

LEASE-LEASEBACK AGREEMENT

between Sacramento City Unified School District

and [NAME OF BUILDER]

LEASE-LEASEBACK AGREEMENT

This Lease-Leaseback Agreement (this "Agreement") is entered into this ___ day of _____, [YEAR], by and between the Sacramento City Unified School District, a California school district organized and existing under the laws of the State of California (hereinafter called the "District"), and [NAME OF BUILDER], a contractor licensed by the State of California, with its principal place of business at [CITY/STATE OF BUILDERS PRINCIPAL PLACE OF BUSINESS] (hereinafter called "Builder").

WHEREAS, the District intends to undertake work, the scope of which is described generally in Exhibit A hereof at the School Facility (the "Project"); and

WHEREAS, it has been determined that for efficiency Builder has agreed to enter into a Lease-Leaseback Agreement with District pursuant to Education Code section 17406 to perform the work needed; and

WHEREAS, California Education Code section 17406 specifically permits the governing board of the District, without advertising for bids, to lease to any person, firm, or corporation any real property owned by the District if the instrument by which that property is leased requires the lessee to construct on the leased premises, or provide for the construction thereon, of a building for the use of the District during the term of the lease, and provides that title to that building shall vest in the District at the expiration of the lease; and

WHEREAS, in connection with the approval of this Agreement, the District will enter into a site lease with Builder (the "Site Lease"), under which it will lease to Builder the Site described in the Site Lease (the "Site") as set forth in Exhibit F in order for Builder to construct the Project as described in the Scope of Work set forth in Exhibit A to this Agreement which is incorporated herein by this reference (the "Scope of Work"); and

WHEREAS, upon completion of the Project, the Site Lease will terminate and title to the Site will vest with the District; and

WHEREAS, Builder will lease the Project back to the District pursuant to a Sublease Agreement (the "Sublease"), under which the District will be required to make lease payments to Builder for the use and occupancy of the Site, including the Project; and

WHEREAS, the District and Builder desire to enter into this Agreement to ensure that the Project will meet the District's expectations prior to the lease of the Site back to the District pursuant to the Sublease; and

WHEREAS, Builder, as a contractor, is experienced in the [design and] construction of the type of facility and type of work desired by the District and is willing to perform said [design and] construction work for lease to the District, all as more fully set forth in this Agreement.

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the District and Builder agree as follows:

Section 1. BUILDER'S DUTIES AND STATUS

District hereby awards the contract for the Project to Builder on the terms set forth herein. Builder accepts the contractual relationship established between it and the District by this Agreement, and Builder covenants with the District to furnish reasonable skill and judgment in constructing the Project. Builder agrees to furnish efficient business administration and superintendence and to attempt to furnish at all times an adequate supply of professionals, workers, and materials and to perform the work appropriately, expeditiously, economically, and consistent with the Construction Documents as defined in Section 2, paragraph C, of this Agreement.

In accordance with Section 3300 of the Public Contract Code, Builder has a Class "B" license that shall be maintained in good standing for the duration of Builder's work on the Project.

Section 2. DEFINITIONS

A. PRECONSTRUCTION. [INSERT DEFINITION OF PRECONSTRUCTION IN BRACKETS FROM LSU FAB SAMPLE]

B. CONSTRUCTION. The term "Construction" as used in this Agreement includes all labor and services necessary for the construction of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction as fully described in the Construction Scope of Work set forth in Section 8 of this Agreement. Unless otherwise expressly stipulated, Builder shall perform all work and provide and pay for all materials, labor, tools, equipment and utilities, including, but not limited to, light, water, and power, necessary for the proper execution and completion of the Project shown on the drawings and described in the specifications developed pursuant to this Agreement.

C. CONTRACT DOCUMENTS. The term "Contract Documents" as used in this Agreement refers to those documents that form the entire agreement by and between the District and Builder. The Contract Documents consist of this Agreement, including the exhibit and attachments, the Construction Documents, the Site Lease, and the Sublease.

D. CONSTRUCTION DOCUMENTS. The term "Construction Documents" means the final drawings, profiles, cross sections, design development drawings, construction drawings, and supplemental drawings based on the plans and specifications developed including any reference specifications or reproductions prepared by Architect and specifications approved by the District and the Division of the State Architect, which show or describe the location, character, dimensions or details of the Project and specifications for construction thereof, the General Conditions for Contract of Construction dated April 25, 2006 ("General Conditions"), and the Project Stabilization Agreement ("PSA"). If an actual conflict exists between a provision in this Agreement and a provision in the General Conditions, the provision in this Agreement shall control, being the specific intent of the District and Builder. There shall be no actual conflict where this Agreement is silent on a term that is addressed in the General Conditions; in that case, the General conditions shall be enforced.

E. GUARANTEED MAXIMUM PRICE. The term "Guaranteed Maximum Price" ("GMP") as used in this Agreement means the Guaranteed Maximum Price established pursuant to Section 6 of this Agreement to be paid to Builder for Builder's performance of Construction of the Project pursuant to this Agreement.

F. SUBCONTRACTOR. As used in this Agreement the term "Subcontractor" means any person or entity, including trade contractors, who have a contract with Builder to perform any of the Construction.

G. Exhibits. The following Exhibits are attached to and by reference incorporated and made a part of this Agreement:

Exhibit A – THE SCOPE OF WORK: The description of the Project.

Exhibit B – THE SITE: The description of the real property constituting the Site.

Exhibit C – SUBLEASE PAYMENT SCHEDULE: The schedule of Sublease Payments to be paid by the District hereunder.

Exhibit D – GENERAL CONSTRUCTION PROVISIONS: The provisions generally describing the Project's construction including the General Conditions. If an actual conflict exists between a provision in this Agreement and a provision in the general conditions, the provision in this Agreement shall control, being the specific intent of the District and Builder. There shall be no actual conflict where this Agreement is silent on a term that is addressed in the General Conditions; in that case, the General Conditions shall be enforced.

Exhibit E – PROJECT STABILIZATION AGREEMENT: District's labor agreement.

Exhibit F – SITE LEASE: The site lease agreement between the District and Builder.

Exhibit G – SUBLEASE AGREEMENT: The sublease agreement between the District and Builder.

Section 3. CONSTRUCTION SERVICES

A. SCOPE OF WORK. The scope of work is set forth in Exhibit A.

B. TIME OF PERFORMANCE OF CONSTRUCTION SERVICES. Builder shall complete the Scope of Work no later than _____ in accordance with the Project Construction Schedule prepared pursuant to Section 10.E.

C. PAYMENT FOR CONSTRUCTION SERVICES. Payment for construction services shall be made in accordance with Section 17.

Section 4. EXTRA WORK

If the District requests Builder to perform services not described in this Agreement, Builder shall provide a cost estimate and a written description of the additional work required to perform such services necessary to complete the extra work. Compensation for such additional services shall be negotiated and agreed upon in writing in advance of Builder performing or contracting for such extra work, and paid to Builder in addition to the GMP established pursuant to Section 6 hereof. In the absence of a written

agreement, the District will not compensate Builder for extra work, and Builder will not be required to perform it. Nothing in this Agreement shall be construed as limiting the valuation and amount to be paid to Builder for extra work or its implementation.

Section 5. OWNERSHIP OF PLANS AND DOCUMENTS

All original field notes, written reports, drawings, specifications, Construction Documents, and other documents, or any other works of authorship fixed in any tangible medium of expression, including but not limited to physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by the Builder pursuant to this Agreement shall, upon tender and acceptance of final payment for said services, be furnished to and become the property of the District for all purposes, not only as they relate or may relate to the Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to the Project) but as they relate or may relate to any other project, provided that any invalidity of such ownership in relation to any other project shall not affect the validity of such ownership in relation to the Project (including but not limited to any repair, maintenance, renovation, modernization or other alterations or revisions to the Project) under Education Code Section 17316, regardless of whether the Project is constructed. This conveyance shall not deprive Builder from retaining electronic data or other reproducible copies of the Construction Documents or the right to reuse information contained in them in the normal course of Builder's professional activities. Builder shall be deemed author of such electronic data or documents, shall retain all rights not specifically conveyed, and shall be given appropriate credit on any public display of such Construction Documents prepared by Builder.

Section 6. ESTABLISHMENT OF GMP

The Guaranteed Maximum Price shall be _____ Dollars and No/100 (\$_____.00) for the Scope of Work as set forth in Exhibit A. The Builder shall assume the risk of cost overruns that were not foreseeable at the time this Agreement is entered into. The GMP is a fee to Builder and Builder shall be entitled to any unused portions of it. The GMP shall include, but not be limited to, increases in labor and materials, and Builder shall not be entitled to additional payments because of such cost increases. Any additions to the GMP shall only be made in accordance with Section 9 and pursuant to the General Conditions attached herewith as Exhibit D.

Section 7. NOTICE TO PROCEED WITH CONSTRUCTION

Within 30 days of receipt of required insurance certificates, bonds, and signed PSA Agreement To Be Bound, the District shall issue a notice to Builder to proceed with the Project as defined by this Agreement, or the parties shall renegotiate the GMP.

Section 8. CONSTRUCTION SCOPE OF WORK

A. Prior to commencing Construction, Builder shall comply with the initial schedule requirement set forth in Section 10.E. of this Agreement.

B. Builder shall complete the Construction pursuant to the Construction Documents as amended, performing all work set forth in the Scope of Work (Exhibit "A" to this Agreement).

C. (1) Builder shall be responsible for complying with all applicable building codes, mechanical code, electrical code, plumbing code and fire code, latest edition, required by DSA and for arranging and overseeing all necessary inspections and tests including inspections by the DSA, permits and occupancy permits, and ensuring compliance with any Federal and State laws, including, but not limited to, safety procedures and requirements, and construction employee training programs which cover among other items, hazardous chemicals and materials.

(2) All buildings constructed pursuant to this Agreement shall be considered a "school building" pursuant to the Field Act as set forth in Article 3 (commencing with section 17280) of Chapter 3 of Part 10.5 of the Education Code, and shall be compliant with those provisions.

D. Builder shall establish procedures for the protection of all existing structures, equipment, utilities, and other existing improvements, both on-site and off-site. Builder assumes all risk of loss of vandalism, theft of property or other property damage ("vandalism") which occurs at a Site at which Builder is undertaking construction of the Project, from causes due to negligence or misconduct by Builder, its officers, employees, subcontractors, licensees and invitees. Builder shall replace District property damaged by such vandalism or theft or compensate the District for such loss, including payment of out of pocket expenses such as insurance deductibles the District might incur under such circumstances.

E. Builder shall develop a mutually agreed-upon program with the District to abate and minimize noise, dust, and disruption on the Site, including procedures to control on-site noise, dust, and pollution during construction.

F. The District shall perform any required site mitigation or remediation on the Site at its sole cost, unless such site mitigation or remediation is necessitated by any of the conditions described in Section 27 of this Agreement, in which event the provisions of that Section 27 shall govern.

G. District shall cause the appropriate professionals to stamp and sign, as required, the original Construction Documents or parts thereof and coordinate the Project's design with all utilities.

H. Builder shall perform and pay for all utility hook-ups and connections and pay for use of temporary utilities during Construction.

Section 9. EXTRA WORK/MODIFICATIONS

A. The District may prescribe or approve additional work or a modification of requirements or of methods of performing the Construction which differ from the work or requirements set forth in the Construction Documents ("Extra Work/Modifications"); and for such purposes, the District may at any time during the life of this Agreement, by written order, make such changes as it shall find necessary in the design, line, grade, form, location, dimensions, plan, or material of any part of the work or equipment specified in this Agreement or in the Construction Documents, or in the quantity or character of the work or equipment to be furnished. In the event conditions develop which, in the opinion of Builder, makes strict compliance with the specifications impractical, Builder shall notify District of the need for Extra Work/Modifications by placing the matter on the agenda of regularly scheduled construction meetings with the District for discussion as soon as practicable after the need for the Extra Work/Modifications is determined. Additionally, Builder shall submit to the District for its consideration and approval or disapproval, a written request for Extra Work/Modifications before such work is performed. If the District

approves the request in writing, the costs of the Extra Work/Modifications shall be added to or deducted from the GMP or the Scope of Work shall be modified to complete the Project within the GMP, as applicable. The Builder shall submit with the proposed Extra Work/Modifications order its request for time extension (if any), and include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the Project or phase thereof. The time extension shall be agreed to by the parties and memorialized by a written Extra Work/Modifications order prior to initiation of the work contemplated by the Extra Work/Modifications order.

B. Expenses of reconstruction and/or costs to replace and/or repair damaged materials and supplies, provided that Builder is not fully compensated for such expenses and/or costs by insurance or otherwise, shall be paid for by the District only if said expenses are the result of the negligent acts or omissions of the District, or its Architect, subcontractors, principals, agents, servants, or employees.

Section 10. TIME OF COMPLETION

A. Within fifteen (15) days of the date the District issued a Notice to Proceed with Construction, Builder shall proceed with the Construction of the Project for which the Notice was issued, with reasonable diligence. Builder agrees that each Phase of the Scope of Work will be substantially complete within the time stated in Section 3.B., and said date will be extended for such periods of time as Builder is prevented from proceeding with or completing the Project for any cause described in this Section 11. If the work is not completed in accordance with the foregoing, it is understood that the District will suffer damage. It being impractical and infeasible to determine the amount of actual damage, it is agreed that Builder shall pay to the District as fixed and liquidated damages, and not as a penalty, the sum of One Thousand Dollars (\$1,000.00) per day for each calendar day of delay caused solely by Builder from a date established by amendment at the time the final GMP is determined, until the Project is substantially complete. Builder and its surety shall be liable for the amount thereof. Any money due or to become due to Builder may be retained by the District to cover said liquidated damages. Should such money not be sufficient to cover said liquidated damages, the District shall have the right to recover the balance from Builder or its surety, who will pay said balance forthwith.

B. In the event that the performance and/or completion of the Project is delayed at any time by any act or omission of the District or of any Architect, subcontractors, principals, agents, servants, employees or tenant of the District, by any separate contractor employed by the District, by changes or alterations in the Project not caused by any fault or omission by Builder, by strikes, by lockouts, by fire, by embargoes, by windstorm, by flood, by earthquake, by acts of war or God, by changes in public laws, regulations or ordinances enacted after the date of execution of this Agreement, by acts of public officials not caused by any fault or omission of Builder, by an inability to obtain materials or equipment not caused by any act or omission of Builder, or by any other cause beyond the reasonable control of Builder, the aforesaid date for substantial completion of the Project shall be extended for a reasonable period as a consequence of such delay. Builder shall not be charged liquidated damages because of such delays in completion of work or delays otherwise due to unforeseeable causes beyond the control and without the fault or negligence of Builder.

C. The term "substantially complete" or "substantial completion" as used in this Agreement means completed in such fashion as to enable the District, upon performance of any separate work to be done by the District under separate contract or by day labor, beneficially to occupy the constructed phase of the Project and to commence operation therein, provided such occupancy and use does not substantially interfere with Builder's performance of the remainder of the Project as agreed upon between Builder and

the District, which may be accomplished prior to the completion of the Project.

D. The term "Fully Completed and Accepted," as used in this Agreement shall mean that all remaining work has been completed in accordance with the Construction Documents and that successful testing, startup and satisfactory operation of the constructed phase of the Project as a total unit has been accomplished in substantial conformance with the Construction Documents.

E. Within five (5) days after the District's delivery of a Notice to Proceed with Construction, Builder shall furnish District with a reasonably detailed CPM (Critical Path) Schedule, setting forth the expected dates for commencement and completion of each of the various stages of Construction (the "Project Construction Schedule"). The Project Construction Schedule shall be updated by Builder as necessary and revisions in said schedule shall be furnished to the District. It is specifically understood that the District will utilize said Project Construction Schedule as it is revised from time to time to determine completion dates of various aspects of the Project. Payments under the Sublease shall be conditioned upon completion of various aspects of the Project as determined by the District's Inspector pursuant to the Project Construction Schedule.

F. Builder shall not be assessed liquidated damages under this Agreement and shall not be subject to any damages for delay in completion of the Project, when such delay was caused by the failure of the District or the owner of a utility to provide for removal or relocation of the existing main or trunkline utility facilities; however, when Builder is aware that removal or relocation of an existing utility has not been provided for, Builder shall promptly notify the District and the utility in writing, so that provision for such removal or relocation may be made to avoid and minimize any delay which might be caused by the failure to remove or relocate the main or trunkline utility facilities, or to provide for its removal or relocation. In accordance with section 4215 of the Government Code, if Builder while performing this Agreement discovers any existing main or trunkline utility facilities not identified by the District in the plans or specifications, it shall immediately notify the District and utility in writing. The public utility, where they are the owner, shall have the sole discretion to perform repairs or relocation work or permit Builder to do such repairs or relocation work at a reasonable price. Builder shall be compensated for the costs of locating, repairing damage not due to the failure of the Builder to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Such compensation shall be in accordance with the extra work provisions set out in Section 9 of this Agreement.

Section 11. TERMINATION

A. Termination for Breach. If Builder refuses or fails to prosecute the Construction or any separable part thereof with such diligence as will insure its completion within the time specified by this Agreement, or any extension thereof, or fails to complete the Project within such time, or if Builder should be adjudged bankrupt, or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or Builder or any of its Subcontractors should violate any of the provisions of this Agreement, the District may serve written notice upon Builder and its surety of the District's intention to terminate this Agreement. This notice of intent to terminate shall contain the reasons for such intention to terminate this Agreement, and a statement to the effect that Builder's right to perform this Agreement shall cease and terminate upon the expiration of ten (10) days unless such violations have ceased and arrangements satisfactory to the District have been made for correction of said violations.

In the event that the District serves such written notice of termination upon Builder and its surety, the surety shall have the right to take over and perform this Agreement. If the surety does not: (1) give the District written notice of surety's intention to take over and commence performance of the Agreement within twenty five (25) days of the District's service of said notice of intent to terminate upon surety; and (2) actually commence performance of this Agreement within forty (40) days of the District's service of said notice upon surety; then the District may take over the Project and prosecute the same to completion by separate contract or by any other method it may deem advisable for the account and at the expense of Builder.

In the event that the District elects to obtain an alternative performance of the Agreement as specified above: (1) the District may, without liability for so doing, take possession of and utilize in completion of the Project such materials, appliances, plants and other property belonging to Builder that are on the Site and reasonably necessary for such completion; and (2) surety shall be liable to the District for any cost or other damage to the District necessitated by the District securing an alternative performance pursuant to this Section.

B. Termination for Convenience.

(1) The District may terminate performance of the Project called for by the Contract Documents in whole or, from time to time, in part, if the District determines that a termination is in the District's interest. Builder shall terminate all or any part of the Project upon delivery to Builder of a "Notice of Termination" specifying that the termination is for the convenience of the District, the extent of termination, and the "Effective Date" of such termination. After receipt of Notice of Termination, and except as directed by the District, Builder shall, regardless of any delay in determining or adjusting any amounts due under this Termination for Convenience clause, immediately proceed with the following obligations:

(a) Stop work as specified in the Notice of Termination;

(b) Complete any work specified in the Notice of Termination in a least cost/shortest time manner while still maintaining the quality called for under the Contract Documents;

(c) Leave the property upon which Builder was working and upon which the facility (or facilities) forming the basis of the Contract Documents is situated in a safe and sanitary manner such that it does not pose any threat to the public health or safety;

(d) Terminate all subcontracts with Subcontractors to the extent that they relate to the portions of the work terminated;

(e) Place no further subcontracts or orders, except as necessary to complete the continued portion of the Project; and

(f) Submit to the District within thirty (30) days from the Effective Date of the Notice of Termination, all of the usual documentation called for by the Contract Documents to substantiate all costs incurred by Builder for labor, materials and equipment through the Effective Date of the Notice of Termination. Any documentation substantiating

costs incurred by Builder solely as a result of the District's exercise of its right to terminate this Agreement pursuant to this clause which costs Builder is authorized under this Agreement to incur, shall: (i) be submitted to and received by the District no later than thirty (30) days after the Effective Date of the Notice of Termination; (ii) describe the costs incurred with particularity, and (iii) be conspicuously identified as "Termination Costs occasioned by the District's Termination for Convenience."

(2) Termination of this Agreement shall not relieve surety of its obligation for any just claims arising out of or relating to the work performed on the Project. In the event that the District exercises its right to terminate this Agreement pursuant to this clause, the District shall pay Builder, upon Builder's submission of the documentation required by this provision, and other applicable provisions of this Agreement, the following amounts:

(a) All actual costs incurred according to the provisions of this Agreement, including but not limited to reasonable demobilization cost and insurance costs incurred in connection with the Project.

(b) A reasonable allowance for profit on the cost of the work on the Project performed, provided Builder establishes to the satisfaction of the District, that it is reasonably probable that Builder would have made a profit had this Agreement been completed and provided further, that the profit allowed shall in no event exceed fifteen percent (15%) of costs. In no event shall the total amount exceed the sum of the GMP for the construction authorized under Section 6 of this Agreement and all approved Extra Work/Modifications.

(c) A reasonable allowance for Builder's administrative costs in determining the amount payable due to termination of this Agreement under this Section 11.B.

C. Termination of this Agreement by Builder. Builder may terminate this Agreement upon ten (10) days written notice to the District, whenever: (1) the entire Project has been suspended for one hundred eighty (180) consecutive days through no fault or negligence of Builder, and neither a notice to resume nor a notice to terminate this Agreement has been received from the District within this time period; or (2) the District should fail to pay Builder any substantial sums due it in accordance with the terms of this Agreement and within the time limits prescribed; or (3) the District shall elect not to appropriate funds and/or elect not to make two (2) successive Sublease Payments, as defined in Section 6 of the Sublease Agreement, following the receipt by District or a request from the Builder in its capacity as lessor in the Sublease Agreement for each such Sublease Payments submitted. In the event of such termination, Builder shall have no claims against the District except for work performed and reasonable demobilization costs on the Project as of the date of termination, and computed as set forth in Section 11.B.2. (a) - (c), above.

Section 12. PREVAILING RATES OF WAGES

A. Builder must obtain from the Department of Industrial Relations the general prevailing rates of wages in the locality in which the Project is to be performed and it shall be mandatory upon Builder and upon any Subcontractor to pay not less than the specified rate to all workers employed in the execution of the Project. Builder shall cause a copy to be posted at the Site. Copies of the prevailing rates of wages

shall also be on file at the District office, 5735 47th Avenue, Sacramento, CA, 95824, and will be available for review by any interested party upon request. When determining GMP, Builder shall include to the extent possible anticipated general prevailing wage rates for the time when work on the Project will actually be performed to avoid having to modify the GMP.

B. Builder shall forfeit as a penalty to the District not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rate for any work done by him, except as provided in Labor Code section 1775 subdivision (b), or by any subcontractor under him, in violation of the provisions of the California Labor Code. The difference between such stipulated prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by Builder.

C. The Builder and each Subcontractor under him shall keep or cause to be kept an accurate record for work on this Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Agreement or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the District, its officers, and agents, and to the representatives of the Division of Labor Law Enforcement of the State Department of Industrial Relations.

Section 13. EMPLOYMENT OF APPRENTICES

A. Builder's attention is directed to the provisions of sections 1777.5, 1777.6, and 1777.7 of the California Labor Code concerning employment of apprentices by Builder or any Subcontractor.

B. Section 1777.5 of the Labor Code, as amended, requires Builder or Subcontractor employing workers, in any apprenticeable craft or trade, to apply to the Joint Apprenticeship Committee nearest the Project, and which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentice hours to journeyman hours that will be used in the performance of the work required for the Project. The hourly ratio of apprentices to journeymen in such cases shall not be less than one to five except the Joint Apprenticeship Committee may exempt Builder from the one to five requirement if it finds: (1) unemployment for the previous three-month period in the area of coverage by the Joint Apprenticeship Committee has exceeded an average of fifteen percent (15%); or (2) the number of apprentices in training in the area exceeds a ratio of one to five; or (3) there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth (1/30th) of its journeymen annually through apprenticeship training either statewide or locally; or (4) assignment of an apprentice to any work performed on the Project would create a condition which would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such nature that the training cannot be provided by a journeyman.

C. Builder is required to make contributions to funds established for the administration of the apprenticeship programs if it employs registered apprentices or journeymen in any apprenticeable trade or on such contracts and if other contractors on the Site are making such contributions.

D. Builder or any Subcontractor under him shall comply with the requirements of Labor Code sections 1777.5 and 1777.6 in the employment of apprentices.

E. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations, Ex Officio the Administrator of Apprenticeship, San Francisco, California or through the Division of Apprenticeship Standards at its branch offices.

Section 14. HOURS OF WORK

A. Eight (8) hours of work shall constitute a legal day's work. Builder shall forfeit, as penalty to the District, twenty-five dollars (\$25) for each worker employed in the execution of work on the Project by Builder or any subcontractor under him for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any calendar week in violation of the provisions of the Labor Code, and in particular, section 1810 to section 1815, thereof, inclusive, except that work performed by employees of the Builder and his subcontractors in excess of eight hours per day at not less than one and one-half times the basic rate of pay, as provided in Labor Code section 1815.

B. Generally, Construction on the Project shall be accomplished on a regularly scheduled eight (8) hour per day work shift basis, Monday through Friday, between the hours of 6:00 a.m. and 5:00 p.m., however nothing in this Agreement shall prevent Builder from working weekends and after school hours in order to complete the Project so long as not otherwise prohibited by law or local ordinances or regulations.

Section 15. PAYROLL RECORDS

A. Pursuant to Labor Code section 1776, Builder and each Subcontractor shall keep records showing the name, address, social security number, work classification, straight time and overtime hours paid each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by him or her in connection with the work.

B. The payroll records enumerated under Section 15.A shall be certified and shall be available for inspection at all reasonable hours at the principal office of Builder on the following basis:

(1) A certified copy of the employee's payroll records shall be made available for inspection or furnished to such employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in Section 15.A shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in Section 15.A shall be made available upon request to the public for inspection or copies thereof made; provided, however, that if a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, if as requested, payroll records have been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the cost of preparation by Builder, Subcontractors and the entity through which the request was made. The public shall not be given access to such records at the principal office of Builder.

C. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the Division of Labor Standards Enforcement.

D. Each contractor shall file a certified copy of the records enumerated in Section 15.A with the entity that requested such records within ten (10) days after receipt of a written request.

E. Any copy of records made available for inspection as copies and furnished upon request to the public or the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Builder or any Subcontractor performing work on the Project shall not be marked or obliterated.

F. Builder shall inform the District of the location of the records enumerated under Section 15.A, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.

G. In the event of noncompliance with the requirements of this Section 15, Builder shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects Builder must comply with this Section 15. Should noncompliance still be evident after such ten (10) day period, Builder shall, as a penalty to the District, forfeit Twenty-five Dollars (\$25.00) for each calendar day, or portion thereof, for each worker until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

Section 16. BONDING REQUIREMENTS

Builder shall provide the following bonds:

A. A "payment bond" (material and labor bond) from a California admitted surety and in the form attached to this Agreement, shall be provided by Builder for the Project. The payment bond shall be for One Hundred Percent (100%) of the GMP, to satisfy claims of materials suppliers and of mechanics and laborers employed on the Project. The payment bond shall be maintained by Builder in full force and effect for the Project until the Project is Fully Completed and Accepted and until all claims for materials and labor are paid, and shall otherwise comply with California law.

B. A "faithful performance bond" from a California admitted surety and in the form attached to this Agreement shall be provided by Builder for the Project. The faithful performance bond shall be for One Hundred Percent (100%) of the GMP to guarantee faithful performance of all work required by this Agreement, within the time prescribed, in a manner satisfactory to the District, and that all materials and workmanship shall be free from original or developed defects. The faithful performance bond shall be maintained by Builder in full force and effect until the Project is Fully Completed and Accepted and until all claims for materials and labor are paid, and shall otherwise comply with California law. The faithful performance bond shall name the District as the entity to which the principal and surety, as defined in the faithful performance bond, are bound.

C. The bonds required by this Section 16 shall meet the following criteria:

(1) Each bond shall be signed by both Builder and a notary and the signature of the authorized agent of the surety shall be notarized.

(2) Should any bond become insufficient, Builder shall renew or amend the bond within ten (10) days after receiving notice from the District.

(3) Should any surety at any time not be a California admitted surety, notice will be given to Builder to that effect. No further payments shall be deemed due or shall be made under this Agreement until a new surety shall qualify and be accepted by the District.

(4) Changes in this Agreement or the work, or extensions or modifications of time, made pursuant to this Agreement, shall in no way release Builder or the surety from its obligations. Notice of such changes, modifications, or extensions shall be waived by the surety.

D. District shall reimburse Builder as part of the GMP, the cost of bonds required hereunder.

E. To the extent, if any, that the GMP is increased in accordance with this Agreement, the Builder shall cause the amount of the bonds to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. If the Builder fails to furnish the required bonds, the District may terminate this Agreement for cause.

F. Only bonds executed by admitted Surety insurers as defined in Code of Civil Procedure § 995.120 shall be accepted. The surety insurers must, at the time of issuance of the bonds, unless otherwise agreed to by District is writing, have a rating not lower than "A-XII" as rated by A.M. Best Company, Inc. or other independent rating companies. District reserves the right to approve or reject the surety insurers selected by Builder and to require Builder to obtain bonds from surety insurers satisfactory to the District, which approval shall not be unreasonably withheld, delayed, or conditioned.

Section 17. PAYMENTS TO BUILDER AND RETENTION

A. Builder shall finance the cost of Construction of the Project which costs shall not exceed the GMP, except as otherwise provided in this Agreement. The District shall pay Builder sublease payments pursuant to the terms and conditions of Section 6 of the Sublease (the "Sublease Payments"), which terms and conditions include the ten percent (10%) retention described in Section 6 of the Sublease (the "retention"). The sum of the Sublease Payments shall not exceed the GMP established pursuant to Section 6 hereof. With regard to the retention for the Sublease Payments, the District shall authorize the final payment of ten percent (10%) of the value of work done under this Agreement if the Project is unencumbered by stop notices or those stop notices have been bonded by a stop notice release bond or bonds, to be made within thirty (30) days after the date of completion of the Project, provided however, that in the event of a dispute between the District and Builder, the District may withhold from the final lease payment an amount not to exceed one hundred and fifty percent (150%) of the disputed amount. For purposes of this Section 18, "completion" means any of the following as provided by Public Contract Code section 7107:

(1) The occupation, beneficial use, and enjoyment of a work of improvement, excluding any operation only for testing, startup, or commissioning, by the public agency, or its agent,

accompanied by cessation of labor on the work of improvement.

(2) The acceptance by the public agency, or its agent, of the work of improvement.

(3) 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 Builder.

(4) 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 public agency files for record a notice of cessation or a notice of completion.

B. This Agreement is subject to the provisions of Public Contract Code section 7107, as may from time to time be amended.

C. For purposes of this Agreement, the acceptance by the District means acceptance made only by an action of the governing body of the District in session. Acceptance by Builder of said final payment of undisputed amounts shall constitute a waiver of all claims against District related to those amounts.

Section 18. CORRECTION OF WORK: WARRANTY

Neither final payment nor any provision in the Contract Documents shall relieve Builder of responsibility for faulty materials or workmanship incorporated in the Project. Builder warrants that all work under this Agreement will be free of faulty materials or workmanship and hereby agrees, within ten (10) days upon receiving notification from the District, to remedy, repair or replace, without cost to the District, all defects which may appear as a result of faulty materials or workmanship in the Project, at any time, or from time to time, during a period beginning with commencement of the Project and ending one (1) year after the date of substantial completion of the Project, as defined in Section 10 of this Agreement. The foregoing warranty of Builder applies to the remedy, repair or replacement of defects which may appear as a result of faulty designs prepared by Builder and/or any party retained by, through or under Builder in connection with the Project, but the foregoing warranty of Builder does not guarantee against damage to the Project sustained by use, wear, intentional acts, accidents, or lack of normal maintenance or as a result of changes or additions to the Project made or done by parties not directly responsible to Builder, except where such changes or additions to the Project are made in accordance with Builder's directions. No guarantee furnished by a party other than Builder with respect to equipment manufactured or supplied by such party shall relieve Builder from the foregoing warranty obligation of Builder. The warranty period set forth hereinabove shall not apply to latent defects appearing in the Project, and with respect to such defects, the applicable statute of limitations shall apply. Builder agrees to pass on equipment and materials warranties provided by manufacturers to the District but has no obligation to assist in processing such warranty claims after said one (1) year warranty period.

Section 19. ASSIGNMENT OF ANTI TRUST CLAIMS

Builder offers and agrees to assign to the District all rights, title and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 USC Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchase of goods, services, or materials pursuant to this Agreement. This assignment shall become effective at the time the District tenders the final lease payment to Builder, without further

acknowledgment by the parties.

Section 20. PROTECTION OF PERSONS AND PROPERTY

A. The District hereby determines that Builder will only have limited contact with pupils when school is not in session, however for any part of the Project for which pupils will be in proximity with the site where the Builder will be working, Builder shall either (i) obtain fingerprint clearance from the Department of Justice (DOJ) pursuant to Education Code section 45125.1 for all Builder's employees who are anticipated to work on the Project as well as Subcontractors on the Project, or (ii) comply with the provisions of Education Code section 45125.2 subdivision (a), by ensuring the safety of the pupils by one or more of the following methods:

(1) The installation of a physical barrier at the worksite to limit contact with pupils.

(2) Continual supervision and monitoring of all employees of the Builder by an employee of Builder whom the Department of Justice has ascertained has not been convicted of a violent or serious felony (For purposes of this paragraph, an employee of Builder may submit his or her fingerprints to the Department of Justice pursuant to subdivision (a) of Section 45125.1).

(3) Surveillance of the employees of Builder by school personnel.

Even when DOJ clearance is obtained, Builder shall take steps to ensure minimal or limited contact between employees/Subcontractors and pupils of the District at the Site by (i) instructing employees and Subcontractors not to mingle or have contact with pupils, (ii) undertaking any other precautions necessary to limit contact between the pupils and Builder's employees or Subcontractors.

B. Builder shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Project. Builder shall take reasonable precautions for the safety of, and shall provide reasonable protection to prevent damage, injury or loss arising out of the performance of its services under this Agreement, to:

(1) all employees on the Project and at the existing School Facilities on the Site and all other persons who may be affected thereby;

(2) all the work and all materials and equipment to be incorporated therein, whether in storage on or off the Site, under the care, custody, or control of Builder; and

(3) other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

C. Builder shall take into specific account the maturity of students on the Site and enclose the working area with a substantial barricade and arrange work to cause a minimum amount of inconvenience and damage to students and faculty in their regular school activities. Builder shall substantially comply with specifications and directives of the District regarding the timing of certain construction activities in order to avoid unnecessary interference with school functions.

D. Builder shall at all times enforce orderly and disciplined conduct among those performing work on the Project and shall not employ on the work any unfit person not skilled in the task assigned to him, except as provided in Section 13 this Agreement.

E. Builder, in performing the work, shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury, or loss. Builder shall erect and maintain, as required by existing conditions and progress of the Project, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, and shall promulgate safety regulations and notify owners and users of adjacent utilities. Builder shall designate a responsible member of Builder's organization employed at the Site of the Project whose duty shall be the prevention of accidents. Such person shall be Builder's superintendent unless otherwise designated in writing by Builder to the District.

F. In any emergency affecting the safety of persons or property, Builder shall act at its discretion to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by Builder on account of such emergency shall be determined by mutual agreement between the District and Builder.

Section 21. INSPECTION OF WORK

A. The District shall hire its own Division of State Architect inspector as required by law. The District, District's representatives, and the Division of the State Architect shall at all times have access to the work whether it is in preparation or progress, and Builder shall provide proper facilities for such access and for inspection.

B. If the specifications, the District's timely instructions, the Division of the State Architect, or any public authority shall require the Site or the Project to be specially tested or approved, Builder shall give the District forty-eight (48) hour notice of its readiness for inspection and, if the inspection is to be performed by a party other than the District, of the date fixed for such inspection. Inspections by the District shall be promptly made, and, where practicable, shall be at the source of supply. If any work required to be inspected by the specifications, the District's timely instruction or by a public authority should be covered up without the approval or consent of the District, it must, if required by the District, be uncovered for examination at Builder's expense.

C. Re-examination of questioned work may be ordered by the District and if so ordered, such work shall be uncovered by Builder. If such work is found to be in accordance with the Contract Documents, the District shall pay the cost of re-examination and replacement. If such work is not in accordance with the Contract Documents, Builder shall pay such costs, unless Builder can demonstrate to the reasonable satisfaction of District that the defects in such work were caused by persons or entities other than Builder or any of its Subcontractors or employees.

Section 22. SUPERVISION

A. Builder shall maintain on-site a competent project superintendent and necessary assistants during the work. The project superintendent shall represent Builder and all directions given to the project superintendent shall be deemed to have been given to Builder. Important directions shall be confirmed in writing to Builder, and other direction shall be so confirmed to Builder upon the written request of Builder, in accordance with Section 41 of this Agreement and the address listed therein.

Section 23. SEPARATE CONTRACTS

A. The District reserves the right to let other contracts in connection with the construction of portions of the Project which are not being performed by Builder pursuant to this Agreement but these contracts and the work they provide for shall in no event interfere with the activities of Builder on the Project, but if they do, the District shall be liable to Builder for its damages in connection with such interference. Builder shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the Project with the work of such contractors.

B. If the proper execution of any part of Builder's work on the Project depends upon the work of any such contractors, Builder shall view and promptly report to the District any patent defects or other problems it identifies in such work that render it unsuitable for such proper execution and results. Builder is only required to view the work of such other contractors prior to commencing its own further work in connection with or in relation to that other work. Further, Builder is only expected to identify patent defects or other problems, and is not required to do any destructive testing or to monitor the progress of such work by other contractors prior to its completion. In no event shall the work of such other contractors be covered by the warranty given by Builder to the District, nor shall Builder be required to provide insurance for such work.

Section 24. USE OF PREMISES

Builder shall confine operations at the Site to areas permitted by law, ordinances, permits and the Construction Documents and shall not unreasonably encumber the Site or existing School Facilities on the Site with any materials or equipment. Builder shall not load or permit any part of the work to be loaded with a weight so as to endanger the safety of persons or property at the Site.

Section 25. CLEANING UP

Builder shall at all times keep the Site of the Construction free from accumulations of waste material or rubbish caused by the performance of the Construction by Builder, and at the completion of the Construction, Builder shall remove from the Site of the Construction all such waste material and rubbish and all tools, scaffolding and surplus materials belonging to Builder and/or Builder's Subcontractors, laborers or materialmen, it being specifically understood that at the close of Construction and prior to turning over the premises to the District for beneficial use and occupancy, Builder shall leave the Site in substantially the same or better state of cleanliness than when work began and shall be free of all dust and debris resulting from the construction. The cost of such cleanup shall be included in the GMP.

Section 26. SITE REPRESENTATIONS

The District warrants and represents that the District has, and will continue to retain at all times during the course of construction, legal title to the Site and that said land is properly subdivided and zoned so as to permit the Construction and use of said Site. The District further warrants and represents that title to said land is free of any easements, conditions, limitation, special permits, variances, agreements or restrictions which would prevent, limit, or otherwise restrict the Construction or use of said Site. Reference is made to the fact that the District has provided information on the Site to Builder. Such

information shall not relieve Builder of its responsibility; and the interpretation of such data regarding the Site, as disclosed by any borings or other preliminary investigations, is not warranted or guaranteed, either expressly or implicitly, by the District. Builder shall be responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site and for having satisfied himself as to the conditions under which the work is to be performed. No claim for any allowances because of Builder's error or negligence in acquainting itself with the conditions at the Site will be recognized.

Section 27. HAZARDOUS WASTE AND UNKNOWN PHYSICAL CONDITIONS

A. Builder shall promptly, and before the following conditions are disturbed, notify the District, in writing, of any:

(1) Material that Builder 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 differing from those indicated, including geological, soils, and or water table issues which impede Construction or increase Construction costs.

(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 Agreement.

B. The District shall promptly investigate the conditions, and if it finds the conditions to materially so differ, and cause a decrease or increase in Builder'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 this Agreement. If asbestos-related work or hazardous substance removal is discovered which is not disclosed in the Construction Documents, such work shall be performed pursuant to a contract separate from any other work to be performed as required by section 25914.2 of the Health and Safety Code, as may from time to time be amended.

C. In the event that a dispute arises between the District and Builder whether the conditions set forth in Paragraph A above materially differ, or involve hazardous waste, or cause a decrease or increase in Builder's cost of, or time required for, performance of any part of the work, Builder shall not be excused from any scheduled completion date provided for by this Agreement, but shall proceed with all work to be performed under this Agreement. Builder shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties.

D. The provisions of this Section 27 A., B., and C above shall also apply if this Agreement involves digging trenches or other excavations that extend deeper than four feet below the surface.

Section 28. INDEPENDENT CONTRACTOR

A. Builder is retained as an independent contractor and is not employed by the District. No employee or agent of Builder shall become an employee of the District for any purpose. It is agreed that the District is interested only in the results obtained from service under this Agreement and that Builder shall perform as an independent contractor with sole control of the manner and means of performing the

services required under this Agreement. Builder shall complete this Agreement according to its own methods of work which shall be in the exclusive charge and control of Builder and which shall not be subject to control or supervision by the District except as to the results of the work. It is expressly understood and agreed that Builder and its employees shall in no event be entitled to any benefits to which the District employees are entitled, including, but not limited to, overtime, retirement benefits, insurance, vacation, worker's compensation benefits, sick or injury leave or other benefits.

B. Builder shall be responsible for all salaries, payments, and benefits for all of its officers, agents, and employees in performing services pursuant to this Agreement.

Section 29. INSURANCE

A. Before commencement of work hereunder, Builder shall procure and maintain during the period of performance of this Agreement (including the one year warranty period) insurance in at least the following amounts:

(1) Worker's compensation insurance in compliance with applicable state and federal laws; and

(2) Employer's liability insurance with a limit of \$1,000,000.

(3) Commercial general liability insurance including blanket contractual, broad form property damage, completed operations and independent contractor's liability all applicable to personal injury, bodily injury, and property damage to a limit of \$2,000,000 each occurrence and \$3,000,000 aggregate.

(4) Comprehensive automobile liability insurance including owned, hired, and non-owned automobiles, for bodily injury and property damage to a combined single limit of \$2,000,000 each occurrence.

(5) District shall reimburse Builder, as part of the GMP, the cost of Builder's Risk insurance on an "all risk" completed value basis of the work performed by Builder (excluding earthquake and flood). Coverage shall include completed work as well as work in progress. Such insurance shall include the District as Loss Payee. The making of Sublease payments to Builder shall not be construed as creating an insurable risk interest by or from the District or as relieving Builder or Subcontractors of responsibility for loss from any direct physical loss, damage, or destruction, occurring prior to final acceptance of the work by the District. The insurer shall waive all rights of subrogation against the District and shall provide the District with a Certificate of insurance for Builder's Risk insurance coverage and evidence of waiver of rights of subrogation against the District.

B. Builder shall furnish satisfactory proof by one or more certificates issued by insurance carriers satisfactory to the District that it has the foregoing insurance. The public liability and property damage insurance and Builder's all risk insurance shall include as additional insureds, District, its board of directors, officers, and employees when acting in their capacity as such in conjunction with the performance or implementation of this Agreement. Each insurance policy shall contain a clause which provides that the policy may not be canceled or not renewed without thirty (30) days' written notice to the

District.

C. Nothing contained in these insurance requirements is to be construed as limiting the liability of Builder or Builder's sureties.

Section 30. HOLD HARMLESS

The District and the District's Indemnitees shall not be liable for, and Builder agrees, to the fullest extent permitted by law, to hold harmless, defend, and to indemnify the District (and Architect, Architect's consultants, the Inspector of Record, the State of California, and their respective agents, employees, officers, volunteers, Boards of Trustees, members of the Board of Trustees, and directors, collectively called the "District indemnitees") from every claim or demand which may be made by reason of:

A. Any injury to person or property sustained by Builder or by any person, firm, or corporation, employed directly or indirectly by it upon or in connection with its work, however, caused; and

B. Any injury to person or property sustained by any person, firm, or corporation, caused by any act, neglect, default, or omission of Builder, of any person, firm or corporation directly, or indirectly employed by it upon or in connection with its work, whether the said injury or damage occurs upon or adjacent to the work; Builder at his own cost, expense and risk, shall defend any and all actions, suits, or other legal proceedings, that may be brought or instituted against Builder on any such claim or demand, and pay or satisfy the judgment that may be rendered against the District or any of the District Indemnitees in any such action, suit or legal proceedings or result thereof.

C. The foregoing indemnity shall not include liability resulting from the negligence or willful misconduct of the District, its officers, agents, or employees.

Section 31. RESOLUTION OF CONTRACT CLAIMS

A. Applicable Law. For public work claims of \$375,000 or less between Builder and the District, if District has not elected to resolve disputes by arbitration pursuant to article 7.1 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code, the provisions of article 1.5 (commencing with section 20104) of chapter 1 of part 3 of the Public Contract Code apply ("Article 1.5") as follows. Nothing in this section shall preclude the parties hereto from agreeing to resolve this matter by arbitration pursuant to Public Contract Code 10240 et seq.

B. Definitions. For purposes of Article 1.5, "public work" has the same meaning as in sections 3100 and 3106 of the Civil Code. "Claims" means a separate demand by Builder for a time extension, or payment of money or damages for work done by or for Builder, payment for which is not otherwise expressly provided in this Agreement or to which Builder would not otherwise be entitled, or a payment disputed by the District.

C. Filing of Claims. Each claim shall be submitted in writing before the date of final payment and shall include all necessary substantiating documentation. The District shall respond in writing within forty-five (45) days of receipt of the claim if the claim is less than \$50,000 or within sixty (60) days of receipt of the claim, if the claim is over \$50,000 but less than or equal to \$375,000. In either case, the District may request in writing within thirty (30) days of receipt of the claim, any additional documentation

supporting the claim or relating to defenses to the claim the District may have against the claimant. Any additional information shall be requested and provided upon mutual agreement of the District and the claimant. The District's written response to the claim shall be submitted to claimant within fifteen (15) days after receipt of the further documentation for claims less than \$50,000 claims or within thirty (30) days after receipt of the further documentation for claims between \$50,000 and \$375,000 or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

D. Meet and Confer Conference. Within fifteen (15) days of receipt of the District's response, if claimant disputes District's written response or within fifteen (15) days of the District's failure to respond within the time prescribed, the claimant shall provide written notification to the District demanding an informal conference to meet and confer to be scheduled by the District within thirty (30) days. If the claim or any portion of the claim remains in dispute following the meet and confer conference, the claimant may file a claim 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 the Government Code. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim pursuant to Section 31.C, above, until the time the claim is denied, including time utilized as a result of the meet and confer process.

E. Mediation. If a civil action is filed to resolve claims within sixty (60) days (but no earlier than thirty (30) days) following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within fifteen (15) days, shall be commenced within thirty (30) days of the submittal and concluded within fifteen (15) days from the commencement of the mediation unless time is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

F. Judicial Arbitration. If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, notwithstanding section 1141.11 of that code. The Civil Discovery Act of 1986 (article 3 (commencing with section 2016) of chapter 3 of title 3 or part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. The court may, upon request by any party, order any witness to participate in the mediation or arbitration process.

G. Fees. Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this section shall be experienced in construction law and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates not to exceed their customary rate. Such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds. Any party who, after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment, shall pay the attorney's fees of the other party arising out of the trial de novo in addition to payment of costs and fees required under chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure. The District shall not fail to pay any portion of a claim which is undisputed unless otherwise provided in this Agreement and shall pay interest at the legal rate commencing on the date the suit is filed in court on any arbitration award

or judgment.

Section 32. ALTERNATE DISPUTE RESOLUTION

A. For claims not addressed in Section 31 of this Agreement, the dispute review process set forth in this Section 32 shall apply.

B. The dispute review process set forth in this Section 32 shall be administered by the American Arbitration Association (AAA) and governed by their rules in effect at the time of filing, or by any other neutral organization agreed to by the parties (hereinafter called "Administrator").

C. If a dispute arises out of, or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through normal contract negotiations, the parties agree to first endeavor to settle the dispute using mediation.

D. The costs for all mediation, including the administrative fees and mediator compensation, will be shared equally by all parties. Fees shall be jointly negotiated by all parties directly with the Administrator. The shared costs are estimated at \$1,500.00 or less for claims up to \$60,000.00 and \$3,000.00 or less for claims over \$60,000.00. If all parties agree, then the mediation costs may increase as required for resolution of the dispute. The expenses of witnesses for any party shall be paid by the party producing such witnesses.

E. A single mediator, acceptable to all parties, shall be used to mediate the dispute. The mediator will be knowledgeable in construction aspects and will be selected from lists furnished by the Administrator. The initial mediation session shall commence within thirty (30) days of filing, unless otherwise agreed by the parties, or at the direction of the mediator.

F. Mediation hearings will be conducted in an informal manner and discovery will not be allowed unless agreed by all parties. All discussions, statements, or admissions will be confidential to the proceedings and will not be used for any other purpose as it relates to the party's legal position.

G. Spokespersons shall be limited to the District, Builder, Subcontractors, and supplier personnel and their consultants. District, Builder, Subcontractors and Suppliers may have an attorney present and shall advise the other parties no less than five (5) working days before the mediation so that the other parties may also have their attorneys present.

H. Any resultant agreements from mediation shall be documented in writing, and may be used as the basis for a change order or other directive as appropriate. All mediation results and documentation shall be non-binding and inadmissible for any purpose in any legal proceedings, in accordance with Evidence Code section 1152, unless such admission is otherwise agreed in writing by all parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

I. If mediation is unsuccessful, the parties thereafter may agree to submit the matter to the Administrator for binding arbitration. If the parties so agree to arbitrate, the following provision shall govern such arbitration, unless the parties otherwise agree in writing. The parties agree that the matter shall be submitted to one (1) arbitrator, unless they agree to three (3) arbitrators in writing. A judgment of a court having competent jurisdiction may be entered upon the award, and such judgment shall be enforceable as a final judgment to the fullest extent under the law. The parties agree to split evenly all

arbitration and arbitrator(s)' fees and expenses, subject to readjustment by the arbitrator as part of any award. The arbitration shall be subject to, and proceed in accordance with California Code of Civil Procedure, sections 1280 through 1294.2. If the parties do not agree to submit to binding arbitration, neither party is prevented from pursuing other legal remedies.

Section 33. SUBSTITUTION OF SECURITY

A. Upon Builder's request, the District will make payment of funds withheld from Sublease payments under the Sublease to ensure performance under the contract pursuant to the requirements of Public Contract Code section 22300 if Builder deposits in escrow with the District or with a bank acceptable to the District, securities eligible for investment under Government Code section 16430 or bank or savings and loan certificates of deposit, or other security mutually agreed to by Builder and the District, subject to the following conditions: .

(1) Builder shall bear the expense of the District and the escrow agent, either the District or the bank, in connection with the escrow deposit made;

(2) Securities or certificates of deposit to be placed in escrow shall be of a value at least equivalent to the amounts of retention to be paid to Builder pursuant to this Section 33;

(3) Builder shall enter into an escrow agreement satisfactory to the District, which agreement shall include provisions governing *inter alia*:

(a) The amount of securities to be deposited at the time of their deposit into escrow,

(b) The providing of powers of attorney or other documents necessary for the transfer of the securities to be deposited,

(c) Conversion to cash to provide funds to meet defaults by Builder, including, but not limited to, termination of Builder's control over the work, stop notices filed pursuant to law, assessment of liquidated damages or other amounts to be kept or retained under the provisions of this Agreement,

(d) Decrease in value of securities on deposit, and

(e) The termination of the escrow upon completion of the Project;

(4) Builder shall obtain the written consent of the performance bond surety to such agreement; and

(5) As an alternative to Builder depositing into escrow securities of a value equivalent to the amounts of retention to be paid to Builder, upon Builder's request District will make payment of retentions earned directly to the escrow agent at the expense of Builder pursuant to and in accordance with Public Contract Code section 22300.

Section 34. TITLE TO WORK; RIGHT TO SALVAGE

A. Title to all work completed and in the course of construction paid for by the District and title to all materials on account of which payment has been made by the District to Builder shall vest in the District pursuant to the applicable provisions of the Sublease.

B. Builder and District agree that District has the right to salvage any materials or personal property from its existing structures and District has first choice in determining what materials, if any, it will salvage.

Section 35. ACCOUNTING RECORDS

Builder shall check all materials, equipment and labor entering into the work and shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Builder for four (4) years from the date of final payment to Builder of Sublease payments pursuant to the terms and conditions of the Sublease and Section 17 of this Agreement.

Section 36. CONTRACT DOCUMENTS AND INTERPRETATIONS

A. The Contract Documents shall be executed, and/or initialed as appropriate, in duplicate by the District and Builder. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, services and materials, equipment, and transportation necessary for the proper execution of the Project. Materials or work described in words which as applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

B. Drawings and specifications are intended to be fully cooperative and to agree. However, if Builder observes that drawings and specifications are in conflict, it shall promptly notify the Architect in writing and any necessary changes shall be adjusted as provided in Section 9. If such conflict arises, the following order of precedence shall generally apply, provided, however, that the order of precedence shall not be so rigidly interpreted as to affect an absurd or costly result:

(1) Special conditions shall take precedence over general conditions.

(2) Technical specifications implement, in additional detail, the requirements of the general conditions. In the event of conflict between the technical specifications and the general conditions, the general conditions shall take precedence.

(3) In the event of a conflict between the technical specifications and the drawings, the technical specifications are to take precedence over drawings and shall govern as to materials, workmanship, and installation procedures. Plans identify the scope and location of the work.

(4) With regard to drawings:

(a) Figures govern over scaled dimensions;

(b) Larger details govern over general drawings;

(c) Addenda/change order drawings govern over Project specific drawings;

(d) Project specific drawings govern over standard drawings.

(5) Work not particularly shown or specified shall be the same as similar parts that are shown or specified.

C. Misunderstanding of drawings and specifications shall be clarified by the Architect, whose decisions shall be final.

D. Standards, Rules, and Regulations referred to are recognized printed standards and shall be considered as one and a part of these specifications within limits specified.

E. It is not intended that work and/or services not covered under any heading, section, branch, class or trade of the specifications shall be supplied, unless it is required elsewhere in the Contract Documents or is reasonably inferable therefrom as being necessary to produce the intended results, in which case such work and/or services shall be supplied by Builder. Words which have well-known technical or trade meanings are used herein in accordance with such recognized meanings. Mutual agreement shall be reached with respect to words which do not have a well-known technical or trade meaning and the definition of which come into question.

F. If an actual conflict exists between a provision in this Agreement and a provision in the General Conditions the provision in this Agreement shall control, being the specific intent of the District and Builder. There shall be no actual conflict where this Agreement is silent on a term that is addressed in the General Conditions; in that case, the General Conditions shall be enforced.

Section 37. AGREEMENT MODIFICATIONS

No waiver, alteration or modification of any of the provisions of this Agreement shall be binding upon either the District or Builder unless the same shall be in writing and signed by both the District and Builder.

Section 38. NOTICES

A. All communications in writing between the District and Builder, including without limitation, applications for payment, shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by telex, telegram, or fax followed by regular mail, addressed as follows:

If to Builder:

Attn: _____

If to District:

Sacramento City Unified School District
Planning and Construction
5735 47th Avenue
Attn: _____

With copies to:

[ARCHITECT]
[CONSTRUCTION MANAGER]

B. For the purpose of directions, Builder's representative shall be _____, and the District's representative shall be _____, unless otherwise specified in writing.

Section 39. ASSIGNMENT

Neither party to this Agreement shall assign this Agreement, transfer it by operation of law, or sublet it as a whole without the written consent of the other, nor shall Builder assign any monies due or to become due to it hereunder without the prior written consent of the District. In addition, Builder must obtain the prior written consent of the payment and performance bond sureties to any such assignment or transfer.

Section 40. HEADINGS

The headings in this Agreement are inserted only as a matter of convenience and reference and are not meant to define, limit or describe the scope or intent of the Contract Documents or in any way to affect the terms and provisions set forth herein.

Section 41. APPLICABLE LAW

The terms and provisions of this Agreement shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Agreement, the action shall be brought in a state court situated in the County of Sacramento, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorneys' fees, as determined by the courts or arbitrator(s).

Section 42. SUCCESSION OF RIGHTS AND OBLIGATIONS

All rights and obligations under this Agreement shall inure to and be binding upon the permitted successors and assigns of the parties hereto.

Section 43. EQUAL OPPORTUNITY CLAUSE

Builder agrees not to discriminate in its recruiting, hiring, promotion, demotion or termination practices on the basis of race, religious creed, color, national origin, ancestry, sex, age or physical handicap in the performance of this Agreement and to comply with the provisions of the following laws:

A. California Fair Employment and Housing Act (Gov. Code §12900 et seq., prohibiting discrimination in employment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex, and prohibiting harassment of an employee or applicant because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, or age);

B. Federal Civil Rights Act of 1964 (42 USC §2000e et seq., prohibiting discrimination in employment on the basis of race, color, national origin, religion, or sex); Title I of the Americans With Disabilities Act of 1990 (42 USC §12101 et seq., prohibiting discrimination against qualified individuals with a disability in hiring and employment practices);

C. The Age Discrimination in Employment Act (29 USC §621 et seq., prohibiting age discrimination in employment against individuals who are at least forty years of age);

D. California Labor Code section 1102.1 (prohibiting discrimination in any aspect of employment or opportunity for employment based on actual or perceived sexual orientation); and

E. Any other laws or regulations prohibiting discrimination as may be applicable to Builder.

Section 44. LABOR COMPLIANCE PROGRAM

A. Builder acknowledges that construction beginning on or after April 1, 2003, shall comply with the laws and regulations governing Labor Code section 1771.7, which requires the District to implement a labor compliance plan and requires the Builder, and any subcontractors, to comply with the District's labor compliance plan. The District reserves the right to implement any plans, procedures, rules and the like to comply with the requirements of Labor Code section 1771.7, including, but not limited to, the implementation of a labor compliance program. Builder agrees to comply with any such plans, procedures, rules and the like that are implemented by the District at no additional cost to the District.

B. The District's labor compliance plan shall include, but is not limited to, provisions requiring compliance with the prevailing rates of wages as set forth in Section 12 of this Agreement, employment of apprentices as set forth in Section 13 of this Agreement, compliance with legal hours of work as set forth in Section 14 of this Agreement, and maintenance and inspection of payroll records as set forth in Section 15 of this Agreement. In addition, the District's labor compliance program may require on site interviews of workers to ensure that prevailing wages are being paid. Failure to comply with these provisions shall result in the withholding of Construction Progress Payments by the District. Builder expressly acknowledges these provisions and agrees to comply with these provisions and any provisions implemented by the District in furtherance of the laws and regulations governing Labor Code section 1771.7.

C. Builder shall include provisions (A) and (B) in this Section in all subcontracts and require subcontractors to comply with these provisions at no additional cost to the District.

Section 45. DISABLED VETERANS PARTICIPATION GOALS AND RECORD RETENTION

Compliance with Disabled Veteran Business Enterprise (DVBE) contracting goals is required under this Lease Leaseback Agreement. In accordance with Education Code section 17076.11 the District has a DVBE participation goal of 3% per year of the overall dollar amount of state funds allocated to the District pursuant to the Leroy F. Greene School Facilities Act of 1998, and expended each year by the District. The District is seeking DVBE participation under this Lease Leaseback Agreement.

Builder must make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project. Information regarding certified DVBE firms can be obtained from the Office of Small Business Certification and Resources (OSBCR) at (916) 323-5478 or (916) 322-5060 as well as the OSBCR website at www.dgs.ca.gov/osbcr. Verification of DVBE status must be obtained from the OSBCR by receiving an approved certification letter and reference number from that office. The Builder is encouraged to retain documentation of its good faith efforts, in the event such documentation is requested by the District. Good faith efforts are demonstrated by evidence of the following: a) Contact was made with the District regarding the identification of DVBEs; b) Contact was made with other state agencies and with local DVBE organizations to identify DVBEs; c) Advertising was published in trade papers and papers focusing on DVBEs; d) Invitations to bid were submitted to potential DVBE contractors; and e) Available DVBEs were considered.

Builder shall certify, under penalty of perjury, that a good faith effort was made to include DVBE contractors and suppliers in the Project.

Section 46. NOTIFICATION OF THIRD PARTY CLAIMS

The District shall provide the Builder with timely notification of the receipt by the District of any third party claim relating to this contract, and the District may charge back to the Builder the cost of any such notification.

Section 47. ENTIRE AGREEMENT.

This Agreement, together with the other Contract Documents, constitutes the entire agreement between the parties, and supersedes any prior or contemporaneous agreement between the parties, oral or written, including the District's award of the Project to Builder, unless such agreement is expressly incorporated herein. The District makes no representations or warranties, express or implied, not specified in the Contract Documents. This Agreement, together with the other Contract Documents, is intended as the complete and exclusive statement of the parties' agreement pursuant to Code of Civil Procedure section 1856.

Section 48. EXECUTION OF OTHER DOCUMENTS.

The parties to this Agreement shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of the Contract Documents.

Section 49. EXECUTION IN COUNTERPARTS.

This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, or an original, with all signatures appended together, shall be deemed a fully

executed Agreement.

Section 50. BINDING EFFECT.

Builder, by execution of this Agreement, acknowledges that Builder has read this Agreement and the other Contract Documents, understands them, and agrees to be bound by their terms and conditions. The Contract Documents shall inure to the benefit of and shall be binding upon the Builder and the District and their respective permitted successors and assigns.

Section 51. SEVERABILITY.

If any provision of the Contract Documents shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 52. PROVISIONS REQUIRED BY LAW DEEMED INSERTED.

All provisions of law and clauses required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though they were included therein.

[Signatures follow on next page]

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement, in duplicate, as of the day and year first above written.

BUILDER:

[BUILDER], INC., a California Corporation

BY: _____
TITLE: President

BY: _____
TITLE: Corporate Secretary

CONTRACTOR'S LICENSE NO.

LICENSE EXPIRATION DATE

DISTRICT:

SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

BY: _____
Assistant Superintendent

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the Sacramento City Unified School District and [BUILDER], hereinafter designated as the "Principal," have entered into a Lease-Leaseback Agreement for the work described in the Lease-Leaseback Agreement dated as of _____, 2007: [NAME OF PROJECT] (the "Project"); and

WHEREAS, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the Sacramento City Unified School District to secure the claims arising under said Agreement.

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned _____, as Surety, are held and firmly bound unto all laborers, material men, and other persons referred to in Civil Code section 3248, subdivision (b), in the sum of _____ Dollars (\$ _____) which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the said Principal or any of its subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any of the persons named in Civil Code section 3181, or any of the amounts due as specified in Civil Code section 3248, subdivision (b), to pay for any materials, provisions, provender or other supplies, or teams, used in, upon, for, or about the performance of the work contracted to be done, that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit or other legal proceeding is brought upon this bond, will pay costs and reasonable attorney's fees to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

And the said Surety, for value received, thereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of said contract or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument on _____, 2007.

Principal

Surety

By: _____
Attorney-in-Fact

ATTACHMENT 1 - LEASE-LEASEBACK AGREEMENT

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That

WHEREAS, the Sacramento City Unified School District by action taken or a resolution passed _____, 2007 has entered into a Lease-Leaseback Agreement with [BUILDER], hereinafter designated as the "Principal," for the work described in the Lease-Leaseback Agreement dated as of _____, 2007: [NAME OF PROJECT] (the "Project"); and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a bond for the faithful performance of said Agreement to the Sacramento City Unified School District (referred to herein as the "Public Entity");

NOW THEREFORE, we, the Principal and _____, as Surety, are held and firmly bound unto the Public Entity in the penal sum of ___ Dollars (\$) lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bounded Principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by and well and truly keep and perform, the covenants, conditions, and agreements in the said Agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Public Entity, its officers and agents, as therein stipulated, then this obligation shall become null and void, otherwise, it shall be and remain in full force and virtue.

And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder, or the specifications accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement, or to the work, or to the specifications.

In the event suit is brought upon this bond by the Public Entity and judgment is recovered, the Surety shall pay all litigation expenses incurred by the Public Entity in such suit, including attorneys' fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on the ___ day of, 2007.

Principal
By

[Attach required acknowledgments]

Surety
By
Attorney-in-Fact

**BUILDER'S CERTIFICATE REGARDING
WORKERS' COMPENSATION**

Labor Code section 3700 in relevant part provides:

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 employees.

I am aware of the provisions of section 3700 of the Labor Code 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 of the work of this Agreement.

(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 this contract.)

NONCOLLUSION AFFIDAVIT

State of California)
) ss.
County of Sacramento)

I, _____, being first duly sworn, deposes and says that he or she is _____ of [BUILDER], the party making the attached proposal; that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the undersigned has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the undersigned has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding this the contract of anyone interested in the proposal contract; that all statements contained in the proposal are true; and, further, that the undersigned has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this ___ day of _____, 2007 at _____, California.

Date: _____

Signature of Builder

EXHIBIT A

SCOPE OF WORK
FOR [NAME OF PROJECT]

Sacramento City Unified School District
[NAME OF PROJECT]
([ADDRESS OF PROJECT])

EXHIBIT A
LEASE-LEASEBACK AGREEMENT

EXHIBIT B

[THE SITE – DESCRIPTION OF REAL PROPERTY]

**EXHIBIT B
LEASE-LEASEBACK AGREEMENT**

EXHIBIT C

[SUBLEASE PAYMENT SCHEDULE]

EXHIBIT C

LEASE-LEASEBACK AGREEMENT

EXHIBIT D

[GENERAL CONDITIONS]

**EXHIBIT D
LEASE-LEASEBACK AGREEMENT**

EXHIBIT E

[PROJECT STABILIZATION AGREEMENT]

EXHIBIT E

LEASE-LEASEBACK AGREEMENT

EXHIBIT F

[SITE LEASE]

**EXHIBIT F
LEASE-LEASEBACK AGREEMENT**

EXHIBIT G

[SUBLEASE AGREEMENT]

**EXHIBIT G
LEASE-LEASEBACK AGREEMENT**