

OXNARD SCHOOL DISTRICT

1051 South "A" Street ● Oxnard, California 93030 ● 805/385-1501



BOARD OF TRUSTEES

Mr. Ernest "Mo" Morrison, President
Mrs. Debra M. Cordes, Clerk
Mr. Denis O'Leary, Member
Mrs. Veronica Robles-Solis, Member
Ms. Monica Madrigal Lopez, Member

ADMINISTRATION

Dr. Cesar Morales
Superintendent
Ms. Lisa Cline
Deputy Superintendent
Business & Fiscal Services
Dr. Jesus Vaca
Assistant Superintendent
Human Resources & Support Services
Ms. Robin I. Freeman
Assistant Superintendent
Educational Services

SPECIAL BOARD MEETING

Wednesday, December 14, 2016

5:00 p.m.

Board Room

(Closed Session to Follow Special Meeting)

***NOTE:** In accordance with requirements of the Americans with Disabilities Act and related federal regulations, individuals who require special accommodation, including but not limited to an American Sign Language interpreter, accessible seating or documentation in accessible formats, should contact the Superintendent's office at least two days before the meeting date.

Persons wishing to address the Board of Trustees on any agenda item may do so by completing a "**Speaker Request Form**" and **submitting the form to the Asst. Supt. of Human Resources**. The Speaker should indicate on the card whether they wish to speak during Public Comment or when a specific agenda item is considered.

Note: No new items will be considered after 10:00 p.m. in accordance with Board Bylaws, BB 9323 – Meeting Conduct

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Oxnard School District Special Board Meeting

1. Call to Order and Roll Call

5:00 PM

The President of the Board will call the meeting to order. A roll call of the Board will be conducted.

2. Pledge of Allegiance to the Flag

3. Adoption of Agenda (Superintendent)

Moved:
Seconded:
Vote:

ROLL CALL VOTE:

Madrigal Lopez __, Robles-Solis __, O’Leary __, Cordes __, Morrison __

4. Public Comment/Opportunity for Members of the Public, Parents, PTA/PTO, to Address the Board (3 minutes each speaker)

Public Comment provides the public with an opportunity to address the Board on any item on the special board agenda. Speakers are requested to limit their remarks to three (3) minutes. The Board shall limit the total time for Public Comment on each subject to fifteen (15) minutes. The Board may consider extending the total time per subject upon the request of a Board Member and the consent of the Board.

The Board may not deliberate or take any action on items raised during this portion of the meeting that are not on the agenda.

The Board particularly invites comments from parents of students in the Oxnard School District.

5. Consider the Approval of Lease-Leaseback Agreements #16-199, #16-200, and #16-201 Between the Oxnard School District and Bernards to Provide Lease-Leaseback Construction Services for the Elm Elementary School Reconstruction Project (Dr. Morales/Cline/CFW, Inc.)

It is the recommendation of the District Superintendent, and the Deputy Superintendent, Business & Fiscal Services, in consultation with Caldwell Flores Winters, Inc. that the Board of Trustees approve the Lease-Leaseback Agreements #16-199, #16-200 and #16-201, with Bernards to provide Construction Services related to the Reconstruction of Elm K-5 School, under Measure “R” Program, utilizing the Lease-Leaseback method of deliver, pursuant to Section 17406 of the California Education Code.

Public Comment:
Presentation:
Moved:
Seconded:
Board Discussion:
Vote:

ROLL CALL VOTE:

Madrigal Lopez __, Robles-Solis __, O’Leary __, Cordes __, Morrison __

6. First Reading of Board Policies, Administrative Regulations and Bylaws

It is recommended that the Board review the following revised Board Policies, Administrative Regulations and Bylaws, as presented, and approve for a first reading:

Revision AR 3311	Business and Noninstructional Operations BIDS	Cline
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**Oxnard School District
Special Board Meeting**

7. Closed Session – Public Participation/Comment (Limit three minutes per person per topic)

Persons wishing to address the Board of Trustees on any agenda item identified in the Closed Session agenda may do so by completing a “Speaker Request Form” and submitting the form to the Assistant Superintendent of Human Resources. Public Comment shall be limited to fifteen (15) minutes per subject with a maximum of three (3) minutes per speaker.

8. Closed Session

The Board of Trustees will convene to closed session for the following items:

1. Pursuant to Section 54956.9 of *Government Code*:
 - Conference with Legal Counsel – Existing Litigation:
 - Churchill v. Vanir, Case No. 56-2015-00472374-CU-BC-VTA

9. Reconvene to Open Session

10. Report Out of Closed Session

The Board will report on any action taken in closed session or take action on any item considered in closed session.

11. Adjournment

Moved:
Seconded:

DR. CESAR MORALES
District Superintendent and Secretary to the Board of Trustees

This notice is posted in conformance with the provisions of Chapter 9 of the Government Code, in the front of the Educational Service Center, 1051 So. 'A' Street, Oxnard, California, by 5:00 p.m. on Monday, December 12, 2016.

OSD BOARD AGENDA ITEM

Name of Contributor: Dr. Cesar Morales/Lisa Cline

Date of Meeting: 12/14/16

- Study Session:** _____
Closed Session _____
- A-1. Preliminary** _____
A-II. Reports _____
B. Hearings _____
C. Consent Agenda _____
- Agreement Category:**
____ Academic
____ Enrichment
____ Special Education
____ Support Services
____ Personnel
____ Legal
 X Facilities
- D. Action Items** _____
F. Board Policies 1st Reading _____ 2nd Reading _____

Consider the Approval of Lease-Leaseback Agreements #16-199, #16-200, and #16-201 between the Oxnard School District and Bernards to provide Lease-Leaseback Construction Services for the Elm Elementary School Reconstruction Project (Morales/Cline/CFW)

The Oxnard School District (“District”) Board of Trustees (“Board”) Facilities Implementation Plan, adopted in January 2013, calls for the reconstruction of the Elm K-5 School (“Project”). The Project includes the construction of a new school at the existing Elm School site. The new facilities will provide for a complete K-5 educational program and will consist of a new combined administration and library building, a new multi-purpose room/gymnasium, a 2-story classroom building, Kindergarten classroom building, playfields, hardscape and greenspace.

In 2013 the Board adopted a resolution selecting the Lease-Leaseback methodology for construction of this Project. At that time, it entered into an Agreement with Swinerton Builders, Agreement #14-166, to provide preconstruction services, and the authority to enter into a Guaranteed Maximum Price (“GMP”), following approval of the plans by the Division of the State Architect (“DSA”) and successful negotiation of the GMP. During the intervening years, economic factors affected prevailing construction costs. The decision was made to have the Elm E.S. Reconstruction Project re-bid by the District’s pre-approved Lease-Leaseback contractors. Three (3) of the six (6) Pre-Approved Firms delivered a response to the Request for Proposal. A review of the GMP Proposals received from Swinerton Builders, C.W. Driver, and Bernards, resulted with the selection of Bernards as presenting the most responsible proposal.

Final DSA Approval for the Project was secured on August 1, 2016. The number assigned by DSA to the Project is **03-116407**.

This Agenda Item recommends Board approval of the negotiated GMP and execution of the attached Lease-Leaseback Agreements (Lease, Sublease, and Construction Services Agreement) with Bernards to complete the Work identified in SVA's architectural drawings for the new Elm K-5 School Facilities, and the subsequent demolition of existing deteriorating facilities.

The LLB delivery method requires three separate agreements, the Construction Services Agreement, the Site Lease, and a Sublease:

- The Construction Services Agreement sets forth the terms, conditions, and scope of work indicated in the DSA approved construction and contract documents for the school site.
(Construction Services Agreement #16-199)
- The Site Lease Agreement leases the Elm Elementary School (property) to Bernards for a nominal fee of one dollar (\$1.00) per year, and requires that Bernards complete the facilities improvements as indicated in the Construction Services Agreement under the terms of the Lease.
(Site Lease Agreement #16-200)
- The Sublease Agreement subleases the property from Bernards back to the Oxnard School District for operational use and access to the facilities after completing construction. The Sublease requires the District to make lease payments to Bernards that constitute the financing provided by the contractor under the LLB model.
(Site Sublease Agreement #16-201)

Pursuant to Education Code Section 17400, et. Seq., the Agreements provide for Bernards to finance approximately **One Million One Hundred Sixty-Five Thousand Three Hundred Forty-Four Dollars and No Cents (\$1,165,344.00)** for a period of twelve months following the completion of construction and occupancy by the District. The District's counsel has approved the form and structure of the Lease-Leaseback Agreements as presented for the Board's consideration and approval.

Bernards held an open public bid process that concluded on November 22, 2016. Bids were opened on that date and CFW commenced negotiations with Bernards for a final GMP for the Project. CFW has reviewed the bids, requesting adjustments where appropriate, evaluated additional value engineering opportunities offered by the subcontractors, Bernards, and SVA Architects, and CFW recommends accepting a GMP of **Twenty-Three Million Three Hundred Six Thousand Eight Hundred Eighty-Six Dollars and No Cents (\$23,306,886.00)** for the construction of the new Elm Elementary School. The proposed amount of **Twenty-Three Million Three Hundred Six Thousand Eight Hundred Eighty-Six Dollars and No Cents (\$ 23,306,886.00)** is an accurate representation of the cost to deliver the facilities contemplated by SVA's architectural drawings.

The Project will be completed in two (2) Phases over a twenty-one (21) month duration. Phase 1, (construction of the new campus facilities), shall commence in January 2017 and complete in June 2018. Phase 2, (demolition of the existing campus and completion of the new sports field) shall commence in June 2018 and complete in October 2018, for a total project duration of Six-Hundred Thirty-Eight (638) Calendar Days.

In the December 2016 Six Month Update, the total budget for the project was identified to receive an adjustment in the amount of \$4.1 million dollars for anticipated remaining soft costs, and an anticipated GMP of \$20.5 million dollars.

FISCAL IMPACT

The Lease-Leaseback Agreements provide for the construction of a new K-5 School at Elm as reflected in the SVA Architectural plans approved by DSA as No. 03-116407, for a total Guaranteed Maximum Price (“GMP”) of:

Twenty-Three Million Three Hundred Six Thousand Eight Hundred Eighty-Six Dollars and No Cents (\$23,306,886.00) to be paid out of Measure R funds, and if available State Aid reimbursements.

This amount includes a GMP Contingency of: **Six Hundred Seventy-Eight Thousand Eight Hundred Forty-One Dollars and No Cents (\$678,841.00)**.

The GMP Contingency amount indicated above is included in the total GMP amount. The GMP Contingency is controlled by the District to accommodate scope gaps, unforeseen conditions and/or discrepancies in the plans and specifications (including the Architect’s errors and omissions) without requiring an amendment to the GMP. With the exception of One Hundred and Fifty Thousand Dollars, (\$150,000.00) any unused portion of the GMP Contingency will be returned to the District upon project completion.

The Agreements will be funded using Measure “R” funds, and if available, State Aid reimbursements. All expenditures related to the proposed agreements will be cost coded to Elm E.S. Reconstruction under the object code 06270 – Main Construction Costs.

RECOMMENDATION

It is the recommendation of the Superintendent, and the Deputy Superintendent, Business & Fiscal Services, in consultation with Caldwell Flores Winters, Inc. that the Board of Trustees approve the Lease-Leaseback Agreements #16-199, #16-200 and #16-201, with Bernards to provide Construction Services related to the Reconstruction of Elm K-5 School, under the Measure “R” Program, utilizing the Lease-Leaseback method of delivery, pursuant to Section 17406 of the California Education Code.

ADDITIONAL MATERIAL(S):

Attached:

- *Construction Services Agreement #16-199, Bernards (32 Pages)*
- *Site Lease Agreement #16-200, Bernards (10 Pages)*
- *Site Sublease Agreement #16-201, Bernards (13 Pages)*

CONSTRUCTION SERVICES AGREEMENT #16-199

This Construction Services Agreement (hereinafter referred to as the "Agreement") is entered into this Fourteenth (14th) day of December, 2016, by and between the Oxnard School District, a California school district organized and existing under the laws of the State of California (hereinafter referred to as the "District") and Bernards which is a contractor licensed by the State of California, with its principal place of business at 555 First Street, San Fernando, CA 91340 (hereinafter referred to as "Contractor").

WHEREAS, the District operates Elm Street Elementary School, located at 450 East Elm Street, Oxnard, California 93033 (hereinafter referred to as the "School Facility"); and

WHEREAS, the District desires to construct and modernize facilities and improvements (as more fully described below) at those portions of the School Facility identified in the Site Lease, as defined in Section 1G below (the "Site"); and

WHEREAS, the District has determined that it is in its best interests to pursue the improvements to the School Facility through the lease-leaseback method of project delivery pursuant to California Education Code §17406 which permits the governing board of the District, without advertising for bids, to lease to Contractor property owned by the District if the instrument by which property is leased requires the lessee to construct, or provide for the construction, on the leased property, of a facility for the use of the District during the term of the lease, and provides that title to that facility shall vest in the District at the expiration of the lease; and

WHEREAS, the District desires to finance a portion of the improvements utilizing the lease/leaseback methodology; and

WHEREAS, the District has conducted an RFQ process by which it selected Contractor; and

WHEREAS, the District intends to undertake work to improve the School Facility, the scope of which is generally described in **Exhibit A** attached hereto and incorporated by reference herein; and

WHEREAS, in connection with the approval of this Agreement, the District will enter into a site lease with Contractor, under which it will lease to Contractor the Site in order for Contractor to construct the Project as described in the Scope of Work set forth generally in **Exhibit A** (hereinafter referred to as the "Scope of Work"); and

WHEREAS, assuming that the District and Contractor can agree on the terms, including the price, for the additional scope of work, the District and Contractor anticipate that the scope of the Project may be amended to include additional work; and

WHEREAS, Contractor will lease the Site back to the District pursuant to a sublease agreement, under which the District will be required to make payments to Contractor for the use and occupancy of the Site, including the Project (hereinafter the “Financing”); and

WHEREAS, Contractor represents that it is sufficiently experienced in the construction of the type of facility and type of work sought by the District and is willing to perform said work for lease and the Financing to the District, all as more fully set forth herein; and

WHEREAS, at the expiration of the Site Lease, title to the Site and the improvements thereon will vest with the District;

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

SECTION 1. DEFINITIONS

- A. **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 Scope of Work set forth in **Exhibit A** attached hereto. Unless otherwise expressly stipulated, Contractor shall perform all work and provide and pay for all materials, labor tools and equipment, 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.
- B. **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 for the Project pursuant to the Scope of Work set forth in **Exhibit A** attached hereto, including any reference specifications or reproductions prepared by the architect hired by the District (the “Architect”) and specifications approved by the District, the Division of the State Architect (“DSA”), and the local agencies having jurisdiction or other regulatory agencies whose approval may be required, which show or describe the location, character, dimensions or details for the Project and specifications for construction thereof.
- C. **Contract Documents.** The term “Contract Documents” as used in this Agreement refers to those documents which form the entire agreement by and between the District and Contractor. The Contract Documents consist of this Agreement, including the exhibits and attachments hereto, the Site Lease, including the exhibits and attachments thereto, the Sublease, including the exhibits and attachments thereto, the Project Manual including the General Conditions thereto, as amended,

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which is incorporated herein (the “General Conditions”), and the Construction Documents. The term “Contract Documents” shall include all modifications and addenda thereto.

- D. **Guaranteed Maximum Price**. The term “Guaranteed Maximum Price” or “GMP” as used in this Agreement means the Guaranteed Maximum Price established pursuant to Section 5 of this Agreement to be used to calculate the Tenant Improvement Payments and the Sublease Payments to be paid by the District to Contractor pursuant to the Sublease, subject only to any adjustments for Extra Work/Modifications as provided in Section 10 of this Agreement.
- E. **Project**. The term “Project” shall mean the improvements and facilities to be constructed and installed by Contractor at the School Facility which will result in complete and fully operational facilities as more fully set forth on **Exhibit A** attached hereto.
- F. **Project Manual**. The term “Project Manual” shall mean the compilation of the Specification sections including Division 0, Procurement and Contracting Requirements, Division 1 General Requirements, and technical specifications Division 2 through 33 prepared by the Architect and approved by the District, the DSA, or other regulatory agencies which show or describe the location, character, dimensions or details for the Project, which shall be delivered to Contractor upon execution of this Agreement.
- G. **Site**. The term “Site” as used in this Agreement shall mean those certain parcels of real property and improvements thereon (if any) more particularly described in **Exhibit A** to the Site Lease.
- H. **Site Lease**. The term “Site Lease” as used in this Agreement shall mean the certain Site Lease dated of even date herein between the District and Contractor, together with any duly authorized and executed amendment(s) thereto, pursuant to which the District leases the Site to Contractor.
- I. **Specifications**. The term “Specifications” shall mean those numbered specifications set forth in the Project Manual which shall accompany this Agreement and which are incorporated by reference herein. Individual Specifications may be referred to by their specification number as set forth in the Project Manual.
- J. **Subcontractor**. As used in this Agreement, the term “Subcontractor” means any person or entity, including trade contractors, who have a contract with Contractor to perform any of the Construction.

- K. **Sublease**. The term “Sublease” as used in this Agreement shall mean the certain Sublease dated of even date herein between the District and Contractor, together with any duly authorized and executed amendment(s) thereto, pursuant to which the District subleases the Site from Contractor.
- L. **Sublease Payments**. The term “Sublease Payments” as used in this Agreement shall mean the payments made by the District to Contractor pursuant to Section 6 of the Sublease.
- M. **Tenant Improvement Payments**. The term “Tenant Improvement Payments” as used in this Agreement shall mean the payments made by the District to Contractor pursuant to Section 6 of the Sublease.

SECTION 2. CONTRACTOR’S DUTIES AND STATUS

Contractor covenants with the District to furnish reasonable skill and judgment in constructing the Project. Contractor agrees to furnish efficient business administration and superintendence and 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 Contract Documents.

SECTION 3. ADDITIONAL SERVICES

If the District requests Contractor to perform additional services not described in this Agreement, Contractor shall provide a cost estimate and a written description of the additional work necessary to complete such additional services. The cost for such additional services shall be negotiated and agreed upon in writing in advance of Contractor performing or contracting for such additional services, and such cost shall be used to adjust the GMP established pursuant to Section 5 hereof. In the absence of a written agreement, the District will not compensate Contractor for additional services, will not adjust the GMP for such additional services, and Contractor will not be required to perform them. It is understood and agreed that if Contractor performs any services that it claims are additional services without receiving prior written approval from the District Board of Education, Contractor shall not be paid for such claimed additional services and the GMP will not be adjusted. Nothing in this Agreement shall be construed as limiting the valuation of such additional services and amount that the GMP will be adjusted for such additional services, should a written agreement for such services be executed by the parties. Notwithstanding the foregoing, Contractor shall not be entitled to compensation, nor will the GMP be adjusted, for additional services required as a result of Contractor’s acts, errors or omissions.

SECTION 4. OWNERSHIP OF PLANS AND DOCUMENTS

All original field notes, written reports, drawings, specifications, Construction Documents, and other documents, produced or developed for the Project are the property of the District, regardless of whether the Project is constructed, and shall be furnished to the District. Such documents are not to be used by Contractor or by the Subcontractors on other work nor shall Contractor nor the Subcontractors claim any right to such documents. This shall not deprive Contractor 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 Contractor's professional activities.

SECTION 5. ESTABLISHMENT OF GUARANTEED MAXIMUM PRICE

The "GMP" for the Project shall be **Twenty-Three Million Three Hundred Six Thousand Eight Hundred Eighty-Six Dollars and No Cents (\$23,306,886.00)**. The GMP consists of (1) a Sublease Tenant Improvement Payment in the amount of **One Million One Thousand Sixty-Five Three Hundred Forty-Four and No Cents (\$1,165,344.00)** and, (2) a Contractor Contingency in the amount of **Six Hundred Seventy-Eight Thousand Eight Hundred Forty-One Dollars, and No Cents (\$678,841.00)**, and, (3) Sublease Payments in the amount of \$97,312.00 per month for **12** months, for a total lease value of **One Million One Thousand Sixty-Five Three Hundred Forty-Four and No Cents (\$1,165,344.00)** pursuant to terms and payment schedule as set forth in the Sublease.

The GMP is based upon the plans and specifications existing at the time this Agreement is entered into between Contractor and the District, and more fully described and referenced in the Scope of Work set forth in **Exhibit A** attached hereto. Contractor shall assume the risk of cost overruns which were not foreseeable at the time this Agreement is entered into and the GMP determined, except for undocumented events of the type set forth in Section 19 hereof, work mandated by an outside agency after issuance of Construction Documents that could not have been reasonably foreseen from review of the Contract Documents, or costs arising from undocumented geotechnical issues. Contractor acknowledges that (i) Contractor has conducted a site inspection and is familiar with the site conditions based on records, studies and visible conditions relating to construction and labor and (ii) Contractor has reviewed the Contract Documents and is familiar with the contents thereof. District directed changes to the scope of the Project not contemplated in the Scope of Work shall be deemed Extra Work/Modifications pursuant to the procedures set forth in Section 10 of this Agreement. The GMP shall include, but not be limited to, increases in labor and materials. The GMP has been used to calculate the Tenant Improvement Payments and the Sublease Payments to be paid by the District to Contractor pursuant to the Sublease. The GMP includes the cost of all labor, materials, equipment, general conditions, overhead, profit and a Contractor Contingency as indicated above.

The Contractor Contingency is for the purpose of covering the cost of very specific issues that may arise during construction and it may be used only upon the written agreement

of the Contractor, the architect of record, and the District. The Contractor Contingency is to be used only to pay Contractor for the following enumerated reasons: (1) additional costs resulting from discrepancies in the bid buy-out process; (2) conflicts, discrepancies or errors in the Construction Documents; (3) work required by the Inspector of Record or any governmental agency involved in the permitting or approval/certification process that is not otherwise shown in the Construction Documents; and (4) any other items of cost agreed to in writing by the Contractor and District to be included in the Contractor Contingency. The Contractor Contingency shall not be used for costs incurred as a result of Contractor's acts, errors or omissions.

Contractor shall be responsible for tracking expenditures of the Contractor Contingency and shall provide periodic written updates to the District as directed. Contractor shall be entitled to retain unused Contractor Contingency and Allowances at Project completion to reduce the GMP and will result in an adjustment of the Tenant Improvement Payments and possibly the Sublease Payments.

The District shall at all times have the right to reduce the scope of the Project. If the District reduces the scope of the Project, the GMP shall be reduced commensurate with the reduced Scope of Work pursuant to the provisions of Section 10, below, and will result in an adjustment of the Tenant Improvement Payments and, if applicable, the Sublease Payments.

SECTION 6. NOTICE TO PROCEED WITH CONSTRUCTION

Upon receipt of an approved GMP, the District shall issue a notice to Contractor to proceed with the Construction of the Project. In the event that a Notice to Proceed with Construction is not issued for the Project, the Site Lease and the Sublease shall terminate upon written notice from the District to Contractor that a Notice of Proceed will not be issued.

SECTION 7. SAVINGS

If Contractor realizes a savings on one aspect of the Project, such savings shall be tracked and Contractor shall provide periodic written updates of such savings. Such savings shall be added to the Contractor Contingency and the use of such savings shall be as set forth in Section 5. However, if such savings are not so utilized, the amount of such savings shall reduce the GMP and will result in an adjustment of the Tenant Improvement Payments and, if applicable, the Sublease Payments.

SECTION 8. SELECTION OF SUBCONTRACTORS

In the interest of minimizing the expenditure of funds for the construction of the Project, Contractor agrees to select Subcontractors who are appropriately licensed by the State of California for each trade component of the Project in a manner that fosters competition. Contractor agrees that it will either solicit bids from potential subcontractors pursuant to the

competitive bid procedures set forth in the California Public Contract Code, including specifically Public Contract Code section 20110, et seq., or that it will utilize an informal bidding process established by Contractor which also incorporates competitive bid procedures. Regardless of the method Contractor employs, Contractor will make a good faith effort to contact and utilize DVBE contractors and suppliers in securing bids for performance of the Project in accordance with the procedures set forth in Section 1.77 of the General Conditions. In the event that Contractor chooses to select Subcontractors pursuant to an informal bidding process, Contractor shall ensure that it receives at least three competitive quotes from potential subcontractors for each trade component of the Project, unless the parties agree otherwise on a trade-by-trade basis. The District reserves the right to oversee the bidding process. Contractor shall inform all bidders that the District will not be a party to any contracts for construction services executed by Contractor and selected bidders. Contractor shall submit a listing of proposed subcontractors to the District for the District's review. In no case, will Contractor award any sub-contracts until the District has concurred in the scope and price of the sub-contracted services. In addition, Contractor shall provide the District with full documentation regarding the bids or competitive quotes received by Contractor. In no event, shall such documentation be redacted or obliterated. In the event Contractor does not comply with this provision, the District may terminate this Agreement in accordance with the provisions of the General Conditions. Subcontractors awarded contracts by Contractor shall be afforded all the rights and protections of listed subcontractors under the provisions of the Subletting and Subcontracting Fair Practices Act (Public Contract Code Section 4100, et seq.).

SECTION 9. CONSTRUCTION SCOPE OF WORK

- A. Prior to commencing Construction, Contractor shall comply with the initial schedule requirements set forth in the General Conditions.
- B. Contractor shall complete the Construction pursuant to the Construction Documents as amended subject to any additional DSA or other regulatory approvals as may be required, performing all work set forth in the Scope of Work, and shall make reasonable efforts in scheduling to prevent disruption to classes.
- C. Contractor shall be responsible for complying with all applicable building codes, including without limitation mechanical codes, electrical codes, plumbing codes and fire codes, each of the latest edition, required by the regulatory agencies and for arranging and overseeing all necessary inspections and tests including inspections by the DSA or regulatory agencies, 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.
- D. Contractor shall establish procedures for the protection of all existing structures, equipment, utilities, and other existing improvements, both on-site and off-site. Contractor assumes all risk of loss of vandalism, theft of property or other property

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damage (“Vandalism”) which occurs at a site at which Contractor is undertaking construction of the Project. Contractor assumes all risk of loss which occurs at a site at which Contractor is undertaking construction of the Project from causes due to negligence or misconduct by Contractor, its officers, employees, subcontractors, licensees and invitees. Contractor 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. Contractor shall develop a mutually agreed upon program with the District to abate and minimize noise, dust, and disruption to normal activities at the existing facilities at the School Facility, including procedures to control on-site noise, dust, and pollution during construction.
- F. The 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.
- G. Contractor shall, for the benefit of the Subcontractors, attend pre-construction orientation conferences in conjunction with the Architect to set forth the various reporting procedures and site rules prior to the commencement of actual construction. Contractor shall also attend construction and progress meetings with District representatives and other interested parties, as requested by the District, to discuss such matters as procedures, progress problems and scheduling. Contractor shall prepare and promptly distribute official minutes of such meetings to all parties in attendance, including without limitation the District, the Architect and the District Inspector of Record.
- H. Contractor shall incorporate approved changes as they occur, and develop cash flow reports and forecasts for submittal to the District as requested. Contractor shall provide regular monitoring of the approved estimates for Construction costs, showing actual costs for activities in progress, and estimates for uncompleted tasks. Contractor shall maintain cost accounting records on authorized additional services or work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, and for other work requiring accounting records.
- I. Contractor shall record the progress of the Project and shall submit monthly written progress reports to the District and the Architect including information on the entire Project, showing percentages of completion and the number and amounts of proposed Extra Work/Modifications and their effect on the construction costs as of the date of each respective report.

- J. Contractor shall keep a log containing a record of weather, Subcontractors, work on the site, number of workers, work accomplished, problems encountered, and other similar relevant data as the District may require. Contractor shall make the log available to the District, the Architect, and the District's project manager. The District shall be promptly advised on all anticipated delays in the Project.
- K. The District shall bear the cost for the DSA Inspector, soils testing, DSA or other regulatory agency fees, and special testing required in the construction of the Project. If additional review or permits become necessary for reasons not due to Contractor's fault or because of DSA or regulatory agency requirements or regulations implemented after the date the Final GMP is established and not reasonably anticipated at the time the Final GMP is established, Contractor may seek additional compensation for the cost of that review as an additional cost. In the alternative, the District may pay such costs directly.

SECTION 10. 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 Contractor, makes strict compliance with the specifications impractical, Contractor shall notify the 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, Contractor 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/Modification 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. Any adjustments to the GMP will result in an adjustment of the Tenant Improvement Payment and, if applicable, the Sublease Payments.
- B. Extra Work/Modifications include work related to unforeseen underground conditions if, and only if, such conditions are not visible or identified on plans, reports or other documents available to Contractor. Extra Work/Modifications do not include

underground conditions that are identified on plans, reports or other documents available to Contractor but are in a location different than is set forth on such plans, reports or other documents available to Contractor. It should be noted, however, that the District has advised and provided Contractor with information regarding the shallow water table and recent projects experience with encountering water when digging. Contractor has included in its calculation of the GMP an amount to mitigate for encountering water when completing the scope of work contemplated herein. Therefore, Extra Work/Modifications do not include expenses incurred by, and/or work performed by, Contractor in connection with such shallow water table and with encountering water when digging.

- C. Should Contractor claim that any instruction, request, drawing, specification, action, condition, omission, default or other situation (i) obligates the District to increase the GMP; or (ii) obligates the District to grant an extension of time for the completion of this Agreement; or (iii) constitutes a waiver of any provision in this Agreement, CONTRACTOR SHALL NOTIFY THE DISTRICT, IN WRITING, OF SUCH CLAIM AS SOON AS POSSIBLE, BUT IN NO EVENT WITHIN MORE THAN TEN (10) DAYS FROM THE DATE CONTRACTOR HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE CLAIM. CONTRACTOR SHALL ALSO PROVIDE THE DISTRICT WITH SUFFICIENT WRITTEN DOCUMENTATION SUPPORTING THE FACTUAL BASIS OF THE CLAIM including items used in valuing said claim. Contractor shall be required to certify under penalty of perjury the validity and accuracy of any claims submitted. Contractor's failure to notify the District within such ten (10) day period shall be deemed a waiver and relinquishment of the claim against the District.
- D. Expenses of reconstruction and/or costs to replace and/or repair damaged materials and supplies, provided that Contractor is not fully compensated for such expenses and/or costs by insurance or otherwise, shall be included in an increase to the GMP if said expenses are the result of the negligent acts or omissions of the District, or its principals, agents, servants, or employees.

SECTION 11. NOT USED

SECTION 12. PERSONNEL ASSIGNMENT

- A. Contractor shall assign **Jaime Pace** as Project Manager/Superintendent for the Project. So long as **Jaime Pace** remains in the employ of Contractor, such person shall not be changed or substituted from the Project, or cease to be fully committed to the Project except as provided in this Section. In the event Contractor deems it necessary, Contractor shall replace the manager and/or the superintendent for the Project with a replacement with like qualifications and experience, subject to the prior written consent of the District, which consent shall not be unreasonably withheld.

Any violation of the terms of paragraph A of this Section 12 shall entitle the District to terminate this Agreement for breach, pursuant to the provisions of the General Conditions.

- B. Notwithstanding the foregoing provisions of paragraph A of Section 12, above, if any manager and/or superintendent proves not to be satisfactory to the District, upon written notice from the District to Contractor, such person(s) shall be promptly replaced by a person who is acceptable to the District in accordance with the following procedures: Within five (5) business days after receipt of a notice from the District requesting replacement of any manager and/or superintendent or discovery by Contractor that any manager and/or superintendent is leaving their employ, as the case may be, Contractor shall provide the District with the name of an acceptable replacement/substitution together with such information as the District may reasonably request about such replacement/substitution. The replacement/substitution shall commence work on the Project no later than five (5) business days following the District's approval of such replacement, which approval shall not be unreasonably withheld. If the District and Contractor cannot agree as to the replacement/substitution, the District shall be entitled to terminate this Agreement for breach pursuant to the provisions of the General Conditions.

SECTION 13. BONDING REQUIREMENTS

Contractor shall fully comply with the requirements set forth in Section 6.9 of the General Conditions.

SECTION 14. PAYMENTS TO CONTRACTOR

- A. Contractor shall finance the cost of construction of the Project which costs shall not exceed the GMP, which shall not be adjusted except as otherwise provided in this Agreement. The District shall pay Contractor Tenant Improvement Payments and Sublease Payments pursuant to the terms and conditions of Section 6 of the Sublease. In the event of a dispute between the District and Contractor, the District may withhold from the Tenant Improvement Payments and the Sublease Payments an amount not to exceed one hundred fifty percent (150%) of the disputed amount.
- B. This Agreement is subject to the provisions of California Public Contract Code Sections 7107, 7201 and 20104.50 as they 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 Contractor of the final Tenant Improvement Payment or the Sublease Payment, as the case may be, shall constitute a waiver of all claims against the District related to those amounts.

SECTION 15. CONTRACTOR'S CONTINUING RESPONSIBILITY

Neither the final payment nor any provision in the Contract Documents shall relieve Contractor of responsibility for faulty materials or workmanship incorporated in the Project or for any failure to comply with the requirements of the Contract Documents.

SECTION 16. INSURANCE

Contractor shall provide, during the life of this Agreement, the types and amounts of insurance set forth in Article 6 of the General Conditions, which are incorporated by reference herein.

SECTION 17. USE OF PREMISES

Contractor 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 at the Site with any materials or equipment. Contractor 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 18. 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 with respect to the Project. 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 pursuant to this Agreement. Reference is made to the fact that the District has provided information on the Site to Contractor. Such information shall not relieve Contractor 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. Contractor shall be responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site and for having satisfied itself as to the conditions under which the work is to be performed. No claim for any allowances because of Contractor's error or negligence in acquainting itself with the conditions at the Site will be recognized.

SECTION 19. HAZARDOUS WASTE AND UNKNOWN PHYSICAL CONDITIONS

Contractor shall comply with the District's Hazardous Materials Procedures and Requirements as set forth herein.

- A. If the District has identified the presence of hazardous materials on or in proximity to the Site (the "Pre-existing Hazardous Materials"), Contractor shall review all information provided by the District that characterizes the Pre-existing Hazardous Materials and shall take the actions approved by DTSC and issued by the District necessary to address the Pre-existing Hazardous Materials in the performance of the work. Contractor shall conduct the work based on this information issued at the time contract documents are executed. Contractor shall immediately communicate, in writing, any variances from available information to the District.
- B. The District will retain an additional independent environmental consultant to perform the investigation, inspection, testing, assessment, sampling and analysis necessary to prepare and recommend a remediation plan for the Pre-existing Hazardous Materials for the District's approval (the "Remediation Plan").
- C. The District will retain title to all Pre-existing Hazardous Materials encountered during the work. This does not include hazardous material generated by Contractor, including but not limited to used motor oils, lubricants, cleaners, etc. Contractor shall dispose of such hazardous waste in accordance with the provisions of the Contract Documents, as well as local, State and Federal laws and regulations. The District will be shown as the hazardous waste generator and will sign all hazardous waste shipment manifests for non-Contractor generated hazardous waste. Nothing contained within these Contract Documents shall be construed or interpreted as requiring Contractor to assume the status of owner or generator of hazardous waste substances for non-Contractor generated hazardous wastes.
- D. Except as otherwise provided herein, it is the responsibility of Contractor to obtain governmental approvals relating to Hazardous Materials Management, including Federal and State surface water and groundwater discharge permits and permits for recycling and reuse of hazardous materials for all work noted in the contract documents. Contractor shall be responsible for coordinating compliance with such governmental approvals and applicable governmental rules with the District's hazardous materials consultant, including those governing the preparation of waste profiles, waste manifests, and bills of lading. If Contractor encounters hazardous materials, it shall immediately notify the District in writing. The District, Consultant and Contractor shall jointly establish the plan for disposition and actions to be taken with respect to the hazardous materials, subject to final written approval by the District.
- E. If, during construction, Contractor encounters materials, conditions, waste, contaminated groundwater or substances, not identified in the District's assessment report, that Contractor reasonably suspects are hazardous materials, Contractor shall stop the affected portion of the work, secure the area, promptly notify the District, and take reasonable measures to mitigate the impact of such work stoppage. The District shall retain the services of an environmental consultant to perform investigation,

inspection, testing, assessment, sampling and analysis of the suspect materials, conditions, waste, groundwater or substances.

- (1) Found Not to be Hazardous Materials. If the environmental consultant determines that the materials, conditions, waste, contaminated groundwater or substances do not constitute hazardous materials, Contractor shall recommence the suspended work.
- (2) Found to be Hazardous Materials. If the environmental consultant determines that the materials, conditions, waste, contaminated groundwater or substances constitute hazardous materials and such hazardous materials require remediation and disposal, then the District, Consultant and Contractor shall jointly establish the plan for disposition and actions to be taken with respect to the hazardous materials, subject to final written approval by the District. All such costs shall be the responsibility of the District.

F. Exacerbation of Pre-Existing Hazardous Materials.

If during construction Contractor encounters pre-existing environmental conditions that it knew or should have known involve hazardous materials (the "Point of Discovery") (which encounters may include an unavoidable release or releases of hazardous materials) then Contractor must immediately stop the affected portion of the work. If Contractor fails to immediately stop the affected portion of the work after the Point of Discovery, then Contractor is solely responsible for any resultant Exacerbation Cost. "Exacerbate," in all its forms, means the worsening effects of Contractor's failure to stop the affected portion of work after the Point of Discovery. "Exacerbation Cost" means the differential between (i) the actual increase in the cost of remediation and delays to the Project attributable to pre-existing environmental conditions involving hazardous substances, and (ii) the cost thereof or delays thereto had Contractor immediately stopped the affected portion of the work after the Point of Discovery. The standard of "should have known" applies to Contractor's supervisory personnel, whether or not on the Site. Contractor's supervisory personnel must have had the hazardous material training required by applicable OSHA and Cal OSHA rules or regulations.

SECTION 20. INDEPENDENT CONTRACTOR

- A. Contractor is retained as an independent contractor and is not employed by the District. No employee or agent of Contractor shall become, or be considered to be, 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 Contractor shall perform as an independent contractor with sole control of the manner and means of performing the services required under this Agreement. Contractor shall

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complete this Agreement according to its own methods of work which shall be in the exclusive charge and control of Contractor and which shall not be subject to control or supervision by the District except as to results of the work. It is expressly understood and agreed that Contractor 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. Contractor 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 21. ACCOUNTING RECORDS

Contractor, and all Subcontractors, shall check all materials, equipment and labor entering into the work and shall keep or cause to be kept such full and detailed accounts as may be necessary for proper financial management under this Agreement, including true and complete books, records and accounts of all financial transactions in the course of their activities and operations related to the Project. These documents include sales slips, invoices, payrolls, personnel records, requests for Subcontractor payment, and other data relating to all matters covered by the Contract Documents (the "Data"). The Data shall be maintained for ten (10) years from the latest expiration of the term (as such may be extended) of any of the Contract Documents. Contractor shall use its best efforts to cause its Subcontractors to keep or cause to be kept true and complete books, records and accounts of all financial transactions in the course of its activities and operations related to the Project. Upon completion of the Project, Contractor shall provide the District with one (1) complete copy of the Data.

The District, at its own costs, shall have the right to review and audit, upon reasonable notice, the books and records of Contractor and any Subcontractors concerning any monies associated with the Project.

SECTION 22. PERSONAL LIABILITY

Neither the trustees, officers, employees, or agents of District, the District's representative, or Architect shall be personally responsible for any liability arising under the Contract Documents.

SECTION 23. AGREEMENT MODIFICATIONS

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

SECTION 24. NOTICES

Any notices or filings required to be given or made under this Agreement shall be served, given or made in writing upon the District or Contractor, as the case may be, by personal delivery or registered mail (with a copy sent via fax or regular mail) to the respective addresses given below or at such other address as such party may provide in accordance with the provisions herein. Any change in the addresses noted herein shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice.

If to Contractor:

Bernards
555 First Street
San Fernando, CA 91340
Attn: Tom Wertanen

If to the District:

Oxnard School District
1051 South A Street
Oxnard, California 93030
Attn: Dr. Cesar Morales, Superintendent

With a copy to Nitasha Sawhney:

Garcia, Hernandez, Sawhney LLP
2490 Mariner Square Loop, Suite 140
Alameda, CA 94501

And with an additional copy to Scott Burkett:

Caldwell Flores Winters, Inc.
6425 Christie Ave., Suite 270
Emeryville, CA 94608

Notices under this Agreement shall be deemed to have been given, and shall be effective upon actual receipt by the other parties, or, if mailed, upon the earlier of the fifth (5th) day after mailing or actual receipt by the other party.

SECTION 25. ASSIGNMENT

Neither party to this Agreement shall assign this Agreement or sublet it as a whole without the written consent of the other, nor shall Contractor assign any monies due or to become due to it hereunder without the prior written consent of the District.

SECTION 26. PROVISIONS REQUIRED BY LAW

Each and every provision of law and clause required to be inserted in these Contract Documents shall be deemed to be inserted herein and the Contract Documents shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party the Contract Documents shall forthwith be physically amended to make such insertion or correction.

SECTION 27. 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 28. APPLICABLE LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties irrevocably agree that any action, suit or proceeding by or among the District and Contractor shall be brought in whichever of the Superior Courts of the State of California, Ventura County, or the Federal Court for the Central District of California in Los Angeles, California, has subject matter jurisdiction over the dispute and waive any objection that they may now or hereafter have regarding the choice of forum whether on personal jurisdiction, venue, forum non conveniens or on any other ground.

SECTION 29. SUCCESSION OF RIGHTS AND OBLIGATIONS

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

SECTION 30. NOTIFICATION OF THIRD PARTY CLAIMS

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

SECTION 31. SEVERABILITY

If any one or more of the terms, covenants or conditions of this Agreement shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a

court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of the Contract Documents shall be affected thereby, and each provision of the Contract Documents shall be valid and enforceable to the fullest extent permitted by law.

SECTION 32. ENTIRE AGREEMENT

This Construction Services Agreement and the additional Contract Documents as defined in paragraph C of Section 1 herein, including the Site Lease, the Sublease, and the Specifications, drawings, and plans constitute the entire agreement between Contractor and the District. The Contract Documents shall not be amended, altered, changed, modified or terminated without the written consent of both parties hereto, except as otherwise provided in Section 10 hereof.

SECTION 33. EXECUTION IN COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

IN WITNESS, WHEREOF the parties hereto, intending to be legally bound thereby, have executed this Agreement effective as of the date first above written.

CONTRACTOR:

THE DISTRICT:

BERNARDS

**OXNARD SCHOOL DISTRICT,
A CALIFORNIA SCHOOL DISTRICT**

Signature

Signature

Typed Name/Title

Typed Name/Title

Date

Date

EXHIBIT A**Scope of Work**

Plan Sheets Prepared by SVA Architects, Arch. Project No. 1340159, DSA No. 03-116407, DSA Approval 8/1/2016

PROJECT DESCRIPTION

DEMOLITION OF EXISTING SCHOOL, AND NEW CONSTRUCTION OF KINDERGARTEN, CLASSROOM, ADMIN/MEDIA, AND MULTI-PURPOSE BUILDINGS, AND BOTH ON AND OFF SITE IMPROVEMENTS

GENERAL PLAN SHEETS**PLAN SHEET DATE**

GEN-1	SHEET INDEX, PROJECT SUMMARY & GENERAL INFORMATION	1/8/2016
GEN-2	GENERAL NOTES	1/8/2016
GEN-3	PROJECT COMPLIANCE SIGNAGE	1/8/2016
GEN-4	COMMON AREA ACCESSIBILITY NOTES & DETAILS	1/8/2016
GEN-5	SITE ACCESSIBILITY COMPLIANCE	1/8/2016
GEN-6	ELEVATOR ACCESSIBILITY DETAILS AND NOTES	1/8/2016

CIVIL PLAN SHEETS

C-01	TITLE SHEET	4/8/2016
C-02	DETAIL SHEET	4/8/2016
C-03	DETAIL SHEET	4/8/2016
C-04	DETAIL SHEET	4/8/2016
C-05	DEMOLITION PLAN	4/8/2016
C-06	PRECISE GRADING	4/8/2016
C-07	PRECISE GRADING	4/8/2016
C-08	UTILITY PLAN	4/8/2016
C-09	STORM DRAIN PLAN	4/8/2016
C-10	STORM DRAIN DETAILS	4/8/2016
C-11	STORM DRAIN DETAILS	4/8/2016
C-12	STORM DRAIN DETAILS	4/8/2016
C-13	STORM DRAIN DETAILS	4/8/2016

ARCHITECTURE PLAN SHEETS

A0-0.1	PROJECT DATA	1/8/2016
A0-1.0	CAMPUS PLAN	1/8/2016
A0-1.1	SITE PLAN	1/8/2016
A0-1.2	FIRE ACCESS PLAN	1/8/2016
A0-1.3	ENLARGED SITE PLANS	1/8/2016
A0-2.1	CLASSROOM OCCUPANCY SCHEDULE AND EXIT ANALYSIS	1/8/2016
A0-2.2	MPR OCCUPANCY SCHEDULE AND EXIT ANALYSIS	1/8/2016
A0-2.3	ADMIN OCCUPANCY SCHEDULE AND EXIT ANALYSIS	1/8/2016
A0-2.4	KINDERGARTEN OCCUPANCY SCHEDULE AND EXIT ANALYSIS	1/8/2016
A1-11.1	CLASSROOM BLDG 1 - FLOOR PLAN - LEVEL 1	4/8/2016
A1-11.2	CLASSROOM BLDG 1 - FLOOR PLAN - LEVEL 2	4/8/2016
A1-11.3	CLASSROOM BLDG 1 - ROOF PLAN	4/8/2016
A1-11.4	CLASSROOM BLDG 1 - REFLECTED CEILING PLAN	4/8/2016
A1-11.5	CLASSROOM BLDG 1 - REFLECTED CEILING PLAN	4/8/2016
A1-21.1	CLASSROOM BLDG 1 - BUILDING ELEVATIONS	4/8/2016
A1-21.2	CLASSROOM BLDG 1 - BUILDING ELEVATIONS	4/8/2016
A1-31.1	CLASSROOM BLDG 1 - BUILDING SECTIONS	4/8/2016

EXHIBIT A

Scope of Work

ARCHITECTURE PLAN SHEETS, continued

A1-31.2	CLASSROOM BLDG 1 - BUILDING SECTIONS	4/8/2016
A1-31.3	CLASSROOM BLDG 1 - BUILDING SECTIONS	4/8/2016
A1-32.1	CLASSROOM BLDG 1 - WALL SECTIONS	4/8/2016
A1-32.2	CLASSROOM BLDG 1 - WALL SECTIONS	4/8/2016
A1-32.3	CLASSROOM BLDG 1 - WALL SECTIONS	4/8/2016
A1-32.4	CLASSROOM BLDG 1 - WALL SECTIONS	4/8/2016
A1-32.5	CLASSROOM BLDG 1 - WALL SECTIONS	4/8/2016
A1-32.6	CLASSROOM BLDG 1 - WALL SECTIONS	4/8/2016
A1-41.1	CLASSROOM BLDG 1 - ENLARGED PLANS	4/8/2016
A1-41.2	CLASSROOM BLDG 1 - ENLARGED PLANS	4/8/2016
A1-41.3	CLASSROOM BLDG 1 - ENLARGED PLANS	4/8/2016
A1-45.1	CLASSROOM BLDG 1 - ENLARGED STAIR #1 PLANS	4/8/2016
A1-45.2	CLASSROOM BLDG 1 - ENLARGED STAIR #2 PLANS AND ELEVATOR	4/8/2016
A1-45.3	CLASSROOM BLDG 1 - ENLARGED STAIR #3 PLANS	4/8/2016
A1-45.4	CLASSROOM BLDG 1 - ELEVATOR SECTIONS	4/8/2016
A1-51.1	CLASSROOM BLDG 1 - INTERIOR ELEVATIONS	4/8/2016
A1-51.2	CLASSROOM BLDG 1 - INTERIOR ELEVATIONS	4/8/2016
A1-51.3	CLASSROOM BLDG 1 - INTERIOR ELEVATIONS	4/8/2016
A1-51.4	CLASSROOM BLDG 1 - INTERIOR ELEVATIONS	4/8/2016
A1-52.1	CLASSROOM BLDG 1 - DOOR SCHEDULE	4/8/2016
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A1-53.1	CLASSROOM BLDG 1 - FINISH SCHEDULE	4/8/2016
A2-11.1	MPR BUILDING 2 - FLOOR PLAN	4/8/2016
A2-11.2	MPR BUILDING 2 - ROOF PLAN	4/8/2016
A2-11.3	MPR BUILDING 2 - REFLECTED CEILING PLAN	4/8/2016
A2-11.4	MPR BUILDING 2 - UPPER REFLECTED CEILING PLAN	4/8/2016
A2-21.1	MPR BUILDING 2 - EXTERIOR ELEVATIONS	4/8/2016
A2-31.1	MPR BUILDING 2 - BUILDING SECTIONS	4/8/2016
A2-32.1	MPR BUILDING 2 - WALL SECTIONS	4/8/2016
A2-32.2	MPR BUILDING 2 - WALL SECTIONS	4/8/2016
A2-32.3	MPR BUILDING 2 - WALL SECTIONS	4/8/2016
A2-32.4	MPR BUILDING 2 - WALL SECTIONS	4/8/2016
A2-41.1	MPR BUILDING 2 - ENLARGED PLANS	4/8/2016
A2-51.1	MPR BUILDING 2 - INTERIOR ELEVATIONS	4/8/2016
A2-52.1	MPR BUILDING 2 - DOOR SCHEDULE	4/8/2016
A2-52.2	MPR BUILDING 2 - WINDOW SCHEDULE	4/8/2016
A2-53.1	MPR BUILDING 2 - FINISH SCHEDULE	4/8/2016
A3-11.1	ADMIN - BLDG. 3 - FLOOR PLAN	1/8/2016
A3-11.2	ADMIN - BLDG. 3 - ROOF PLAN	1/8/2016
A3-11.3	ADMIN - BLDG. 3 - REFLECTED CEILING PLAN	1/8/2016
A3-21.1	ADMIN - BLDG. 3 - BUILDING ELEVATIONS	1/8/2016
A3-31.1	ADMIN - BLDG. 3 - BUILDING SECTIONS	1/8/2016

EXHIBIT A

Scope of Work

ARCHITECTURE PLAN SHEETS, continued

A3-31.2	ADMIN - BLDG. 3 - BUILDING SECTIONS	1/8/2016
A3-32.1	ADMIN - BLDG. 3 - WALL SECTIONS	1/8/2016
A3-32.2	ADMIN - BLDG. 3 - WALL SECTIONS	1/8/2016
A3-32.3	ADMIN - BLDG. 3 - WALL SECTIONS	1/8/2016
A3-32.4	ADMIN - BLDG. 3 - WALL SECTIONS	1/8/2016
A3-32.5	ADMIN - BLDG. 3 - WALL SECTIONS	1/8/2016
A3-41.1	ADMIN - BLDG. 3 - ENLARGED PLANS	1/8/2016
A3-41.2	ADMIN - BLDG. 3 - ENLARGED PLANS	1/8/2016
A3-51.1	ADMIN - BLDG. 3 - INTERIOR ELEVATIONS	1/8/2016
A3-52.1	ADMIN - BLDG. 3 - DOOR SCHEDULE	1/8/2016
A3-52.2	ADMIN - BLDG. 3 - WINDOW SCHEDULE	1/8/2016
A3-53-1	ADMIN - BLDG. 3 - FINISH SCHEDULE	1/8/2016
A4-11.1	KINDERGARTEN BLDG 4 - FLOOR PLAN	1/8/2016
A4-11.2	KINDERGARTEN BLDG 4 - ROOF PLAN	1/8/2016
A4-11.3	KINDERGARTEN BLDG 4 - REFLECTED CEILING PLAN	1/8/2016
A4-21.1	KINDERGARTEN BLDG 4 - BUILDING ELEVATIONS	1/8/2016
A4-31.1	KINDERGARTEN BLDG 4 - BUILDING SECTIONS	1/8/2016
A4-32.1	KINDERGARTEN BLDG 4 - WALL SECTIONS	1/8/2016
A4-32.2	KINDERGARTEN BLDG 4 - WALL SECTIONS	1/8/2016
A4-32.3	KINDERGARTEN BLDG 4 - WALL SECTIONS	1/8/2016
A4-32.4	KINDERGARTEN BLDG 4 - WALL SECTIONS	1/8/2016
A4-41.1	KINDERGARTEN BLDG 4 - ENLARGED PLANS	1/8/2016
A4-41.2	KINDERGARTEN BLDG 4 - ENLARGED PLANS	1/8/2016
A4-51.1	KINDERGARTEN BLDG 4 - INTERIOR ELEVATIONS	1/8/2016
A4-51.2	KINDERGARTEN BLDG 4 - INTERIOR ELEVATIONS	1/8/2016
A4-52.1	KINDERGARTEN BLDG 4 - DOOR SCHEDULE	1/8/2016
A4-52.2	KINDERGARTEN BLDG 4 - WINDOW SCHEDULE	1/8/2016
A4-53.1	KINDERGARTEN BLDG 4 - FINISH SCHEDULE	1/8/2016
A-60.1	FLOOR/CEILING AND ROOF/CEILING ASSEMBLIES	1/8/2016
A-61.1	WALL TYPES - WOOD FRAMING	1/8/2016
A-61.2	WALL TYPES - WOOD FRAMING	1/8/2016
A-61.3	WALL DETAILS - WOOD FRAMING	1/8/2016
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DIVISION 11 - EQUIPMENT

11 40 00	FOOD SERVICE EQUIPMENT	8/1/2016
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DIVISION 12 - FURNISHING

12 21 13	HORIZONTAL LOUVER BLINDS	8/1/2016
12 36 00	COUNTERTOPS	8/1/2016
12 48 13	ENTRANCE FLOOR MATS AND FRAMES	8/1/2016
12 68 23	FOLDING CAFETERIA TABLES	8/1/2016

DIVISION 13 - SPECIAL CONSTRUCTION

13 00 00	NOT USED -	N/A
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DIVISION 14 - CONVEYING EQUIPMENT

14 20 10	PASSENGER ELEVATORS	8/1/2016
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DIVISION 21 - FIRE SUPPRESSION

21 20 00	FIRE SUPPRESSION SYSTEMS	8/1/2016
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DIVISION 22 - PLUMBING

22 05 00	COMMON WORK RESULTS FOR PLUMBING	8/1/2016
22 05 13	BASIC PLUMBING MATERIALS AND METHODS	8/1/2016
22 05 53	PLUMBING IDENTIFICATION	8/1/2016
22 07 00	PLUMBING INSULATION	8/1/2016
22 10 00	PLUMBING	8/1/2016

EXHIBIT A

Scope of Work

Prepared by SVA Architects

PROJECT SPECIFICATIONS

DIVISION 23 - MECHANICAL

23 05 00	COMMON WORK RESULTS FOR HVAC	8/1/2016
23 05 13	BASIC HVAC MATERIALS AND METHODS	8/1/2016
23 05 48	HVAC SOUND, VIBRATION, AND SEISMIC CONTROLS	8/1/2016
23 05 53	HVAC IDENTIFICATION	8/1/2016
23 07 00	HVAC INSULATION	8/1/2016
23 08 00	HVAC SYSTEMS COMMISSIONING	8/1/2016
23 08 13	ENVIRONMENTAL CONTROLS & ENERGY MGMT. SYSTEMS COMMISSIONING	8/1/2016
23 09 23	ENVIRONMENTAL CONTROLS AND ENERGY MANAGEMENT SYSTEMS	8/1/2016
23 30 00	AIR DISTRIBUTION	8/1/2016
23 33 19	DUCT SILENCERS	8/1/2016
23 38 13	KITCHEN VENTILATION SYSTEM	8/1/2016
23 80 00	HEATING, VENTILATING, AND AIR CONDITIONING EQUIPMENT	8/1/2016

DIVISION 26 - ELECTRICAL

26 05 00	COMMON WORK RESULTS FOR ELECTRICAL	8/1/2016
26 05 13	BASIC ELECTRICAL MATERIALS AND METHODS	8/1/2016
26 05 19	LOW VOLTAGE WIRES	8/1/2016
26 05 26	GROUNDING BONDING	8/1/2016
26 05 33	RACEWAYS, BOXES, FITTINGS, AND SUPPORTS	8/1/2016
26 08 00	ELECTRICAL SYSTEMS COMMISSIONING	8/1/2016
26 09 23	LIGHTING CONTROL SYSTEMS	8/1/2016
26 10 00	SERVICE ENTRANCE	8/1/2016
26 22 00	LOW-VOLTAGE TRANSFORMERS	8/1/2016
26 24 13	SWITCHBOARDS	8/1/2016
26 24 16	PANELBOARDS AND SIGNAL TERMINAL CABINETS	8/1/2016
26 50 00	LIGHTING	8/1/2016
26 52 00	EMERGENCY POWER	8/1/2016
26 55 61	THEATRICAL LIGHTING AND STAGE DIMMING EQUIPMENT	8/1/2016

DIVISION 27 - COMMUNICATIONS

27 05 36	CABLE TRAYS FOR COMMUNICATIONS	8/1/2016
27 51 16	PUBLIC ADDRESS/CLOCK SYSTEM	8/1/2016
27 5123.50	ASSISTIVE LISTENING SYSTEM	8/1/2016

DIVISION 28 - ELECTRONIC SAFETY AND SECURITY

28 16 00	INTRUSION ALARM SYSTEM	8/1/2016
28 23 00	VIDEO SURVEILLANCE (CCTV) SYSTEM	8/1/2016
28 31 00	FIRE DETECTION ALARM	8/1/2016

EXHIBIT A

Scope of Work

Prepared by SVA Architects

PROJECT SPECIFICATIONS

DIVISION 31 - EARTHWORK

31 10 00	SITE CLEARING	8/1/2016
31 22 00	GRADING	8/1/2016
31 23 33	TRENCHING AND BACKFILLING	8/1/2016
31 25 00	EROSION AND SEDIMENTATION CONTROLS	8/1/2016

DIVISION 32 - EXTERIOR IMPROVEMENTS

32 11 26	ASPHALTIC BASE COURSES	8/1/2016
32 12 16	ASPHALT PAVING	8/1/2016
32 13 13	CONCRETE PAVING	8/1/2016
32 16 13	CURBS AND GUTTERS	8/1/2016
32 17 13	PARKING CURBS	8/1/2016
32 17 23	PAVEMENT MARKINGS	8/1/2016
32 30 00	MAINTENANCE	8/1/2016
32 84 00	IRRIGATION	8/1/2016
32 90 00	PLANTING AND MAINTENANCE	8/1/2016
32 90 10	HYDRO-SEEDED LAWN	8/1/2016

DIVISION 33 - UTILITIES

33 10 00	WATER UTILITIES	8/1/2016
33 30 00	SEWERAGE UTILITIES	8/1/2016
33 40 00	STORM DRAINAGE UTILITIES	8/1/2016

APPENDICES

ACM SURVEY	EORM -Enviromental & Occupational Risk Management, Inc.	1/17/2014
AHERA REPORT 2011	ATC Associates Inc.	9/16/2011
HAZMAT SURVEY REPORT	EORM -Enviromental & Occupational Risk Management, Inc.	1/10/2014
LEAD SURVEY	EORM -Enviromental & Occupational Risk Management, Inc.	2/11/2014
LIMITED SOIL TESTING	EORM -Enviromental & Occupational Risk Management, Inc.	2/14/2014
UPDATED LIMITED SOIL TESTING	EORM -Enviromental & Occupational Risk Management, Inc.	2/14/2014
GEO-TECHNICAL REPORT	Earth Systems Southern California	3/4/2014
MEPF CONTRACTOR QUALIFICATION PROCESS	Oxnard School District	
SWPPP REPORT	Rick Engineering Company	10/25/2016
SWPPP Plan	Rick Engineering Company	11/17/2016
Pre Bid RFI's - #1 - 52	SVA Architects, Inc.	11/15/2016

SITE LEASE Agreement #16-200

This Site Lease (hereinafter referred to as the "Site Lease") is entered into this Fourteenth (14th) day of December, 2016, by and between the Oxnard School District, a California school district organized and existing under the laws of the State of California (hereinafter referred to as the "District") as lessor, and Bernards, with its principal place of business at 555 First Street, San Fernando, CA 91340 (hereinafter referred to as "Contractor") as lessee.

RECITALS

WHEREAS the District desires to provide for the financing and construction of certain public improvements more fully described in a Construction Services Agreement between the District and Contractor, dated as of the date hereof (the "Project") situated at Elm Street Elementary School, 450 East Elm Street, Oxnard, CA 93033, within the District, as more fully set forth in **Exhibit A** attached hereto (the "Site"); and

WHEREAS, assuming that the District and Contractor can agree on the terms, including the price, for an additional scope of work, the District and Contractor anticipate that the scope of the Project may be amended to include additional work; and

WHEREAS, the District's governing body has determined that it is in the best interests of the District and for the common benefit of the citizens it serves to finance the Project by leasing to Contractor the land and the existing building(s) on the Site on which the public improvements are to be constructed and subleasing from Contractor the Site, including the Project, under a Sublease Agreement effective as of the date hereof (the "Sublease"); and

NOW, THEREFORE, in consideration of the promises and covenants and conditions contained herein, the parties agree as follows:

SECTION 1. Site Lease

The District leases to Contractor, and Contractor leases from the District, on the terms and conditions set forth herein, the Site situated in the County of Ventura, State of California, more specifically described in **Exhibit A** attached hereto and incorporated by reference herein, including any real property improvements now or hereafter affixed thereto.

SECTION 2. Term

The term of this Site Lease shall commence as of the date above and shall terminate on the last day of the term of the Sublease

SECTION 3. Representations and Warranties of the District

The District represents and warrants to Contractor that:

(a) The District has good title to the Site.

(b) There are no liens on the Site other than permitted encumbrances (the term "permitted encumbrances" as used herein shall mean, as of any particular time: (i)

SITE LEASE AGREEMENT #16-200

liens for general ad valorem taxes and assessments, if any, not then delinquent; (ii) this Site Lease, the Sublease, any right or claim or any mechanic, laborer, material man, supplier, or vendor, if applicable, not filed or perfected in the manner prescribed by law, easements, rights of way, mineral rights, drilling rights, and other rights, reservations, covenants, conditions, or restrictions which exist of record as of the date of this Site Lease and which will not materially impair the use of the Site; (iii) easements, rights of way, mineral rights, drilling rights, and other rights, reservations, covenants, conditions, or restrictions established following the date of recordation of this Site Lease and to which Contractor and the District consent in writing which will not impair or impede the operation of the Site.

(c) All taxes, assessments or impositions of any kind with respect to the Site, if applicable, except current taxes not yet due and payable, have been paid in full.

(d) The Site is properly zoned for the intended purpose or the District intends to render zoning inapplicable pursuant to Government Code Section 53094.

(e) To the best of the District's knowledge, the District is in compliance in all material respects with all laws, regulations, ordinances and orders of public authorities applicable to the Site.

(f) To the best of the District's knowledge, there is no litigation of any kind currently pending or threatened regarding the District's use of the Site for the purposes contemplated by this Site Lease, the Sublease and the Construction Services Agreement.

(g) To the best of the District's knowledge, upon reasonable investigation and in reliance on the District's phase one Preliminary Environmental Assessment, and except as otherwise delineated in the Contract Documents: (i) no dangerous, toxic or hazardous pollutants, contaminants, chemicals, waste, materials or substances, as defined in or governed by the provisions of any State or Federal Law relating thereto (hereinafter collectively called "Environmental Regulations"), and also including, but not limited to, urea-formaldehyde, polychlorinated biphenyls, asbestos, asbestos containing materials, nuclear fuel or waste, radioactive materials, explosives, carcinogens and petroleum products, or any other waste, material, substance, pollutant or contaminant which would subject the District or Contractor or Contractor's subcontractors to any damages, penalties or liabilities under any applicable Environmental Regulation (hereinafter collectively "Hazardous Substances"), are now or have been stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited or disposed of in, upon, under, over or from the Site; (ii) no threat exists of a discharge, release or emission of a Hazardous Substance upon or from the Site into the environment; (iii) the Site has not been used as or for a mine, a landfill, a dump or other disposal facility, industrial or manufacturing facility, or a gasoline service station; (iv) no violation of any Environmental Regulation now exists relating to the Site, no notice of any such violation or any alleged violation thereof has been issued or given by any governmental entity or agency, and there is not

SITE LEASE AGREEMENT #16-200

now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances; (v) no person, party, or private or governmental agency or entity has given any notice of or asserted any claim, cause of action, penalty, cost or demand for payment or compensation, whether or not involving any injury or threatened injury to human health, the environment or natural resources, resulting or allegedly resulting from any activity or event described in (i) above; (vi) there are not now any actions, suits, proceedings or damage settlements relating in any way to Hazardous Substances, in, upon, under, over or from the Site; (vii) the Site is not listed in the United States Environmental Protection Agency's National Priorities List of Hazardous Waste Sites or any other list of Hazardous Substance sites maintained by any federal, state or local governmental agency; and (viii) the Site is not subject to any lien or claim for lien or threat of a lien in favor of any governmental entity or agency as a result of any release or threatened release of any Hazardous Substance.

(h) To the extent permitted by law, the District shall not abandon the Site for the use of which it is currently required by the District and further shall not seek to substitute or acquire property to be used as a substitute for the uses for which the Site and the Project are to be maintained under the Sublease.

SECTION 4. Representations and Warranties of Contractor

Contractor represents and warrants to the District that:

(a) Contractor is duly organized, validly existing and in good standing under the laws of the State of California, with full corporate power and authority to lease and own real and personal property.

(b) Contractor has full power, authority and legal right to enter into and perform its obligations under this Site Lease, and the execution, delivery and performance of this Site Lease have been authorized by all necessary corporate or partnership actions on the part of Contractor and do not require any further approvals or consents.

(c) Execution, delivery and performance of this Site Lease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Contractor is a party or by which it or its property is bound.

(d) There is no pending or, to the best knowledge of the Contractor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Contractor to perform its obligations under this Site Lease.

(e) Contractor has conducted a visual inspection of the Site and represents that it is familiar with the site conditions relating to construction and labor thereon and hereby indemnifies the District for any damage or omissions related to the site conditions that could have been visually identified during the site-visit in accordance

with the indemnification contained in the General Conditions incorporated into the Construction Services Agreement.

(f) Contractor has reviewed the Contract Documents (as that term is defined in the Construction Services Agreement) and is familiar with the contents thereof.

SECTION 5. Rental

Contractor shall pay to the District as and for advance rental hereunder the sum of One Dollar (\$1.00) per year, the first payment being due on or before the commencement of the term of this Site Lease. The duration of the rental is expected to be from the effective date hereof through the last day of the term of the Sublease.

SECTION 6. Purpose

Contractor shall use the Site solely for the purpose of constructing the Project thereon and for subleasing the Site and leasing the Project to the District; provided, however, that in the event of an occurrence of an Event of Default by the District, under the Sublease, Contractor may exercise the remedies provided for in the Sublease.

SECTION 7. Termination

Contractor agrees, upon termination of this Site Lease: (i) to quit and surrender the Site in the same good order and condition as it was in at the time of commencement of the term hereunder, reasonable wear and tear excepted; (ii) to release and reconvey to the District any liens and encumbrances created or caused by Contractor; and (iii) that any permanent improvements and structures existing upon the Site at the time of the termination of this Site Lease, including the Project, shall remain thereon and title shall vest in the District. Notwithstanding the District's foregoing rights in the event of termination, Contractor shall retain the right to compensation pursuant to the Construction Services Agreement and the Sublease.

SECTION 8. Quiet Enjoyment

The District covenants and agrees that it will not take any action to prevent Contractor's quiet enjoyment of the Site during the term of this Site Lease; and that in the event that the District's fee title to the Site is ever challenged so as to interfere with Contractor's right to occupy, use and enjoy the Site, the District will use all governmental powers at its disposal, including the power of eminent domain, to obtain unencumbered fee title to the Site and to defend Contractor's right to occupy, use, and enjoy that portion of the Site.

SECTION 9. No Liens

The District shall not mortgage, sell, assign, transfer or convey the Site or any part thereof to any person during the term of this Site Lease, without the written consent of Contractor. Nothing herein shall preclude the District from granting utility easements across the Site to facilitate the use and operation of the Project for which it is intended.

During the term of this Site Lease, Contractor shall not permit any lien or encumbrance to attach to the Site or any part thereof.

SECTION 10. Right of Entry

The District reserves the right for any of its duly authorized representatives to enter upon the Site at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof, but in so doing shall not interfere with Contractor's operations on the Project.

SECTION 11. Assignment and Subleasing

Other than the Sublease, as defined herein, Contractor will not assign or otherwise dispose of or encumber the Site or this Site Lease without the written consent of the District.

SECTION 12. No Waste

Contractor agrees that at all times that it is in possession of the Site it will not commit, suffer or permit any waste on the Site, and it will not willfully or knowingly use or permit the use of the Site for any illegal act or purpose.

SECTION 13. Default

In the event that Contractor shall be in default in the performance of any obligation on its part to be performed under the terms of this Site Lease, which default continues for thirty (30) days following notice and demand for correction thereof to Contractor, the District may exercise any and all remedies granted by law, except that no merger of this Site Lease and of the Sublease shall be deemed to occur as a result thereof. Termination of this Site Lease shall be in accordance with the provisions of the General Conditions incorporated into the Construction Services Agreement or such other provisions as may be applicable.

SECTION 14. Eminent Domain

In the event that the whole or any part of the Site or the improvements thereon is taken by eminent domain, the financial interest of Contractor shall be recognized and is hereby determined to be the amount of all Tenant Improvement Payments and Sublease Payments then due or past due, and the purchase option price stated in Section 20 of the Sublease less any unearned interest as of the date Contractor receives payment in full. The balance of the award, if any, shall be paid to the District.

SECTION 15. Taxes

The District covenants and agrees to pay any and all assessments of any kind or character and also all taxes, including possessory interest taxes, levied or assessed upon the Site of the improvements thereon.

SECTION 16. Severability

If any one or more of the terms, covenants or conditions of this Site Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of

SITE LEASE AGREEMENT #16-200

this Site Lease shall be affected thereby, and each remaining provision of this Site Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 17. Notices

Any notices or filings required to be given or made under this Site Lease shall be served, given or made in writing upon the District or Contractor, as the case may be, by personal delivery or registered mail (with a copy sent via fax or regular mail) to the respective addresses given below or at such other address as such party may provide in accordance with the provisions herein. Any change in the addresses noted herein shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice.

If to Contractor:

Bernards
555 First Street
San Fernando, CA 91340
Attn: Tom Wertanen

If to the District:

Oxnard School District
1051 South A Street
Oxnard, California 93030
Attn: Dr. Cesar Morales, Superintendent

With a copy to Nitasha Sawhney:

Garcia, Hernandez, Sawhney LLP
2490 Mariner Square Loop, Suite 140
Alameda, CA 94501

And with an additional copy to Scott Burkett:

Caldwell Flores Winters, Inc.
6425 Christie Ave., Suite 270
Emeryville, CA 94608

Notices under this Agreement shall be deemed to have been given, and shall be effective, upon actual receipt by the other party, or, if mailed, upon the earlier of the fifth (5th) day after mailing or actual receipt by the other party.

SECTION 18. Construction Services Agreement and Sublease

The Construction Services Agreement and the Contract Documents as defined therein, including the Sublease, are incorporated by reference herein in their entirety as if fully set forth herein.

SECTION 19. Binding Effect

This Site Lease shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

SECTION 20. Entire Agreement

This Site Lease, the Sublease, the Construction Services Agreement and the additional Contract Documents as defined in the Construction Services Agreement constitute the entire agreement between Contractor and the District, and the Contract Documents shall not be amended, altered, changed, modified or terminated without the written consent of both parties hereto, except as otherwise provided herein or in Section 10 of the Construction Services Agreement.

SECTION 21. Execution in Counterparts

This Site Lease may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

SECTION 22. Indemnification

Contractor shall indemnify the District in accordance with the provisions set forth in the General Conditions incorporated into the Construction Services Agreement.

SECTION 23. Applicable Law

This Site Lease shall be governed by and construed in accordance with the laws of the State of California. The parties irrevocably agree that any action, suit or proceeding by or among the District and Contractor shall be brought in whichever of the Superior Courts of the State of California, Ventura County, or the Federal Court for the Central District of California in Los Angeles, California, has subject matter jurisdiction over the dispute and waive any objection that they may now or hereafter have regarding the choice of forum whether on personal jurisdiction, venue, forum non conveniens or on any other ground.

SECTION 24. Headings

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

SECTION 25. Time

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

SITE LEASE AGREEMENT #16-200

IN WITNESS WHEREOF the parties hereto, intending to be legally bound thereby, have executed this Site Lease effective as of the date first above written.

CONTRACTOR:

BERNARDS

THE DISTRICT:

**OXNARD SCHOOL DISTRICT,
A CALIFORNIA SCHOOL DISTRICT**

Signature

Signature

Typed Name/Title

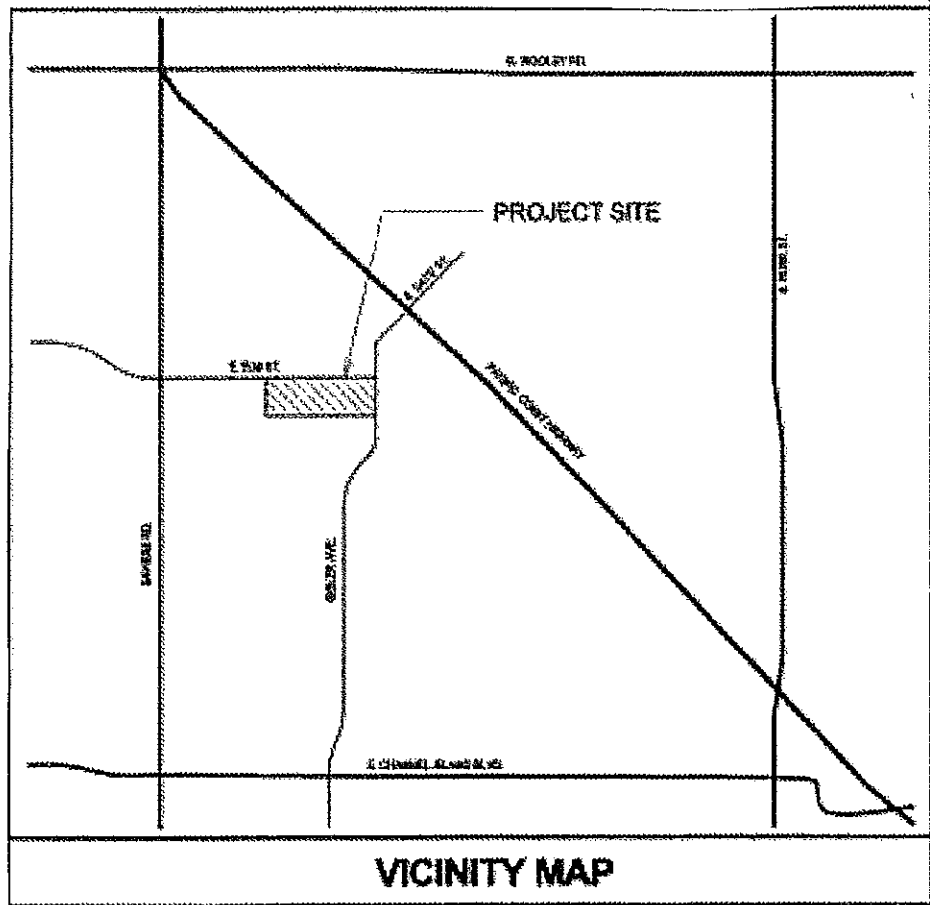
Lisa A. Franz, Director, Purchasing
Typed Name/Title

Date

Date

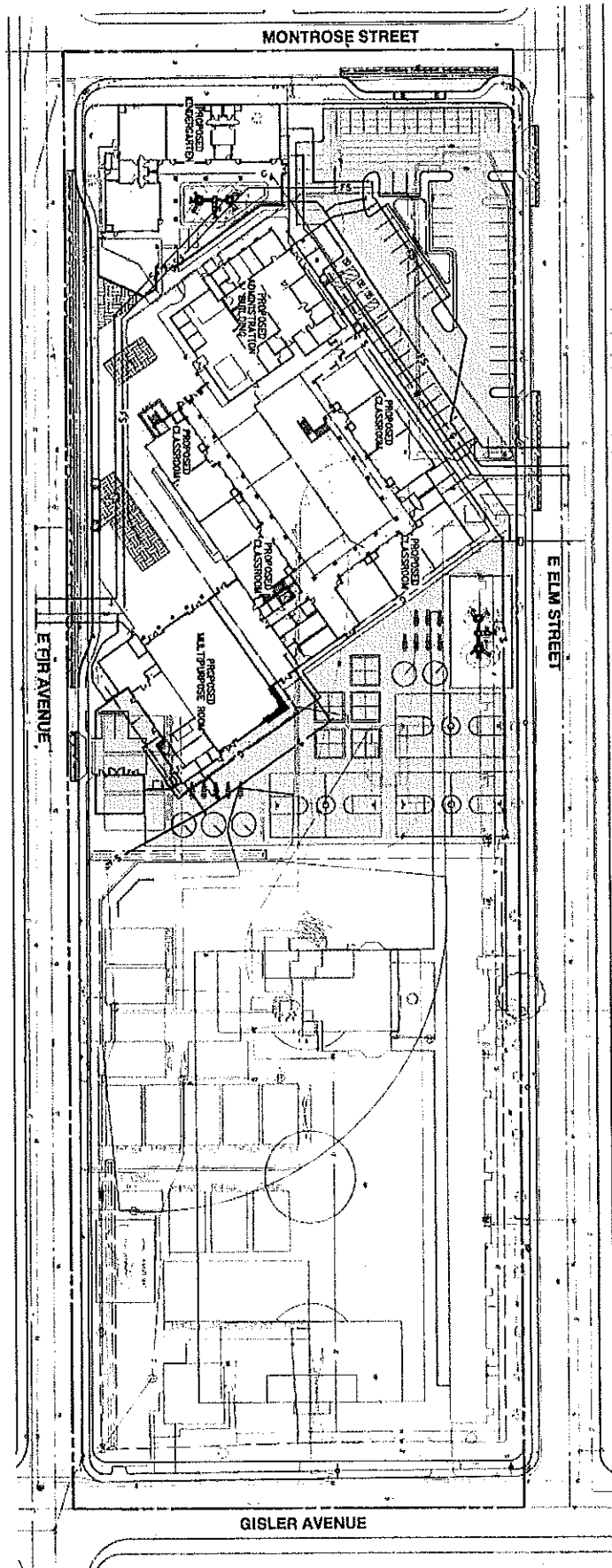
SITE LEASE AGREEMENT #16-200

ATTACHMENT "A"



SITE LEASE AGREEMENT #16-200

ATTACHMENT "A" – SITE PLAN



Agreement # 16-201

SUBLEASE

This Sublease (hereinafter referred to as the "Sublease") is entered into this Fourteenth (14th) day of December, 2016, by and between the Oxnard School District, a California school district organized and existing under the laws of the State of California (hereinafter referred to as the "District") as sub-lessee, and Bernards, with its principal place of business at 555 First Street, San Fernando, CA 91340 (hereinafter referred to as "Contractor") as sub-lessor.

RECITALS

WHEREAS the District deems it essential for its own governmental purpose to finance the installation and construction of certain public improvements more fully described in **Exhibit A** to that certain Construction Services Agreement between the District and Contractor dated the date hereof (the "Project") situated at Elm Street Elementary School, 450 East Elm Street, Oxnard, CA 93033 within the District as more fully set forth in Exhibit A of the site lease between the District and Contractor dated the date hereof (the "Site Lease") (The land and the real property improvements described in the Site Lease and the Construction Services Agreement are herein collectively referred to as the "Site"); and

WHEREAS, assuming that the District and Contractor can agree on the terms, including the price, for an additional scope of work, the District and Contractor anticipate that the scope of the Project may be amended to include additional work; and

WHEREAS, pursuant to Section 17406 of the California Education Code, the District is leasing the Site to Contractor pursuant to the Site Lease in consideration of Contractor subleasing the Site, including the Project, to the District pursuant to the terms of this Sublease; and

WHEREAS, the District and Contractor agree to mutually cooperate now and hereafter, to the extent possible, in order to sustain the intent of this Sublease and the bargain of both parties hereto, and to provide payments pursuant to this Sublease on the dates and in the amounts set forth in **Exhibit A** of this Sublease which is incorporated by this reference.

NOW, THEREFORE, in consideration of the promises and covenants and conditions contained herein, the parties agree as follows:

SECTION 1. Sublease

Contractor hereby leases from and subleases to the District, and the District hereby leases to and subleases from Contractor, the Site including any real property improvements now or hereafter affixed thereto in accordance with the provisions herein for the term of this Sublease.

SECTION 2. Term

(a) The term of the Sublease (the "Term") shall become effective upon the authorized execution of this Sublease and shall terminate twelve months after the

Agreement # 16-201

earlier of the following two events:

(1) The date the District takes beneficial occupancy of the final phase of the Project; or

(2) The date of substantial completion, as defined in Article 7.2.2 of the General Conditions.

(b) The Term may be extended or shortened upon the occurrence of the earliest of any of the following events, which shall constitute the end of the Term:

(1) An Event of Default by the District as defined herein and Contractor's election to terminate this Sublease as permitted herein; or

(2) An Event of Default by Contractor as defined herein and the District's election to terminate this Sublease as permitted herein; or

(3) Consummation of the District's purchase option pursuant to Section 20 of this Sublease.

SECTION 3. Representations and Warranties of the District

The District represents and warrants to Contractor that:

(a) The execution, delivery and performance of this Sublease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the District is a party by which it or its property is bound.

(b) The Project and the Site are essential to the District in the performance of its governmental functions and their estimated useful life to the District exceeds the term of this Sublease.

(c) The District will take such action as may be necessary to include all Tenant Improvement Payments and Sublease Payments in its annual budget and annually to appropriate an amount necessary to make such Tenant Improvement Payments and Sublease Payments.

(d) To the best of the District's knowledge, there is no litigation of any kind currently pending or threatened regarding the District's use of the Site for the purposes contemplated by this Site Lease, the Sublease and the Construction Services Agreement.

(e) To the extent permitted by law, the District shall not abandon the Site for the use of which it is currently required by the District and, further, 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.

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SECTION 4. Representations and Warranties of Contractor

Contractor represents and warrants to the District that:

(a) Contractor is duly organized, validly existing and in good standing as a corporation and licensed contractor under the laws of the State of California, with full corporate power and authority to lease and own real and personal property.

(b) Contractor 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 have been duly authorized by all necessary corporate actions on the part of Contractor and do not require any further approvals or consents.

(c) The execution, delivery and performance of this Sublease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which Contractor is a party by which it or its property is bound.

(d) There is no pending or, to the best knowledge of Contractor, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of Contractor to perform its obligations under this Sublease.

(e) Contractor will not mortgage or encumber the Site or the Sublease or assign this Sublease or its rights to receive Tenant Improvement Payments or Sublease Payments hereunder, except as permitted herein.

(f) Contractor has conducted a visual inspection of the Site and represents that it is familiar with the site conditions relating to construction and labor thereon and hereby indemnifies the District for any damage or omissions related to the site conditions that could have been identified during the site-visit in accordance with the indemnification contained in the General Conditions.

(g) Contractor has reviewed the Contract Documents (as that term is defined in the Construction Services Agreement) and is familiar with the contents thereof.

SECTION 5. Construction/Acquisition

(a) The District has entered into a Construction Services Agreement and the Site Lease with Contractor in order to acquire and construct the Project. The cost of the acquisition, construction and installation of the Project as well as the obligations under this Sublease are determined by the Guaranteed Maximum Price as determined in Section 5 of the Construction Services Agreement.

(b) In order to ensure that moneys sufficient to pay all costs will be available for this purpose when required, the District shall maintain on deposit, and shall annually appropriate funds sufficient to make all Tenant Improvement Payments and Sublease Payments which become due to Contractor under this Sublease, provided however that the District shall not be required to appropriate said funds in the event that the District

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determines in good faith that exigent circumstances have arisen that require District to reduce its budget and not appropriate funds for the payments required hereunder. Any such failure to appropriate funds in any year subsequent to the initial year of this Sublease shall be deemed a termination for convenience and shall be subject to the provisions of the General Conditions.

SECTION 6. Payments

(a) The District shall pay Contractor the Tenant Improvement Payments and the Sublease Payments as set forth in **Exhibit A** hereof, at the office of Contractor or to such other person or at such other place as Contractor may from time to time designate in writing.

(b) If the District determines that the work is delayed so that Contractor shall not be able to deliver the work pursuant to the construction schedule required by the Construction Services Agreement (the "Construction Schedule"), the District shall be entitled to withhold a reasonable amount from the Tenant Improvement Payments and/or the Sublease Payments then due to cover the damages for delay. Once the District has determined that the work has been performed pursuant to the approved construction schedule, the District shall be obligated to release any funds withheld pursuant to this Paragraph.

(c) The obligation of the District to pay Tenant Improvement Payments and the Sublease Payments hereunder shall constitute a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds, or moneys of the District.

SECTION 7. Fair Rental Value

The Tenant Improvement Payments and the Sublease Payments shall be paid by the District in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Project and the Site during the Term of this Sublease. The parties hereto have agreed and determined that such total Tenant Improvement Payments and Sublease Payments are 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, other obligations of the parties under this Sublease (including, but not limited to, costs of maintenance, taxes and insurance), the obligations under the Construction Services Agreement, the uses and purposes which may be served by the Project and the Site and the benefits therefrom which will accrue to the District and the general public, the ability of the District to make additions, modifications and improvements to the Project and the Site which are not inconsistent with the Construction Services Agreement and which do not interfere with Contractor's work on the Project and the Site.

SECTION 8. Sublease Abatement

In addition to delay of payments provided in Section 6, above, Tenant Improvement Payments and Sublease Payments due hereunder with respect to

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the Project shall be subject to abatement prior to the commencement of the use of the Project 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 District 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 the Tenant Improvement Payments and the Sublease Payments to be abated and; iv) the concluding date of the particular abatement shall all be subject to determinations by the District in concert with its insurance provider. Contractor's right to dispute these decisions is not impaired. The amount of abatement shall be such that the Tenant Improvement Payments and the Sublease Payments paid by the District during the period of Project restoration do not exceed the fair rental value of the usable portions of the Site. In the event of any damage or destruction to the Project or the Site, this Sublease shall continue in full force and effect.

SECTION 9. Use of Site and Project

During the Term of this Sublease, Contractor shall provide the District with quiet use and enjoyment of the Site without suit, or hindrance from Contractor or its assigns. The District 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. The Contractor shall provide all permits and licenses, if any, necessary for the operation of the Project. In addition, the District agrees to comply in all respects (including, without limitation, with respect to the time, maintenance and operation of the Project) with laws of all jurisdictions in which its operations involving the Project may extend and any legislative, executive, administrative, or judicial body exercising any power or jurisdiction over the Site or the Project; provided, however, that the District may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not adversely affect the estate of Contractor in and to the Site or the Project or its interest or rights under this Sublease. Upon completion of the Project or severable portions thereof, as defined in the General Conditions, Contractor shall provide the District with quiet use and enjoyment of the Site without suit or hindrance from Contractor or its assigns, subject to reasonable interference from ongoing construction operations on any remaining portion of the Site under construction by Contractor.

SECTION 10. Contractor's Inspection/Access to Site

The District agrees that Contractor and any Contractor representative 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 and the Project and to exercise its remedies pursuant to Section 16 of this Sublease. The District further agrees that Contractor and any Contractor representative 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 the District to perform its obligations hereunder.

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SECTION 11. Project Acceptance

The District shall acknowledge final inspection and completion of the Project by executing a Certificate of Acceptance and recording a Notice of Completion in accordance with the General Conditions. The validity of this Sublease will not be affected by any delay in or failure of completion of the Project.

SECTION 12. Alterations and Attachments

All permanent additions and improvements that are made to the Project shall belong to and become the property of Contractor, subject to the provisions of Section 20 hereof. Separately identifiable additions and improvements added to the Project by the District shall remain the property of the District. At Contractor's request, the District agrees to remove the additions and improvements and restore the Project to substantially as good condition as when acquired and constructed, normal wear and tear excepted, in the event of failure by the District to perform its obligations hereunder.

SECTION 13. Physical Damage; Public Liability Insurance

Contractor and the District shall maintain such damage and public liability insurance policies with respect to the Project and the Site as are required of them herein and by the Construction Services Agreement.

SECTION 14. Taxes

The District 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 Contractor's income.

SECTION 15. 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 District fails to make any unexcused Tenant Improvement Payment or Sublease Payment (or any other payment) within 30 days after the due date thereof; (b) the District or Contractor fails to perform or observe any other covenant, condition or agreement to be performed or observed by it hereunder or under any of the Contract Documents (as that term is defined in the Construction Services Agreement), and such failure to either make the payment or perform the covenant, condition or agreement is not cured within 10 days after written notice thereof by the other party; (c) the discovery by a party that any statement, representation or warranty made by the other party in this Sublease, or in the Contract Documents (as that term is defined in the Construction Services Agreement), or in any document ever delivered by that other party pursuant hereto or in connection herewith is misleading or erroneous in any material respect; or (d) a party 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 party or of all or a substantial part of its assets, or a petition for relief is

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filed by the party under federal bankruptcy, insolvency or similar laws.

SECTION 16. Remedies on Default

Upon the happening of any Event of Default, the non-defaulting party may exercise any and all remedies available pursuant to law or in equity or granted pursuant to this Sublease. Notwithstanding any provisions to the contrary herein, Contractor shall not under any circumstances have the right to accelerate the Tenant Improvement Payments or the Sublease Payments that fall due in future Sublease periods or otherwise declare any Tenant Improvement Payment or Sublease Payments not then in default to be immediately due and payable. Upon the occurrence of an Event of Default, the non-breaching party may elect to terminate this Sublease in accordance with the provisions contained in the General Conditions. Termination of the Construction Services Agreement shall trigger the termination of the Site Lease and this Sublease.

SECTION 17. Non-Waiver

No covenant or condition to be performed by the District or Contractor under this Sublease can be waived except by the written consent of the other party. Forbearance or indulgence by the District or Contractor in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until complete performance by the District or Contractor 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.

SECTION 18. Assignment

Without the prior written consent of Contractor, the District 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.* 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 District or any other person. Contractor shall not assign its obligations under this Sublease with the exception of its obligation to issue default notices and to convey or reconvey its interest in the Project and Site to the District upon full satisfaction of the District's obligations hereunder; however, the District shall pay all Tenant Improvement Payments and Sublease Payments due hereunder pursuant to the direction of Contractor or the assignee named in the most recent assignment or notice of assignment. 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.

SECTION 19. Ownership

The Project is and shall at all times be and remain the sole and exclusive property of Contractor, and the District shall have no right, title, or interest therein or thereto except as expressly set forth herein.

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SECTION 20. Sublease Prepayments/Purchase Option

(a) Sublease Prepayments. At any time during the Term of this Sublease, the District may make Sublease Prepayments to the Contractor of the Tenant Improvement Payments and/or Sublease Payments ("Sublease Prepayments"). No Sublease Prepayments requested by Contractor may be made by the District in an amount which exceeds the aggregate true cost to Contractor of the work on the Project completed up to the date Contractor submits the request for a Sublease Prepayment less the aggregate amount of: (1) all Tenant Improvement Prepayments and Sublease Payments previously made by the District to Contractor; (2) all Sublease Prepayments previously made by the District to the Contractor; (3) all amounts previously retained pursuant to Section 20(a)(3), below, from Sublease Prepayments previously made by the District to Contractor (unless Contractor shall have previously substituted securities for such retained amounts pursuant to Section 20(a)(3); and (4) the retention for such Sublease Prepayment pursuant to Section 20(a)(3) hereof. Contractor must submit evidence that the conditions precedent set forth in Section 20(a)(1), below, have been met. In the event District elects to make Sublease Prepayments, the Prepayment Price, contemplated in Section 20(b), below, shall be adjusted accordingly.

(1) In the event that the District elects to make a Sublease Prepayment, the following are conditions precedent to the District's delivery of such Sublease Prepayments to Contractor pursuant to a request of Contractor:

(A) Satisfactory progress of the construction of the Project pursuant to the Time Schedule shall have been made as determined in accordance therewith.

(B) Contractor shall also submit to the District (i) duly executed conditional lien releases and waivers (in the form provided in California Civil Code Sections 8132 through 8138) from Contractor and all sub-contractors, consultants and other persons retained by Contractor in connection with the Project, whereby such persons conditionally waive all lien and stop notice rights against the District, the Project and the Project Site with respect to the pending Sublease Prepayment to be made by the District, (ii) duly executed unconditional lien releases and waivers (in the form provided in California Civil Code Sections 8132 through 8138) from Contractor and all subcontractors, consultants and other persons retained by Contractor in connection with the Project, whereby such persons unconditionally and irrevocably waive all lien and stop notice rights against the District, the Project and the Project Site with respect to all previous Sublease Prepayments made by the District, and (iii) any other items that Contractor may be required to collect and distribute to the District pursuant to the terms and provisions of the Construction Services Agreement. Contractor shall promptly pay all amounts due to each subcontractor, consultant and other person retained by Contractor in connection with the Project no later than 10 days after Contractor's receipt of a Sublease Prepayment from the District.

(2) The determination of whether satisfactory progress of the construction pursuant to the Time Schedule has occurred shall be made by the District in accordance with the General Conditions. If the District determines that pursuant to the Time Schedule the work required to be performed, as stated in Contractor's

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Sublease Prepayment request, has not been substantially completed, then Contractor shall not be eligible to receive the requested Sublease Prepayment.

(3) The District shall retain an amount equal to 5% of each Tenant Improvement Payments (“retention”) made at Contractor’s request. Contractor shall have the right, as delineated in the General Conditions, to substitute securities for any retention withheld by the District, pursuant to the provisions of Public Contract Code Section 22300.

(b) If the District is not in default hereunder, the District shall have the option to purchase not less than all of the Project in as-is condition upon delivery of the Prepayment Price as defined herein. The Prepayment Price at any given time shall be an amount equal to the final GMP, as it may be revised from time to time, less the sum of any Tenant Improvement Payments, Sublease Payments and/or Sublease Prepayments made by the District prior to the date on which the District elects to exercise its option under this Section. The District may thereupon terminate this Sublease and Contractor shall deliver such deeds, bills of sale, assignments, releases or other instruments as District may reasonably require to reflect the transfer of all of Contractor’s interest in the Project. Following the closing of the District’s purchase option, the District shall retain all rights to any claim or warranty arising under the Construction Services Agreement.

SECTION 21. Indemnification

Contractor shall indemnify the District in accordance with the provisions set forth in the General Conditions during the course of construction.

SECTION 22. Construction Services Agreement and Site Lease

The Construction Services Agreement and the Contract Documents as defined therein, including the Site Lease, are incorporated by reference herein in their entirety as if fully set forth herein.

SECTION 23. Severability

If any one or more of the terms, covenants or conditions of this Sublease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Sublease shall be affected thereby, and each provision of this Sublease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 24. Entire Agreement

The Contract Documents enumerated in paragraph C of Section 1 of the Construction Services Agreement, which include this Sublease, constitute the entire agreement between Contractor and the District, and the Contract Documents shall not be amended, altered, or changed except by a written agreement signed by the parties hereto.

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SECTION 25. Notices

Any notices or filings required to be given or made under this Sublease shall be served, given or made in writing upon the District or Contractor, as the case may be, by personal delivery or registered mail (with a copy sent via fax or regular mail) to the respective addresses given below or at such other address as such party may provide in accordance with the provisions herein. Any change in the addresses noted herein shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice.

If to Contractor:

Bernards
555 First Street
San Fernando, CA 91340
Attn: Tom Wertanen

If to the District:

Oxnard School District
1051 South A Street
Oxnard, California 93030
Attn: Dr. Cesar Morales, Superintendent

With a copy to Nitasha Sawhney:

Garcia, Hernandez, Sawhney LLP
2490 Mariner Square Loop, Suite 140
Alameda, CA 94501

And with an additional copy to Scott Burkett:

Caldwell Flores Winters, Inc.
6425 Christie Ave., Suite 270
Emeryville, CA 94608

Notices under this Agreement shall be deemed to have been given, and shall be effective, upon actual receipt by the other party, or, if mailed, upon the earlier of the fifth (5th) day after mailing or actual receipt by the other party.

SECTION 26. Titles

The captions or headings in this Sublease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Sublease.

SECTION 27. Time

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

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SECTION 28. Applicable Law

This Sublease shall be governed by and construed in accordance with the laws of the State of California. The parties irrevocably agree that any action, suit or proceeding by or among the District and Contractor shall be brought in whichever of the Superior Courts of the State of California, Ventura County, or the Federal Court for the Central District of California in Los Angeles, California, has subject matter jurisdiction over the dispute and waive any objection that they may now or hereafter have regarding the choice of forum whether on personal jurisdiction, venue, forum non conveniens or on any other ground.

SECTION 29. Execution in Counterparts

This Sublease may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

SECTION 30. District Insurance

During the period after tenant improvement completion and beneficial occupancy of the Project and before the end of the Term, the District shall purchase and maintain Commercial General Liability and Property Insurance covering the types of claims set forth below which may arise out of or result from the District's operations of the Site and for which the District may be legally responsible: (i) claims for damages because of bodily injury, occupational sickness or disease or death of the District's employees; (ii) claims for damages because of bodily injury, sickness or disease or death of any person other than the District's employees; (iii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by the District, or (b) by another person; and (iv) claims for damages, other than to the Project itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom. Such insurance shall be in the coverage amount of \$1,000,000 per occurrence and \$2,000,000 aggregate. The insurance policy required of the District hereunder shall also name Contractor as an additional insured as its interests may appear. Such insurance shall be deemed to be primary and non-contributory with any policy maintained by Contractor and any policy or coverage maintained by Contractor shall be deemed to be excess over such insurance maintained by District.

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IN WITNESS WHEREOF the parties hereto, intending to be legally bound thereby, have executed this Sublease effective as of the date first above written.

CONTRACTOR:

BERNARDS

THE DISTRICT:

**OXNARD SCHOOL DISTRICT,
A CALIFORNIA SCHOOL DISTRICT**

Signature

Signature

Typed Name/Title

Typed Name/Title

Date

Date

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EXHIBIT A

PAYMENT PROVISIONS

Tenant Improvement Payments and the Sublease Payments shall be paid monthly and the total of the Tenant Improvement Payments and the Sublease Payments made shall not exceed the amount of the GMP as defined in Section 5 of the Construction Services Agreement. Each month Contractor shall provide the District with an itemized summary (in accordance with the provisions set forth in the Project Manual) indicating the percentage of work satisfactorily performed and signed off by the District's Inspector of Record, Architect and Project Manager.

The District shall pay Contractor in accordance with the procedures set forth in the Construction Services Agreement, the Project Manual and the portion of the GMP set forth as the Sublease Tenant Improvement Payments Amount in accordance with Section 5 of the Construction Services Agreement, based on the amount of work satisfactorily performed and signed off by the District's Inspector of Record, Architect and Project Manager according to the approved Schedule of Values, less the retention applicable to said payment all in accordance with the procedures set forth in the Construction Services Agreement and/or the Project Manual.

The District shall pay Contractor Sublease Payments in the amount of \$97,712.00 per month including principal and interest at 4% per annum. The Sublease payments shall be consideration of the District's rental, use, and occupancy of the Project and the Site; the Sublease Payments shall include the portion of the Construction Costs financed by Contractor. The Sublease Payments shall commence with the Site Lease execution and continue for a total of 12 months.

BOARD AGENDA ITEM

Name of Contributor: Lisa Cline

Date of Meeting: December 14, 2016

STUDY SESSION _____

CLOSED SESSION _____

SECTION A-1: PRELIMINARY _____

SECTION A-II: REPORTS _____

SECTION B: HEARINGS _____

SECTION C: CONSENT AGENDA _____

Agreement Category:

_____ Academic

_____ Enrichment

_____ Special Education

_____ Support Services

_____ Personnel

_____ Legal

_____ Facilities

SECTION D: ACTION _____

SECTION F: BOARD POLICIES 1ST Reading _____ X 2nd Reading _____

FIRST READING - REVISION TO AR 3311 – BIDS (Cline/CFW)

The District continues to consider a variety of construction delivery methods for projects defined by its Facilities Implementation Program and Master Construct Program, including the Lease Lease-Back construction delivery method.

On September 23, 2016, the Governor of California signed Assembly Bill (AB) 2316 into law, which becomes effective January 1, 2017 and makes refinements to the K-12 lease-leaseback statutes, including stipulations on the award of contracts based on a competitive solicitation process providing the “best value” to the school district, and expressly authorizing preconstruction services by the same lease-leaseback contractor.

In particular, AB2316 requires that, *“the governing board of a school district shall adopt and publish required procedures and guidelines for evaluating the qualifications of proposers that ensure the best value selections by the school district are conducted in a fair and impartial manner.”* To comply with this requirement, the District’s legal counsel has recommended a collection of refinements to existing Board administrative regulations, building on procedures provided by the California School Boards Association (CSBA).

The attached recommended adjustments have been proposed by District Counsel for Board information and review, and will be presented for the Board’s consideration during second reading at the January 18, 2017 Board meeting. Added language is indicated by *italicized* font.

FISCAL IMPACT

None.

RECOMMENDATION

None at this time. The revised policy will be presented for second reading and adoption at the January 18, 2017 Board meeting.

ADDITIONAL MATERIAL

Attached: AR 3311 (7 pages)

Bids

◀ [Previous](#) | [Next](#) ▶

Advertised/Competitive Bids

The district shall seek competitive bids through advertisement for contracts involving an expenditure of \$15,000 or more for a public project. Public project means construction, reconstruction, erection, alteration, renovation, improvement, painting, repainting, demolition, and repair work involving a district owned, leased, or operated facility. (Public Contract Code [20111](#), [22002](#))

The district shall also seek competitive bids through advertisement for contracts exceeding the amount specified in law, and as annually adjusted by the Superintendent of Public Instruction, for any of the following: (Public Contract Code [20111](#); Government Code [53060](#))

1. The purchase of equipment, materials, or supplies to be furnished, sold, or leased to the district
2. Services, not including construction services or special services and advice in accounting, financial, legal, or administrative matters
3. Repairs, including maintenance that is not a public project

Maintenance means routine, recurring, and usual work for preserving, protecting, and keeping a district facility operating in a safe, efficient, and continually usable condition for the intended purpose for which it was designed, improved, constructed, altered, or repaired. Maintenance includes, but is not limited to, carpentry, electrical, plumbing, glazing, and other craft work designed to preserve the facility, as well as repairs, cleaning, and other operations on machinery and other permanently attached equipment. This definition does not include, among other types of work, janitorial or custodial services and protection provided by security forces, nor does it include painting, repainting, or decorating other than touchup. (Public Contract Code [20115](#))

Unless otherwise authorized by law, contracts shall be let to the lowest responsible bidder who shall give such security as the Board of Trustees requires, or else all bids shall be rejected. (Public Contract Code [20111](#))

The Board shall secure bids pursuant to Public Contract Code [20111](#) and [20112](#) for any transportation service expenditure of more than \$10,000 when contemplating that such a contract may be made with a person or corporation other than a common carrier, municipally owned transit system, or a parent/guardian of students who are to be transported. The Board may let this contract to other than the lowest bidder. (Education Code [39802](#))

No work, project, service, or purchase shall be split or separated into smaller work orders or projects for the purpose of evading the legal requirements of Public Contract Code [20111-20118.4](#) for contracting after competitive bidding. (Public Contract Code [20116](#))

When letting a contract for the procurement and/or maintenance of electronic data processing systems and supporting software, the Board may contract with any one of the three lowest responsible bidders. (Public Contract Code [20118.1](#))

Instructions and Procedures for Advertised Bids

The Superintendent or designee shall call for bids by placing a notice at least once a week for two weeks in a local newspaper of general circulation published in the district, or if no such newspaper exists, then in some newspaper of general circulation, circulated in the county, and may post the notice on the district's web site or through an electronic portal. The notice shall state the work to be done or materials or supplies to be furnished and the time and place and web site where bids will be opened. The district may accept a bid that has been submitted electronically or on paper. (Public Contract Code [20112](#))

The notice shall contain the time, date, and location of any mandatory prebid conference, site visit, or meeting. The notice shall also detail when and where project documents, including final plan and specifications, are available. Any such mandatory visit or meeting shall not occur within a minimum of five calendar days of the publication of the initial notice. (Public Contract Code [6610](#))

Bid instructions and specifications shall include the following requirements and information:

1. All bidders shall certify the minimum, if not exact, percentage of post-consumer materials in products, materials, goods, or supplies offered or sold. (Public Contract Code [22152](#))
2. All bids for construction work shall be presented under sealed cover and shall be accompanied by one of the following forms of bidder's security: (Public Contract Code [20107](#), [20111](#))
 - a. Cash
 - b. A cashier's check made payable to the district
 - c. A certified check made payable to the district
 - d. A bidder's bond executed by an admitted surety insurer and made payable to the district

The security of unsuccessful bidders shall be returned in a reasonable period of time, but in no event later than 60 days after the bid is awarded. (Public Contract Code [20111](#))

3. Bids shall not be accepted after the advertised bid opening time, regardless of whether the bids are actually opened at that time. (Public Contract Code [20112](#))
4. When two or more identical lowest or highest bids are received, the Board may determine by lot which bid shall be accepted. (Public Contract Code [20117](#))
5. If the district requires that the bid include prices for items that may be added to or deducted from the scope of work in the contract, the bid solicitation shall specify which one of the following methods will be used to determine the lowest bid. In the absence of such a specification, only the method provided in item #a below shall be used. (Public Contract Code [20103.8](#))

- a. The lowest bid shall be the lowest total of the bid prices on the base contract without consideration of the prices on the additive or deductive items.
- b. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that were specifically identified in the bid solicitation as being used for the purpose of determining the lowest bid price.
- c. The lowest bid shall be the lowest total of the bid prices on the base contract and those additive or deductive items that, when taken in order from a specifically identified list of those items in the solicitation, and added to or subtracted from the base contract, are less than or equal to a funding amount publicly disclosed by the district before the first bid is opened.

The lowest bid shall be determined in a manner that prevents any information that would identify any of the bidders or proposed subcontractors or suppliers from being revealed to the district before the ranking of all bidders from lowest to highest has been determined.

6. Any subsequent change or alteration of a contract shall be governed by the provisions of Public Contract Code [20118.4](#).
7. After being opened, all submitted bids become public records pursuant to Government Code [6252](#) and shall be made available for review pursuant to law, Board policy, and administrative regulation.

(cf. [1340](#) - Access to District Records)

Alternative Bid Procedures for Technological Supplies and Equipment

Upon a finding by the Board that a particular procurement qualifies for the alternative procedure, the district may acquire computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus through competitive negotiation. This procedure shall not apply to contracts for construction or for the procurement of any product that is available in substantial quantities to the general public. (Public Contract Code [20118.2](#))

The competitive negotiation shall include, but not be limited to, the following requirements: (Public Contract Code [20118.1](#))

1. The Superintendent or designee shall prepare a request for proposals (RFP) that shall be submitted to an adequate number of qualified sources, as determined by the district, to permit reasonable competition consistent with the nature and requirement of the procurement.
2. Notice of the RFP shall be published at least twice in a newspaper of general circulation, at least 10 days before the date for receipt of the proposals.
3. The district shall make every effort to generate the maximum feasible number of proposals from qualified sources and shall make a finding to that effect before proceeding to negotiate if only a single response to the RFP is received.
4. The RFP shall identify all significant evaluation factors, including price, and their relative importance.

5. The district shall provide reasonable procedures for the technical evaluation of the RFPs received, the identification of qualified sources, and the selection for the award of the contract.
6. An award shall be made to the qualified bidder whose proposal meets the evaluation standards and will be most advantageous to the district with price and all other factors considered.
7. If an award is not made to the bidder whose proposal contains the lowest price, then the district shall make a finding setting forth the basis for the award.
8. The district, at its discretion, may reject all proposals and request new RFPs.
9. Provisions in any contract concerning utilization of small business enterprises, that are in accordance with the RFP, shall not be subject to negotiation with the successful proposer.

Bids Not Required

Without advertising for bids and upon a determination that it is in the best interest of the district, the Board may authorize, by contract, lease, requisition, or purchase order, another public corporation or agency to lease data-processing equipment or to purchase materials, supplies, equipment, automotive vehicles, tractors, and other personal property for the district in the manner that the other public corporation or agency is authorized to make the leases or purchases from a vendor ("piggyback"). (Public Contract Code [20118](#))

(cf. [3300](#) - Expenditures and Purchases)

Alternatively, if there is an existing contract between a public corporation or agency and a vendor for the lease or purchase of personal property, the district may authorize the lease or purchase of personal property directly from the vendor by contract, lease, requisition, or purchase order and make payment to the vendor under the same terms that are available to the public corporation or agency under the contract. (Public Contract Code [20118](#))

Supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals may be purchased in any amount without taking estimates or advertising for bids. (Public Contract Code [20118.3](#))

Perishable commodities, such as foodstuffs, needed in the operations of cafeterias may be purchased through bid or on the open market. (Education Code [38083](#))

(cf. [3551](#) - Food Service Operations/Cafeteria Fund)

In an emergency when any repairs, alterations, work, or improvement to any school facility is necessary to permit the continuance of existing school classes or to avoid danger to life or property, the Board may, by unanimous vote and with the approval of the County Superintendent of Schools, contract for labor and materials or supplies without advertising for or inviting bids or may authorize the use of day labor or force account for the emergency purpose. (Public Contract Code [20113](#))

(cf. [3517](#) - Facilities Inspection)

(cf. [9323.2](#) - Actions by the Board)

Bids shall also not be required for day labor under circumstances specified in Public Contract Code [20114](#). Day labor shall include the use of maintenance personnel employed on a permanent or temporary basis. (Public Contract Code [20114](#))

Sole Sourcing

Specifications for contracts for construction, alteration, or repair of school facilities may not limit bidding, either directly or indirectly, to any one specific concern. Specifications designating a specific material, product, thing, or particular brand name shall follow the description with the words "or equal" so that bidders may furnish any equal material, product, thing, or service. (Public Contract Code [3400](#))

However, specifications for such contracts may designate a product by brand or trade name (sole sourcing) if the Board has made a finding, described in the invitation for bids or RFP, that a particular material, product, thing, or service is designated for any of the following purposes: (Public Contract Code [3400](#))

1. To conduct a field test or experiment to determine its suitability for future use
2. To match others in use on a particular public improvement that has been completed or is in the course of completion
3. To obtain a necessary item that is only available from one source
4. To respond to the Board's declaration of an emergency, as long as the declaration has been approved by four-fifths of the Board when issuing the invitation for bid or RFP

Protests by Bidders

A bidder may protest a bid award if he/she believes that the award was inconsistent with Board policy, the bid's specifications, or was not in compliance with law. A protest must be filed in writing with the Superintendent or designee within five working days after receipt of notification of the contract award. The bidder shall submit all documents supporting or justifying the protest. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of his/her right to protest the award of the contract.

The Superintendent or designee shall review the documents submitted with the bidder's claims and render a decision in writing within 30 working days. The Superintendent or designee may also convene a meeting with the bidder in order to attempt to resolve the problem.

The bidder may appeal the Superintendent or designee's decision to the Board. The Superintendent or designee shall provide reasonable notice to the bidder of the time for Board consideration of the protest. The Board's decision shall be final.

Lease/Leaseback

(A) The District shall prepare a request for sealed proposals from qualified proposers. The District shall include in the request for sealed proposals an estimate of the price of the project, a clear, precise description of any preconstruction services that may be required and the facilities to be constructed, the key elements of the instrument to be awarded, a description of the format that proposals shall follow and

the elements they shall contain, the standards the District will use in evaluating proposals, the date on which proposals are due, the timetable the District will follow in reviewing and evaluating proposals, and the process to be used by the successful proposer for the award of subcontracts.

(B) The District shall give notice of the request for sealed proposals in the manner of notice provided in Section 20112 of the Public Contract Code, with the latest notice published at least 10 days before the date for receipt of the proposals.

(C) A proposer must be prequalified in accordance with subdivisions (b) to (m), inclusive, of Section 20111.6 of the Public Contract Code, in order to submit a proposal. If used, electrical, mechanical, and plumbing subcontractors shall be subject to the same prequalification requirements for prospective bidders described in subdivisions (b) to (m), inclusive, of Section 20111.6 of the Public Contract Code, including the requirement for the completion and submission of a standardized prequalification questionnaire and financial statement that is verified under oath and is not a public record. These prequalification requirements shall be included in an instrument created pursuant to California Education Code § 17406(1).

(D) The request for sealed proposals shall identify all criteria that the District will consider in evaluating the proposals and qualifications of the proposers, including relevant experience, safety record, price proposal, and other factors specified by the District. The price proposal shall include, at the District's discretion, either a lump-sum price for the instrument to be awarded or the proposer's proposed fee to perform the services requested, including the proposer's proposed fee to perform preconstruction services or any other work related to the facilities to be constructed, as requested by the District. The request for proposals shall specify whether each criterion will be evaluated pass-fail or will be scored as part of the best value score, and whether proposers must achieve any minimum qualification score for award of the instrument under this section.

(E) For each scored criterion, the District shall identify the methodology and rating or weighting system that will be used by the District in evaluating the criterion, including the weight assigned to the criterion and any minimum acceptable score.

(F) Proposals shall be evaluated and the instrument awarded under California Education Code § 17406 in the following manner:

(i) All proposals received shall be reviewed to determine those that meet the format requirements and the standards specified in the request for sealed proposals.

(ii) The District shall evaluate the qualifications of the proposers based solely upon the criteria and evaluation methodology set forth in the request for sealed proposals, and shall assign a best value score to each proposal. Once the evaluation is complete, all responsive proposers shall be ranked from the most advantageous to the least advantageous to the District.

(iii) The award of the instrument shall be made by the Board of Trustees of the District to the responsive proposer whose proposal is determined, in writing by the Board of Trustees of the District, to be the best value to the District.

(iv) If the selected proposer refuses or fails to execute the tendered instrument, the Board of Trustees of the District may award the instrument to the proposer with the second highest best value score if the Board of Trustees of the District deems it to be for the best interest of the District. If the second selected proposer refuses or fails to execute the tendered instrument, the Board of Trustees of the District may award the instrument to the proposer with the third highest best value score if the Board of Trustees of

the District deems it to be for the best interest of the District.

(v) Notwithstanding any other law, upon issuance of a contract award, the District shall publicly announce its award, identifying the entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the District's contract award and the contract file shall provide sufficient information to satisfy an external audit.

(G) The Board of Trustees of the District, at its discretion, may reject all proposals and request new proposals.

Regulation OXNARD SCHOOL DISTRICT

approved: January 18, 2017 Oxnard, California