



RANCHO SONADO PROJECT

SUBLEASE AGREEMENT

Between

ORANGE COUNTY SUPERINTENDENT OF SCHOOLS

and

Dated as of _____, 2025

RANCHO SONADO PROJECT

SUBLEASE AGREEMENT

This SUBLEASE AGREEMENT ("Sublease") is dated as of _____, 2025, and is by and between the Orange County Superintendent of Schools, a public agency duly organized and existing under the laws of the State of California ("Superintendent"), and _____, a California corporation and operating under the laws of the State of California ("Lessor" or "Contractor").

RECITALS:

WHEREAS, the Superintendent deems it essential for its own governmental purpose, to finance the construction of certain improvements as described in Exhibit "A" attached hereto (the "Project") and situated on the Rancho Sonado property located at 8755 Santiago Canyon Road, Silverado, California, described in Exhibit "B" attached hereto (the "Site"); and

WHEREAS, pursuant to Section 17400 *et seq.* of the Education Code, the Superintendent may enter into leases and agreements relating to real property and buildings used by the Superintendent; and

WHEREAS, pursuant to Section 17406 of the Education Code, the Superintendent is leasing the Site to Lessor under a lease agreement dated the date hereof (the "Site Lease") for the purpose of Lessor constructing improvements on the Site during the Term of the Site Lease on the terms and conditions the Superintendent finds to be in its best interest and set forth in this Sublease and the Construction Services Agreement attached as Exhibit "C" to the Site Lease; and

WHEREAS, the Superintendent owns the Site, and pursuant to the Construction Services Agreement, has prepared and adopted plans and specifications for the completion of improvements, which have been approved pursuant to law as required by Section 17402 of the Education Code; and

WHEREAS, the Superintendent and Lessor agree to mutually cooperate now or hereafter, to the extent possible, in order to sustain the intent of this Sublease and the bargain of both parties hereto, and to provide Sublease Payments to be made on the dates and in the amount set forth herein.

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, the Superintendent and Lessor parties hereto agree as follows:

1. **DEFINITIONS.** Unless the context otherwise requires, the terms defined in this Article shall, for all purposes of this Sublease, have the meanings as herein specified.
 - A. **"Commencement Date"** shall mean the Project commencement date found in the Notice to Proceed for the Project in accordance with the Construction Services Agreement.
 - B. **"Construction Costs"** means any and all costs incurred by the Lessor with respect to the construction and equipping, as the case may be, of the Project, whether paid or incurred prior to or after the date hereof, including, without limitation, costs for Site preparation, the removal or demolition of existing structures, the construction of the Project and related facilities and improvements, and all other work in connection therewith, security of the Site and Project, Lessor's overhead and supervision at the Project Site, all costs and expenses including any taxes or insurance premiums paid by the Lessor with respect to the Property, and administrative and other expenses necessary or incident to the Project, excluding Lessor's and Developer's home office overhead and profit. The term "Construction Costs" includes all Lessor's costs associated with preparing or generating additional copies of any Construction Documents, as

defined below, related to or required for the Project, including preparation or generation of additional plans and specifications for Lessor's subcontractors. In no event shall Construction Costs exceed the Guaranteed Maximum Price.

- C. **"Construction Services Agreement"** (CSA) means the Construction Services Agreement attached hereto, together with any duly authorized and executed amendments hereto.
- D. **"Construction Documents"** consist of the Plans and Specifications approved by DSA under Application Number _____, File Number _____, Allowances stipulated in the Contract Documents, and all Addenda, if any, issued prior to the entry into this Agreement. The Construction Documents shall include all Modifications generated after the Effective Date in accordance with the Contract Documents, including, without limitation, a written amendment to the Contract signed by the Contractor and duly executed and approved by the Superintendent, a Change Order, a Construction Change Document, or a written order for a minor change in the Work issued by the Architect.
- E. **"Contract Documents"** means those documents which form the entire Contract by and between Superintendent and Contractor. As of the effective date of the Lease and Sublease, the Contract Documents consist of the Lease, the Sublease, any General, Supplementary and other Conditions, the Construction Services Agreement, including all exhibits and attachments hereto, and the Construction Documents. The Contract Documents collectively form the Contract. The Contract represents the entire and integrated Agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a written Modification. The Contract Documents shall be binding solely upon the Superintendent and Contractor, do not create a contractual relationship of any kind between the Architect and Contractor, between the Superintendent and any Subcontractor or Sub-subcontractor, or between any persons or entities other than the Superintendent and the Contractor, and are not intended to and do not create any third party beneficiary. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties. (See Article 14 of the CSA).
- F. **"Superintendent"** means the Orange County Superintendent of Schools, a public agency duly organized and existing under the laws of the State of California.
- G. **"Day"** means a calendar day unless specifically designated as a business day.
- H. **"Effective Date"** is the latter of the date upon which the Superintendent Board approves the Site Lease and the Sublease and Contractor has executed the Site Lease and Sublease.
- I. **"Event of Default"** means one or more events of default as defined in Article 16 of this Sublease.
- J. **"Guaranteed Maximum Price" or "GMP"** means the Guaranteed Maximum Price established pursuant to Article 5 of the CSA to be paid to Lessor for Lessor's construction of the Project hereunder, subject to any adjustments for Extra Work/Modifications as provided in Article 17 of the CSA.
- K. **"Lessor"** shall mean _____, and its successors and assigns.
- L. **"Project"** means the improvements and related work to be constructed and installed by the Lessor, as more particularly described and/or referenced in Exhibit "A" attached hereto.

- M. **“Site”** refers to the grounds of the Project or in some cases may refer to multiple sites as defined in the Contract Documents and such adjacent lands as may be directly affected by the performance of the Work, particularly described in Exhibit “B” attached hereto.
- N. **“Site Lease” or “Lease”** means the Site Lease of even date herewith, by and between the Superintendent and the Lessor together with any duly authorized and executed amendment thereto under which the Superintendent leases the Site to the Lessor.
- O. **“Sublease”** means this Sublease together with any duly authorized and executed amendment hereto.
- P. **“Sublease Payment”** means any payment required to be made by the Superintendent pursuant to Article 7 of this Sublease.
- Q. **“Term of this Sublease” or “Term”** means the time during which this Sublease is in effect, as provided for in Article 3 of this Sublease.

2. **SUBLEASE.**

Lessor hereby leases and subleases to Superintendent, and Superintendent hereby leases and subleases from Lessor the Project and the Site, including any real property improvements now or hereafter affixed thereto in accordance with the provisions herein for the full Term of this Sublease. The leasing by the Lessor to the Superintendent of the Site shall not effect or result in a merger of the Superintendent’s leasehold estate pursuant to this Sublease and its fee estate as lessor under the Site Lease, and the Lessor shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the Term thereof and the Term of this Sublease.

3. **TERM OF THE SUBLEASE.**

- A. The Term of this Sublease shall become effective upon the authorized execution of this Sublease and issuance of a Notice to Proceed under the terms of the CSA and payment of the last Sublease Payment, unless otherwise terminated pursuant to this Sublease, the Site Lease, or the CSA.
- B. Termination of Term. Except as otherwise provided, the Term of this Sublease shall terminate upon the earliest of any of the following events:
 - (1) An Event of Default and the Lessor’s election to terminate this Sublease pursuant to the provisions of Articles 16 and 17, hereof;
 - (2) The arrival of the last day of the Term of this Sublease and payment of all Sublease Payments hereunder; or
 - (3) The exercise of the Superintendent’s option under Article 21 hereof.

4. **REPRESENTATIONS, WARRANTIES AND COVENANTS OF SUPERINTENDENT.**
The Superintendent represents and warrants to Lessor that:

- A. Superintendent is a public agency, duly organized and existing under the Constitution and laws of the State of California with authority to enter into this Sublease and to perform all of its obligations hereunder;

- B. Superintendent's governing body has duly authorized the execution and delivery of this Sublease and further represents and warrants that all requirements have been met and procedures followed to ensure its enforceability;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Superintendent is a party by which it or its property is bound;
- D. There is no pending or, to the knowledge of Superintendent, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Superintendent to perform its obligations under this Sublease;
- E. The Project and the Site are essential to Superintendent in the performance of its governmental functions and their estimated useful life to the Superintendent exceeds the Term of this Sublease;
- F. Superintendent shall take such action as may be necessary to include all Sublease Payments in its annual budget and annually to appropriate an amount necessary to make such Sublease Payments;
- G. Superintendent shall not abandon the Site for the use for which it is currently required by Superintendent and, to the extent permitted by law, Superintendent shall not seek to substitute or acquire property to be used as a substitute for the uses for which the site is maintained under the Sublease; and
- H. Superintendent shall not allow any Hazardous Substances (as such term is defined in the Site Lease and limited by that which shall be disclosed by the Superintendent prior to the Project commencement date in the Notice to Proceed) to be used or stored on, under or about the Site.

5. **REPRESENTATIONS AND WARRANTIES OF LESSOR.** Lessor represents and warrants to Superintendent that:

- A. Lessor is duly organized in the State of California, and in good standing as a corporation under the laws of the State of California, with full corporate power and authority to lease and own real and personal property;
- B. Lessor has full power, authority and legal right to enter into and perform its obligations under this Sublease, and the execution, delivery and performance of this Sublease has been duly authorized by all necessary corporate actions on the part of Lessor and does not require any further approvals or consents;
- C. The execution, delivery and performance of this Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Lessor is a party by which they or their property is bound;
- D. There is no pending or, to the knowledge of Lessor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Lessor to perform their obligations under this Sublease; and
- E. Lessor will not mortgage or encumber the Site or the Sublease or assign this Sublease or their rights to receive Sublease Payments hereunder, except as permitted herein.

6. **APPROPRIATION OF FUNDS.**

- A. In order to ensure that moneys sufficient to pay all costs will be available for this purpose when required, Superintendent shall maintain on deposit, and shall annually appropriate funds sufficient to make all Sublease Payments which become due to Lessor under this Sublease Agreement.

7.

SUBLEASE PAYMENTS.

- A. Superintendent shall pay Lessor sublease payments (the "Sublease Payments") for the improvements, use and occupancy of the Project and Site. The obligation of the Superintendent to pay Sublease Payments hereunder shall constitute a current expense of the Superintendent and shall not in any way be construed to be a debt of the Superintendent in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the Superintendent, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the Superintendent. The Sublease Payments, which the parties acknowledge and agree, are good and sufficient consideration for the improvements and the Superintendent's use and occupancy of the Project and the Site.
- B. The Superintendent shall pay Lessor the portion of the GMP in accordance with the CSA. No Sublease Payment shall be made by the Superintendent in an amount that exceeds the aggregate cost approved in accordance with the CSA to the Lessor of the work on the Project completed to the date the Lessor submits an application for payment, less the aggregate amount of all Sublease Payments previously made by the Superintendent to the Lessor.
- C. In the event the Superintendent elects to exercise its option under Article 21.B below, the Superintendent's obligations under this Sublease including, but not limited to, the Superintendent's obligations to make Sublease Payments under this Article, shall thereupon cease and terminate.
- D. Except as specifically provided in this Article and in Article 9 hereof or as otherwise provided by law, the obligation of the Superintendent to make Sublease Payments when due and payable hereunder will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, abatement or recoupment for any reason whatsoever.

8.

FAIR RENTAL VALUE.

Sublease Payments shall be paid by Superintendent in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Project and the Site during the Term, as well as payment for any tenant improvements made by the Lessor which title to the tenant improvements shall vest progressively in the Superintendent as such tenant improvements are built and paid for pursuant to the Construction Services Agreement. Full ownership of the Project shall occur at the end of the Term of this Sublease and payment of any amounts owed under this Sublease, unless this Sublease, the Site Lease or Construction Services Agreement is terminated in accordance with their respective terms and conditions. The parties hereto have agreed and determined that such total rental is not in excess of the fair rental value of the Project and the Site. In making such determination, consideration has been given to the fair market value of the Project and the Site, that title to the improvements completed and paid for by Superintendent as to which the Superintendent shall have the right to possess, occupy and use, the uses and purposes which may be served by the Project and the Site and the benefits therefrom which will accrue to the Superintendent and the general public, the ability of the Superintendent to make additions, and modifications and improvements to the Project and the Site which are not inconsistent with the Construction Services Agreement (Exhibit "C" to Site Lease) and which do not interfere with the Lessor's work on the Project and the Site.

9.

SUBLEASE ABATEMENT.

In addition to delay of Sublease Payments provided in Article 7, above, Sublease Payments due hereunder with respect to the Project and the Site shall be subject to abatement prior to the commencement of the use of the Project and the Site by the Superintendent or during any period in which, by reason of material damage to or destruction of the Project or the Site, there is substantial interference with the use and right of possession by the Superintendent of the Project and the Site or any substantial portion thereof. For each potential incident of substantial interference, decisions to be made on i) whether or not abatement shall apply; ii) the date upon which abatement shall commence; iii) the applicable portion of Sublease Payments to be abated and; iv) the concluding date of the particular abatement shall all be subject to determinations by the Superintendent. The amount of Sublease abatement shall be such that the Sublease Payments paid by the Superintendent during the period of Project and Site restoration do not exceed the fair rental value of the usable portions of the Project and Site. In the event of any damage or destruction to the Project or the Site, this Sublease shall continue in full force and effect.

10.

USE OF SITE AND PROJECT.

Subject to reasonable interference from construction operations by the Lessor under the terms of the Construction Services Agreement during the Term of this Sublease, Lessor shall provide the Superintendent with quiet use and enjoyment of the Site without suit, or hindrance from Lessor or their assigns, provided Superintendent is in compliance with its duties under this Sublease. Superintendent will not use, operate or maintain the Site or Project improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Sublease. Superintendent shall provide all permits and licenses, if any, necessary for the operation of the Project and Site. In addition, the Superintendent agrees to comply in all respects (including, without limitation, with respect to the time, maintenance and operation of the Project and Site) with laws of all jurisdictions in which its operations involving the Project and Site may extend and any legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Site or the Project; provided, however, that Superintendent may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the estate of Lessor in and to the Site or the Project or its interest or rights under this Sublease. Lessor acknowledges that at any time during the Term of this Sublease, Superintendent may access the Site to conduct Superintendent business. Lessor acknowledges and agrees to the Superintendent's use or occupation of the Site, so long as such use or occupation does not unreasonably interfere with construction of the Project. Upon substantial completion of the Project or severable portions hereof, the Lessor shall provide the Superintendent with quiet use and enjoyment of the Site without suit or hindrance from the Lessor or its assigns, subject to reasonable interference from ongoing construction operations on any remaining portion of the Site under construction by the Lessor. Notwithstanding any provision to the contrary in this Sublease or the Construction Services Agreement, the Superintendent shall, concurrent with any occupancy, use or possession of any portion of the Project, furnish property and loss liability insurance to cover any such portion of the Project or Site it occupies, uses or possesses. Superintendent shall provide certificates of insurance and additional insured endorsement naming Lessor.

11.

LESSOR'S INSPECTION/ACCESS TO THE SITE.

Superintendent agrees that Lessor and any of Lessor's representatives shall have the right at all reasonable times to enter upon the Site or any portion thereof to construct and improve the Project, to examine and inspect the Site or Project, to make repairs or service warranty obligations, and to exercise its remedies pursuant to the section in this Sublease entitled "Remedies on Default." Superintendent further agrees that Lessor and any of Lessor's representatives shall have such rights of access to the Site as may be reasonably necessary to cause the proper maintenance of the Site and the Project in the event of failure by Superintendent to perform its obligations hereunder.

12.

PROJECT ACCEPTANCE.

Superintendent shall acknowledge final inspection and completion of the Project by executing and recording a Notice of Completion. The validity of this Sublease will not be affected by any delay in or failure of completion of the Project.

13.

ALTERATIONS AND ATTACHMENTS. All permanent additions and improvements that are made to the Project shall belong to and become the property of Lessor, subject to the provisions of this Sublease. Separately identifiable attachments added to the Project by the Superintendent shall remain the property of the Superintendent. At Lessor's request, the Superintendent agrees to remove the attachments and restore the Project to substantially as good a condition as when acquired and constructed, normal wear and tear excepted, in the event of failure by the Superintendent to perform its obligations hereunder.

14. **MAINTENANCE AND UTILITIES.**

Until the date of beneficial occupancy by the Superintendent of the entire Project and Substantial Completion of the Project as defined in the CSA, Lessor shall, in its own name, contract for and pay the expenses of all utility services required for the Project. Upon beneficial occupancy of the entire Project and Substantial Completion of the Project, the Superintendent shall, in its own name, contract for and pay the expenses of all utility services including, but not limited to, all air conditioning, heating, electrical, gas, refuse collection, water, and sewer units. The Superintendent shall be responsible for all utilities and maintenance of only the portion of the Site occupied solely or beneficially by the Superintendent during construction of the Project by Lessor. Once the Project is accepted by the Superintendent as finally complete, the Superintendent shall have responsibility for maintenance and repair of the entire Project and the Site, except for warranty or other obligations of Lessor relating to the improvements as set forth in the Construction Services Agreement.

15. **TAXES.**

Superintendent shall keep the Project and the Site free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, state, and federal) if applicable, which may now or hereafter be imposed upon the ownership, leasing, renting, sale, possession, or use of the Project and the Site, excluding, however, all taxes on or measured by Lessor's income.

16. **EVENTS OF DEFAULT.** The term "Event of Default," as used in this Sublease means the occurrence of any one or more of the following events:

- A. The Superintendent fails to make any unexcused Sublease Payment (or any other payment) within fifteen (15) days after the due date thereof or the Superintendent fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder and such failure to either make the payment or perform the covenant, condition or agreement is not cured within ten (10) days after written notice thereof by Lessor;
- B. The Lessor discovers that any statement, representation or warranty made by the Superintendent in this Sublease, or in any document ever delivered by the Superintendent pursuant hereto or in connection herewith is misleading or erroneous in any material respect;
- C. The Superintendent becomes insolvent, is unable to pay its debts as they become due, makes an assignment for the benefit of creditors, applies or consents to the appointment of a receiver, trustee, conservator or liquidator of the Superintendent or of all or a substantial part of its assets, or a petition for relief is filed by the Superintendent under federal bankruptcy, insolvency or similar laws.

17. **REMEDIES ON DEFAULT.** Upon the happening of any Event of Default, Lessor may exercise remedies set forth below; provided, however, that notwithstanding anything herein to the contrary, there shall be no right under any circumstances to accelerate the Sublease Payments or otherwise declare any Sublease Payments not then in default to be immediately due and payable. The Superintendent shall continue to remain liable for the payment of Sublease Payments and damages for breach of this Sublease and the performance of all conditions herein such Sublease Payments and damages shall be payable to Lessor at the time and in the manner set forth in subsections (A) and (B) of this Article:

- A. In the event that Lessor does not elect to terminate this Sublease pursuant to subsection (B) below, the Superintendent agrees to and shall remain liable for the payment of Sublease Payments and the performance of all conditions herein and shall reimburse Lessor for the full amount of the Sublease Payments to the end of the Sublease Term.

- B. In the event of termination of this Sublease by Lessor at its option and in the manner hereinafter provided on account of default by the Superintendent, the Superintendent shall pay Lessor Sublease Payments then owing for past Sublease Payments due and not paid, not to exceed the approved costs for all labor, materials and services provided up to the date of Lessor's termination of the Sublease. Neither notice to pay Sublease Payments, nor to deliver up possession of the Project and the Site given pursuant to law, nor any proceeding in unlawful detainer taken by Lessor shall of itself operate to terminate this Sublease. In the event of any litigation between the parties, the parties shall pay for their respective costs incurred, including attorneys' fees.
- C. No right or remedy herein conferred upon or reserved to Lessor is exclusive of any other right or remedy herein, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time; provided, however, that notwithstanding any provisions to the contrary herein, Lessor shall not under any circumstances have the right to accelerate the Sublease Payments that fall due in future Sublease periods or otherwise declare any Sublease Payments not then in default to be immediately due and payable.

18.

NON-WAIVER.

No covenant or condition to be performed by Superintendent or Lessor under this Sublease can be waived except by the written consent of the other party. Forbearance or indulgence by Superintendent or Lessor in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until complete performance by the Superintendent or Lessor of said covenant or condition, the other party shall be entitled to invoke any remedy available to it under this Sublease or by law or in equity despite said forbearance or indulgence.

19.

ASSIGNMENT.

Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, the Superintendent shall not (a) assign, transfer, pledge, or hypothecate this Sublease, the Project and the Site, or any part thereof, or any interest therein, or (b) sublet or lend the use of the Project or any part thereof, except as authorized by the provisions of the California Civic Center Act, Education Code section 38130 *et seq.* However, Superintendent may lease, license or otherwise allow use or occupation of the Site for third party use so long as such use or occupation does not unreasonably interfere with construction of the Project. Consent to any of the foregoing prohibited acts applies only in the given instance and is not a consent to any subsequent like act by the Superintendent or any other person. The Lessor shall not assign its obligations under this Sublease with the exception of their obligation to issue default notices and to convey or re-convey their interest in the Project and Site to the Superintendent upon full satisfaction of the Superintendent's obligations hereunder; however, the Lessor may assign their right, title and interest in this Sublease, the Sublease Payments and other amounts due hereunder and the Project in whole or in part to one or more assignees or sub-assignees at any time upon written notice to the Superintendent. No assignment shall be effective as against the Superintendent unless and until the Superintendent is so notified in writing. The Superintendent shall pay all Sublease Payments due hereunder pursuant to the direction of Lessor or the assignee named in the most recent assignment or notice of assignment. During the Sublease Term, the Superintendent shall keep a complete and accurate record of all such assignments. Subject always to the foregoing, this Sublease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors, and assigns of the parties hereto.

20.

OWNERSHIP.

During the Term of this Sublease, the Superintendent shall hold title to the Site and progressively obtain title to the Project from the Lessor, and any and all additions which

comprise fixtures, repairs, replacements or modifications thereof, as Sublease Payments are made to Lessor. During the Term of this Sublease, the Lessor shall have a leasehold interest in the Site pursuant to the Site Lease. If the Superintendent prepays the Sublease Payments in full pursuant to Article 21 hereof or otherwise pays all required Sublease Payments, all remaining rights, title and interests of the Lessor, if any, in and to the Project and Site, shall be fully transferred to and vested in the Superintendent. Title shall be transferred to and vested in the Superintendent hereunder without the necessity for any further instrument of transfer. At the termination of this Sublease, title to the Site, and any improvements constructed thereon shall vest in the Superintendent.

21.

SUBLEASE PREPAYMENT/ PURCHASE OPTION.

A. Sublease Prepayments. At any time during the term of this Sublease, the Superintendent may in its sole discretion, upon the request of the Lessor or on upon its own initiative, make Sublease Prepayments to the Lessor. No Sublease Prepayments requested by the Lessor may be made by the Superintendent in an amount exceeding the aggregate true cost to the Lessor of the work on the Project completed to the date the Lessor submits the request for a Sublease Prepayment less the aggregate amount of: (1) all Sublease Payments previously made by the Superintendent to the Lessor; (2) all Sublease Prepayments previously made by the Superintendent to the Lessor; (3) all amounts previously retained pursuant to Article 21(A)(2), below, from Sublease Prepayments previously made by the Superintendent to the Lessor; and (4) the retention for such Sublease Prepayment. Lessor must submit evidence that the conditions precedent set forth in Article 21(A)(1) below, have been met. In the event Superintendent elects to make Sublease Prepayments, the Prepayment Price, contemplated in Article 21(B), below, shall be adjusted accordingly.

- (1) The following are conditions precedent to any Sublease Prepayments made to the Lessor pursuant to a request of the Lessor and exercised by the Superintendent in its sole discretion:
 - a. Satisfactory progress of the work and construction pursuant to the approved schedule and "Contract Time" pursuant to Article 9 of the Construction Services Agreement shall have been made as determined in Article 21(A)(2), below.
 - b. Lessor shall also submit to the Superintendent (i) duly executed conditional lien releases and waivers (in the form provided in California Civil Code section 8132) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons conditionally waive all lien and stop notice rights against the Superintendent, the Project and the Project site with respect to the pending Sublease Prepayment to be made by the Superintendent, (ii) duly executed unconditional lien releases and waivers (in the form provided in California Civil Code section 8134) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons unconditionally and irrevocably waive all lien and stop notice rights against the Superintendent, the Project and the Project site with respect to all previous Sublease Prepayments made by the Superintendent, and (iii) any other items that the Lessor may be required to collect and distribute to the Superintendent pursuant to the terms and provisions of the CSA. Lessor shall promptly pay all amounts due to each subcontractor, consultant and other person retained by Lessor in connection with the Project no later than ten (10) days after Lessor's receipt of a Sublease Prepayment from the Superintendent.

- (2) The determination of whether satisfactory progress of the Construction pursuant to the approved schedule and "Contract Time" has occurred shall be made by the Project Inspector hired by the Superintendent pursuant to Article 10 of the CSA. If the Project Inspector determines that pursuant to the approved schedule and "Contract Time", the work required to be performed, as stated in the Lessor's Sublease Prepayment request has not been completed and approved, the Lessor shall not be eligible to receive the requested Sublease Prepayment.

- B. Purchase Option. If the Superintendent is not in default hereunder, the Superintendent shall be granted options to purchase not less than all of the Project in as-is condition. The Prepayment Price at any given time shall be an amount equal to the GMP, as it may be revised from time to time, less the sum of any Sublease Payments and/or Sublease Prepayments made by the Superintendent prior to the date on which the Superintendent elects to exercise its option under this Article.

22. **RELEASE OF LIENS.**

- A. Notwithstanding Article 21 above, upon Substantial Completion of the Project as defined in the CSA and the recording of a Notice of Completion for the Project, Lessor or its assignee and the Superintendent shall release Lessor's leasehold interest in Project and the Site. However, Superintendent shall retain any and all claims and or warranties it may have under the CSA.
- B. Lessor shall authorize, execute and deliver to the Superintendent all documents reasonably requested by the Superintendent to evidence (i) the release of any and all liens created pursuant to the provisions of this Sublease and the Site Lease, and (ii) any other documents required to terminate the Site Lease and this Sublease.

23. **TERMINATION OF CONSTRUCTION SERVICES AGREEMENT.**

In the event the Construction Services Agreement is terminated pursuant to the provisions contained therein, this Sublease shall immediately terminate.

24. **SEVERABILITY.**

If any provision of this Sublease shall be held invalid or unenforceable by a court of competent jurisdiction, such holdings shall not invalidate or render unenforceable any other provision of this Sublease, unless elimination of such provision materially alters the rights and obligations embodied in this Sublease.

25. **INTEGRATION/MODIFICATION.**

This Sublease constitutes the entire agreement between Lessor and the Superintendent as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered herein, and it shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

26. **NOTICES.**

Services of all notices under this Sublease shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice. Any such notices 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 email followed by regular mail, addressed as follows:

If to Lessor:

Attn: _____
Email: _____

If to Superintendent:

ORANGE COUNTY SUPERINTENDENT OF SCHOOLS
200 Kalmus Drive
Costa Mesa, CA 92626
Attn: Patricia McCaughey
Email: PMcCaughey@ocde.us

27.

TITLES.

The titles to the Articles or sections of this Sublease are solely for the convenience of the parties and are not an aid in the interpretation thereof.

28.

TIME.

Time is of the essence in this Sublease and each and all of its provisions.

29.

LAWS, VENUE AND ATTORNEYS' FEES.

The terms and provisions of this Sublease 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 Sublease, the action shall be brought in a state court situated in the County of Orange, 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, each party shall bear its own attorney's fees.

IN WITNESS WHEREOF, the parties hereto have executed this Sublease by their authorized officers as of the day and year first written above.

SUPERINTENDENT

"LESSOR"

**ORANGE COUNTY SUPERINTENDENT OF
SCHOOLS**

BY: _____

BY: _____

EXHIBIT A
DESCRIPTION OF PROJECT

[TO BE INSERTED]

EXHIBIT B
DESCRIPTION OF SITE

[TO BE INSERTED]