment at the Project site necessitated by cancellation of this Contract prior to completion of the Project. Contractor agrees to provide District documentation supporting such costs prior to District having to provide such compensation.

Section 14.08. Suspensions Exceeding One Year

Should the Work be suspended for a period exceeding one (1) calendar year due to war conditions, labor conditions, legal actions, or for other conditions constituting the legal defense of impossibility of performance, Contractor and District agree to enter into an agreement terminating the Facilities Lease upon the following terms and conditions.

District shall be responsible only to pay Contractor the actual value of the work performed from the Date of Commencement or from the date of the last Tenant Improvement Payment, whichever is later, plus the five percent (5%) retention from prior Tenant Improvement Payments, plus any earned but unpaid Lease Payments from prior Tenant Improvement Payments, less any deductions authorized by the Contract Documents.

As between Contractor and District, it shall be conclusively presumed that the actual value for Contractor's work to the date of the last Tenant Improvement Payment is no more than the actual amount of prior Tenant Improvement Payments plus the five percent (5%) retention from those Tenant Improvement Payments, plus any earned but unpaid Lease Payments from prior Tenant Improvement Payments; provided, however, that this Section shall not preclude District from deducting charges for work or materials which do not meet the requirements of the Contract Documents.

Section 14.09. Effect of Stop Work Notice

If District or DSA orders a suspension of the Work pursuant to Section 9 of these General Conditions, the days on which the suspension is in effect shall be included in determining the required completion date, and shall not otherwise modify or extend the time within which Contractor is to perform. In such event, Contractor shall not be entitled to any damages or compensation on account of such suspension or delay, unless Contractor can establish that Stop Work Notice was not warranted.

SECTION 15
CHANGES TO THE WORK

Section 15.01. Changes to the Work

(a) District may, at any time, by written order, make unilateral changes in the Work. Such changes include, but are not limited to, changes:

(1) in the Specifications or Plans;

(2) in the sequence, method, or manner of performance of the Work;

(3) in the District-furnished facilities, equipment, materials, services or site; or

(4) directing acceleration of the Work.

(b) If such changes cause an increase or decrease in Contractor's cost of, or time required for, performance of this Facilities Lease, the District shall order a Change Order. Such Change Orders shall be funded utilizing the District Contingency.

(c) A change pursuant to this Section 15.01 may begin in the form of a CCD and will result in the form of a Change Order which will set forth the additional, deleted or otherwise changed Work to be done or the method by which the change and cost adjustment, if any, will be determined, and the time of completion of the Work.

Upon receipt of a written CCD using the form supplied in these Contract Documents, Contractor shall proceed with the ordered Work. If ordered in writing by the Architect and approved by District, Contractor shall proceed with the Work so ordered prior to actual receipt of a Change Order. A Change Order executed by Contractor and approved by both the Architect and District is an executed Contract Change Order as that term is used throughout this Section. Under no circumstances shall a verbal direction constitute a basis for proceeding with a Change Order.

A change to the contract that involves adding time or cost, shall be approved if, and only if, the item is related to unforeseen conditions or owner directed changes.

Substitutions are considered change orders and, if DSA approval is required, are to be approved by DSA prior to fabrication or use. All associated costs with a Contractor driven substitution will be at the expense of the Contractor, including DSA fees, Architect fees, Engineering fees, etc.

Section 15.02. Changes in Character of Work

If an ordered change in the Plans or Specifications materially changes the character of the Work of a Facilities Lease item from that upon which Contractor based its price, and said ordered change is a reimbursable change pursuant to Section 15.01, above, and if the change increases or decreases the actual unit costs of such changed item as compared to the actual or estimated unit cost of performing the Work of said item in accordance with the Specifications and Plans originally applicable thereto, in the absence of an executed Change Order specifying the compensation payable, an adjustment in compensation and/or utilization of the Contingency therefore will be made in accordance with the following:

(a) The basis of such adjustment in compensation will be the difference between the Contract unit-price to perform the Work of said item or portion thereof involved in the change as originally planned and the actual unit cost of performing the work of said item or portion thereof involved in the change, as changed. Actual unit costs will be as agreed upon by Contractor and the Architect, in consultation with the District. If they cannot agree or if there is no unit-price for the subject work, then the costs of the work will be determined by the Architect, in consultation with the District, in the same manner as if the Work were to be paid for on the time and material basis. Any such adjustment will apply only to the portion of the work of said item actually changed in character.

(b) Failure of the Architect to recognize the change in character of the work at the time the Change Order is issued shall in no way be construed as relieving Contractor of its duties and responsibility of filing a written protest within the ten (10) day limit as hereinabove provided.

Section 15.03. Allowable Costs

In computing the value of any change requested by the Contractor, or that may have been ordered by the District, the Contractor shall, furnish a full description of the scope of the work (including reference to cause of request), a written estimate of the effect of the Change upon the contract sum and the actual cost of construction, which shall include a complete itemized cost breakdown of all labor and material showing actual quantities, hours, unit prices and wage rates. Contractor shall use District approved forms and follow the guidelines as provided in the Procedures Manual. Hard copies of Contractor, subcontractor, vendor and/or supplier invoices are to be included. Subcontractor quotes shall include equal documentation as that requested of the Contractor. In addition, the Contractor will include the effect upon the contract time. Including all items listed in this section.

Allowable costs for any Change Order shall be limited to the following:

(a) Costs of labor, including social security, medical and unemployment insurance, fringe benefits required pursuant to Article 7 of these General Conditions, and workers' compensation insurance;

(b) Costs of first line supervision labor for subcontractor work, including itemized labor burden as described in paragraph (a). "First Line Supervision" shall mean a working foreman or lead craft worker other than the Project superintendent;

(c) Unless an estimate is negotiated and approved, actual costs of materials, including sales tax and delivery. All invoices are to be submitted with change order for verification or compensation will not be granted for such items;

(d) Rental costs of machinery and equipment, exclusive of small tools, whether rented from the Contractor or subcontractors or others;

(e) Overhead as specified below. "Overhead" shall include the following:

Preparation of all paperwork related to changes in the Work, including field review, estimating and cost breakdown; coordination and supervision, both office and field, including the project superintendent; vehicles including gas and maintenance; small tools, incidentals and consumables; engineering, detailing, and revisions to shop drawings and as-built drawings; general office and administrative expense; extended and unabsorbed home office overhead; warranty; costs of bonds, liability insurance, and all taxes; and all other expenses not specifically included in Paragraphs (a) – (d) above.

Basis for establishing cost:

(a) The costs of labor will be the actual cost for local prevailing wages for each craft classification or type of workers at the time the extra work is done, plus employer payments of payroll taxes and insurance, health and welfare, pension, vacation, apprenticeship funds, and other direct costs resulting from federal, state or local laws, as well as assessments or benefits required by lawful collective bargaining agreements. The use of labor classification which would increase the extra work cost will not be permitted unless Contractor establishes the necessity for such additional costs. Labor costs for equipment operators and helpers shall be reported only when such costs are not included in the invoice for equipment rental. Justification for prevailing wages shall be submitted by way of the Department of Industrial Relations, (DIR), www.dir.ca.gov.

(b) The cost of materials reported shall be at invoice or lowest current price negotiated at which such materials are locally available and delivered to the work site in the quantities involved, plus sales tax, freight and delivery. The District reserves the right to approve materials and sources of supply, or to supply materials to Contractor if necessary for the progress of the work. No markup shall be applied to any material provided by the District.

(c) No payment will be made for the use of small tools which have a replacement value of Two Hundred and Fifty Dollars ($250) or less or where an invoice is not provided.

Regardless of ownership, the rates to be used in determining equipment rental costs shall not exceed listed rates prevailing locally at equipment rental source, or distributors, at the time the work is

performed. The rental rates paid shall include the cost of oil, lubrication, supplies, small tools, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, and all incidentals. Necessary loading and transportation costs for equipment used on the extra work shall be included.

Fuel costs for rented equipment to be supported by itemized receipts, not flat rates.

If equipment is used intermittently and, when not in use, could be returned to its rental source at less expense to the District than holding it at the work site, it shall be returned, unless Contractor elects to keep it at the work site at no expense to the District.

All equipment shall be acceptable to the District's Representative, in good working condition, and suitable for the purpose for which it is to be used. Manufacturer's ratings and manufacturer's approved modifications shall be used to classify equipment and it shall be powered by a unit of at least the minimum rating recommended by the manufacturer.

(d) The District may authorize other items which may be required on the extra work. Such items include labor, services, material and equipment which are different in their nature from those required by the work and which are of a type not ordinarily available from the Contractor or any of the subcontractors.

Invoices covering all such items in detail shall be submitted with the request for payment, unless a lump sum change order has been approved.

(e) Vendors' invoices for material, equipment rental, and other expenditures, shall be submitted with the request for payment, unless a lump sum change order has been approved. If the request for payment is not substantiated by invoices or other documentation, the District may establish the cost of the item involved at the lowest price which was current at the time of the report, or disallow the cost.

The Contractor's combined overhead and profit for work performed by its own forces shall not exceed fifteen percent (15%) of the costs specified in Section 15.03, including bonds and insurance. If the changed work is performed by a subcontractor, the subcontractor shall be entitled to a markup of up to fifteen percent (15%) of its actual labor, material and rental costs for overhead and profit, exclusive of bonds and insurance. The Contractor shall be allowed to mark-up the subcontractor's price ten percent (10%) for its overhead and profit, plus bonds and insurance. Cumulative total markup for all tiers of the Contractor and subcontractors shall not exceed twenty-five percent (25%) plus bonds and insurance.

If the value of a change results in a credit from the Contractor or subcontractor, the credit shall be determined using the same method for determining change order cost outlined in this section, plus the same mark up as described in this section for additional work. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease, if any, with respect to the change.

All subcontractors are required to comply with all paperwork requirements of this Section 15. The District will request all subcontractor documents via the Contractor.

The District reserves the right to ask for any or all, documents, it believes, in its sole discretion, is necessary to support any costs associated with changes in the work.

The District may use alternative methods to value credits if the item(s) are not itemized on the schedule of values, or the schedule of values amount seem unrealistically low.

SECTION 16
DISTRICT'S RIGHT TO CARRY OUT THE WORK

Section 16.01. Notice of Default; Deduction of Cost

If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within fifteen (15) days after receipt of written notice from District to commence and continue correction of the default or neglect with diligence and promptness, District may, without prejudice to any other remedy it may have, correct the deficiencies and may further elect to complete that portion of the Work through such means as District may select, including the use of a new contractor. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due Contractor the cost of correcting the deficiencies, and any other appropriate costs.

Section 16.02. Intentionally left blank.

Section 16.03. Assignment of Work

District reserves the right to perform separate contracts with its own forces or with other contractors as it sees fit. Contractor will cooperate and coordinate with District's efforts in this regard.

SECTION 17
REJECTION AND REPLACEMENT OF WORK AND MATERIALS

Section 17.01. Rejection of Materials and Workmanship

District shall have the right to reject materials and workmanship which are determined by the District Representative, the Architect, or the Project Inspector to be defective or fail to comply with the Contract Documents. Rejected workmanship shall be corrected to the satisfaction of District and/or Architect, and rejected materials shall be removed from the premises and replaced, all without added cost to District and/or an increase in the Term of this Facilities Lease.

If Contractor does not correct such rejected Work and/or materials within a reasonable time, fixed by the District Representative or the Architect in a written notice to Contractor, District may correct the same and charge the expense to Contractor, and deduct such expense from the next Tenant Improvement Payment otherwise payable to Contractor.

If District determines that it is in its best interest not to correct defective workmanship and/or materials, or work not done in accordance with the Contract Documents, Contractor agrees that a fair and reasonable equitable deduction from the GMP shall be made therefore, and deducted from the next Tenant Improvement Payment.

Section 17.02. Correction of Work

Contractor shall promptly correct all work rejected by the District Representative, Project Inspector or the Architect as defective or as failing to conform to the Contract Documents, whether observed before or after final completion and whether or not fabricated, installed or completed. Contractor shall bear all costs of correcting such rejected work including compensation for the Architect's, Project Inspector's and the District Representative's additional services.

If Contractor does not correct such work within a reasonable time, fixed by written notice, District may remove it and may store the material at Contractor's expense. If Contractor does not pay expenses of such removal within ten (10) days' time thereafter, District may, upon ten (10) days written notice, sell such materials at auction or at private sale and shall account for net proceeds thereof, after deducting all costs and expenses that should have been borne by Contractor.

If within two (2) years after the Date of Completion of the Work or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor shall correct any or all such work, together with any other work which may be displaced in so doing, without expense to District, promptly after receipt of a written notice from District unless District has previously given Contractor a written acceptance of such condition. District shall issue a correction notice promptly after discovering the condition. Contractor shall notify District upon completion of repairs. This obligation shall survive termination of this Facilities Lease with respect to work in place prior to termination.

Contractor shall bear the cost of making good work destroyed or damaged by such correction or removal.

Nothing contained in this Section 17.02 shall be construed to establish a period of limitation with respect to any other obligations which Contractor might have under the Contract Documents or by operation of law. The establishment of the time period of two (2) years after the Date of Completion, or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents, relates only to the specific obligation of Contractor to correct the Work and has no relationship to the time within which an action may be commenced to establish Contractor’s liability with respect to its obligations other than specifically to correct the work.

SECTION 18
DISTRICT'S RIGHT TO TERMINATE CONTRACT

Section 18.01. Termination by The District for Convenience

The District in its sole discretion may terminate for convenience this Facilities Lease upon three (3) days written notice to the Contractor. In case of a termination for convenience, the Contractor shall have no claims against the District except the actual portion of the GMP expended for labor, materials, and services performed that is unpaid and can be documented through timesheets, invoices, receipts, or otherwise, through the date of termination, plus necessary and reasonable documented demobilization costs, and the portion of Contractor's Fee earned to the date of the termination. In the event of a Termination for Convenience, all of Contractor's right title and interest in the Site and the improvements thereon shall terminate and revert to the District without the need for execution or recording of any further documentation. In the event of a Termination for Convenience, all of Contractor's right title and interest in the Site and the improvements thereon shall terminate and revert to the District without the need for execution or recording of any further documentation. In the event of a Termination for Convenience, Contractor shall meet and confer with District regarding any outstanding materials orders, and District will be responsible for paying related demonstrable costs for completion of the order, or if District chooses to cancel the order, any charges created by cancellation. These recoverable costs shall also include demonstrable costs for work and materials that are not necessarily on site at the time of termination but which will arrive at the site for the benefit of the project at a later time.

Section 18.02. Termination by The District for Cause

District may terminate this Facilities Lease, for default pursuant to the provisions of this Section, for the following causes:

(a) Contractor is insolvent or has made a general assignment for the benefit of creditors, or a receiver has been appointed on account of the insolvency of Contractor.

(b) Contractor or any of its subcontractors violate any of the provisions of the Contract Documents or fail to perform the work within the time specified in the current Contract Schedule.

(c) Contractor should fail to make prompt payment to Subcontractor or material suppliers for material or for labor as required by statute.

(d) Contractor or a Subcontractor persistently disregards laws, ordinances, or the instructions of the District Representative, Architect or District.

(e) Contractor fails to abide by a Stop Work Notice issued pursuant to Section 9 of these General Conditions or fails to correct rejected work or materials as required by Section 17 of these General Conditions.

(f) Contractor fails to provide and keep in full force and effect all insurance required by Section 3 of these General Conditions, or fails to cause all Subcontractor to so comply.

(g) Contractor fails to supply a sufficient number of properly skilled workers or proper materials.

(h) Contractor commits any substantial violation equivalent to a material breach of the terms and conditions of the Contract Documents or this Facilities Lease.

(i) Contractor, or any member of Contractor, unreasonably refuses or fails to prosecute the Work on the Project with such reasonable diligence as will accomplish its completion within the Contract Time specified or any extension thereof.

(j) Contractor defaults in its obligations under the Site Lease or Facilities Lease.

In the event of such a default which remains uncured for more than fifteen (15) days after District has given written notice to Contractor specifying the failure and requesting that it be remedied, District may, without prejudice to any other right or remedy, terminate this Facilities Lease in writing and shall have no further obligation to Contractor under this Facilities Lease and shall be entitled to exercise any remedy available to District at law or in equity including, without limitation, an action for specific performance. Specific performance includes, among other things, the right to require Contractor to assign its interest, to the extent necessary, in any plans and specifications, construction documents, construction

contracts, warranties, bonds, guarantees, contractor's payment and performance bond, architect contracts, consulting agreements and any other document or instrument necessary or appropriate to complete construction of the school improvements and/or an action for damages.

Section 18.03. Procedure for Termination for Cause

District may, without prejudice to any other right or remedy, give written notice to Contractor and its surety or sureties of its intention to terminate this Facilities Lease for any violation of its terms.

Unless within seven (7) days of the delivery of such notice, Contractor shall cease such violation and make satisfactory arrangements for a correction thereof, which arrangements are set forth in a written agreement signed by Contractor and the District Representative, Contractor's right to complete the Work shall cease and terminate.

In the event of any such termination, District shall immediately give written notice thereof to the surety and to Contractor, and the surety shall have the rights and obligations set forth in the Performance Bond. If District is forced to take over the Work, it may prosecute the same to completion by contract or by any other method it may deem advisable, for the account and at the expense of Contractor, and Contractor and its sureties shall be liable to District for any excess costs, including management, supervision, and design support, occasioned thereby. In such event, District may, without liability, take possession of and utilize in completing the Work, Contractor's materials whether stored at the Site or elsewhere, that are necessary for completion. Contractor hereby assigns to District all of its interest in orders and/or contracts existing at the time of termination. The assignment of said orders and/or contracts shall be effective upon notice of acceptance by District in writing, and only as to those orders and/or contracts which District designates in writing. Whenever Contractor's right to proceed is terminated, Contractor shall not be entitled to receive any further payment until the Work is finished and shall be liable to District for liquidated damages, if applicable, as well as for any and all damages and losses incurred by District, including without limitation those damages or losses suffered in completing the Work.

In the event that District's actions to effect a termination are determined by a court of law to be wrongful, improper or a breach of this Facilities Lease, any termination shall be determined to be, and treated as, a Termination for Convenience under Section 18.01.

Section 18.04. Provisions for Termination of Contract

This Facilities Lease is subject to termination as provided by sections 4410 and 4411 of the Government Code, being portions of the Emergency Termination of Public Contracts Act of 1949. Such a termination shall be deemed a termination for convenience.

Section 18.05. Survival of Obligations

No termination of this Facilities Lease or of Contractor's Work shall excuse or otherwise relieve Contractor of its responsibilities under the Contract Documents with respect to any Work performed prior to the date of termination, including, without limitation, its obligation to perform the Work in a good and workmanlike manner, free of defects, and in accordance with the Contract Documents, its warranty obligations with respect to the Work, and its obligation to make all payments due. All of Contractor's responsibilities under the Contract Documents with respect to the Work performed prior to the date of termination shall survive any termination.

SECTION 19
PRESERVATION AND CLEANING

Section 19.01. Periodic Cleaning of Project

Contractor shall properly clean its Work and the Site, and maintain its Work area in an orderly manner as described in this Section 19.01. Contractor shall remove all dirt, debris, waste, rubbish, and implements of service from the Project, the adjacent sidewalks and streets, and the working area daily or as directed by the District Representative. Debris, waste, or unused construction materials shall not be left under, in, or about the Project, nor allowed to accumulate on the Site or in the working area.

Contractor, at its cost, shall contract with a disposal company to remove all rubbish, and shall have the refuse containers emptied at frequent enough intervals so that waste does not overflow the containers.

If Contractor fails to clean up during progress or upon completion of the Work, District may, at Contractor's expense, do so as provided in Section 16 of these General Conditions.

Section 19.02. Final Cleaning of Project

At completion of the Work and prior to occupancy by District, Contractor shall, using professional cleaners, thoroughly clean the interior and exterior of the buildings, and the Site and adjacent areas, of all material related to its performance of the Work. In the event Contractor fails to do so, District may cause this work to be done at Contractor's expense, as provided in Section 16 of these General Conditions. The following list is not inclusive but to act as a guideline:

(a) Removal of all spots, stains, paint spots, rubbish, debris, tools, equipment, trade markings and labels, and accumulated dust and dirt from all areas and broom clean. Steam clean all carpets and mop floors.

(b) Cleaning interior and exterior of the buildings including all windows in any area affected by the Work.

(c) Brush off, broom sweep, dust and clean ledges, stairs, doors, hardware, chalk board trays and any adjoining rooms or areas that were affected by the Work.

(d) Contractor shall clear grounds and exterior paved areas and walks of all construction debris, dirt and dust and shall repair any Site areas damaged during the course of the Work.

Prior to final completion or District occupancy, Contractor shall conduct an inspection of sight-exposed surfaces, and all work areas, to verify that the entire Work is clean. In the event Contractor fails to do so, District may cause this work to be done at the Contractor's expense.

SECTION 20
COMPLETION, INSPECTION, AND OCCUPANCY BY DISTRICT

Section 20.01. Notice of Punch List Inspection

When Contractor believes that a phase of its Work is complete, it shall request in writing a punch list inspection. Within seven (7) days of the receipt of such request, the District Representative, the Project Inspector and the Architect shall make a punch list inspection or inform Contractor that the Work is not ready for punch list inspection. Contractor or its representatives shall be present at the punch list inspection. The purpose of the punch list inspection is to determine whether the Work has been completed in accordance with the Contract Documents, including all Change Orders, all interpretations and instructions previously issued.

If Contractor fails to attend any punch list inspection, or calls for a punch list inspection when the Work is not reasonably ready for inspection, Contractor shall be charged for the cost of the District Representative, Architect, Project Inspector, and other design professionals who attended the punch list inspection.

Completion of any phase of the Work does not result in final completion, or in any way alter the payment provisions after final completion.

District may also request a punch list walk in accordance with this Section 20.01.

Section 20.02. Punch List

The District Representative, Project Inspector and Architect shall notify Contractor in writing of any deficiencies to be remedied prior to final acceptance, by preparing a written list, known in the industry as a punch list.

Contractor shall remedy all items shown on the punch list prior to final acceptance by the District Representative, Project Inspector and Architect.

No one is authorized to amend the Contract Documents by use of the punch list; it is provided for the benefit of Contractor to enable it to determine what items must be corrected before final acceptance will be recommended by the District Representative, Project Inspector and Architect. District reserves the right to require compliance with the Contract Documents, notwithstanding the issuance of a punch list or the completion by Contractor of all items on the punch list.

In the event that the Work still does not comply with the Contract Documents, District reserves the right to issue such further punch lists as may be required

If punch list work needs to be performed after District has taken occupancy of a phase, the work shall be conducted outside of normal school hours at the direction of the District Representative.

Section 20.03. Use of Work Prior to Acceptance

Whenever, in the opinion of District, the Work or any part thereof, is in a condition suitable for use, and the best interests of District require such use, District may take possession of, connect to, and open for public or District use that portion of the Work provided that such use or possession does not interfere with, delay or impede Contractor's ability to perform its Work.

Section 20.04. Repairs or Renewal in the Work

Prior to the Date of Completion, Contractor shall make all repairs or renewals in the portion of the Work occupied pursuant to Section 20.03 hereof, made necessary due to defective material or workmanship, or the operations of Contractor, ordinary wear and tear excepted.

Section 20.05. Effect of Occupancy

District's occupancy as contemplated in this Section or its acceptance as contemplated in Section 20.03 hereof, shall not constitute acceptance by District of the Work or any part thereof. Such use shall neither relieve Contractor of any

of its responsibilities under the Contract Documents, nor act as a waiver by District of any of the terms or conditions of the Contract Documents. Any damage done by District is the responsibility of District.

Section 20.06. Coordination with Other Activities

Contractor shall conduct its operations so as not to interfere unreasonably with District's use of the occupied portions of the Site. Contractor shall submit periodic schedules to the District Representative proposing the times, areas, and types of work to be done within such areas.

If the Work produces conditions rendering the occupied portions of building, the Site, or other areas uninhabitable, either because of noise, dust, vibration, smoke, fumes, or for any other cause whatsoever, the District Representative may suspend the Work or direct Contractor to modify the Contract Schedule, and Contractor shall comply.

SECTION 21
CONTRACT CLOSEOUT

Section 21.01. Contractor's Request for Final Tenant Improvement Payment

When Contractor determines that all of the Work on the Project is complete and all items on the punch list have been satisfied, or contends that such items are not required by the Contract Documents, Contractor shall submit an application for final Tenant Improvement Payment on the form provided.

Section 21.02. Additional Submissions

Simultaneously with Contractor's request for final Tenant Improvement Payment, Contractor shall submit the documents required by the Plans and Specifications and any additional documents directed by the Architect, including, unless waived by District.

(a) As-built (Record) drawing information pursuant to Section 5.08 of these General Conditions. Signed by Contractor, Project Inspector, Architect and District.

(b) Three (3) sets of documentation completely covering the operation and maintenance of the mechanical and electrical installation, elevators, kitchen equipment, and all other equipment required by the technical specifications to be furnished with such manuals. The documentation shall include charts, diagrams, performance curves, catalog information, lubrication manuals, and details pertaining to the functioning of various items of equipment. The documentation shall be divided logically into "systems" on the basis of operation, without respect to trades, subcontractor or arbitrary specifications sections. The relationship of the "systems" shall be clearly and concisely detailed.

(c) Warranties as required per the Contract Documents.

(1) Contractor Guarantee Form

(2) Subcontractor Guarantee Form

(3) Manufacturer's Warranty/Guarantee.

(d) Completed Punch List: Signed by Contractor, Project Inspector, Architect and District.

(e) DVBE Certification

(f) Material Receipt Form for all spare parts, extra stock, keys and other material and/or equipment turned over to District as specified in the Contract Documents.

(g) Hazardous material documentation as required.

(1) Asbestos Documentation (if applicable)

(2) Letter Stating Impact to Hazardous Material (if applicable)

(3) Fluorescent Tube/PCB Handling Manifests (if applicable)

(h) Form DSA 6 Final Verified Reports(i) Certification that financial obligation to governing authorities and public utilities have been fulfilled or a letter stating that none were required.

(i) Waiver and Release Upon Final Completion, see Section 12.08 of these General Conditions.

(j) Consent of Surety Company to Final Payment (if applicable)

(k) Copy of all permits or certificates acquired during the Project or a letter stating that none were required.

(l) Other items as required in Closeout section and/or the Project Specific Conditions

(1) Contractor's Subcontractors/Suppliers address and contact list

(2) District issued site keys and badges

(3) In Service Training Sign-in Sheets (if applicable)

No payment will be processed unless accompanied by the listed documents in acceptable forms.

Section 21.03. Final Tenant Improvement Payment Process

Upon approval of the submittals required by this Section and receipt of Contractor's final Tenant Improvement Payment application, and upon verification that all of the Work is complete, including all punch list items, the District Representative shall either (1) recommend to District that the Tenant Improvement Payment application be accepted, which recommendation shall be made within five (5) business days of receipt of Contractor's final Tenant Improvement Payment application, or (2) send a notice to Contractor rejecting the Tenant Improvement Payment application, stating the basis therefore.

The Architect shall prepare a statement of final inspection, stating that the Work has been given a final inspection, that Contractor has submitted the required documents, setting forth with detail any deviations in the Work as completed from the Contract Documents, and estimating the cost of correction of such deviations.

The Architect's statement shall be transmitted to District along with Contractor's application for final payment approved by the District Representative, Architect, and Project Inspector. The District Representative shall provide a copy of the Architect's statement of final inspection to Contractor.

Section 21.04. Intentionally left blank. Reserved.

Section 21.05. Completion; Acceptance of the Work; Notice of Completion

The final Tenant Improvement Payment of this Facilities Lease, including any retention amount, shall be made within sixty (60) days after the Date of Completion (as defined below) provided however, that in the event of a dispute between District and Contractor, District may withhold from the final Tenant Improvement Payment an amount not to exceed one hundred fifty percent (150%) of the disputed amount and/or any incomplete Punch List items. "Date of Completion" as used in these Contract Documents means the earliest of any of the following events, which shall be deemed "Completion," as provided by Public Contract Code section 7107:

(a) The occupation, beneficial use, and enjoyment of a work of improvement, excluding any operation only for testing, startup, or commissioning, by the District, or its agent, accompanied by cessation of labor on the work of improvement.

(b) The acceptance by the District, or its agent, of the work of improvement.

(c) After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 100 days or more, due to factors beyond the control of the Contractor.

(d) After the commencement of a work of improvement, a cessation of labor on the work of improvement for a continuous period of 30 days or more, if the District files for record a notice of cessation or a notice of completion.

The District may record a Notice of Completion within 15 days of the earlier of (a) acceptance of the Work of improvement by the District or (b) cessation of labor on the Work of improvement for a continuous period of 60 days. Acceptance of the Work shall be made only by formal acceptance by District. Recordation of a Notice of Completion shall be in the manner prescribed by law, provided that the Work shall then be fully and satisfactorily completed and the provisions of the Contract Documents fully and satisfactorily performed in all respects.

Section 21.06. Release of Withheld Amounts

As Contractor resolves the disputes and/or completes the Punch List items for which funds have been withheld after the final Tenant Improvement Payment, the District shall pay the funds withheld for those disputes or items to Contractor within 30 days of such resolution or completion.

Section 21.07. Withholding for Stop Notices

District may withhold from Contractor any sums authorized to be withheld by Civil Code section 9000 et seq. (or as recodified in the future).

Section 21.08. Non-Waiver

Neither acceptance of, nor payment for, the Work or any part thereof, nor any extension of time, nor any possession taken by District shall operate as a waiver of any of the provisions of this Facilities Lease, nor shall a waiver of any breach of this Facilities Lease be held to be a waiver of any other or subsequent breach. Also, the failure of District in any one or more instances to insist upon strict performance of any of the terms of this Facilities Lease or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion. In addition, recordation of a Notice of Completion shall not be deemed an acceptance of latent defects, nor shall it constitute a waiver of any of the provisions of this Facilities Lease.

SECTION 22
GUARANTEES

Section 22.01. Guarantee Required

In addition to any guarantee required elsewhere in the Contract, Contractor shall guarantee the Work for a minimum of two (2) years from and after Completion of the Project. Contractor specifically acknowledges and agrees that for purposes of this guarantee completion shall mean Contractor's complete performance of all Work required by the Contract Documents, amendments, change orders, construction change directives and punch lists, and District's formal acceptance of the entire Project, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy, or otherwise. Such guarantee shall be made on the form provided in these Contract Documents or some other mutually agreeable instrument.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Such guarantee is in addition to, and not in lieu of, District's rights to enforce this Facilities Lease in all respects.

SECTION 23
CLAIM REQUIREMENTS

a. Notwithstanding any other language in the Contract Documents, any Claims by Contractor against District for the Work hereunder shall be resolved pursuant to the provisions of Public Contract Code sections 9204 and 20104 as summarized herein, and any other applicable laws.

b. For purposes of this section, "Claims" means a separate demand by the Contractor sent by registered mail or certified mail with return receipt requested, for one of the following: a time extension for relief from penalties for delay; payment of money or damages for Work done by or for Contractor and payment for which is not otherwise expressly provided; or payment disputed by the District. By way of example, demands or claims for indemnity or Lease Payments are not "Claims."

c. All Claims must be submitted on or before the date of the final Tenant Improvement Payment and shall include all documents necessary to substantiate the Claim. Contractor acknowledges and agrees that any untimely Claim shall be deemed waived. This limitation shall not apply to Claims which first arise after the final Tenant Improvement Payment, including Claims asserted by third parties.

d. Upon receiving a Claim, the District shall review and provide a written response within forty-five (45) days that identifies the disputed and undisputed portions of the Claim. District and Contractor may agree to extend the initial 45-day period by mutual agreement.

i. District may request, in writing, within thirty (30) days of receipt of the Claim, any additional documentation supporting the Claim or relating to any defenses to the Claim which the District may have against the Contractor.

ii. If District timely responds and does not dispute a portion of the Claim, payment on said undisputed portion must be processed and made within sixty (60) days after the District issues its written response.

e. Within fifteen (15) days of receipt of the response or District's failure to timely respond (which shall be deemed a rejection) the Contractor may demand an informal conference to meet and confer for settlement of any remaining issues in dispute. Any such demand shall be in writing sent by registered mail or certified mail with return receipt requested.

i. Following the conclusion of the meet and confer conference, the District shall provide a second written response within ten (10) business days that identifies the remaining disputed and undisputed portions of the Claim.

ii. If any portion of the Claim is undisputed after the meet and confer conference, District shall make payment on said undisputed portion within sixty (60) days after the District issues its second written response.

f. Any remaining disputed Claims shall be submitted to nonbinding mediation, with the District and Contractor sharing the associated costs equally. Both parties shall mutually agree to a mediator within ten (10) business days after the District issues its second written response. If the parties cannot agree on a mediator, each party shall select a mediator and those two mediators will select a qualified, neutral third party to mediate the remaining disputed portions.

g. For Claims below $375,000, if the matters remain in dispute after mediation, the case shall be submitted to judicial arbitration as set forth in Public Contract Code section 20104.4(b).

h. For Claims above $375,000, if the matters remain in dispute after mediation, the Parties shall proceed as follows:

1. ARBITRATION.

In the event that mediation is unsuccessful, to the extent applicable law does not otherwise provide, any dispute, claim or controversy between or among the District and Inspection Firm arising out of or in any way relating to this Agreement shall be determined by confidential, binding arbitration in the county in which the District's administrative offices are located before a neutral arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures in force at the time the arbitration is commenced. The arbitrator shall decide any issue of the breach, termination, enforcement, interpretation or validity of this entire agreement, including the determination of the scope or applicability of the agreement to arbitrate. The Parties adopt and agree to implement the JAMS Optional Arbitration Appeal Procedure (as it exists on the date of this Agreement) with respect to any final arbitration award pursuant to this Agreement. Any court proceedings related to the arbitration shall take place in the state court (or federal court, if jurisdiction exists) in the county in which the District's administrative offices is located. This clause shall not preclude Parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

By agreeing to this binding arbitration provision, the Parties understand that they are waiving certain important rights and protections that otherwise may have been available if a dispute were determined by a judicial action including, without limitation, the extent of available discovery, the right to a jury trial, the recovery of attorney fees and certain rights of appeal.

This agreement and the rights of the Parties hereunder shall be governed by and construed in accordance with the laws of California, exclusive of conflict or choice of law rules.

If this Agreement is related to a larger project for which there is more than one contract involved, and if more than one contractual dispute arises related to that project, then the District then may, at its option, consolidate arbitration proceedings arising from the Project into a single arbitration proceeding.

i. Failure by the District to respond to a Claim from a Contractor within the time periods described in this article or to otherwise meet the time requirements of this Section shall result in the Claim being deemed rejected in its entirety. A Claim that is denied by reason of the public entity's failure to have responded to a Claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the Claim or the responsibility or qualifications of the Claimant.

j. Attorney's Fees. To the extent either Party must seek enforcement or interpretation of this Agreement or otherwise defend against a claim arising from this Agreement, each Party shall bear their own fees and costs, including, but not limited to, mediation fees, arbitration fees, attorneys' fees and collection expenses, regardless of whether legal proceedings are or have been commenced to enforce said terms.

k. Government Claim Requirements. The Contractor shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Contractor's right to arbitrate or demand to arbitrate against the District.

Section 23.01. Claim Certification

Contractor acknowledges that it has read and is familiar with the provisions of the False Claims Act (CA Gov. Code, § 12650 et seq.). Submission by Contractor of any Claim (as the term "claim" is defined in False Claims Act) to District in connection with the Project, whether on its behalf or on behalf of a Subcontractor or material supplier, shall constitute a representation by Contractor to District that to the best of its knowledge, submission of the Claim does not in any respect, violate the False Claims Act. Any party with an interest in the Claim, including Contractor and any Subcontractor or material supplier, shall certify under penalty of perjury the validity and accuracy of any Claim submitted to District, as provided below. In the event of a pass-through Claim from a Subcontractor or supplier, Contractor may qualify its Claim certification to certify that the Claim is made in good faith, the supporting data is complete and accurate to the best of Subcontractor's knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which Subcontractor believes District is liable. Subcontractor shall execute any pass-through Claim pursuant to the language of Section 23.02.

Compliance with this Claims certification requirement shall be a condition precedent to any obligation District might otherwise have to review the Claim and failure to provide such certification shall constitute a waiver of the Claim.

See Section 23.02 hereof, for Claim Certification Form.

Section 23.02. Claim Certification Form

The Claim certification required by this Section 23.02 shall provide as follows:

CLAIM CERTIFICATION

Under penalty of perjury, and with specific reference to the California False Claims Act, Government Code sections 12650, et seq., I certify that submission of the attached Claim is made in good faith; that the supporting data prepared by the undersigned company are accurate and complete to the best of my knowledge and belief; that submission of the Claim to District does not violate the False Claims Act; and that I am duly authorized to certify the Claim on behalf of the Claimant.

Dated:_____

Company_____

Corporate Seal

Print Name_____

Signature_____

Title_____

SECTION 24
ADDITIONAL PROVISIONS

Section 24.01. Hazardous Materials

Contractor shall not use or permit the Site or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements at the Project and then, only in compliance with all Environmental Regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Project or onto any other property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of schools and school facilities, the use, storage, treatment, transportation and disposal of which shall be in compliance with all Environmental Regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials through no fault of District, Contractor shall promptly commence and perform, or cause to be commenced and performed promptly, without cost to Contractor, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released, on, from or beneath the Site and Project or other property, in compliance with all Environmental Regulations.

Contractor, at its cost and expense, shall comply with all federal, state, and local laws relating to the use, storage, discharge, release and disposal of Hazardous Materials (as defined below) in or about the site and/or the Project. Contractor shall not cause or permit any Hazardous Materials to be brought upon, kept, or used in or about the Project site by Contractor or Contractor's agents, employees, or independent contractors or the agents, employees, or independent contractors of any Subcontractors in a manner or for a purpose prohibited by any federal, state, or local agency or authority.

Contractor shall immediately provide District with telephonic notice, which shall promptly be confirmed by written notice, of any and all discharge, release, and disposal of any Hazardous Materials onto or within the Project site which by law must be reported to any federal, state, or local agency.

Contractor shall be responsible for and shall indemnify, protect, defend, and hold harmless District and District's agents, employees, and independent contractors from any and all liability, damages, injuries, causes of action, claims, judgments, costs, penalties, fines, losses, and expenses which result from Contractor's (or from Contractor's agents, employees, and independent contractors) use, storage, accumulation, discharge, release, or disposal of Hazardous Materials in, upon, or about the Project site.

The obligations under this Section 24.01 shall survive the expiration or early termination of this Agreement and shall not apply to Pre-existing Hazardous Materials.

Definition of Hazardous Materials. As used in this Agreement, the term "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government. The term "Hazardous Materials" includes, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317), (iv) defined as a "hazardous waste" pursuant to section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. section 6901, et seq. (42 U.S.C. § 6903), or (v) defined as a "hazardous substance" pursuant to section 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. section 9601 et seq. (42 U.S.C. § 9601).

Compliance With Storm Water Permit for Construction.

Architect, per CA Green Code Section 5.106.1, shall develop a Storm Water Pollution Prevention Plan (SWPPP) that has been designed, specific to this site, conforming to the State Stormwater NPDES Construction Permit or local ordinance, whichever is stricter, as is required for other projects one acre or more. The plan should cover prevention

of soil loss by storm water run-off and/or wind erosion, of sedimentation, and/or of dust/particulate matter air pollution.

Contractor shall comply with all conditions of the State Water Resources Control Board ("State Water Board") to obtain a National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity ("Permit") for all construction activity which results in the disturbance of in excess of one acre of total land area or which is part of a larger common area of development or sale.

Contractor shall be responsible for filing any required Notice of Intent and /or obtaining any Permits. District shall provide a draft of the Storm Water Pollution Prevention Program ("SWPPP") for the Project to Contractor upon request. It shall be Contractor's responsibility to evaluate the cost of compliance with the SWPPP in determining the GMP. Contractor shall include all costs of compliance with specified requirements in the GMP.

Contractor shall be responsible for implementing and complying with the provisions of CA Green Code Section 5.106.1, any Permit and the SWPPP, including the standard provisions, monitoring and reporting requirements as required. Contractor shall provide copies of all reports and monitoring information to District.

Contractor shall comply with the lawful requirements of any applicable municipality, the County, drainage district, and other local agencies regarding discharges of storm water to separate storm drain system or other watercourses under their jurisdiction, including applicable requirements in municipal storm water management programs.

Failure to comply with the Permit is a violation of federal and state law. Contractor hereby agrees to indemnify and hold harmless District, its officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which District, its officers, agents, and employees may sustain or incur for noncompliance with the Permit arising out of or in connection with the Project, except for liability resulting from the negligence or willful misconduct of District, its officers, agents or employees.

Section 24.02. Lead-Safe Schools Protection Act

LEAD. Pursuant to the Lead-Safe Schools Protection Act (Ed. Code, § 32240, et seq.) and other applicable law, Contractor shall not use lead-based paint, lead plumbing or solders, or other potential sources of lead contamination in the construction of any new school facility or the modernization of any existing school facility.

Section 24.03. Other General Conditions

Construction Documents means those Documents for the Project, including by way of illustration and not limitation:

The plans, drawings, and specifications that have been adopted by the District and approved by all agencies having jurisdiction over the Project, and all modifications, addenda, and amendments thereto.
Site Lease
Facilities Lease
Contractor's Certificate Regarding Workers' Compensation
Contractor Certification Regarding Non-Asbestos Containing Materials
Hazardous Materials Certification
Lead-Based Materials Certification
Insurance Certificates
Amendments to the Facilities Lease
Certification Regarding Debarment
Designated Subcontractor's List
Payment Bond
Performance Bond
Roofing Contract Financial Interest Certification
Disabled Veteran Business Enterprise Participation Certification
Non Discrimination Certificate
Guarantee(s)

Escrow Agreement for Security Deposit In Lieu of Retention
General Liability Endorsement
Automobile Liability Endorsement
Contractor's Certificate Regarding Drug-Free Workplace
Contractors Certificate Regarding Alcohol and Tobacco
Specifications
Project Schedule
All Addenda as Issued
Shop Drawings (if applicable)
Record Drawings
Transmittals
Change Orders
Independent Contractor Certification for Employee Clearance
Iran Contracting Act Certification

Section 24.04. Conflict of Interest

No official of District who is authorized on behalf of District to negotiate, make, accept, or approve, any architectural, engineering, inspection, construction, or materials supply contract, or any subcontract in connection with the construction of the Project, or any land acquisition in connection with the Project, shall become directly or indirectly interested personally in this Facilities Lease or in any part thereof.

No officer, employee, architect, attorney, engineer, or inspector of or for District who is authorized on behalf of District to exercise any executive, supervisory, or other similar function in connection with the construction of the Project shall become directly or indirectly interested personally in this Facilities Lease or any part thereof.

Section 24.05. No Verbal Agreements

No verbal agreement or conversation with any officer, agent, or employee of District, either before, during, or after the execution of the Contract Documents shall affect or modify any term or condition contained in the Contract Documents, nor shall such verbal agreement or conversation entitle Contractor to any additional payment or time to perform whatsoever under the terms of this Facilities Lease.

Section 24.06. Anti-Trust Assignment

By execution of the Contract Documents, or any subcontract awarded by Contractor, Contractor or any Subcontractor offers and agrees to assign and hereby does assign to District all rights, title, and interest in and to all causes of action Contractor or Subcontractor may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 of Part 2 of Division 7 of the Business and Professions Code, commencing with section 16700), arising from purchases of goods, services, or materials pursuant to this public works contract or subcontract. This assignment shall be made and shall become effective at the time District tenders final payment to Contractor, without further acknowledgment by the parties.

Section 24.07. Contractor Not Agent, Nor Employee

Neither Contractor nor any Subcontractor, or any officer, agent, or employee of either, is, nor shall they represent themselves to be, an officer, agent, or employee of District for any purpose whatsoever.

No person employed by Contractor, or by any Subcontractors are, nor shall they be construed to be in any manner or for any purpose whatsoever, employees of District.

Indeed, both Contractor and any Subcontractors are and shall at all times be deemed to be independent contractors and shall be wholly responsible for the manner in which they perform the services required.

Section 24.08. Access to Records

District or District's authorized representative shall have access, upon reasonable notice, during normal business hours, to any books, documents, accounting records, papers, project correspondence, project files, scheduling information and other relevant records of Contractor and all Subcontractors directly or indirectly pertinent to the Work, original as well as change and claimed extra work, to verify and evaluate the accuracy of cost and pricing data submitted with any change order prospective or executed, or any claim for which additional compensation has been requested.

Such books, documents and other records mentioned above shall include, but are not limited to all those reasonably necessary in the opinion of District to determine the accurate amount of direct and indirect costs, job site, area and home office overhead, delay and impact costs, however characterized, and shall include the original project proposal cost and all documents related to the project proposal and its preparation, as well as the as-planned Contract Schedule and all related documents.

Such access shall include the right to examine and audit such records, and make excerpts, transcriptions and photocopies at District's cost.

Section 24.09. Change in Name

Before Contractor makes any change in the name or legal nature of Contractor's entity, Contractor shall first notify District in writing and cooperate with District in making such changes as District may request in the Contract Documents.

Section 24.10. State Audit

Pursuant to and in accordance with the provisions of Government Code section 8546.7, or any amendments thereto, all books, records and files of District, Contractor, or any Subcontractors connected with the performance of this Facilities Lease involving the expenditure of public funds in excess of Ten Thousand Dollars ($10,000.00), including, but not limited to, the costs of administration of this Facilities Lease, shall be subject to the examination and audit of the State Auditor at the request of District or as part of any audit of District for a period of three (3) years after final payment is made under this Facilities Lease. This provision shall not apply to Work performed on a lump-sum or fixed price basis.

Section 24.11. Provisions Required By Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this Facilities Lease shall be deemed to be inserted herein and this Facilities Lease shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon application of either party, this Facilities Lease shall forthwith be physically amended to make such insertion or correction.

Section 24.12. Labor First Aid

Contractor shall maintain emergency first aid treatment for Contractor's workers on the Project which complies with the Federal Occupational Safety and Health Act of 1970 (29 U.S.C.A., § 651 et seq.).

Section 24.13. Excise Taxes

If under federal excise tax law any transaction hereunder constitutes a sale on which a federal excise tax is imposed and the sale is exempt from such excise tax because it is a sale to a state or local government for its exclusive use, District, upon request, will execute documents necessary to show (1) that District is a political subdivision of the State for the purposes of such exemption, and (2) that the sale is for the exclusive use of District. No excise tax for such materials shall be included in any project proposal price.

Section 24.14. No Assignment

Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Facilities Lease or of its rights, title or interest in or to the same or any part thereof. If Contractor shall assign, transfer, convey, sublet or otherwise dispose of this Facilities Lease or its right, title or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever; and this Facilities Lease may, at the option of District, be terminated, revoked and annulled, and District shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to Contractor, and to its purported assignee or transferee.

Notwithstanding anything herein to the contrary, the Parties may mutually agree in writing to assign the Facilities Lease or portions thereof to third parties as may be necessary to carry out the project.

Section 24.15. Governing Law/Venue

This Facilities Lease shall be governed by the laws of the State of California. The parties agree that any litigation arising out of this Facilities Lease shall be venued in the County in which the District is located.

Section 24.16. Convict Made Materials

No materials manufactured or produced in a penal or correctional institution shall be incorporated in the Project under this Facilities Lease.

Section 24.17. Attorneys' Fees

In any legal or equitable action or proceeding, including arbitration and mediation, and other litigation, brought either to enforce or interpret the terms of this Facilities Lease, each party shall be bear its own all reasonable attorneys' fees, costs, and expenses incurred therein, including expert witness fees and costs.

Section 24.18. Mutual Waiver of Consequential Damages

Notwithstanding anything to the contrary contained in this Agreement, District and Contractor waive all claims against each other (and against their respective Subcontractors, members, shareholders, officers, directors, agents and employees) for any consequential, incidental, indirect, special, exemplary or punitive damages (including loss of actual or anticipated profits, revenues or product; loss by reason of shutdown or non-operation; increased expense of operation, borrowing or financing; loss of use or productivity; and increased cost of capital) ("Consequential Damages"); and, regardless of whether any such claim arises out of breach of contract, guaranty or warranty, tort, product liability, indemnity, contribution, strict liability or any other legal theory, and District and Contractor each hereby releases the other and each of such persons from any such liability. Any liquidated damages payable by Contractor under this Agreement shall not be deemed Consequential Damages.

SECTION 25
SCHEDULE OF VALUES OUTLINE

Contractor shall review District's requirements for preparing the schedule of values, together with this Section, Section 13 of the General Conditions, the Project Specific Conditions, and the Plans and Specifications. Contractor shall work with the District Representative and shall develop the schedule of values in a mutually agreeable form and substance.

SECTION 26
DVBE REQUIREMENTS

Section 26.01. General

Contractor shall make every effort to solicit DVBE subcontractors and/or suppliers and try to meet the District's DVBE goals. At the time of execution of the Contract, Contractor will provide a statement to the District of anticipated participation of all DVBEs performing Work. This statement shall (1) identify the name of each DVBE proposed for use in the Contract, (2) identify the dollar amount and percentage each DVBE shall perform in comparison to the total GMP, and (3) describe the tasks each DVBE will perform.

During performance of the Contract, Contractor shall monitor the Work, award of subcontracts and contracts for materials, equipment, and supplies for the purpose of determining the DVBE participation on this Project.

Prior to and as a condition precedent to Final Payment, Contractor will provide appropriate documentation to the District certifying and identifying the information in Section 26.08. The submission of this report shall be in addition to, and not in lieu of, any other conditions precedent set forth in the Contract Documents. Further, the District reserves the right to request additional information or documentation from the Contractor evidencing efforts to comply with the three percent (3%) DVBE participation goal.

Section 26.02. DVBE Policy

Definitions:

The term "Disabled Veteran Business Enterprise" (DVBE) means a business entity that is certified as a DVBE by the Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS).

The term "Contract" means an agreement awarded by the District in which all or part of the funding is provided by the State Allocation Board (SAB) under the Leroy F. Greene School Facilities Act of 1998 (School Facilities Program).

The term "Entity" means any person or persons, firm, partnership, corporation, or combination thereof making an offer, a proposal, or submitting a response to a solicitation competitively or non-competitively, with the intent of forming a Contract with the District, directly and/or through Contractor, on a SAB-funded project.

The term "Contractor" means the Entity to whom the Contract is awarded.

The term "Participation Goal" or "Goal" means a numerically expressed DVBE objective that participating Entities are required to make efforts to achieve in accordance with section 17076.11 of the Education Code.

DVBE Goals:

In accordance with Education Code section 17076.11, this District has a Participation Goal for DVBEs of at least three percent (3%) per year. This Goal applies to the overall dollar amount of SAB-funds allocated to and expended by the District pursuant to the Leroy F. Greene School Facilities Act of 1998 for construction or modernization of District facilities.

Section 26.03. Requirements

Contractor shall conform to the most current regulations and requirements as published by the California Department of General Services (DGS), Office of Small Business and Disabled Veteran Business Enterprise Services (OSDS) and DVBE Participation Requirements.

For additional information contact the DGS website at http://www.pd.dgs.ca.gov/dvbe

Section 26.04. Substitutions

If awarded the Contract(s), Contractor must use the DVBE Subcontractor and/or supplier proposed in the final GMP proposal unless a substitution is approved by both the District and OSDS.

Contractor shall simultaneously notify the DVBE and the District of the intended substitution by certified mail and provide a written explanation of the reasons for the substitution. Additionally, the Contractor shall submit the following to the District:

a. A copy of the written notice issued to the original DVBE with proof of delivery;

b. A copy of the DVBE's consent or opposition to the substitution;

c. The name and supplier number of the person or firm being substituted and the name and supplier number of the proposed replacement; and

d. Satisfactory evidence that the DVBE contract participation certified in the original GMP proposal will still be met after the substitution.

If the DVBE opposes the substitution, the District shall grant a hearing to approve or disapprove the substitution. If the District approves the substitution, the District must submit the substitution request to OSDS.

The DVBE substitution is not to be construed as an excuse for non-compliance with any other provision of law including, but not limited to, the Subletting and Subcontracting Fair Practices Act or any other Contract requirements relating to substitution of subcontractor.

FAILURE TO ADHERE TO AT LEAST THE DVBE PARTICIPATION PROPOSED BY THE SUCCESSFUL CONTRACTOR MAY BE CAUSE FOR CONTRACT TERMINATION AND RECOVERY OF DAMAGES UNDER THE RIGHTS AND REMEDIES DUE THE DISTRICT/STATE UNDER THE DEFAULT SECTION OF THE CONTRACT.

Section 26.05. DVBE Certification

A DVBE cannot self-certify. An OSDS letter must be attached to the CONTRACTOR CERTIFICATION OF DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION form for each DVBE participating in the contract. The DVBE letter is obtained by application through the OSDS and must be provided at the time of GMP proposal submittal. If the letter is not provided, the GMP submittal proposal may be deemed non-responsive and may be ineligible for award of the contract.

Section 26.06. Contract Audits

The Contractor agrees that the State or the District has the right to review, obtain, and copy all records pertaining to performance of the Contract and any relevant information requested. The Contractor agrees to provide the State or the District with access to its premises upon reasonable notice for purposes of interviewing employees and inspecting and copying records. The Contractor shall maintain records for a period of at least three (3) years after final payment under the Contract.

Section 26.07. Modifications

If the District determines the need to make changes in the Work, any Change Order issued by the District pursuant to Section 15 shall describe how modifications would be handled to maintain the highest level of DVBE participation.

Section 26.08. DVBE Documentation

Upon final completion of the Work and as condition precedent for Final Payment, Contractor shall submit a final report to the District certifying in writing and identifying (1) the total amount the Contractor received under the Contract, (2) the name and address of the DVBE that participated in the performance of the contract, (3) the amount each DVBE received from the Contractor, and (4) that all payments under the Contract have been made to the DVBE.

The DVBE final report shall be in substantially the following form:

DVBE Participation Report

Project Name: _____
Project Number: _____

DVBE Firm Name & Address	Trade/ Portion of Work	Subcontract/ Contract Value ($) Paid to DVBE
Add more rows or sheets as necessary to include all information for each DVBE		

Final GMP, as amended: $_____

Total DVBE Subcontract/ Contract Value: $_____

Does the cumulative dollar value of these DVBE contracts meet or exceed the participation goal of three percent (3%) of the final GMP, as adjusted by all Change Orders? _____

I certify and declare under penalty of perjury under the laws of the State of California that all payments indicated above have been made to the respective DVBE and that all the foregoing information is complete, true, and correct.

Dated:_____

Company_____

Print Name_____

Signature_____

Title_____

Attachment 1
To the Project Manual

WORK PLAN AND SCHEDULE

General

The purpose of this Attachment 1 is to provide Contractor with the conceptual requirements for developing the work schedule and planning for resources. Contractor will use the requirements of this Attachment 1 to prepare the schedule in accordance with the General Conditions (Part II of the Project Manual, Exhibit B to the Facilities Lease).

Abatement of Hazardous Materials on Exterior of Buildings may occur any time the school campus is not occupied. If abatement activities are planned to occur while the school campus is occupied, Contractor must provide a secure and monitored fenced barrier around the building on which the work is being done.

Abatement of Hazardous Materials Inside Buildings may occur any time of day provided that the building is not occupied and entry to buildings is restricted.

Utility Outages are to be scheduled so as to not interfere with instruction time at the Site. Work that will result in utility outages is to be started and completed when school is not in session.

Crew and Resources – Contractor is responsible for causing work to progress adequately. Work scheduled for completion during summer break period requires aggressive resource loading to complete the phases on time. Critical activities must begin immediately after the Notice to Proceed is issued to achieve completion milestones.

Milestone Schedule

The milestone schedule in Exhibit A of the Facilities Lease establishes the Contract Time for Contractor to achieve Completion, as defined in Section 21.05. The Contract Time for Completion shall be finalized and attached with the GMP as Exhibit A. Any extensions of time are governed by the Contract Documents.

Attachment 2
to the Project Manual

PROCEDURES MANUAL

This Procedures Manual will provide the District Representative, Architect/Engineer, Project Inspector and Contractor detailed information concerning specific administrative requirements and procedures that will be implemented during the construction of the Project.

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1. Organization

A. School District

The Board of Education of the District will be represented by the District's Architect or Project manager, as applicable, referred to as District Representative hereafter and in the project specification book. District is responsible for the following:

1. Development of Program Requirements
2. Formal Liaison with District Staff
3. Contract Administration
4. Payment and Change Order Review
5. Participation in Final Acceptance of the Project

District will be responsible for such activities as monitoring time, cost and construction administration.

B. Architect / Engineers / Engineering Consultants (A/E)

The A/E is responsible for the design and clarification of the Contract Documents. The A/E is also responsible for review of submittals, Shop Drawings, requests for information, payment requests, requests for material substitutions, change orders, and other contract administrative functions. The A/E will advise District concerning all technical decisions. The A/E will also make Project Site visits as required by the General Conditions (Part II of the Project Manual, Exhibit B to the Facilities Lease).

C. Testing Laboratories

In special cases, as District and DSA deems necessary, a specialized testing lab will be hired by District to provide special testing and inspection services. The District Representative, Architect and Project Inspector will be responsible for coordinating and monitoring the testing firm's activities. Contractor is responsible for coordinating the scheduling of all required testing with the Project Inspector.

D. Contractor

Contractor has contracted with District to perform work as detailed in the Contract Documents and is responsible for the performance and coordination of all subcontractors and suppliers providing services under this Facilities Lease. Contractor will have a full-time superintendent on site at all times during construction of contract work.

E. Project Inspector

District has hired DSA Certified Project Inspectors to conduct inspections for conformance to the Contract Documents and code compliance as required by DSA. The Project Inspector will complete and submit to the District Representative a Daily Field Report.

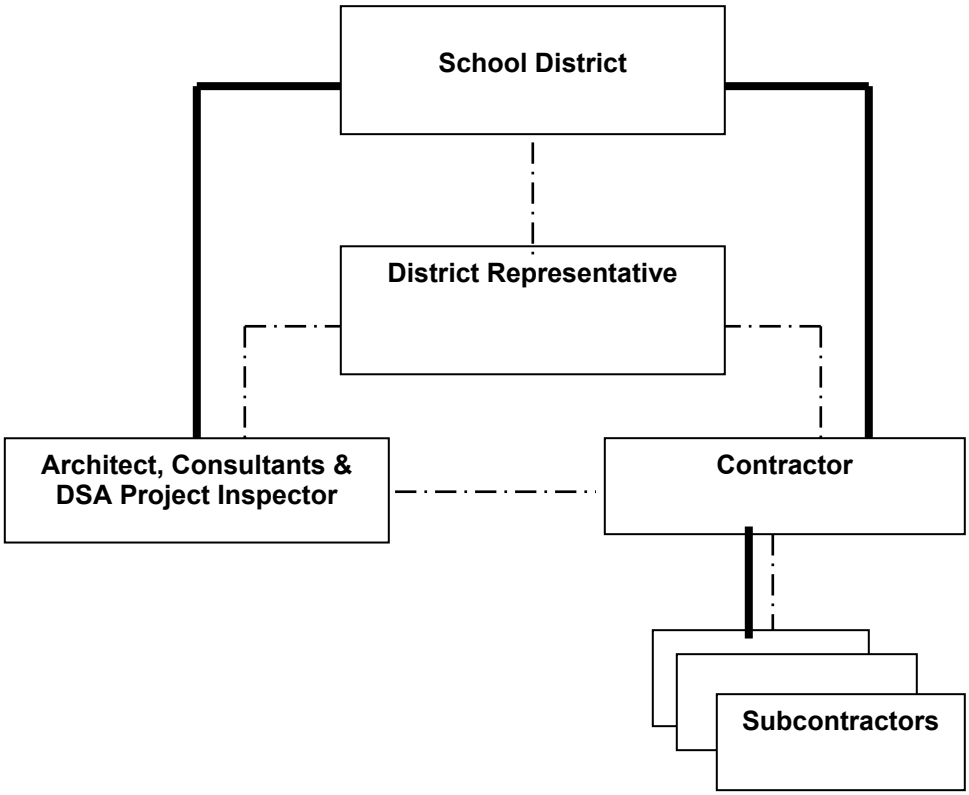
F. Hazardous Waste Consultants

District may contract with a hazardous material firm when necessary to provide hazardous materials engineering, and related inspections and reports. Contractor will be required to comply with all federal, state and local ordinances, regulations and laws.

Organization Chart

Lines of Communication

Contractual Relationship



A. Communication

1. In carrying out the terms of the Contract, Contractor will interact with the Project Team through the District Representative and Architect as shown on the Organization Chart. The District Representative will refrain from communicating with Contractor's subcontractors and suppliers.

   All correspondence, Shop Drawings, samples, descriptive data, reports, proposals or requests of any nature shall be submitted by and to Contractor through the District Representative, who will distribute further as required.

2. Prior to execution of this Facilities Lease, Contractor will forward to the District Representative a list outlining the key project personnel. At the same time, Contractor will provide a letter of authority identifying Contractor's personnel who are authorized to sign official project documents on behalf of Contractor, and the specific documents they are empowered to sign.

3. According to the Contract Documents, Contractor will provide the name, address, phone, and fax number of all proposed subcontractors (including those who are to furnish material or equipment and those who are sub-tier contractors to the subcontractors).

4. The Architect shall make written field reports for each site visit. If the Architect observes any work that does not conform to the Contract Documents, he or she shall clearly state this in his or her report and deliver copies to the Contractor, Project Inspector and District Representative.

5. The Project Inspector and Contractor shall prepare daily written field reports, on a form mutually agreeable to them and the District Representative.

B. Meetings

1. Pre-Construction

   a. The Architect will schedule a Pre-Construction Meeting to be held at a time and location designated by the District Representative. This meeting will follow the Pre-Construction Meeting Agenda and will be conducted by the Architect with representatives from the District, Project Inspectors, Testing Firms, and Contractor in attendance. In some cases, manufacturer's representatives or major subcontractors may be requested to attend.

2. Project Meetings

   a. The Contractor and Architect will conduct project meetings (as needed, but not less than weekly) at the Project Site. Meetings will be conducted according to the weekly project meeting agenda, an example of which shall be provided by the District.

      The purpose of these meetings is to provide a formal and regular forum for the District Representative, Architect, Project Inspector, and Contractor to present questions, problems or issues that need to be addressed. They will also provide an opportunity to review the progress on previous issues and action items along with submittal, Request For Information, payment application, and schedule review.

      Persons required to attend the weekly project meetings include Contractor's supervisory personnel, subcontractor personnel (as appropriate), the District Representative, Architect, Project Inspector, and others as requested. District personnel may attend at any time.

      At each of these regularly scheduled progress meetings, Contractor shall bring any documentation as may be required to accomplish a joint review and status of the Project activities.

      Contractor shall prepare for each weekly meeting a Three Week Schedule. The Three Week Schedule shall be prepared according to the scheduling section of this Procedures Manual and will be reviewed with the contract schedule at each weekly meeting. See Three Week Schedule template, Form T of this Procedures Manual.

Contractor shall provide to District Representative the Daily Field Reports from the previous week.

Contractor and Architect shall provide to District Representative Logs for ASI's, Submittals, RFI's and PCO's.

3. Special Meetings

a. The District Representative or the Architect may call special project meetings at any time during the Project. Special project meetings, if deemed necessary, shall include representatives of Contractors and Subcontractors as requested, to provide an adequate line of communication to discuss problems and/or solutions that are common to the project. These meetings may also include District, Architect and other consultants, as required.

C. Submittals

1. See Section 11 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

D. Request for Information

1. Should Contractor require clarification or additional information of the Contract Documents, and has consulted with the Project Inspector, Contractor will direct the request to the District Representative and/or Architect on a Request for Information (RFI) form provided, Form O of this Procedures Manual.

2. Each RFI will be submitted to the District Representative and/or Architect. The Architect will review and consult with the District Representative prior to providing a response. The Architect will maintain an RFI log as will Contractor. Using the form provided in this section, Contractor shall describe on the RFI the problem or clarification being requested. The description provided should be complete and adequate to permit a written response without additional communications with Contractor. Contractor shall attach any related information or correspondence that may have been received from subcontractors or vendors on the subject. Contractor shall provide recommendations where possible as part of the RFI. In instances where Contractor believes there may be a conflict between elements of the plans and specifications, Contractor should clearly identify the conflict and indicate the manner in which it interprets the Contract Documents.

3. The Architect will review the request and take one or more of the following steps:

a. Return the request to Contractor for additional information.

b. Consult with the District Representative for an adequate response.

c. Return response to Contractor, Project Inspector and any other parties as applicable.

4. The Architect will attempt to provide a response to Contractor within five (5) calendar days of receipt. Should the response to an RFI be required by a specific critical date, Contractor shall indicate that date on the RFI and the Architect will try to comply with such a request. Some complex issues may take longer.

5. If the Architect's review indicates a change or revision is necessary to the Contract Documents, the Architect will prepare the appropriate drawings and/or specifications required to define the change or revision and obtain DSA approval, if required. These documents will be transmitted to the District Representative for review and approval for incorporation into the Contract Documents. The District Representative and/or Architect will transmit the revised documents to Contractor.

6. If Contractor believes the clarification or direction provided by the response to the RFI will impact the cost or schedule of the project, Contractor shall provide prompt notification to the Architect and/or District Representative, according to the General Conditions (Part II of the Project Manual). If the Architect, in consultation with the District, agrees that there is additional cost and/or a change in schedule see item F below.

7. See Section 15 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease) for additional guidelines to this item D of the Procedures Manual.

E. Non-Compliant Work

1. See Section 9 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

F. Change in Scope: Time and/or Cost

1. Changes that involve additional cost to the GMP shall be related to unforeseen conditions and/or owner directed changes. No other costs will be accepted.

2. See also, Section 15 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease) for detailed guidelines to cost related changes.

3. Process

a. Change in cost and/or schedule is identified

b. The District Representative, in consultation with District if consultant issues this document, issues an RFP to Contractor, Form D of this Procedures Manual

c. Architect provides District Representative with cost and/or time estimate as related to the RFP

d. Contractor prepares and submits a PCO, Form E and F of this Procedures Manual, to District Representative in response to the RFP

e. Architect will review the submitted PCO and provide District Representative with a recommendation

f. District Representative will review PCO and Architects recommendation as related to the PCO. If PCO is accepted by District, the District Representative will issue a CCD to Contractor, Form G of this Procedures Manual

g. Contractor shall proceed with CCD on Time and Materials (T&M), unless otherwise noted, using the Daily Extra Work Report, Form R of this Procedures Manual

h. Contractor shall complete the Daily Extra Work Report, one each, for each day performing T&M work

i. Contractor shall contact Project Inspector to provide notice of work to be performed on T&M and request monitoring of such work to receive the inspectors daily signatures

j. Project Inspector shall monitor T&M work and sign the Daily Extra Work Report at the end of each day to confirm labor and materials claimed on the report by the Contractor

k. After completion of T&M work, per the respective CCD, Contractor shall reconcile and submit to District Representative an RCR, Form H of this Procedures Manual, with all associated Daily Extra Work Reports, including invoices, receipts and/or other documents that justify all related costs. See item "l" below for proper submission of T&M review request

l. Contractor shall submit in this order, the final reconciled cost report for review:
   i. RCR cover sheet
   ii. PCO Estimate Sheet to summarize Daily Extra Work Reports
   iii. Daily Extra Work Reports, Signed by Project Inspector
   iv. Invoices, receipts and any other documents to justify costs on associated Daily Extra Work Report
   v. Corresponding CCD
   vi. Corresponding PCO and PCO Estimate Sheet
   vii. Corresponding RFP
   viii. Corresponding ASI and/or RFI and/or other related correspondence

m. The District Representative may consult others and request review and comment

n. After review and acceptance by District, Contractor shall submit billing request for the Extra T&M Work item on the following billing cycle

G. Application for Payment / Prevailing Wage Documentation

1. See Sections 7 and 12 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

H. Schedules

1. All submitted schedules shall clearly identify the project critical path.

2. See Section 13 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

3. See the Work and Plan Schedule, Attachment 2 to the Project Manual (Exhibit B to the Facilities Lease) and Exhibit A to the Facilities Lease.

I. Permits, Inspection and Testing

1. See Section 4 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

J. Safety

1. See Section 10 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

K. Closeout

1. See Section 21 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease).

2. Punch List

   a. When Contractor has completed the items on the punch list, a signed copy of the list stating that each item has been completed with the date of completion and/or an explanation of each item otherwise resolved for acceptance must be submitted to the Architect and/or the District Representative.

   b. The Architect, District Representative, and Project Inspector shall review, verify and sign off as a show of acceptance when satisfied with the completed list prior to release of the final Tenant Improvement Payment.

L. Guidelines for Conduct

1. The safety of students is District's highest priority. Contractor, its agents, representatives and subcontractors shall follow these guidelines as they visit and work on District campuses. At each site there will be many students, staff, and parents who will be curious of what is happening on their campus. **Contractor, its agents, representatives and subcontractors shall not engage in conversation with the students, staff or parents.** All questions and concerns should be directed to the District Representative.

2. Start and End Times

   The daily beginning and end of the school day is a busy time. Contractor, its agents, representative and subcontractors should avoid arriving and/or leaving schools during these times. The office of the school has the daily schedules.

3. Parking

   Contractor shall coordinate with the District Representative for approved parking and staging locations. Certain locations have been designated at each school. In some cases, parking areas have been arranged on school grounds, at the end of parking lots or adjacent properties. In other cases, parking is on the street.

4. Worker Identification Badges: District Issued

   See Section 8 of the General Conditions, Part II of the Project Manual (Exhibit B to the Facilities Lease). The District will issue District Identification badges, which are site specific, to the approved project superintendent, project manager and project engineer.

5. Worker Identification Badges: Contractor Issued

The District has spent a great deal of time educating students about "possible danger of strangers." Some teachers, students, and parents will be suspicious of any unknown person on campus, so all non-school personnel will be required to wear an identification badge at all times – no exceptions.

6. Driving On School Grounds

When children are present on campus and a vehicle must be driven on the school grounds, especially playground or blacktop areas where physical education classes are held, it is mandatory that a "spotter" WALK alongside the vehicle. Students are sure that they can run faster than a truck and may try to cross in front of a moving vehicle, etc. Contractor shall use a "spotter" when backing up at any time on school grounds. Contractor will not exceed ten miles per hour when students are on a school site.

7. Working Within Fenced Areas

Modernization work is allowed only in areas fenced by Contractor for each phase of construction as shown on the Schedule. Workers, materials, and equipment (including storage) will not be allowed outside fenced areas.

8. Classroom Disruptions

Before entering an area where instruction is in process, Contractor is required to clear access with the District Representative. **Contractor, its agents, representatives or subcontractors shall not engage in conversation with the students, staff or parents.**

9. Lunch

Lunchtime at schools is busy and congested. Contractor shall avoid getting in the student path of travel. Lunch times vary by site. The office of the school has the daily schedules.

10. Recesses

See the office of the school for the daily schedules.

11. Construction Breaks and Lunches

Coffee breaks and lunch should be taken at a location removed from the playground/blacktop areas and from the buildings. It is perfectly acceptable to relax in a corner of the grounds or other out-of-the-way areas acceptable to the school. There is no food service available for workers on the site. Use of student restrooms is not allowed. All workers must use the Contractor-provided temporary restroom facilities only.

12. Smoking, Drugs, Radios, Appropriate Language and Dress

a. **Contractor, its agents, representative shall not engage in conversation with the students, staff or parents.** Direct all questions and concerns to the District Representative.

b. District is a "tobacco-free facility" District-wide. No smoke or chewing tobacco is allowed on District property.

c. Use or possession of drugs or alcohol of any kind is strictly forbidden.

d. Radios are not allowed during school hours. Talking should be kept to normal levels.

e. Acceptable language is a must. This means the avoidance of swearing, foul language, and racial, ethnic, or sexual slurs or comments, which could be considered harassment.

f. Dress appropriately for the work site. Specifically, tank tops, open toe shoes and cut-off shorts are not allowed. Additionally, what is written or pictured on shirts must comply with the requirement of acceptable language above.

Violation of any of the above may result in immediate dismissal

THANK YOU FOR YOUR COOPERATION

Attachment 3
to the Project Manual

CONTRACTOR GUARANTEE FORM

To: _____

Site: _____

_____{Contractor's Name} hereby unconditionally guarantees that the Work performed for _____ {Project} has been done in accordance with the requirements of the Facilities Lease therefore and further guarantees the Work of the Facilities Lease to be and remain free of defects in workmanship and materials for a period of **two (2) years** from and after completion of all Facilities Lease obligations by the Contractor, including formal acceptance of the entire Project by the District, unless a longer guarantee period is called for by the Contract Documents, in which case the terms of the longer guarantee shall govern. Contractor specifically acknowledges and agrees that completion shall mean the Contractor's complete performance of all Work required by the Contract Documents, amendments, change orders, construction change directives and punch lists, and the District's formal acceptance of the entire Project, without regard to prior occupancy, substantial completion doctrine, beneficial occupancy, or otherwise. Contractor hereby agrees to repair or replace any and all Work, together with any adjacent Work which may have been damaged or displaced in so doing, that may prove to be not in accordance with the requirements of the Facilities Lease or that may be defective in its workmanship or materials within the guarantee period specified, without any expense whatsoever to District, ordinary wear and tear and unusual abuse and neglect only excepted. Contractor has provided payment, performance and warranty bonds, which will remain in full force and effect during the guarantee period.

Contractor further agrees that within ten (10) calendar days after being notified in writing by District of any Work not in accordance with the requirements of the Facilities Lease or any defects in the Work, it will commence any prosecute with due diligence all Work necessary to fulfill the terms of this guarantee, and to complete the Work within a period of time stipulated in writing. In the event it fails to so comply, Contractor does hereby authorize District to proceed to have such Work done at Contractor's expense and it will pay the cost thereof upon demand. District shall be entitled to all costs, including reasonable attorneys' fees, necessarily incurred upon Contractor's refusal to pay the above costs.

The guarantee period for corrected defective work shall continue for a duration equivalent to the original guarantee period.

Notwithstanding the foregoing paragraph, in the event of an emergency constituting an immediate hazard to the health or safety of the employees of District, or its property or licenses, District may undertake at Contractor's expense without prior notice, all Work necessary to correct such hazardous condition when it was caused by the Work of the Contractor not being in accordance with the requirements of this Facilities Lease, or being defective, and to charge the same to Contractor as specified in the preceding paragraph.

The guarantee set forth herein is not intended by the parties, nor shall it be construed, as in any way limiting or reducing District's rights to enforce all terms of the Facilities Lease referenced hereinabove or the time for enforcement thereof. This guarantee is provided in addition to, and not in lieu of, District's rights on such contract.

NAME (Principal/Owner)	SIGNATURE	DATE
TITLE	CONTRACTOR'S LICENSE NO.	

Attachment 4
to the Project Manual

INDEPENDENT CONTRACTOR CERTIFICATION OF EMPLOYEE CLEARANCE

I, _____, on behalf of _____
(Company), certify that, pursuant to Education Code Sections 45125.1 and 45125.2, and this Facilities Lease, this business entity has conducted the required criminal background check(s) of all persons who will be providing continual supervision and monitoring of all persons who will be providing services to the District on behalf of this business entity, and that none of those persons have been reported by the Department of Justice a shaving been convicted of a serious or violent felony as specified in Penal Code sections 667.5(c) and/or 1192.7(c).

I understand that this Certification is not to be signed and submitted until I have received clearance from DOJ regarding those persons named.

As further required by Education Code 45125.1, submitted herewith is a list of names of the employees or agents of _____ (Company) who will be providing continual supervision and monitoring of all persons who will be providing services to the District on behalf of this business entity and who are required to be fingerprinted as provided in this Facilities Lease. I agree to keep this list current and to notify District of any additions/deletions as they occur.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this _____ day of _____, 20____, in _____, County, California.

Name of Company: _____

Name of Authorized Representative: _____

Title: _____

Company Address: _____

Telephone: _____ Fax: _____

Signature: _____

Exhibit C
to the Facilities Lease

LEGAL DESCRIPTION OF THE SITE

[to be inserted]

Exhibit D
to the Facilities Lease

LEASE PAYMENT SCHEDULE

1st Month after Date of Completion	1/12th of the total 5% Lease Payments
2nd Month after Date of Completion	1/12th of the total 5% Lease Payments
3rd Month after Date of Completion	1/12th of the total 5% Lease Payments
4th Month after Date of Completion	1/12th of the total 5% Lease Payments
5th Month after Date of Completion	1/12th of the total 5% Lease Payments
6th Month after Date of Completion	1/12th of the total 5% Lease Payments
7th Month after Date of Completion	1/12th of the total 5% Lease Payments
8th Month after Date of Completion	1/12th of the total 5% Lease Payments
9th Month after Date of Completion	1/12th of the total 5% Lease Payments
10th Month after Date of Completion	1/12th of the total 5% Lease Payments
11th Month after Date of Completion	1/12th of the total 5% Lease Payments
12th Month after Date of Completion	1/12th of the total 5% Lease Payments

The final five percent (5%) of the Guaranteed Maximum Price shall be paid in equal monthly installments over twelve months. The cost of this financing is incorporated in the Guaranteed Maximum Price. The District shall have the right to pay these payments early at any time.

Nothing herein shall be construed to restrict the District's ability to pay the Lease Payments early, and/or exercise its right to terminate for convenience or its Purchase Option pursuant to Article 9 of this agreement. District may terminate this Facilities Lease and the Site Lease by paying all amounts owed, including any owed lease payments.

CERTIFICATIONS

CONTRACTOR FINGERPRINTING CERTIFICATION

The undersigned does hereby certify to the governing board of the Cotati Rohnert Park Unified School District ("District") as follows:

That I am a representative of the Contractor currently under contract ("Contract") with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

Contractor certifies that it has taken at least one of the following actions with respect to the construction project that is the subject of the Contract (check all that apply):

_____ The Contractor has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and of all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

_____ Pursuant to Education Code section 45125.2, Contractor has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Contractor's employees and District pupils at all times; and/or

_____ Pursuant to Education Code section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is

Name: _____

Title: _____

_____ The Work on the Contract is at an unoccupied site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with District pupils.

Contractor's responsibility for background clearance extends to all of its employees, Subcontractors, and employees of Subcontractors coming into contact with District pupils regardless of whether they are designated as employees or acting as independent contractors of the Contractor.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

END OF DOCUMENT

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

I am aware of and hereby certify that neither _____nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. I further agree that I will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offeror/ contractor or any lower participant is unable to certify this statement, it shall attach an explanation to this solicitation proposal.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal of the above named bidder on the _____day of _____, 202_ for the purposes of submission of this bid.

(Corporate Seal) By_____
Signature

_____
Typed or Printed Name

_____
Title

_____
Date

As the awardee under this Bid, I hereby certify that the above certification remains valid as of the date of contract award, specifically, as of the ____ day of _____ 202_, for the purposes of award of this contract.

(Corporate Seal) By_____
Signature

_____
Typed or Printed Name

_____
Title

_____
Date

END OF DOCUMENT

NONDISCRIMINATION CERTIFICATION

I am aware of and hereby certify that Contractor shall comply with Section 1735 of the Labor Code, which provides as follows:

> "No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, handicap, medical condition, marital status, or gender of such persons, except as provided in Section 12940 of the Government Code, and every contractor for public works violating this Section is subject to all the penalties imposed for a violation of [Chapter 1 of Part 7, Division 2 of the Labor Code]."

By_____
Signature

_____
Typed or Printed Name

_____
Title

_____
Date

END OF DOCUMENT

GUARANTEE
for
[[insert project name]]

We hereby guarantee that the workmanship and materials for the project have been furnished and installed in accordance with the Drawings and Project Manual and all modifications and amendments thereto, and that the Work, as completed, will fulfill the requirements of the guarantee included in the Project Manual. We agree to repair or replace any or all work, together with any other adjacent work that we may displace in so doing, that may prove to be defective in its workmanship or material within a period of TWO (2) years from date of filing of the Notice of Completion of the above-named project by the Board of Trustees of the School District without any expense whatsoever to said Board of Trustees, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of our failure to comply with the above-mentioned conditions within ten (10) days after being notified in writing by the Architect or Owner, we collectively or separately do hereby authorize said Owner to proceed to have said defects repaired and made good at our expense and we will honor and pay the costs and charges therefrom upon demand.

Applicable Specification Section(s) and Scope of Work Performed

Specific Guarantee Provisions Required by Specification Section:

(Insert provisions – see specification section for language – where required.)

Signed _____ Date _____

Name _____ Title _____

Subcontracting Firm _____ License No. _____

Address _____

Countersigned _____ Date _____

Name _____ Title _____

General Contractor _____ License No. _____

Address _____

ASBESTOS-FREE MATERIALS CERTIFICATION

The undersigned declares that he or she is the person who executed the bid for the [[insert project name]] (the "Project"), and submitted it to the Cotati Rohnert Park Unified School District (the "District") on behalf of [Contractor] (the "Contractor").

To the best of my knowledge, information and belief, in completing the Contractor's Work for the Project, no material furnished, installed or incorporated into the Project will contain, or in itself be composed of, any materials listed by the federal or state EPA or federal or state health agencies as a hazardous material.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this _____ day of _____, 202_ at _____.

Name of Contractor (Print or Type)

By: _____
Signature

_____
Print Name

_____
Title

Subscribed and sworn before me

this _____ day of _____, 202_

_____
Notary Public in and for
the State of California
(Seal)

My Commission Expires: _____

ROOFING CONTRACT FINANCIAL INTEREST CERTIFICATION
(Public Contract Code § 3006)

I, _____, _____
Name Name of Contractor
certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roof project contract or subcontract on the Project. As used in this certification, "person" means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Furthermore, I _____, _____
Name Name of Contractor
certify that I do not have, and throughout the duration of the Contract, I will not have, any financial relationship in connection with the performance of the Contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, _____, _____
Name Name of Contractor
have the following financial relationships with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

Name of firm ("Firm"): _____

Mailing address: _____

Address of branch office used for this Project: _____

If subsidiary, name and address of parent company: _____

I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true.

Date: _____

Proper Name of Contractor: _____

Signature: _____

Print Name: _____

Title: _____

CONTRACTOR'S CERTIFICATE
REGARDING DRUG-FREE WORKPLACE

This Drug-Free Workplace Certification form is required from all successful bidders pursuant to the requirements mandated by Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or service from any State agency must certify that it will provide a drug-free workplace by performing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the CONTRACTOR or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

a) Publishing a statement, notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions which will be taken against employees for violations of the prohibition;

b) Establishing a drug-free awareness program to inform employees about all of the following:

1) The dangers of drug abuse in the workplace;

2) The person's or organization's policy of maintaining a drug-free workplace;

3) The availability of drug counseling, rehabilitation and employee-assistance programs; and

4) The penalties that may be imposed upon employees for drug abuse violations;

c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by Government Code section 8355(a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will (a) publish a statement notifying employees concerning the prohibition of controlled substance at the workplace, (b) establish a drug-free awareness program, and (c) require each employee engaged in the performance of the contact be given a copy of the statement required by section 8355(a) and require such employee agree to abide by the terms of that statement.
I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of section 8355, that the contract awarded herein is subject to termination, suspension of payments, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of section 8350 et seq.
I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

DATE:_____ _____
Contractor

By:_____
Signature

CONTRACTOR'S CERTIFICATE REGARDING
ALCOHOLIC BEVERAGE and TOBACCO-FREE CAMPUS POLICY

The CONTRACTOR agrees that it will abide by and implement the DISTRICT's Alcoholic Beverage and Tobacco-Free Campus Policy, which prohibits the use of alcoholic beverages and tobacco products, at any time, on DISTRICT-owned or leased buildings, on DISTRICT property and in DISTRICT vehicles. The CONTRACTOR shall procure signs stating "ALCOHOLIC BEVERAGE AND TOBACCO USE IS PROHIBITED" and shall ensure that these signs are prominently displayed in all entrances to school property at all times.

DATE:_____ _____
Contractor

By:_____
Signature

WORKERS' COMPENSATION CERTIFICATE

Labor Code section 3700.

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

(c) For any county, city, city and county, municipal corporation, public district, public agency or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state, which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

CERTIFICATE

I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance on the Work of this Contract.

_____
Name of the Contractor

By:_____
Signature

_____
Print Name

_____
Title

_____
Date

In accordance with Article 5 [commencing at section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.

IRAN CONTRACTING ACT CERTIFICATE

Pursuant to California Public Contract Code Section 2200 et seq., (the "Iran Contracting Act of 2010"), Contractor certifies that:

(1) Contractor is not identified on the list created by the California Department of General Services ("DGS") pursuant to Public Contract Code Section 2203(b) as a Person engaging in investment activities in Iran; and

(2) Contractor is not a financial institution that extends twenty million dollars ($20,000,000) or more in credit to another Person, for 45 days or more, if that Person will use the credit to provide goods or services in the energy sector in Iran and is identified on the DGS list made pursuant to Public Contract Code Section 2203(b).

As used herein, "Person" shall mean a person as defined in Public Contract Code Section 2202(e).

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the Contractor to this Certification, which is made under the laws of the State of California.

_____
Name of the Contractor

By:_____
Signature

_____
Print Name

_____
Title

_____
Date

LEAD-BASED MATERIALS CERTIFICATION

PROJECT/CONTRACT NO.: _____ between the Cotati Rohnert Park Unified School District ("District") and _____ ("Contractor" or "Bidder") ("Contract" or "Project").

This certification provides notice to the Contractor that:

(1) Contractor's work may disturb lead-containing building materials.

(2) Contractor shall notify the District if any work may result in the disturbance of lead-containing building materials.

(3) Contractor shall comply with the Renovation, Repair and Painting Rule, if lead-based paint is disturbed in a six-square-foot or greater area indoors or a 20-square-foot or greater area outdoors.

1. Lead as a Health Hazard

Lead poisoning is recognized as a serious environmental health hazard facing children today. Even at low levels of exposure, much lower than previously believed, lead can impair the development of a child's central nervous system, causing learning disabilities, and leading to serious behavioral problems. Lead enters the environment as tiny lead particles and lead dust disburses when paint chips, chalks, peels, wears away over time, or is otherwise disturbed. Ingestion of lead dust is the most common pathway of childhood poisoning; lead dust gets on a child's hands and toys and then into a child's mouth through common hand-to-mouth activity.
Exposures may result from construction or remodeling activities that disturb lead paint, from ordinary wear and tear of windows and doors, or from friction on other surfaces.

Ordinary construction and renovation or repainting activities carried out without lead-safe work practices can disturb lead-based paint and create significant hazards. Improper removal practices, such as dry scraping, sanding, or water blasting painted surfaces, are likely to generate high volumes of lead dust. Because the Contractor and its employees will be providing services for the District, and because the Contractor's work may disturb lead-containing building materials, CONTRACTOR IS HEREBY NOTIFIED of the potential presence of lead-containing materials located within certain buildings utilized by the District. All school buildings built prior to 1978 are presumed to contain some lead-based paint until sampling proves otherwise.

2. Overview of California Law

Education Code section 32240 et seq. is known as the Lead-Safe Schools Protection Act. Under this act, the Department of Health Services is to conduct a sample survey of schools in the State of California for the purpose of developing risk factors to predict lead contamination in public schools. (Ed. Code, § 32241.)

Any school that undertakes any action to abate existing risk factors for lead is required to utilize trained and state-certified contractors, inspectors, and workers. (Ed. Code, § 32243, subd. (b).) Moreover, lead-based paint, lead plumbing, and solders, or other potential sources of lead contamination, shall not be utilized in the construction of any new school facility or the modernization or renovation of any existing school facility. (Ed. Code, § 32244.)

Both the Federal Occupational Safety and Health Administration ("Fed/OSHA") and the California Division of Occupational Safety and Health ("Cal/OSHA") have implemented safety orders applicable to all construction work where a contractor's employee may be occupationally exposed to lead.

The OSHA Regulations apply to all construction work where a contractor's employee may be occupationally exposed to lead. The OSHA Regulations contain specific and detailed requirements imposed on contractors subject to those regulations. The OSHA Regulations define construction work as work for construction, alteration, and/or repair, including painting and decorating. Regulated work includes, but is not limited to, the following:

a. Demolition or salvage of structures where lead or materials containing lead
are present;

b. Removal or encapsulation of materials containing lead;

c. New construction, alteration, repair, or renovation of structures, substrates, or portions thereof, that contain lead, or materials containing lead;

d. Installation of products containing lead;

e. Lead contamination/emergency cleanup;

f. Transportation, disposal, storage, or containment of lead or materials containing lead on the site or location at which construction activities are performed; and

g. Maintenance operations associated with the construction activities described in the subsection.

Because it is assumed by the District that all painted surfaces (interior as well as exterior) within the District contain some level of lead, it is imperative that the Contractor, its workers and subcontractors fully and adequately comply with all applicable laws, rules and regulations governing lead-based materials (including title 8, California Code of Regulations, section 1532.1).

Contractor shall notify the District if any Work may result in the disturbance of lead-containing building materials. Any and all Work that may result in the disturbance of lead-containing building materials shall be coordinated through the District. A signed copy of this Certification shall be on file prior to beginning Work on the Project, along with all current insurance certificates.

3. Renovation, Repair and Painting Rule, Section 402(c)(3) of the Toxic Substances Control Act

The EPA requires lead safe work practices to reduce exposure to lead hazards created by renovation, repair and painting activities that disturb lead-based paint. Pursuant to the Renovation, Repair and Painting Rule (RRP), renovations in homes, childcare facilities, and schools built prior to 1978 must be conducted by certified renovations firms, using renovators with training by an EPA-accredited training provider, and fully and adequately complying with all applicable laws, rules and regulations governing lead-based materials, including those rules and regulations appearing within title 40 of the Code of Federal Regulations as part 745 (40 CFR 745).

The RRP requirements apply to all contractors who disturb lead-based paint in a six square-foot or greater area indoors or a 20-square-foot or greater area outdoors. If a DPH-certified inspector or risk assessor determines that a home constructed before 1978 is lead-free, the federal certification is not required for anyone working on that particular building.

4. Contractor's Liability

If the Contractor fails to comply with any applicable laws, rules, or regulations, and that failure results in a site or worker contamination, the Contractor will be held solely responsible for all costs involved in any required corrective actions, and shall defend, indemnify, and hold harmless the District, pursuant to the indemnification provisions of the Contract, for all damages and other claims arising therefrom.

If lead disturbance is anticipated in the Work, only persons with appropriate accreditation, registrations, licenses, and training shall conduct this Work.

It shall be the responsibility of the Contractor to properly dispose of any and all waste products, including, but not limited to, paint chips, any collected residue, or any other visual material that may occur from the prepping of any painted surface. It will be the responsibility of the Contractor to provide the proper disposal of any hazardous waste by a certified hazardous waste hauler. This company shall be registered with the Department of Transportation (DOT) and shall be able to issue a current manifest number upon transporting any hazardous material from any school site within the District.

The Contractor shall provide the District with any sample results prior to beginning Work, during the Work, and after the completion of the Work. The District may request to examine, prior to the commencement of the Work, the lead training records of each employee of the Contractor.

THE CONTRACTOR HEREBY ACKNOWLEDGES, UNDER PENALTY OF PERJURY, THAT IT:

1. HAS RECEIVED NOTIFICATION OF POTENTIAL LEAD-BASED MATERIALS ON THE OWNER'S PROPERTY;

2. IS KNOWLEDGEABLE REGARDING AND WILL COMPLY WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS GOVERNING WORK WITH, AND DISPOSAL, OF LEAD.

THE UNDERSIGNED WARRANTS THAT HE/SHE HAS THE AUTHORITY TO SIGN ON BEHALF OF AND BIND THE CONTRACTOR. THE DISTRICT MAY REQUIRE PROOF OF SUCH AUTHORITY.

Date: _____
Proper Name of Contractor: _____
Signature: _____
Print Name: _____
Title: _____

HAZARDOUS MATERIALS CERTIFICATION

PROJECT/CONTRACT NO.: _____ between the Cotati Rohnert Park Unified School District ("District") and _____ ("Contractor" or "Bidder") ("Contract" or "Project").

1. Contractor hereby certifies that no asbestos, or asbestos-containing materials, polychlorinated biphenyl (PCB), or any material listed by the federal or state Environmental Protection Agency or federal or state health agencies as a hazardous material, or any other material defined as being hazardous under federal or state laws, rules, or regulations, ("New Hazardous Material"), shall be furnished, installed, or incorporated in any way into the Project or in any tools, devices, clothing, or equipment used to affect any portion of Contractor's work on the Project for District.

2. Contractor further certifies that it has instructed its employees with respect to the above-mentioned standards, hazards, risks, and liabilities.

3. Asbestos and/or asbestos-containing material shall be defined as all items containing but not limited to chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite. Any or all material containing greater than one-tenth of one percent (0.1%) asbestos shall be defined as asbestos-containing material.

4. Any disputes involving the question of whether or not material is New Hazardous Material shall be settled by electron microscopy or other appropriate and recognized testing procedure, at the District's determination. The costs of any such tests shall be paid by Contractor if the material is found to be New Hazardous Material.

5. All Work or materials found to be New Hazardous Material or Work or material installed with equipment containing New Hazardous Material will be immediately rejected and this Work will be removed at Contractor's expense at no additional cost to the District.

6. Contractor has read and understood the document titled Hazardous Materials Procedures & Requirements, and shall comply with all the provisions outlined therein.

Date: _____
Proper Name of Contractor: _____
Signature: _____
Print Name: _____

PROJECT FORMS

PERFORMANCE BOND
(CALIFORNIA PUBLIC WORK)

WHEREAS, the Cotati Rohnert Park Unified School District (the "Obligee") has awarded to _____ (the "Principal") a contract for the Work commonly described as:

[[project name]]

(the "Project"); and

WHEREAS, the Work to be performed by the Principal is more particularly set forth in that certain Agreement between the Principal and the Obligee, dated _____, 202_, which Agreement and all other contract documents set forth therein (collectively, the "Contract Documents") are incorporated herein and made a part hereof by this reference; and

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond ensuring the Principal's prompt, full and faithful performance of the Work under the Contract Documents ("Bond").

NOW THEREFORE, we, _____, as Principal, and _____, as Surety, are held and firmly bound, along with our respective heirs, executors, administrators, successors and assigns, jointly and severally, unto Cotati Rohnert Park Unified School District, as Obligee, for payment of the penal sum of _____ Dollars ($_____), said sum being not less than one hundred percent (100%) of the total amount payable by the Obligee under the terms of the Contract Documents, in lawful money of the United States, as more particularly set forth herein.

The condition of the obligation is such that if the Principal promptly, fully and faithfully performs each and all of the obligations and things to be done and performed by the Principal in strict accordance with the terms of the Contract Documents as they may be modified or amended from time to time, and if the Principal indemnifies and saves harmless the Obligee and all of its officers, agents and employees from any and all losses, liability and damages, claims, judgments, liens, costs, and fees of every description which may be incurred by the Obligee by reason of the failure or default on the part of the Principal in the performance of any or all of the terms or the obligations of the Contract Documents, including all modifications and amendments thereto, and any warranties or guarantees required thereunder, then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, adjustment of the Contract Time, adjustment of the Contract Price, alterations, deletions, additions, or any other modifications to the terms of the Contract Documents, the Work to be performed thereunder, or to the Specifications or the Drawings shall limit, restrict or otherwise impair Surety's obligations or Obligee's rights hereunder. Surety hereby waives notice from the Obligee of any such changes, adjustments of Contract Time, adjustments of Contract Price, alterations, deletions, additions or other modifications to the Contract Documents, the Work to be performed under the Contract Documents, or the Drawings or the Specifications.

In the event of the Obligee's termination of the Contract due to the Principal's breach or default of the Contract Documents, within sixty (60) days after written notice from the Obligee to the Surety of the Principal's breach or default of the Contract Documents and Obligee's termination of the Contract, the Surety shall notify Obligee in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the Work of the Contract Documents and complete the Work at its own expense ("Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the Obligee, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's mere denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the Work.

In the event the Surety fails to issue its Notice of Election to Obligee within the time specified herein, the Obligee may take all such action or actions necessary to cure or remedy the Principal's failure of performance or

default or to complete the Work. The Principal and the Surety shall be each jointly and severally liable to the Obligee for all damages and costs sustained by the Obligee as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Obligee upon the Principal's failure of performance under or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes of any Work which increases the Contract Price.

In the event that Contract Documents are found invalid, or if there is a Reverse Validation Action and Obligee or Principal elects to have the parties transaction terminated, the Surety and Principal are exonerated and there shall be no obligations owed under this Agreement.

The Principal and Surety agree that if the Obligee is required to engage the services of an attorney in connection with enforcement of the Bond, Principal and Surety shall pay Obligee's reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

In the event that suit or other proceeding is brought upon this Bond by the Obligee, the Surety shall pay to the Obligee all reasonable costs, expenses and fees incurred by the Obligee in connection therewith, including without limitation, attorneys' fees.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this _____ day of _____, 202_ by their duly authorized agents or representatives.

(Corporate Seal)

_____
(Principal Name)

By: _____
(Signature)

_____
(Typed or Printed Name / Title)

(Corporate Seal)

_____
(Surety Name)

By: _____
(Signature of Attorney-in-Fact for Surety)

(Attach Attorney-in-Fact Certificate)

_____
(Typed or Printed Name)

_____
(Address)

(_____)_____
(Area Code and Telephone Number)

IMPORTANT: THIS IS A REQUIRED FORM.

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code section 105, and if the Work or Project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)

(Name and Address of agent or representative for service for service of process in California)

Telephone: _____

Telephone: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public in and for said State (SEAL)

Commission expires:

NOTE: A copy of the power-of-attorney to local representatives of the Surety must be attached hereto.

LABOR AND MATERIAL PAYMENT BOND
(CALIFORNIA PUBLIC WORK)

WHEREAS, Cotati Rohnert Park Unified School District (the "Obligee") has awarded to _____ (the "Principal") a contract for the Work commonly described as the:

[[PROJECT NAME]]

(the "Project"); and

WHEREAS, the Work to be performed by the Principal is more particularly set forth in that certain Agreement between the Principal and the Obligee, dated _____, 202_, which Agreement and all other contract documents set forth therein (collectively, the "Contract Documents") are incorporated herein and made a part hereof by this reference; and

WHEREAS, by the terms of the Contract Documents, and in accordance with California Civil Code sections 9550 et seq., the Principal is required to furnish a bond for the prompt, full and faithful payment to any Claimant, as hereinafter defined, for all labor, materials or services used, or reasonably required for use, in the performance of the Work on the Project ("Bond"); and

WHEREAS, the term "Claimant" shall refer to any of the persons described in California Civil Code section 9100, who provide or furnish labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard to whether such labor, materials or services were sold, leased or rented.

NOW THEREFORE, we, _____, as Principal, and _____, as Surety, are held and firmly bound, along with our respective heirs, executors, administrators, successors and assigns, jointly and severally, unto Cotati Rohnert Park Unified School District, as Obligee, for payment of the penal sum of _____ Dollars ($_____), said sum being not less than one hundred percent (100%) of the total amount payable by the Obligee under the terms of the Contract Documents, in lawful money of the United States, as more particularly set forth herein.

This Bond shall inure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

The condition of the obligation is such that if the Principal, or its subcontractors, heirs, executors, administrators, successors or assigns fail to pay (1) any Claimant, (2) amounts due under the Unemployment Insurance Code with respect to Work or labor performed on the Project, or (3) amounts required to be deducted, withheld, and paid to the Employment Development Department from the wages of employees of the Principal and its subcontractors under section 13020 of the Unemployment Insurance Code with respect to the Work and labor, then Surety will pay for the same in an amount not to exceed the sum specified above and, if an action is brought to enforce the liability on the Bond, the Surety shall pay such reasonable attorneys' fees as fixed by the court, as set forth in Civil Code section 9554.

If the Principal promptly, fully and faithfully makes payment to any Claimant for all labor, materials or services used or reasonably required for use in the performance of the Work, then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

In the event that Contract Documents are found invalid, or if there is a Reverse Validation Action and Obligee or Principal elects to have the parties transaction terminated, the Surety and Principal are exonerated and there shall be no obligations owed under this Agreement.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, deletion, addition, or any other modification to the terms of the Contract Documents, the Work to be performed thereunder, the Specifications or the Drawings, or any other portion of the Contract Documents, shall in any way limit,

restrict or otherwise affect its obligations under this Bond; the Surety hereby waives notice from the Obligee of any such change, extension of time, alteration, deletion, addition or other modification to the Contract Documents, the Work to be performed under the Contract Documents, the Drawings or the Specifications of any other portion of the Contract Documents.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this _____ day of _____, 202_ by their duly authorized agents or representatives.

(Corporate Seal)

_____
(Principal Name)

By:_____
(Signature)

_____
(Typed or Printed Name)

Title:_____

(Corporate Seal)

_____
(Surety Name)

By:_____
(Signature of Attorney-in-Fact for Surety)

(Attach Attorney-in-Fact Certificate)

_____
(Typed or Printed Name of Attorney-in-Fact)

_____
(Address)

(_____)_____
(Area Code and Telephone Number of Surety)

IMPORTANT: THIS IS A REQUIRED FORM

Surety companies executing bonds must possess a certificate of authority from the California Insurance Commissioner authorizing them to write surety insurance defined in California Insurance Code section 105, and if the Work or Project is financed, in whole or in part, with federal, grant or loan funds, Surety's name must also appear on the Treasury Department's most current list (Circular 570 as amended).

Any claims under this bond may be addressed to:

(Name and Address of Surety)	(Name and Address of agent or representative for service for service of process in California)
_____ _____ Telephone:_____	_____ _____ Telephone:_____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, a Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____ Notary Public in and for said State Commission expires:_____	(SEAL)

NOTE: A copy of the power-of-attorney to local representatives of the Surety must be attached hereto.

ESCROW AGREEMENT FOR SECURITY DEPOSITS IN LIEU OF RETENTION

This Escrow Agreement is made and entered into by and between the Cotati Rohnert Park Unified School District, hereinafter called "OWNER", and _____ whose address is _____, hereinafter called "CONTRACTOR", and _____ whose address is _____, hereinafter called "Escrow Agent."

For the consideration hereinafter set forth, the OWNER, CONTRACTOR and Escrow Agent agree as follows:

(1) Pursuant to section 22300 of the Public Contract Code of the State of California, CONTRACTOR has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by OWNER pursuant to the Construction Contract entered into between the OWNER and CONTRACTOR for _____ in the amount of _____ dated _____ (hereinafter referred to as the "Contract"). Alternatively, on written request of the CONTRACTOR, the OWNER shall make payments of the retention earnings directly to the escrow agent. When CONTRACTOR deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the OWNER within ten (10) days of deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the OWNER and CONTRACTOR. Securities shall be held in the name of _____, and shall designate the CONTRACTOR as beneficial OWNER.

(2) The OWNER shall make Tenant Improvement Payments to the CONTRACTOR for such funds which otherwise would be withheld from Tenant Improvement Payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the OWNER makes payments of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the CONTRACTOR until such time as the escrow created under this contract is terminated. The CONTRACTOR may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the OWNER pays the Escrow Agent directly.

(4) CONTRACTOR shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the OWNER. These expenses and payment terms shall be determined by the OWNER, CONTRACTOR, and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of CONTRACTOR and shall be subject to withdrawal by CONTRACTOR at any time and from time to time without notice to the OWNER.

(6) CONTRACTOR shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the OWNER to the Escrow Agent that OWNER consents to the withdrawal of the amount sought to be withdrawn by CONTRACTOR.

(7) The OWNER shall have a right to draw upon the securities in the event of default by the CONTRACTOR. Upon seven (7) days' written notice to the Escrow Agent from the OWNER of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the OWNER.

(8) Upon receipt of written notification from the OWNER certifying that the Contract is final and complete, and that the CONTRACTOR has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to CONTRACTOR all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payment of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the OWNER and the CONTRACTOR pursuant to sections (5) to (8), inclusive, of this agreement and the OWNER and CONTRACTOR shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the OWNER and on behalf of CONTRACTOR in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

_____
Title

_____
Name

_____
Signature

_____
Address

On behalf of Agent:

_____
Title

_____
Name

_____
Signature

_____
Address

On behalf of Contractor:

_____
Title

_____
Name

_____
Signature

_____
Address

At the time the Escrow Account is opened, the OWNER and CONTRACTOR shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date set forth above.

OWNER

_____
Title

_____
Name

_____
Signature

CONTRACTOR

_____
Title

_____
Name

_____
Signature

Form A

AFFIDAVIT OF PAYMENT

TO ALL WHOM IT MAY CONCERN:

WHEREAS, the undersigned has been employed by the Cotati Rohnert Park Unified School District to furnish labor and materials under a contract dated _____ for:

Project:

School:

in the County of Sonoma of which the Cotati Rohnert Park Unified School District is the Owner.

NOW, THEREFORE, this _____day of _____, 20 ____ , the undersigned, as the Subcontractor to the Contractor for the above-named Facilities Lease pursuant to the Conditions of the Facilities Lease, hereby certifies that, except listed below, he or she has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against Subcontractor and/or Contractor for damages arising in any manner in connection with the performance of the Facilities Lease referenced above for which District or its property might in any way be held responsible.

EXCEPTIONS: (If none, write "None". If required by District, Contractor and/or Subcontractor shall furnish bond satisfactory to District for each Exception).

Name and Address	What For	Contract Price	Amount Paid	This Payment	Balance Due
1.					
2.					
3.					

_____

Subcontractor to Contractor (Name of sole ownership, corporation or partnership)

Corporate Seal

_____

Signature of Authorized Representative (Subcontractor to Contractor)

_____

Printed Name of Authorized Representative

_____

Title Description of Authorized Representative

Form B

APPLICATION FOR PAYMENT

APPLICATION AND CERTIFICATION FOR PAYMENT

TO:

PROJECT:

FROM LESSOR:

VIA ARCHITECT:

APPLICATION NO:

BILLING PERIOD:

JOB NO:

CONTRACT AMOUNT:

PROJECT START:

PROJECT COMPLETE:

Distribution to:

- ☐ INSPECTOR
- ☐ ARCHITECT
- ☐ OWNER
- ☐ LESSOR
- ☐

CONTRACTOR APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

1. ORIGINAL CONTRACT SUM	**$**
2. Net change by Change Orders	**$**
3. CONTRACT SUM TO DATE (Line 1 + 2)	**$**
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	**$**
5. RETAINAGE:	
a. % of Completed Work (Column D + E on G703)	**$**

The undersigned certifies that to the best of Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

Contractor:

By: _____ Date: _____
Signature

OWNER REVIEW: _____ Date: _____

	b. % of Stored Material (Column F on G703)	$_____
	Total Retainage (Lines 5a + 5b or Total in Column I of G703)	$_____
6.	TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	$_____
7.	LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	$_____
8.	CURRENT PAYMENT DUE	$_____
9.	BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	$_____

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	$0.00	$0.00
Total approved this Month	$0.00	$0.00
TOTALS	$0.00	$0.00
NET CHANGES by Change Order	$0.00	

PROJECT INSPECTOR REVIEW: _____ Date: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Lessor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... $ _____

(Attach explanation if amount certified differs from the amount applied Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Lessor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Lessor under this Contract.

CHANGE ORDER FORM

Owner: Cotati Rohnert Park Unified School District
Project:
School:
Contractor:

Change Order No.: _____

Date: _____, 20__

DSA File No.: _____
DSA Application No.: _____
District Project #: _____
Project Manager: _____

IF NOT PREVIOUSLY DIRECTED, THE CONTRACTOR IS HEREBY DIRECTED TO PERFORM THE WORK REQUIRED BY THIS CHANGE ORDER AND ITS ATTACHMENTS, INCLUDING BUT NOT LIMITED TO THE SUMMARY, THE RELEVANT CORs OR PCOs, AND THE BACKUP DOCUMENTATION FOR THE CORs AND PCOs.

DESCRIPTION OF AGREED CHANGES IN WORK OR CONTRACT (refer to attached pages or incorporated documents, if necessary):

_____
_____
_____
_____

TOTAL ADJUSTMENT TO Contract Price (GMP) BY THIS CHANGE ORDER: $_____

TOTAL ADJUSTMENT TO Contract Time (deadline for Completion): __ calendar days

SUMMARY OF ADJUSTMENTS TO TIME FOR COMPLETION:

Original contract time:		_____	Calendar Days
Prior change order adjustments to contract time:	+	_____	Calendar Days
This change order's adjustment to contract time:	+	_____	Calendar Days
Adjusted Completion deadline:	=	_____	Calendar Days

Completion Deadline Based on Adjusted Contract Time: _____, 20__

[Note the milestone adjustment deadline below can be removed it is no relevant to the change order]
SUMMARY OF ADJUSTMENTS TO TIME FOR MILESTONE DEADLINE:

Original milestone deadline:		_____, 20__	
Prior change order adjustments to milestone deadline:	+	_____	Calendar Days
This change order's adjustment to milestone deadline:	+	_____	Calendar Days
Adjusted milestone deadline:	=	_____, 20__	

The compensation (time and cost) set forth in this change order comprises the total compensation due the Contractor for the change defined in the change order, including extra work and impact on unchanged work. Acceptance of this change order by Contractor constitutes a full and complete accord and satisfaction of any and all claims by Contractor arising out of or relating to the work and issues covered by the change order, including but not limited to claims for the following: Costs to perform the work; contract balance; contract retention; time; extended field, home office, and other overhead; acceleration, impact, disruption, and delay damages; any and all direct and indirect costs; claims by subcontractors and suppliers; and any and all other requests to the Owner for time or money, from any source and under any legal theory whatsoever, as to the subject of this change order. No signature under protest or accompanied by reservation of rights or protest language, or any other attempts to avoid such waiver shall be of any force or effect whatsoever. No additions or deletions to this change order shall be allowed, except with the approval of Owner's governing body. No language contained in backup material to any change order shall constitute a waiver of anything in this paragraph or the next paragraph, and such backup material shall be interpreted as though such language does not exist.

AS TO THE SCOPE OF THIS CHANGE ORDER, CONTRACTOR EXPRESSLY UNDERSTANDS AND AGREES TO WAIVE THE PROVISIONS OF, AND ALL RIGHTS AND BENEFITS AFFORDED BY, CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES IN FULL AS FOLLOWS:

> **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

This Change Order is hereby agreed to, accepted, and approved, and will be binding and enforceable upon signature by Contractor and approval by the Owner's governing body.

Approved: **Architect of Record**	**Approved and Agreed:** **General Contractor**	**District**
_____ **Print Name**	_____ **Print Name**	_____ **Print Name**
_____ **Signature**	_____ **Signature**	_____ **Signature**
_____ **Date:**	_____ **Date:**	_____ **Date:**

Form D

REQUEST FOR PROPOSAL (RFP)

Cotati Rohnert Park Unified School District

Project Name:		**RFP No.**	
Project Address:			
		Job No.	
Contractor Name:		**DSA File No.**	
Contractor Address:		**DSA Application No.**	
		Date:	

Subject:

Please submit an itemized proposal for changes in [GMP/Contract Price] and Contract Time for proposed modifications to the Contract Documents described herein.

Submit proposal by:

THIS IS NOT A CHANGE ORDER, CONSTRUCTION CHANGE DIRECTIVE OR A DIRECTION TO PROCEED WITH THE WORK DESCRIBED IN THE PROPOSED MODIFICATIONS.

Description of Proposed Modifications:
Scope: Provide cost proposal for all labor, materials and equipment, as required to furnish and install …. Background: Justification: It is necessary to ….
Attachments:

PREPARED AND REQUESTED BY DISTRICT:

Name	Signature	Date:

Form E

PROPOSED CHANGE ORDER (PCO)

Project Name: _____ **PCO No.** _____
Project Address: _____

Subject: _____

Please prepare and submit to the District Representative within 3 days an itemized proposal of cost and schedule impact for the following proposed change to the contract:

Scope:

To Be Completed By Lessor:

Proposed Cost: $ _____ **Requested Time Extension:** _____

_____
Lessor Name

To Be Completed Jointly By District Representative and Lessor:

(ii) Agreed Cost: $ _____ T&M or Lump Sum (circle one) **Agreed Time Extension:** _____

_____
Lessor

_____
District Representative

Signatures on this document do not constitute a change to the Contract or authorization to perform proposed work.

Form F

PROPOSED CHANGE ORDER ESTIMATE
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

Project Name: _____ **PCO No.** _____
Project Address: _____

Subject: _____

ITEM DESCRIPTION	LABOR			MATERIAL				EQUIPMENT			
					UNIT	U/P	$ EXT	QTY	UNIT	U/P	$ EXT
LESSOR WORK:											

PROPOSED COST/CREDIT TOTAL	
☐ Check here if additional pages attached	

Form G

CONSTRUCTION CHANGE DIRECTIVE (CCD)

Project Name:		**CCD No.**	
Project Address:		**Reference PCO No.**	
		Job No.	
Lessor Name:		**DSA File No.**	
Lessor Address:		**DSA Application No.**	
		Date:	

Subject:

When signed by School District, this document becomes effective immediately and the Lessor shall proceed with the change(s) described below. The Lessor is hereby directed to make the following change(s) to the Work of the Contract:
(Replace this Text with Scope Description)

Proposed Adjustments		
1.	The Proposed basis of adjustment to the [GMP/Contract Price] is:	
a.	Time & Material (Not to Exceed):	**$**
b.	Lump Sum:	**$**
c.	No Change	
2.	The Proposed adjustment to the Contract Time is:	
a.	An Increase of (calendar days)	
b.	A decrease of (calendar days)	
c.	No Change	

PREPARED AND AUTHORIZED BY DISTRICT REPRESENTATIVE

Name	Signature	Date:

REVIEWED BY ARCHITECT

Name	Signature	Date:

Signature by the Lessor indicates the Lessor's full and complete agreement with the proposed basis of adjustment in the [GMP/Contract Price] and Time set forth in this Construction Change Directive. Change Directives accepted by the Lessor shall be incorporated into a Change Order without further adjustment.

ACCEPTED BY LESSOR

Name	Signature	Date:

Form H

RECONCILED CHANGE REPORT
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

Project Name: _____ **PCO No.** _____
Project Address: _____

Subject: _____

With this cover, please prepare and submit an itemized report containing the Daily Extra Work Reports and the related invoices and/or receipts for the above referenced Construction Change Directive (CCD). See Project Procedures, item "2.F" in the Procedures Manual, Attachment 5 to the Project Manual (Exhibit A to the Facilities Lease).

Proposed Cost: $ _____ **Requested Time Extension:** _____

Actual Cost: $ _____

_____
Lessor Name

Reviewed By:

_____
Lessor

Reviewed and Approved By:

_____
District Representative

Signatures on this document do not constitute a change to the Contract or authorization to perform proposed work.

Form I

DAILY FIELD REPORT
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

Project Name: _____ **PCO No.** _____
Project Address:

Description of Work in Progress:		
Building/Area of Work:		
Lessor on Site	**Description of Work**	**No. of Workers**
Subcontractor(s) on Site	**Description of Work**	**No. of Workers**
Inspector or Testing on Site	**Items Inspected or Tested:**	

Materials and Equipment on Site and/or Delivered:

Weather Conditions:

Reported By:

Name: **Signature:**

cc: **Name:** _____ **Title:** _____

_____ _____

_____

Form J

REQUEST FOR INSPECTION

Cotati Rohnert Park Unified School District

Project Name:	_____	**Inspection No.**	_____
Project Address:	_____		
	_____	**Job No.**	_____
Contractor Name:	_____	**DSA File No.**	_____
Contractor Address:	_____	**DSA Application No.**	_____
	_____	**Date:**	_____

Pursuant to the specifications and this facilities lease agreement, the Contractor shall use the REQUEST FOR INSPECTION form to request an inspection by the Architect and/or the Project Inspector.

The Contractor hereby requests the following inspection by the (Check one)**:**

The Architect _____ **The Project Inspector _____**

Type of Inspection: **Location:**

Date for Inspection: **Time for Inspection:**

Inspection Results:

Approved _____ **Approved as Noted _____** **Rejected/Failed _____**

Inspected by Architect / Project Inspector (Circle one and provide signature)**:** **Date:**

Contractor Signature: **Date:**

cc: **Name:** _____ **Title:** _____

Name: _____ **Title:** _____

File: _____

Form K

NOTICE OF NON-COMPLIANCE

Cotati Rohnert Park Unified School District

Project Name:		**Notice No.**	
Project Address:			
		Job No.	
Contractor Name:		**DSA File No.**	
Contractor Address:		**DSA Application No.**	
		Date:	

Pursuant to the specifications and general conditions, District and District's Representative shall have authority to stop work whenever provisions of Project Documents are not being complied with and such non-compliance is discovered or when there are safety concerns.

The Contractor shall instruct its employees, subcontractors, material and equipment suppliers, etc., accordingly. The notice or rejection of any portion of the work shall not relieve the Contractor from any of its obligations pursuant to the Project Documents.

Prior to issuing a Notice of Non-Compliance whenever provisions of Project Documents are not being complied with, the District's Representative may elect to notify the Contractor with a "Notice of Non-Compliance". The Contractor shall thereafter comply with the instructions of the District Representative regarding corrections needed to cure the defect.

Site and Building Location:

Non conforming issue:

Name of Subcontractor: (if applicable)

Comments:

Issued by Project Inspector:

Signature: **Date:**

cc:	**Architect:**		**Title:**	
	Owner:		**Title:**	
	File:			

WARRANTY MAINTENANCE BOND
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

KNOWN ALL MEN BY THESE PRESENTS: THAT WHEREAS, THE COTATI ROHNERT PARK UNIFIED SCHOOL DISTRICT hereinafter designated as "DISTRICT" has awarded to:
_____, hereinafter designated as "Principal" or "Lessor" a Contract for work described as follows:

Job No. _____

WHEREAS, Principal is required to furnish a bond in connection with the Contract, guaranteeing the Faithful Performance of Lessor's obligations PURSUANT TO A TWO (2) YEAR WARRANTY PERIOD AS SET FORTH IN THE CONTRACT DOCUMENTS;

NOW, THEREFORE, we, the undersigned Principal and _____, as Surety, are held and firmly bound unto DISTRICT in the sum of
_____ dollars ($_____),
equal to **fifty percent (50%)** of the final contract amount, lawful money of the United States of America, for payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these present.

The condition of this obligation is such,

That if Lessor, his/her/its heirs, executors, administrators, successors or assigns, shall abide by and in well and truly keep and perform the covenants, conditions and agreements of the warranty set forth in the subject contract and any alteration thereof as therein provided, on his/her/its part to be kept and performed at the time and in the manner therein specified, the Surety shall have no obligation pursuant to this bond, otherwise the Surety's obligation under this bond shall arise after:

A. DISTRICT has notified Lessor of defects in material or workmanship and Lessor has refused to correct or failed to adequately correct defective materials or workmanship consistent with the obligation set forth in the warranty provision of the subject contract, and/or has failed to compensate DISTRICT.

Then:

B. The Surety shall immediately and at the Surety's expense, undertake to perform and complete repairs/replacement of defective materials or workmanship through its agent or through independent contractors and tender payment to DISTRICT for damages incurred as a result of Lessor's failure to perform his/her/its obligations pursuant to the warranty provisions of the subject Contract, or Surety may waive its right to perform as set forth above by determining the amount of which Surety may be liable to DISTRICT and as soon as practicable after the amount is determined, tender payment thereof to DISTRICT.

Surety shall proceed in accordance with the obligations set forth herein, not later than seven (7) calendar days after written notice that Lessor has refused or failed to perform his/her/its obligations pursuant to the warranty provisions of the subject Contract and in an emergency situation, or if time is of the essence in the underlying Contract, DISTRICT may take all reasonable actions necessary to protect the subject work or improvement and/or commence immediate repairs to protect the health and safety of the public or to continue the operation of DISTRICT, and costs incurred by DISTRICT in protecting the Work or improvement or commencing emergency repairs for the protection of the public or the continued operation of DISTRICT shall be the joint and several responsibility of Surety and Lessor.

If Surety does not proceed as provided herein, Surety shall be in default on this bond and DISTRICT shall be entitled to enforce any remedy available to DISTRICT. In the event suit is brought upon this bond, Surety or Sureties will pay all court costs, expenses and reasonable attorney fees fixed by the court.

This bond, the rights and obligations hereunder and the interpretation of any provision contained herein, shall be governed by the laws of the State of California and Surety, by submission of this bond to DISTRICT, shall be deemed to have submitted to the jurisdiction of California courts.

For the purposes of this bond, the contract and warranty provisions contained therein shall be defined as all of the documents constituting the complete Construction Contract by and between DISTRICT and Lessor.

Surety hereby stipulates and agrees that this bond shall remain in full force and effect until expiration of the warranty period as set

forth in the Contract Documents.

Lessor: (Name and Address)

_____

_____

_____

District:

Cotati Rohnert Park Unified School District

7165 Burton Ave

Rohnert Park, CA 94928

Surety: (Name and principal place of business)

_____

_____

_____

Lessor Contact as Principal Company:
Name, Signature and Title

_____

_____

_____

Corporate Seal

Surety Company Contact:
Name, Signature and Title

_____

_____

_____

Corporate Seal

DSA 6: VERIFIED REPORT

CALIFORNIA DEPARTMENT OF GENERAL SERVICES
DIVISION OF THE STATE ARCHITECT

VERIFIED REPORT **DSA-6** Rev 04/08

File this report at completion of project, when services in connection with the project are terminated, when work stops for more than one month, or when any building of the project is occupied. See instructions on page 2. Refer also to California Code of Regulations, Title 24, Part 1, Sections 4-214 (for essential services buildings) and 4-336 (for schools).

1.	☐ Final - All work complete (entire DSA approved scope is 100% complete)	**3.**	DSA File No.
2. Check all applicable boxes:	☐ Work not completed (describe in box 10 below) ☐ Terminating ☐ Work Stopped ☐ Occupied Building(s) _____		DSA Application No. ___ - _____
4. School District/Owner:		**5.** Project Name (School):	
6. Scope of Entire Project:			
7. Contract Number: _____	**8.** Final Project (or contract) Cost (Required only if work 100% complete) $ _____	**9.** Total Project Completion (% complete for entire DSA approved scope): ____ %	

10. Describe all non-compliant work and/or work to be completed:(☐ ____ additional pages attached):

11. Total No. of change orders received: _____ **Total No. of DSA approved change orders received:** _____

12. I know of my own personal knowledge that all construction has, in every material respect, been performed in compliance with the DSA approved documents. I declare under penalty of perjury that I prepared this report and that all statements are true.

Signature: _____ Print Name: _____ Date: _____

Serving as: ☐ Project Inspector ☐ Contractor ☐ Other: _____

Business Address: _____

City: _____ State: CA Zip: _____

13. Contractor must complete the following:

I am an authorized official of _____

working in the capacity of _____

with personal knowledge of the work of construction. I have been authorized by said firm or corporation to sign this report.

Submit completed form to the DSA Regional Office where this project was filed:

☐ DSA San Francisco Bay Area Region 1515 Clay Street, Suite 1201 Oakland, CA 94612	☐ DSA Sacramento Region 1102 Q Street, Suite 5200 Sacramento, CA 95811	☐ DSA Los Angeles Basin Region 700 N. Alameda Street, Suite 5-500 Los Angeles, CA 90012	☐ DSA San Diego Region 16680 West Bernardo Drive San Diego, CA 92127

MEETING AGENDA

Cotati Rohnert Park Unified School District

Project Name:		**Meeting No.**	
Project Address:			
		Job No.	
Contractor Name:		**DSA File No.**	
Contractor Address:		**DSA Application No.**	
		Date:	

I. Project Significant Dates
   A. Notice to Proceed Date:

   B. Completion Date:

II. Approve Previous Meeting Minutes

III. Review Schedules
   A. Short Interval/Three-Week Schedule

   B. Master Schedule
      1. Date Revised:
      2. Current Completion Date:

IV. Review Document Control Logs
   A. Submittals
      1. No. Submitted for Review:
      2. No. of Outstanding Items:

   B. RFI's
      1. No. Submitted to Date:
      2. No. of Outstanding Items:

   C. ASI's
      1. No. Issued to Date:

   D. Potential Cost Items
      1. No. Submitted for Review:
      2. No. Approved:

   E. Allowances (per GMP)
      1. Description and Amount
      2. Description and Amount

V. Review Open Items

VI. Review New Items

VII. Review and Collect Daily Field Reports

VIII. Review Project Safety Issues

REQUEST FOR INFORMATION (RFI)
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

Project Name: _____ **RFI No.** _____
Project Address:

Subject: _____
Drawings: **Specifications:**

Lessor's Proposed Solution:

Date Response Required By: _____ **Cost Impact:** Yes / No **Time Impact:** Yes / No

Lessor Name

Response:

Response By:

A/E

Reviewed By:

District Representative

This document provides information or clarification only and does not constitute authorization or direction to proceed with additional work. If, in the opinion of the Lessor, the response has impact to the Contract amount and/or time, the Lessor must advise the District in writing within five (5) days of receipt that the response constitutes issuance of a change order. The Lessor's notice shall be accompanied and appropriately supported with justification, reasoning and references where the contract requirements have exceeded due to the response to the RFI. Otherwise, the response will stand as clarifications to the Contract Documents without any additional costs to the District.

Form P

SUBMITTAL TRANSMITTAL
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

Project Name: _____ **Submittal No.** _____
Project Address:

Check One:

☐ Original Submittal ☐ Second / ☐ Third Submittal of: _____(Original Submittal No.)

Copies	Specification No.	Specification Name	Description

This is not a complete/proper form for substitutions

Check One:

☐ This is a variance from the contract requirements.

☐ We have verified that the material or equipment contained in this submittal meets all the requirements of the contract. This submittal has been reviewed and approved with respect to the means, methods, techniques, and procedures of construction, safety precautions, and program incidentals thereto.

Lessor's Authorized Signature: _____ Date: _____

Transmittal to Consultants:

	Date:	Consultant Received Date:	Architect Received Date:
Civil			
Structural			
Mechanical			
Electrical			
Other			

Re-Transmittal to Lessor:

	Comments	Distribution
Corrections or comments made on the shop drawings during this review do not relieve the Lessor from compliance with requirements of the Contract Drawings and Specifications. This general check is only for the review of conformance with the design concept of the project and general compliance with the information given in the Contract Documents. The Lessor is responsible for confirming and correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all the other trades, and performing his work in a safe and satisfactory manner.		

Architect's Signature: _____ **Date:** _____

DAILY EXTRA WORK REPORT (TIME AND MATERIAL)

Cotati Rohnert Park Unified School District

Project Name:		**Report No.**	
Project Address:		**PCO No.**	
		Job No.	
Contractor Name:		**DSA File No.**	
Contractor Address:		**DSA Application No.**	
		Date:	

Description of Work in Progress: (Be Specific and Include Building / Area)

Name	Craft/Classification	Hours	Pay Rate	Total
1				
2				
3				
4				
5				

Equipment: By Type, Number and Hours (Invoice is mandatory with reconciliation)

Materials: By Type, Units (Invoice is mandatory with reconciliation)

Contractor Name _____

Signature _____ Date _____ **Check Box if Final T & M**

Acknowledgment _____ Date _____ ☐

Note: Inspector, Construction Manager or T&M Monitor must sign this form on the day that the work is being performed or Contractor will forfeit payment. It is the Contractors responsibility to notify and coordinate with the person in charge of monitoring the work.

Form S

SITE ACCESS KEY RECEIPT

The undersigned acknowledges receipt of a high security key or keys for the location indicated below. By accepting the key or keys, the Contractor accepts all responsibility in the event that the key (s) are lost or stolen, along with the following conditions:

1. Should any key be lost or stolen, Contractor is to notify Cotati Rohnert Park Unified School District immediately.
2. Any key(s) distributed to the Contractor are to be returned to the District within the time specified below or on demand.
3. Any lost or stolen Key will result in a charge to the Contractor as restitution to the District.
   a. High School = $10,500.00
   b. Middle School = $7,000.00
   c. Elementary School = $7,000.00
4. Contractor is responsible for locking and securing all facilities for which a key is held. Contractor may be held responsible for any missing District property while in possession of Key(s).
5. School locations may be alarmed. Contractor is responsible for notifying District Representative at least 48 hours in advance of any intention to enter the site during typical off-work hours. (Monday–Friday 3:30PM – 7AM and all day Saturday, Sundays and Holidays).

   Any and all access to school sites is to be coordinated with the District Representative.
6. Duplication of Key(s) violates California Penal Code. Per Section 469 of California Penal Code:

   "Any person who knowingly makes, duplicates, causes to be duplicated, or uses, or attempts to make, duplicate, cause to be duplicated, or use, or has in his possession any key to a building or other area owned, operated, or controlled by State of California, any state agency, commission, a county, city, or any public school or community college district without authorization from the person in charge of such building or area or his designated representative and with knowledge of the lack of such authorization is guilty of a misdemeanor." (Added by Stats. 1970, c.1090, p. 1934)

Job No. and School Site	Number of Keys
Name of Company	Date of Issuance
Contractor Representative (Print Name)	Signature
Phone	Fax
Return By	Extended Date (if necessary)

KEY RETURN CONFIRMATION
(District use only)

Date Returned	Received by
Keys Returned	Keys Lost or Not Returned
Amount Due by Contractor	

Form T

THREE WEEK SCHEDULE
TO BE MUTUALLY AGREED UPON BY CONTRACTOR AND DISTRICT REPRESENTATIVE

Project Name: _____
Project Address: _____

"Status" Symbols	
OS:	**On Schedule**
I:	**Inspection Required**
CP:	**Critical Path Item**
X:	**Behind Schedule**
RS:	**Revised Schedule**

Lessor: _____

Schedule Date: From:
To:

Contract Start and Finish Dates:

Todays Date:

	Contractor Performing Work	"Status"	Activity Description	Day	M	T	W	TH	F	M	T	W	TH	F	M	T	W	TH	F	Future Work	
				Date																Start	Finish
1.																					
2.																					
3.																					
4.																					
5.																					
6.																					
7.																					
8.																					
9.																					
10.																					
11.																					
12.																					
13.																					
14.																					
15.																					
16.																					
17.																					
18.																					
19.																					
20.																					
21.																					

Form U

CONSTRUCTION CONTINGENCY EXPENDITURE APPROVAL FORM

Owner: Cotati Rohnert Park Unified School District
Contract: _____
Contractor: _____

Construction Contingency Expenditure Approval No._____

Date: _____, 20__

IF NOT PREVIOUSLY DIRECTED, YOU ARE HEREBY DIRECTED TO PERFORM THE WORK DESCRIBED IN THIS APPROVAL.

DESCRIPTION OF WORK TO BE PERFORMED UNDER CONSTRUCTION CONTINGENCY (specifically refer to attached pages or incorporated documents):

_____
_____

AGREED TOTAL AMOUNT TO BE PAID FROM CONSTRUCTION CONTINGENCY UPON COMPLETION OF THE ABOVE WORK: $_____

SUMMARY OF ADJUSTMENTS TO CONSTRUCTION CONTINGENCY:

Original Amount of Construction Contingency:		$_____
Previously Approved Construction Contingency Expenditures:	-	$_____
This Approved Construction Contingency Expenditure:	-	$_____
Remaining Amount of Construction Contingency:		$_____

NOTE:

- Any unspent contingency amounts shall be retained by the Owner at the end of the Contract.

- If contractor desires a time extension for the work that is the subject of this contingency expenditure approval, then the time extension must be timely requested and processed via the contract procedures for a change order.

The compensation set forth in this approval comprises the total compensation due to the Contractor for completion of the work described, including extra work, and the impact on

unchanged work. Acceptance by the Contractor of this approval constitutes a full and complete accord and satisfaction of any and all claims by Contractor arising out of or relating to the work and issues covered by the approval, including but not limited to claims for contract balance and retention, extended field, home office or other overhead, all acceleration, time impact, disruption, and delay damages, any and all other direct and/or indirect costs, claims by subcontractors and supplier, and any and all other claims against the Owner for money, from any source and under any legal theory whatsoever, as to the subject of this approval. No signature under protest or accompanied by reservation of rights or protest language, or any other attempts to avoid such waiver shall be of any force or effect whatsoever. No additions or deletions to this approval shall be allowed, except with written permission of the Owner. No language contained in backup material to this approval shall constitute a waiver of this paragraph or the next paragraph, and such backup material shall be interpreted as though such language does not exist.

CONTRACTOR EXPRESSLY UNDERSTANDS AND AGREES TO WAIVE THE PROVISIONS OF, AND ALL RIGHTS AND BENEFITS AFFORDED BY, CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES IN FULL AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

This Approval of Construction Contingency Expenditure is hereby agreed to, accepted, and approved, and will be binding and enforceable.

On behalf of Owner:	On behalf of Contractor:
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____
Date	Date

Form V

DISTRICT CONTINGENCY EXPENDITURE APPROVAL FORM

Owner: Cotati Rohnert Park Unified School District
Contract: _____
Contractor: _____

District Contingency Expenditure Approval No._____

Date: _____, 20__

IF NOT PREVIOUSLY DIRECTED, YOU ARE HEREBY DIRECTED TO PERFORM THE WORK DESCRIBED IN THIS APPROVAL.

DESCRIPTION OF WORK TO BE PERFORMED UNDER DISTRICT CONTINGENCY (specifically refer to attached pages or incorporated documents):

_____

_____

AGREED TOTAL AMOUNT TO BE PAID FROM DISTRICT CONTINGENCY UPON COMPLETION OF THE ABOVE WORK: $_____

SUMMARY OF ADJUSTMENTS TO DISTRICT CONTINGENCY:

Original Amount of District Contingency:		$_____
Previously Approved District Contingency Expenditures:	-	$_____
This Approved District Contingency Expenditure:	-	$_____
Remaining Amount of District Contingency:	=	$_____

NOTE:

- Any unspent contingency amounts shall be retained by the Owner at the end of the Contract.

- If contractor desires a time extension for the work that is the subject of this contingency expenditure approval, then the time extension must be timely requested and processed via the contract procedures for a change order.

The compensation set forth in this approval comprises the total compensation due to the Contractor for completion of the work described, including extra work, and the impact on unchanged work. Acceptance by the Contractor of this approval constitutes a full and

complete accord and satisfaction of any and all claims by Contractor arising out of or relating to the work and issues covered by the approval, including but not limited to claims for contract balance and retention, extended field, home office or other overhead, all acceleration, time impact, disruption, and delay damages, any and all other direct and/or indirect costs, claims by subcontractors and supplier, and any and all other claims against the Owner for money, from any source and under any legal theory whatsoever, as to the subject of this approval. No signature under protest or accompanied by reservation of rights or protest language, or any other attempts to avoid such waiver shall be of any force or effect whatsoever. No additions or deletions to this approval shall be allowed, except with written permission of the Owner. No language contained in backup material to this approval shall constitute a waiver of this paragraph or the next paragraph, and such backup material shall be interpreted as though such language does not exist.

CONTRACTOR EXPRESSLY UNDERSTANDS AND AGREES TO WAIVE THE PROVISIONS OF, AND ALL RIGHTS AND BENEFITS AFFORDED BY, CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES IN FULL AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

This Approval of District Contingency Expenditure is hereby agreed to, accepted, and approved, and will be binding and enforceable.

On behalf of Owner:	On behalf of Contractor:
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____
Date	Date

Form W

ALLOWANCE EXPENDITURE APPROVAL FORM

Owner: Cotati Rohnert Park Unified School District
Contract: _____
Contractor: _____

Allowance Expenditure Approval No._____

Date: _____, 20__

IF NOT PREVIOUSLY DIRECTED, YOU ARE HEREBY DIRECTED TO PERFORM THE WORK DESCRIBED IN THIS APPROVAL.

DESCRIPTION OF WORK TO BE PERFORMED UNDER DISTRICT CONTINGENCY (specifically refer to attached pages or incorporated documents):

_____
_____

AGREED TOTAL AMOUNT TO BE PAID FROM DISTRICT CONTINGENCY UPON COMPLETION OF THE ABOVE WORK: $_____

SUMMARY OF ADJUSTMENTS TO DISTRICT CONTINGENCY:

Original Amount of Allowance:		$_____
Previously Approved Allowance Expenditures:	-	$_____
This Approved Allowance Expenditure:	-	$_____
Remaining Amount of Allowance :	=	$_____

NOTE:

- Any unspent contingency amounts shall be retained by the Owner at the end of the Contract.

- If contractor desires a time extension for the work that is the subject of this contingency expenditure approval, then the time extension must be timely requested and processed via the contract procedures for a change order.

The compensation set forth in this approval comprises the total compensation due to the Contractor for completion of the work described, including extra work, and the impact on unchanged work. Acceptance by the Contractor of this approval constitutes a full and complete accord and satisfaction of any and all claims by Contractor arising out of or relating to the work and issues covered by the approval, including but not limited to claims for contract balance and retention, extended field, home office or other overhead, all acceleration, time impact, disruption, and delay damages, any and all other direct and/or indirect costs, claims by subcontractors and supplier, and any and all other claims against the Owner for money, from any source and under any legal theory whatsoever, as to the subject of this approval. No signature under protest or accompanied by reservation of rights or protest language, or any other attempts to avoid such waiver shall be of any force or effect whatsoever. No additions or deletions to this approval shall be allowed, except with written permission of the Owner. No language contained in backup material to this approval shall constitute a waiver of this paragraph or the next paragraph, and such backup material shall be interpreted as though such language does not exist.

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This Approval of this Allowance Expenditure is hereby agreed to, accepted, and approved, and will be binding and enforceable.

On behalf of Owner:	On behalf of Contractor:
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____
Date	Date