

Oakland Unified School District
Facilities Planning & Management Department
955 High Street
Oakland, California 94601

Request for Sealed Fee Proposals and Qualifications
For Lease-Leaseback Construction Services

The Modernization Project
at Fremont High School
4610 Foothill Boulevard, Oakland, California,
OUSD Project No. 22156

Important Dates (see inside for details):

RFP/Q Issued:	February 7, 2024
Pre-Submittal Conference:	February 14, 2024
Prequalification Applications Due:	February 22, 2024
Last Day to submit Questions:	February 22, 2024
District to issue respond to Questions:	February 26, 2024
Sealed Proposals Due:	February 29, 2024
Announcement of Best Value Ranking:	March 7, 2024
Selection by Governing Board:	April 24, 2024
Notice to Proceed (Tentative)	April 25, 2024

Request for Sealed Fee Proposals and Qualifications
For Lease-Leaseback Construction Services

The Modernization Project
at Fremont High School

The Governing Board (the “Board”) of the Oakland Unified School District (the “District” or “Owner”) is seeking qualifications and proposals from qualified providers of lease-leaseback construction services (“Contractors”) for the re-roofing work at Buildings “A” and “C”, renovation of the passenger elevator at Building “A”, and site improvements at the Mac Dre parking lot (the “Work”) which is part of the Modernization Project at Fremont High School (“Project”) within the District. The agreement, site lease, and sublease for the Work (the “Contract Documents,” or the “Contract”) will be awarded by the Board under the provisions of Education Code section 17406.

I. Critical Dates

A. Pre-Submittal Conference

A non-mandatory pre-submittal conference shall be held on **February 14, 2024, at 10:00 a.m.**, at the Main Entry to Fremont High School (see attached map) to answer questions and provide any additional information concerning the Contract and the Project, and it will also include a walk of the job site following the pre-submittal conference. Any proposing Contractor that did not attend this conference will be deemed to have notice of all conditions and information that it reasonably could have obtained at the conference (including but not limited to observations of the site conditions and receipt of verbal or written answers to questions), and it will be assumed for all purposes under the Contract Documents that the entity had notice of such information when it prepared its proposal. Owner reserves the right to consider failure to attend the pre-submittal conference as evidence of non-responsibility for this Contract.

B. Prequalification Applications Due Date:

A Contractor submitting a proposal, and any MEP Subcontractor listed by that Contractor in its proposal’s Designation of Subcontractor form, must be prequalified pursuant to Education Code section 17406(a)(2)(C) and Public Contract Code section 20111.6(b) through (m) prior to submitting a proposal. (See Section IX.E., below.) An “MEP Subcontractor” is one who will perform work that requires one of the following classes of license: C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, or C-46.

Prequalification applications are available on the District’s website or at the District’s Facilities Planning & Management office located at 955 High Street. A proposal submitted by a Contractor that is not prequalified will not be accepted and will not be considered by the District. To be prequalified for the Contract, prequalification

application packets must be completed and returned to the following person/address by no later than **2:00 p.m., February 22, 2024**

Oakland Unified School District
Facilities Planning & Management Department
955 High Street
Oakland, CA 94601
Attention: La Juana Lewis, Administrative Assistant

Contractors are encouraged to submit prequalification packages earlier than the date set forth above, so that they may be notified of prequalification status well in advance of any applicable proposal deadline.

The District's prequalification requirements and forms can be found at the following link: <https://www.ousd.org/facilities-planning-management-department/opportunities/contract-opportunities>

C. Sealed Proposals Due Date:

An original + six (6) copies of each Contractor's sealed proposal for the Contract shall be delivered to the following address **no later than February 29, 2024, at 2:00 p.m.** on the clock designated by the District or its representative as the governing clock:

Oakland Unified School District
Facilities Planning & Management Department
955 High Street
Oakland, CA 94601
Attention: Juanita Hunter, Specialist, Facilities Contracts & Bids

Facsimile (FAX), e-mail, or other electronic copies of the proposal will not be accepted. Only hard copies will be accepted.

Proposals not received by the deadline or in the proper format will be returned unopened.

D. Award Date:

The governing Board of the District is planning to award the Contract at its regular Board meeting on **April 24, 2024**. The Board reserves the right to postpone or cancel the award, or to reject all proposals. The meeting will be held at 4:00 PM (Pacific Time) in the Great Room at the La Escuelita Education Center, 1050 Second Avenue, Oakland, CA.

II. Project Description, Plans, and Specifications

The District plans to construct the Work, which is a modernization project, on a District-owned sites located at 4610 Foothill Boulevard (Main Campus) and 4529 Foothill Boulevard (Mac Dre site), in Oakland, Alameda County, California, and the District is soliciting proposals for the construction of the Work.

The District has retained Hibser Yamauchi Architects, Inc. of Oakland, California, as its architect for the Contract (“Architect”). DSA approval of the plans and specifications for the Contract has not yet been issued, but will be obtained after award of the Lease-Leaseback Agreement. Any preconstruction services in the Lease-Leaseback Agreement may be performed before DSA approval, but the Work may not commence until DSA approval is received by the District, all preconstruction services are complete, the subcontractors are selected, and the Total Sublease Amount is approved by the District’s governing board.

Current plans and specifications may be found at the following link:

<https://drive.google.com/drive/folders/1aWAjrOp0Ec6h1Nd2o-KOwyLiKU3y6wHR>

Access to shared folder will be granted upon request.

This contract is subject to the District’s 2021 Project Labor Agreement, dated June 30, 2021 which is available at:

<https://www.ousd.org/facilities-planning-management-department/opportunities/local-hiring/2021-project-labor-agreement-pla>

III. Contract Parameters

A. Financing

The successful Contractor will be financing the construction of the Work through a lease-leaseback arrangement, and the District will be paying Contractor for its construction and financing through monthly sublease payments that will extend beyond the Completion of the construction.

No federal funds are being used by Owner for the Contract.

B. Proposed Budget

The District will require an open book policy with the successful Contractor and its construction team on the entire Contract, meaning that all costs included in the Contractor’s Total Sublease Amount and each monthly Sublease Payment shall be clearly set forth to the District’s satisfaction, including soft costs, site improvements, and the construction of the buildings. The District shall be entitled to have access to subcontractor bids, value engineering back-up, contingency breakdown and tracking, general conditions breakdown and tracking, documentation of Contractor’s fees, and all other information necessary to verify construction costs.

The Contract is subject to the payment of prevailing wages under the California Labor Code and applicable regulations, and the Contract will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

C. Cost Estimate

The District preliminarily estimates that the Total Sublease Amount for the Contract will be One Million Nine Hundred Fifty Dollars (\$1.95M). This estimate is based solely on the Architect's most recent estimate of the total Contract costs and is subject to change.

D. Scope of the Fee Proposal

1. Fee Proposal and Calculation of Total Sublease Amount

All proposals shall be in the form of a percentage ("Percentage") to be applied to the construction cost of the Work after award of the Contract as determined in accordance with the Contract Documents (including this RFP) and Education Code section 17406(a)(3). All proposed fees shall be based on the Contract Documents, as defined in Section 1.1.1 of the General Conditions attached as *Exhibit U*, including but not limited to such General Conditions and the Agreement, Site Lease, and Sublease attached as *Exhibits D, E, and F*. Once the construction cost is determined, the successful Contractor's Percentage will be applied to that construction cost to determine the total dollar amount Contractor will be paid as its fee for the Contract ("Contractor Fee"). Contractor will accept the Contractor Fee as total compensation for its costs, expenses, overhead, and profit on the Contract. Contractor's costs that are intended to be covered by the Contractor Fee, include, but are not limited to, the following:

1. All costs for general conditions Work (also known as general requirements Work), including but not limited to temporary facilities, temporary utilities (electricity, internet, water, garbage, etc.), structures, fences, dust control, security, restrooms, scheduling, safety, vehicles, interim and final cleaning, mobilization, demobilization, office expense, communications equipment, scaffolding, and SWPPP. If any of this general conditions Work is included by the Contractor in its subcontracts, then the Contractor's percentage fee may not be applied to those subcontractors' costs when calculating the Total Sublease Amount.
2. Overhead (home office and field) and financing costs.
3. Supervision of subcontractors and suppliers and other management responsibilities for the Contract, including any management responsibilities related to any Work self-performed by the Contractor (see Section IV.E., below).
4. Material, equipment, and employee/labor costs (including but not limited to wages, salaries and benefits) for Work performed by Contractor.

5. All bonds and insurance, including but not limited to payment and performance bonds.
6. All other costs incurred by Contractor in performance of its obligations under the Contract.

As set forth in the Lease-Leaseback Agreement, the selected Contractor shall provide Owner with objectively verifiable information of its costs to perform the Work and a written rationale for the Total Sublease Amount, including documentation sufficient to support the calculation. Contractor’s written rationale shall detail the “base construction cost” for the Work, consisting of (a) all subcontracts to be awarded by Contractor to subcontractors and suppliers for labor, materials, equipment, and supplies, including any special allowances requested by the District that are within the scope of such subcontracts (see Section III.D.2., below), (b) any Work to be self-performed by the Contractor (see Section IV.E., below), and (c) any general contingency allowance that Owner elects to include in the Total Sublease Amount. The amount of (a), above, when multiplied by the percentage offered by the Contractor in its proposal, shall constitute the “Contractor Fee,” which shall be added to (a), (b), and (c) to arrive at the Total Sublease Amount, as must be detailed in Contractor’s written rationale. To summarize, the Total Sublease Amount shall be calculated as follows:

Cost of Contractor’s subcontracts to subcontractors and suppliers (see (a), above)
 + Fee (fee percentage [see Proposal Form] × total cost of subcontracts [see previous line])
 + Any amounts successfully bid by Contractor for self-performed Work (see (b), above)
 + Any general contingency allowance included by Owner (see (c), above)
 Total Sublease Amount

The Total Sublease Amount shall be approved by the District’s governing board at a public meeting. The Total Sublease Amount shall constitute the total compensation to Contractor for constructing the Project and performing the preconstruction services and Work. The successful Contractor may not commence construction of the Work until the District’s Governing Board has approved the Total Sublease Amount and Contractor has submitted all required documentation.

If the Contractor is entitled under the Contract Documents to be paid additional compensation for extra work, the District reserves its right to make such payment from any contingency, or any applicable allowance, stated in the Contract Documents, rather than by a Board-approved change order. Any such contingency or allowance payment shall be priced pursuant to the Contract Documents’ procedures for pricing change orders.

2. Allowances

The District reserves the right to include allowance funds in the Total Sublease Amount to be finalized by the parties after award of the Contract (see Article 4 of the Agreement

[*Exhibit D*]).

3. Contingency

The District reserves the right to include a contingency in the Total Sublease Amount to be finalized by the parties after award of the Contract (see Article 4 of the Agreement [*Exhibit D*]).

IV. Scope of Work

A. Scope

The Scope of Work is the re-roofing work at Buildings “A” and “C”, renovation of the passenger elevator at Building “A”, and site improvements at the Mac Dre parking lot (the “Work”) which is part of the Modernization Project at Fremont High School (“Project”) within the District.

During the Work, the Contractor shall ensure that all Work, including but not limited to Work performed by Subcontractors, is performed in compliance with all applicable legal, contractual, and local government requirements related to the novel coronavirus and COVID-19, including “social distancing,” masks, and hygiene as may be ordered by the State or local authorities.

Each bidder must include in its bid all costs related to these requirements in effect at the time of bidding. If additional COVID-19 requirements are imposed after the bid and the Contractor believes that it is entitled to additional time or money, it must timely submit proper requests pursuant to the Contract Documents.

B. Project Schedule

The preconstruction services (see Section IV.C, below) are expected to be performed within seven (7) calendar days of the award of the LLB contract so that the design of the Work may be finalized for bidding by subcontractors. It is anticipated that construction will start on or about June 3, 2024. The Work must be completed by September 6, 2024 or within ninety-six (96) calendar days from the date of Owner’s approval of the Total Sublease Amount (whichever occurs first). See the Lease-Leaseback Agreement and other Contract Documents for additional details.

C. Preconstruction Services During the Design Phase

As part of the scope of the Lease-Leaseback Agreement, Contractor shall perform the preconstruction services during the design phase that are detailed in the Lease-Leaseback Agreement, as may be requested by the District:

1. Site evaluation;

2. Constructability review and value engineering;
3. Design/coordination meetings;
4. Schedule;
5. Estimates; and
6. Construction planning.

Owner will pay Contractor an hourly rate for such services, but the total paid for such services shall not exceed \$200,000.

D. Construction and Post-Construction Services

The Contractor shall perform all Work and obligations described in the Contract Documents, including the following construction and post-construction services:

1. Construction of the Work in accordance with the plans and specifications.
2. Coordinate and expedite record drawings and specifications.
3. Compile and deliver to Owner operations and maintenance manuals, warranties/guarantees, and certificates.
4. Prepare final accounting and close-out reports.
5. Other responsibilities necessary for the Completion of the Work of the Project in accordance with the plans and specifications.

E. Subcontractors; Self-Performance by Contractor

All proposals shall identify subcontractors as may be required by the Designation of Subcontractors form attached to this RFP. Any such subcontractors who are MEP Subcontractors shall be prequalified (see Sections I.B, above, and IX.E, below).

All subcontractors who were not identified in the Designation of Subcontractors form and who will perform more than 0.5% of the Work must be selected by a competitive bidding process as described in Education Code section 17406(a)(4), this Request for Sealed Proposals and Qualifications, and the attached agreement. Any such subcontractors who are MEP Subcontractors shall be prequalified (see Section IX.E, below). Contractor shall establish reasonable qualification criteria and standards for subcontractors and shall provide public notice of availability of work to be subcontracted in accordance with the District's competitive bidding process (including but not limited to Public Contract Code section 22037), including a fixed date and time on which qualifications statements, bids, or proposals will be due. After selection of all subcontractors, Contractor shall submit a list of all subcontractors (including the portion of the work [description and dollar amount], name, address, telephone number, California contractor license number, and California public works registration number for each subcontractor) with its written price rationale being submitted pursuant to Education Code §17406(a)(3)).

If Contractor wishes to perform a portion of the Work itself rather than enter a subcontract for it, it may only self-perform that portion if it uses the applicable

subcontractor selection process under Education Code section 17406(a)(4), submits a bid for that portion that covers all of its profit and costs for that portion (including labor, materials, equipment, supplies, field overhead [including general conditions costs], and home office overhead), submits that bid prior to receipt of any subcontractor's bid for that portion, and its bid is the lowest responsive and responsible bid for that portion.

All subcontractors shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (commencing with Public Contract Code section 4100).

V. Format of Proposal

The proposal should be clear, concise, complete, well organized, and demonstrate Contractor's qualifications, ideas, and ability to follow instructions.

An original + six (6) copies of the proposal must be provided, with no more than 30 single-sided pages in total length.

All Contractors submitting a proposal are required to follow the order and format specified below. Failure to follow the specified order and format may result in rejection of a proposal. Please tab each section of the submittal to correspond to the numbers/headers shown below.

A. Proposal Cover

The proposal shall include a cover page, which cover page shall set forth the RFP's title and submittal due date, the name, address, fax number, and the telephone number of responding firm (or firms if there is a joint venture or association).

B. Content of Proposal

The following documents, properly prepared and establishing compliance, should be included in the proposal in the order listed (failure to include any of these documents may result in rejection of the proposal based on non-responsiveness):

1. Certified responses to Qualifications Questionnaire (see *Exhibit B*).
2. Proposal Form, including proof of signers' authority (see *Exhibit G*).
3. Designation of Subcontractors (see *Exhibit H*).
4. Worker's Compensation Certification (see *Exhibit I*).
5. Iran Contracting Act Certification, if required by law (see *Exhibit J*).
6. Noncollusion Declaration (see *Exhibit M*).
7. Sufficient Funds Declaration (see *Exhibit N*).

8. Roof Project Certification (see *Exhibit O*).
9. Fingerprinting Notice and Acknowledgement (see *Exhibit P*).
10. For all projects over Twenty-Five Thousand Dollars (\$25,000), proof of public works contractor registration to perform public work under Labor Code section 1725.5.
11. Site Visit Certification (if the pre-bid site visit was mandatory; see above).
12. Local Business Participation Form for the District's Local, Small Local, and Small Local Resident Business Enterprise Program (L/SL/SLRBE).

The Local Business Participation Form can be found at the following link:
<https://drive.google.com/drive/folders/1aWAjrOp0Ec6h1Nd2o-KOwyLiKU3y6wHR>
Access to shared folder will be granted upon request.
13. Schedule Z Debarment Suspension Certification.

The following documents must be submitted prior to award and within ten (10) days of issuance of the Notice of Intent to Award:

14. Performance Bond.
15. Payment Bond.
16. Insurance Certificates.
17. Letter of Assent to Project Labor Agreement.

The following documents must be submitted within ten (10) days after Notice of Award of Contract:

18. Signed Agreement, Site Lease, and Sublease.
19. Drug-Free Workplace Certification.
20. Student Contract Form (see Exhibit B to the Fingerprinting Notice and Acknowledgement Form).
21. Additional Insured and Other Required Endorsements.
22. Insurance Declaration Pages.
23. Buy American Certification.
24. Bid Documentation to Be Held in Escrow.
25. Roof Project Certification (if required).
26. Workers' Compensation Certification.
27. Asbestos & Other Hazardous Materials Certification.
28. Lead-Based Materials Certification.
29. Prevailing Wage and Related Labor Requirements Certification.

30. Tobacco-Free Environment Certification.

31. Imported Materials Certification.

Each proposal must use the proposal form (*Exhibit G*) and must give the full business address of the proposing entity and be signed by the proposing entity. Proposals by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Proposals by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officers signing on behalf of a corporation shall be furnished with the proposal.

The signatures on the proposal form and other proposal documents must be original longhand signatures in permanent blue ink. Any other type of signature, including an electronic signature, will not be accepted.

VI. Selection Procedures and Guidelines

The purpose of this Request for Proposals is to enable the District to select the Contractor that submitted the proposal that is the best value to the District for the Contract as required by Education Code section 17406. The term “best value” as used in this RFP is defined in Education Code section 17400, and is inclusive of a competitive procurement process whereby the Contractor is selected on the basis of “objective criteria” (Education Code §17400(b)(1)) for evaluating qualifications with the resulting selection representing the best combination of price and qualifications.

The District will use the selection process outlined below, which conforms to Education Code section 17406 and the District’s governing board’s January 25, 2017, lease-leaseback resolution, and which ensures that the best value selection by the District is conducted in a “fair and impartial manner” (Education Code §17406(a)(2)). A review and selection committee composed of key District officials and consultants will review and evaluate all proposals.

Proposals will be opened privately to assure confidentiality and to avoid disclosure of the contents to competing Contractors prior to and during the review and evaluation process. Following determination of the best value points for the proposing contractors pursuant to this RFP, proposals may be subject to disclosure in accordance with applicable law.

Selection Process

Qualification Portion

For the qualifications portion of the best value analysis, the District will evaluate the specific criteria listed below and each Contractor's qualifications will be scored on a seven hundred fifty (750) point scale using the District's Qualifications Scoring Sheet (attached as *Exhibit A*). Each criterion has a point value which is listed next to the criterion. Each criterion will be evaluated by the District and the District will award a point value to Contractor for each criterion. The maximum cumulative number of points available to any Contractor is 750 points. The criteria and their corresponding point values are as follows:

- Pass/Fail Questions: For the questions in Part II of the Qualifications Questionnaire (*Exhibit B*), Contractor must provide certified answers of "yes" in response to Question Nos. 1-5, and "no" in response to Question Nos. 6-12, to pass each of the questions; otherwise, the proposal will be rejected.
- Technical Expertise: 400 points.
- Safety: 50 points.
- Schedule: 100 points.
- Staffing: 100 points.
- Financial Strength: 100 points.

For the qualifications portion of the best value analysis and for the purpose of evaluating Contractors' qualifications pursuant to the criteria set forth above, the District will evaluate each Contractor on the basis of the certified responses provided in the Contractor's completed Qualifications Questionnaire (*Exhibit B*), which is required to be completed, including certification, and submitted to the District as part of Contractor's proposal for the Contract.

After scoring the qualifications, the scores should be entered in Section I of the Ranking of Best Value Scores (see *Exhibit C*).

Compensation Portion

For this compensation portion of the best value analysis, the District will score two elements: The percentage fee proposal for construction work, and the hourly rate for preconstruction services.

For the percentage fee proposal, the District will evaluate the amount of Contractor's fee proposal for the entire Contract, which shall be submitted in percentage format to the hundredths of a percent (e.g., "5.32%"). The fee proposal portion of the best value analysis will be scored on a two hundred thirty (230) point scale using the Ranking of Best Value Scores (see Section II of *Exhibit C*). District will score Contractors on the

basis of the lowest to highest fee proposal submitted. All Contractors submitting a fee proposal will receive points, in increments of seventy (70), based on the amount of the fee proposal, with the Contractor with the lowest fee proposal receiving the most points available and the Contractor with the highest fee proposal receiving the fewest points available. Specifically, the Contractor with the lowest fee proposal will receive 230 points, the Contractor with the second lowest fee proposal will receive 160 points, the Contractor with the third lowest fee proposal will receive 90 points, the Contractor with the fourth lowest lump sum will receive 20 points, and the other Contractors will receive no points. In the event two or more Contractors submit fee proposals with the same fee, the Contractors shall be awarded the same amount of points representing the average of the points to be awarded to their positions in the ranking.

For the preconstruction services rate proposal, the District will evaluate the hourly dollar rate proposed by Contractor. This portion of the best value analysis will be scored on a twenty (20) point scale using the Ranking of Best Value Scores (see Section III of *Exhibit C*). District will score Contractors on the basis of the lowest to highest rate proposed. All Contractors submitting an hourly rate will receive points, in increments of six (6), based on the amount of the hourly rate, with the Contractor with the lowest rate receiving the most points available and the Contractor with the highest rate receiving the fewest points available. Specifically, the Contractor with the lowest rate will receive 20 points, the Contractor with the second lowest rate will receive 14 points, the Contractor with the third lowest rate will receive 8 points, the Contractor with the fourth lowest rate will receive 2 points, and the other Contractors will receive no points. In the event two or more Contractors submit proposals with the same rates, the Contractors shall be awarded the same amount of points representing the average of the points to be awarded to their positions in the ranking.

Total Best Value Score

After the District has allocated points to qualifying Contractors for both the qualification and fee proposal portions of the best value analysis, the District will combine the points received by each Contractor based on Contractor's qualifications and fee proposal to create each Contractor's best value score. District will then rank all Contractors based on each Contractor's best value score. (See Sections IV and V of *Exhibit C*.) The Contractor with the highest best value score (highest combined point total from the qualifications and fee proposal analysis) shall be ranked highest, and all remaining Contractors shall be ranked in descending order based on the Contractor's best value score, such that the Contractor receiving the lowest best value score receives the lowest ranking.

The District expects to complete and announce its best value analysis, and ranking of proposals from highest best value score to lowest best value score, within ten business (10) days of the deadline for submittal of the proposals. It will provide its analysis and ranking (*Exhibit C*) to all proposing Contractors at the same time.

VII. Award

The District reserves the right to reject any or all proposals, or waive any irregularities, or any failures to comply with the Contract Documents, in any of the proposals submitted pursuant to this RFP. If awarded, the Contract shall be awarded to the responsive and responsible Contractor with the highest best value score. In the event of a tie (i.e., two or more responsive and responsive Contractors have the same highest best value score), District may award the Contract to the Contractor of its choice.

Within ten (10) days of the Notice of Intent to Award, the apparent best value proposing contractor shall provide the documents required above. If the best value proposing contractor fails to do so, then the Owner may issue a Notice of Intent to Award to the next-highest best value contractor. In addition, before the Contract is awarded, the Owner may at its sole discretion, require from the proposed Contractor on the Project further evidence of the reasonable qualifications of such contractor to faithfully, capably, and reasonably perform such proposed Contract and may consider such evidence before making its decision on the award of such proposed Contract.

The Board is expected to award the Contract at its regular meeting on **April 24, 2024** held at 4:00 PM (Pacific Time) in the Great Room at the La Escuelita Education Center, 1050 Second Avenue, Oakland, CA. The District will issue a statement regarding the basis of the award.

Within ten (10) days of the Notice of Award of Contract, the apparent best value proposing contractor shall provide the documents required above. If the Contractor to which the Board awards the Contract fails to do so, the Board may revoke or cancel the award to that Contractor and award to the Contractor that submitted the next highest ranked proposal, and the District may recover its damages from the highest ranked Contractor based on its refusal to submit the required documents.

VIII. General Information

A. Amendments

The District reserves the right to cancel or revise this RFP in part or in its entirety. If the District cancels or revises the RFP, all Contractors will be so notified by addenda. The District also reserves the right to extend the date on which responses are due, the date on which it announces the results of its best value analysis, or the date on which the award will be made.

B. Inquiries

Any questions concerning this RFP or selection process may be directed to Kenya Chatman, Executive Director (email kenya.chatman@ousd.org) and Colland Jang,

Facilities Procurement Manager (email colland.jang@ousd.org). No telephone calls will be accepted; submit email questions only. Replies involving any substantive issues will be issued by addenda and posted on the District's website, and emailed to all parties recorded by the District as having received the RFP documents. Only answers provided by formal written addenda will be binding.

IX. Special Conditions

A. Non-Discrimination

The District does not discriminate on the basis of race, color, national origin, religion, age, ancestry, medical condition, disability, or gender in consideration for an award of contract.

B. Costs

Costs of preparing a proposal in response to this RFP are solely the responsibility of the responding Contractor.

C. Prevailing Wages

Respondents are advised that this Project is a public work for purposes of the California Labor Code, which requires payment of prevailing per diem wages, as well as wages for legal holidays and overtime. These rates are set forth in a schedule, which may be found on the California Department of Industrial Relations website at www.dir.ca.gov. Any Contractor to which a contract is awarded must pay the prevailing rates, post copies thereof at the job site, provide payroll records when required, and otherwise comply with applicable provisions of state law.

D. State Registration

For all projects over Twenty-Five Thousand Dollars (\$25,000), proposing Contractors and any proposed subcontractors shall not be qualified to submit a proposal, or to be listed in a proposal, for the Project, and shall not be qualified to enter into, or engage in the performance of, the Lease-Leaseback Agreement, unless currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 et seq.) of the Labor Code.

E. Prequalification

This Contract is subject to prequalification under Public Contract Code section 20111.6. If a proposing Contractor is not prequalified to propose for the Contract, District will not accept the proposal and will not award the Contract to that Contractor. Any subcontractors for work requiring C-4, C-7, C-10, C-16, C-20, C-34, C-36, C-38, C-42, C-43, or C-46 licenses ("MEP Subcontractors") that the proposing Contractor lists in its

proposal must have current prequalified status with the District, otherwise the District will not accept the Contractor's proposal and will not award the Contract to that Contractor. All applications for prequalification necessary for the proposal (see previous two sentences) must be submitted to the District by the date specified above in this RFP. The application form may be obtained from the District. Any MEP Subcontractor to be selected by the Contractor *after* award of the Contract pursuant to Education Code section 17406(a)(4)(B) (see Section IV.E, above) must be prequalified on the date of bidding for that MEP Subcontractor's work; and if an MEP Subcontractor will not be prequalified on that date as a result of a prequalification from a previous application, then the MEP Subcontractor must (a) submit its prequalification application at least ten (10) business days before the date of bidding for that MEP Subcontractor's work, and (b) be announced by District as prequalified at least five (5) business days prior to such date of bidding, as required by the Contract and Public Contract Code section 20111.6.

F. Limitations

This RFP does not commit the District to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to the RFP, or to procure or contract for work. The District reserves the right to waive any irregularities in the proposals received pursuant to this RFP, or in the process outlined herein for selection of a contractor for the Project.

G. Termination

In any contract entered into between the District and a Contractor, the District shall retain the right to terminate the contract for inadequate performance or as otherwise allowed by the Contract Documents.

H. Disabled Veteran Business Enterprises ("DVBE")

DVBE participation is not required for this contract.

I. Sole Source Determination

Owner, or its designee, has determined that certain materials, services, products or things designated by specific brand or trade name shall not be subject to Public Contract Code section 3400(a) in order to match other materials, services, products or things in use on a particular Owner public improvement either completed or in the course of completion. These specific "sole source" materials, services, products or things are identified in *Exhibit T* to this RFP.

OUSD's Material Standards and "sole source" materials, services, products or things as approved by the Board of Education Resolution No. 2122-0152 can be found in the following link:

<https://drive.google.com/drive/folders/1aWAjrOp0Ec6h1Nd2o-KOwyLiKU3y6wHR>

Access to shared folder will be granted upon request.

J. Payment and Performance Bonds

Pursuant to the Contract Documents, the successful proposing Contractor will be required to furnish a Payment (Labor and Material) Bond in the amount of one hundred percent (100%) of the Total Sublease Amount, and a Faithful Performance Bond in the amount of one hundred percent (100%) of the Total Sublease Amount, said bonds to be secured from Admitted Surety insurers (an insurance organization authorized by the Insurance Commissioner to transact business of insurance in the State of California during this calendar year). These bonds shall be in the form attached to this RFP (see *Exhibits R and S*), and shall be submitted by the Contractor within ten (10) days of the approval of the Total Sublease Amount by the District's governing board. The sureties must, unless otherwise agreed to by District in writing, at the time of issuance of the bonds, have a rating not lower than "A-" as rated by A.M. Best Company, Inc. or other independent rating companies. District reserves the right to approve or reject the sureties selected by the successful proposing Contractor and to require the successful proposing Contractor to obtain bonds from sureties satisfactory to the District. The proposing Contractor will be required to furnish insurance as set forth in the Contract Documents.

K. [Not Used]

L. Contractor and Subcontractor Licenses

The District will not consider or accept any proposals from Contractors who are not licensed at the time of the proposal, or who list a subcontractor who is not licensed at the time of the proposal, to do business in the State of California, in accordance with the California Public Contract Code, providing for the licensing of contractors. In accordance with Section 3300 of said Code, the proposing Contractor shall have a Class "B" license and shall maintain that license in good standing through Contract Completion and all applicable warranty periods.

The proposing Contractor shall state the California contractor license number on the Designation of Subcontractors form for all subcontractors required by District to be listed in the Designation of Subcontractors form. An inadvertent error in listing a California contractor's license number in the Designation of Subcontractors form shall not be grounds for filing a protest or for considering the proposal nonresponsive if the proposing Contractor submits the corrected subcontractor's license number to the District within 24 hours after the bid opening, or any continuation thereof, so long as the corrected subcontractor's license number corresponds to the submitted name and location for that subcontractor.

Subcontractors shall maintain their licenses in good standing through Completion of the Work and all applicable warranty periods. District reserves the right to reject any proposal as nonresponsive if the proposing Contractor or any subcontractor is not licensed in good standing from the time the proposal is submitted to District up to award of the Contract, whether or not the proposal listed the subcontractor inadvertently, or if a listed subcontractor's license is suspended or expires prior to award of the Contract.

District also reserves the right to reject any proposal as non-responsive if a listed subcontractor's license is not in good standing to perform the work for which it is listed from the time of submission of the proposal to award of the Contract.

M. Withdrawal of Proposal

Proposals may be withdrawn by proposing Contractors prior to the time fixed for the submittal of proposals or any authorized postponement thereof. Unless otherwise required or allowed by law (including but not limited to Public Contract Code section 5100 et seq.), no proposing Contractor may withdraw its proposal for a period of one hundred eighty (180) days after the date set for the submittal thereof or any authorized postponement thereof, even if the Contract is awarded to another Contractor. The District specifically reserves the right to terminate for convenience any Contract awarded pursuant to this RFP due to an unacceptable price calculation and rationale pursuant to Education Code §17406(a)(3) (see Article 4 of the Agreement [*Exhibit D*]), and the right to subsequently award the Contract to the next highest ranked best value Contractor.

N. Protests

All protests must comply with the following, or they shall be rejected as invalid:

1. The protest shall be in writing with an original signature (a protest submitted by e-mail is insufficient);
2. The written protest shall be filed with, and received by, the District no later than 4:00 p.m. on the third working day after the District's announcement of the best value ranking of the proposals;
3. The protest shall set forth in detail all grounds for the protest, including all facts, supporting documentation, legal authorities and arguments in support of the protest;
4. Before the protest deadline, the protesting party shall transmit the complete protest, including all documentation, to all other parties having a potential interest that may be adversely affected by the outcome of the protest, including but not limited to all other proposing entities who may have a reasonable prospect of losing or obtaining an award of the Contract depending on the outcome of the protest; and
5. All factual contentions must be supported by competent, admissible and credible evidence.

The procedures and time limits set forth in this section for protests are strictly construed and are protesting party's sole and exclusive remedy in the event of a protest. Protesting party's failure to strictly comply with these procedures and time limits shall constitute a waiver of any right to further pursue the protest, including but not limited to the presentation of a Government Code claim or legal proceedings. Any matter not set forth in the protest, including any ground for the protest or any evidence supporting a ground for the protest, shall be deemed waived.

A protesting party may not rely on the protest submitted by another protesting party, but must timely pursue its own protest.

District shall review a protest that was not rejected for failing to comply with the above procedures. Any final decision on such a protest shall be made by the Governing Board.

O. Additional Evidence of Responsibility

Upon the request of the District, a proposing Contractor shall submit promptly to the District or its designee satisfactory evidence showing the proposing Contractor's financial resources, its experience in the type of work required by the District, its organization available for the performance of the Contract, and any other required evidence of its, or its subcontractor's, qualifications to perform the proposed Contract. The District may consider such evidence before making its decision awarding the proposed Contract. Failure to submit evidence of the proposing Contractor's, or its subcontractors', responsibility to perform the proposed Contract may result in rejection of the proposal.

P. Further Instructions for Proposals

Proposals not made on the proper form shall be disregarded. Numbers must be stated in words and figures, and the signatures of all individuals must be in longhand.

No proposal will be considered which makes exceptions, changes, or in any manner makes reservations to the terms of the drawings or specifications.

Questions regarding documents, discrepancies, omissions, or doubt as to meanings shall be referred immediately to the Architect who will send written instructions clarifying such questions to each proposer. Oral responses will not be binding on the District.

Each proposal must give the full business address of the proposer and be signed by proposer with proposer's usual signature. Proposals by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Proposals by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

Irrespective of how a proposing Contractor chooses to deliver the proposal and other documents to the District, the proposing Contractor is responsible for ensuring that the proposal and other documents are actually received at the location designated in the Contract Documents for receipt of the proposal and other documents prior to the

designated time. Proposals and other documents for any reason not actually received at the designated location prior to the designated time shall not be opened or considered.

Q. Builders Risk Coverage

For the purpose of builders risk coverage (see General Conditions Article 11), the project is being solely funded by revenue bonds.

R. Independent Contractor Student Contact Form

This document (see *Exhibit P*) must be submitted to the Owner prior to the commencement of the Work (including mobilization).

S. Skilled and Trained Workforce Requirements

The Contractor will have to comply with skilled and trained workforce requirements pursuant to Public Contract Code sections 2600 et seq. and Education Code section 17407.5.

T. Sanctions in Response to Russian Aggression

The Owner requires Contractor to comply with the Governor’s March 4, 2022, Executive Order N-6-22 (“Order”) relating to any existing sanctions imposed by the United States government and the State of California in response to Russia’s actions in Ukraine, including additional requirements for contracts of \$5 million or more. Failure to comply may result in the termination of the Contract.

U. Project Labor Agreement

This Contract is subject to the District’s Project Labor Agreement which can be found at the following link:

<https://www.ousd.org/facilities-planning-management-department/opportunities/local-hiring/2021-project-labor-agreement-pla>

For questions or assistance concerning the Project Labor Agreement, contact Maribel Alejandre, (510) 835-7603 X 21, Davillier-Sloan, Inc. 1630 12th Street, Oakland, California, 94607.

V. Local, Small Local, and Small Local Resident Business Enterprise Program

On January 29, 2014, OUSD adopted a resolution amending the 2008 Local, Small Local, and Small Local Resident Business Enterprise Program (L/SL/SLRBE) and increasing the mandatory local participation requirement from twenty (20%) to fifty (50%) percent for all capital program/construction related contracts and professional services

agreements. As with all OUSD projects, companies must be certified by the City of Oakland in order to earn credit toward meeting the participation requirement.

The basic Local Business Utilization Policy requires that there is a mandatory fifty percent (50%) LBU participation with a 25% or less Local Business (LBE) participation and a 25% or more Small Local or Small Local Resident Business (SLBE/SLRBE) participation.

On April 28, 2021, the Board of Education amended the Local Business Policy which had named the City of Oakland as the singular agency to certify local businesses to include five additional local business certifications. For businesses located in Oakland, Local Business and Small Local Business certifications may also be accepted from the Port of Oakland, Alameda County Transportation Commission, Alameda County Department of General Services, US Department of Transportation California Unified Certification Program, and the California Public Utilities Commission.

The District will follow the City of Oakland Small Business size standards in recognizing Small Local and Small Local Resident Businesses.

The full version of OUSD's latest Local, Small Local and Small Local Resident Business Enterprise Program can be found at the following link:

<https://www.ousd.org/facilities-planning-management-department/opportunities/local-business-utilization-lbu-policy>

EXHIBIT A

**Lease-Leaseback Proposal
Qualifications Scoring Sheet**

Firm Name: _____

Contact Person: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

Contractor's License Number(s): _____, _____, _____

Instructions for Scoring

For the qualifications portion of the best value analysis and for the purpose of evaluating Contractors' qualifications, the District will evaluate each Contractor on the basis of the certified responses provided in the Contractor's completed questionnaire (see **Exhibit B**).

The District will evaluate the specific criteria listed below and each Contractor's qualifications will be scored on a seven hundred fifty (750) point scale. Each criterion has a point value which is listed next to the criterion. Each criterion for qualifications will be evaluated by the District and the District will award a point value to Contractor for each criterion. The maximum cumulative number of best value points available to any Contractor for qualifications is 750 points. The criteria and their corresponding point values are as follows:

- Pass/Fail Questions: For the questions in Part II of the Qualifications Questionnaire (**Exhibit B**), Contractor must provide certified answers of "yes" in response to Question Nos. 1-5, and "no" in response to Question Nos. 6-12; otherwise, the proposal will be rejected.
- Technical Expertise: 400 best value points.
- Safety: 50 best value points.
- Schedule: 100 best value points.
- Staffing: 100 best value points.
- Financial Strength: 100 best value points.

Scoring

1. Pass/Fail Questions

For the questions in Part II of the Qualifications Questionnaire (*Exhibit B*), Contractor must provide certified answers of “yes” in response to Question Nos. 1-5, and “no” in response to Question Nos. 6-12; otherwise, the proposal will be rejected.

2. Technical Expertise (400 Best Value Points)

a. Contractor’s Experience

In the last three years, Contractor has completed one (1) California public school K-12 construction projects subject to DSA approval, each with a total value of construction of at least \$1,000,000. (Use information provided in Contractor’s response to in Part I, Section E of the questionnaire (*Exhibit B*)).

Best Value Point Allocation for Contractor’s Experience:

Number of California Public school K-12 construction projects completed that were subject to DSA approval and had total value of construction of at least \$1,000,000.	Best Value Points Awarded (200 points possible)
5 or more	200
4	160
3	120
2	80
1	40
0	0

Best Value Points Awarded to Contractor for Experience: _____

b. Disputes

District will evaluate Contractor’s qualifications with regard to disputes based on Contractor’s responses to Part III, Section B, Question Nos. 3 through 11 of the questionnaire (*Exhibit B*):

- For Question No. 4, a “no” earns 5 points; and a “yes” earns 0 points.
- For Question No. 5, a “no” earns 5 points; and a “yes” earns 0 points.
- For Question No. 6, a “no” earns 5 points; 1-2 instances earns 3 points; and more than 2 instances earns 0 points (but may be adjusted upward if contractor prevailed on claim outside settlement).
- For Question No. 7, a “no” earns 5 points; 1 instance earns 3 points; and more than 1 instance earns 0 points (but may be adjusted upward if contractor prevailed on claim outside settlement).

- For Question No. 8, a “no” earns 5 points; a “yes, by consent” earns 0 points; and a “yes, for cause without consent” earns -5 points.
- For Question No. 9, a “no” earns 5 points; 1 instance earns 3 points; and more than 1 instance earns 0 points.
- For Question No. 10, a “no” earns 5 points; and a “yes” earns 0 points.
- For Question No. 11, a “no” earns 5 points; 1 instance earns 3 points; and more than 1 instance earns 0 points.

Contractor’s Total Score for Part III, Section B is _____ points.

Best Value Point Allocation for Disputes:

Total Score for Part III, Section B	Best Value Points Awarded (200 points possible)
40	200
38-39	190
36-37	180
34-35	170
32-33	160
30-31	150
28-29	140
26-27	130
24-25	120
22-23	110
20-21	100
18-19	90
16-17	80
14-15	70
12-13	60
10-11	50
8-9	40
6-7	30
4-5	20
2-3	10
0-1	0

Best Value Points Awarded to Contractor for Disputes: _____

c. Total Best Value Points for Technical Expertise

Best Value Points Awarded for Contractor’s Experience: _____

Best Value Points Awarded for Disputes: _____

TOTAL BEST VALUE POINTS FOR TECHNICAL EXPERTISE: _____

3. Safety (50 Best Value Points)

District will evaluate Contractor’s safety based on Contractor’s responses to Part III, Section D, Question Nos. 15 through 20 of the questionnaire (*Exhibit B*):

- For Question No. 15, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.
- For Question No. 16, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.
- For Question No. 17, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.
- For Question No. 18, “weekly” earns 5 points; “monthly” earns 3 points; “quarterly” earns 1 points; and less frequently than quarterly earns 0 points.
- For Question No. 19, an EMR of 0.95 or less earns 5 points; an EMR more than 0.95 but less than or equal to 1.00 earns 3 points; and an EMR more than 1.00 earns 0 points.
- For Question No. 20, a “no” earns 5 points; and a “yes” earns 0 points.

Contractor’s Total Score for Part III, Section D is ____ points.

Best Value Point Allocation for Safety:

Total Score for Part III, Section D	Best Value Points Awarded (50 points possible)
30	50
27 – 29	40
24 – 26	30
21 – 23	20
18 – 20	10
15 – 17	0

Best Value Points for Safety: ____

4. Schedule (100 Best Value Points)

a. Lack of Liquidated Damages

District will evaluate Contractor’s qualifications with regard to lack of liquidated damages based on Contractor’s responses to Part III, Section B, Question No. 3 of the questionnaire (*Exhibit B*):

- For Question No. 3, a “no” earns 5 points; 1-2 times earns 3 points; and more than 2 times earns 0 points.

Contractor's Total Score for Part III, Section B is ____ points.

Best Value Point Allocation for Disputes:

Total Score for Part III, Section B	Best Value Points Awarded (50 points possible)
5	50
3	25
0	0

Best Value Points Awarded to Contractor for Disputes: ____

b. Delayed Projects

District will evaluate Contractor's qualifications regarding delayed projects based on Contractor's responses to Part I, Section E of the questionnaire (*Exhibit B*):

Best Value Point Allocation for Delayed Projects:

Number of Projects in Response to Part I, Section E, Where Final Completion Was Delayed by 20% or More	Best Value Points Awarded (50 points possible)
0	50
1	38
2	25
3	12
4 or more	0

Best Value Points Awarded to Contractor for Disputes: ____

c. Total Best Value Points for Schedule

Best Value Points Awarded for Lack of Liquidated Damages: _____

Best Value Points Awarded for Delayed Projects: _____

TOTAL BEST VALUE POINTS FOR SCHEDULE: _____

5. Staffing (100 Best Value Points)

District will evaluate Contractor’s staffing based upon Contractor’s responses to Part III, Section E, Question Nos. 21 through 24 of the questionnaire (*Exhibit B*):

- For Question No. 21, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.
- For Question No. 22, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.
- For Question No. 23, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.
- For Question No. 24, a “no” earns 5 points; 1 instance earns 4 points; 2 instances earns 3 points; and more than 2 instances earns 0 points.

Contractor’s Total Score for Part III, Section E is ____ points.

Best Value Point Allocation for Staffing:

Total Score for Part III, Section E	Best Value Points Awarded (100 points possible)
20	100
18 – 19	90
16 – 17	80
14 – 15	70
12 – 13	60
10 – 11	50
8 – 9	40
6 – 7	30
4 – 5	20
2 – 3	10
0 – 1	0

Best Value Points Awarded for Staffing: ____

6. Financial Strength (100 Best Value Points)

a. Bonding Capacity

Contractor’s current maximum bonding capacity is: \$ _____ (insert bonding capacity from Contractor’s response to Part I, Section C, Question No. 8 of the questionnaire (*Exhibit B*)).

The Cost Estimate for the Project is: \$ _____ (insert the most recent estimate from the Architect).

Contractor's current maximum bonding capacity is _____% of the Project Estimate (divide Contractor's maximum bonding capacity by the Project Estimate to determine percentage).

Best Value Point Allocation for Bonding Capacity:

Maximum Bonding Capacity %	Best Value Points Awarded (20 points possible)
200% or greater	20
110% - 199%	10
100% - 109%	0

IMPORTANT: If the Contractor's capacity percentage is below 100%, then Contractor's proposal will be rejected.

Best Value Points Awarded to Contractor for Bonding Capacity: _____

b. Percentage of Credit Line Use

Contractor's current maximum credit line is: \$_____ (insert maximum credit line as set forth in Contractor's response to Part I, Section D, Question No. 12 of the questionnaire (*Exhibit B*)).

Amount of Contractor's credit line in use is: \$_____ (insert the amount of the credit line currently in use as set forth in Contractor's response to Part I, Section D, Question No. 12 of the questionnaire (*Exhibit B*)).

Contractor's percentage of the credit line in use is: _____% (divide the amount of Contractor's credit line in use by Contractor's maximum credit line).

Best Value Point Allocation for Percentage of Credit Line in Use:

Percentage of Credit Line Used	Best Value Points Awarded (20 points possible)
0% - 20%	20
21% - 70%	10
71% - 100%	0

Best Value Points Awarded to Contractor for Percentage of Credit Line Used: _____

c. Number of Audit Exceptions

Contractor's number of audit exceptions: ____ (this information should be included in Contractor's audited year-end financial statement, which is required to be submitted with the responses to the questionnaire (see Question No. 10 in Part I of *Exhibit B*)).

Best Value Point Allocation for Audit Exceptions:

Contractor's Audit Exceptions	Best Value Points Awarded (20 points possible)
0-3	20
4-9	10
10 or more	0

Best Value Points Awarded to Contractor for Number of Audit Exceptions: ____

d. Financial History & Licensing

District will evaluate Contractor's financial history and licensing based on Contractor's responses to Part III, Section A, Question Nos. 1 and 2 of the questionnaire (*Exhibit B*):

- For Question No. 1, a "no" earns 5 points, and a "yes" earns 0 points.
- For Question No. 2, a "no" earns 5 points, and a "yes" earns -5 points (but may be adjusted up to 0 points if the reason for the suspension is not material).

Contractor's Total Score for Part III, Section A is ____ points.

Best Value Point Allocation for Contractor's Financial History & Licensing:

Contractor's Total Score for Part III, Section A	Best Value Points Awarded (20 points possible)
10	20
5	10
0 or less	0

Best Value Points Awarded to Contractor for Financial History and Licensing: ____

e. Insurance and Bonding

District will evaluate Contractor’s insurance and bonding based on Contractor’s responses to Part III, Section C, Question Nos. 12 through 14 of the questionnaire (*Exhibit B*):

- For Question No. 12, a “no” earns 5 points; and a “yes” earns -5 points.
- For Question No. 13, a “no” earns 5 points; more than 1% but equal or less than 1.25% premium earns 4 points; more than 1.25% but equal or less than 1.5% premium earns 3 points; and more than 1.5% premium earns 0 points.
- For Question No. 14, a “no” earns 5 points; and a “yes” earns 0 points.

Contractor’s Total Score for Part III, Section C is ____ points.

Best Value Point Allocation for Insurance and Bonding:

Total Score for Part III, Section C	Best Value Points Awarded (20 points possible)
12-15	20
4-11	10
3 or less	0

Best Value Points Awarded to Contractor for Insurance and Bonding: ____

f. Total Best Value Points for Financial Strength

Best Value Points Awarded for Bonding Capacity: _____

Best Value Points Awarded for Credit Line Use: _____

Best Value Points Awarded for Audit Exceptions: _____

Best Value Points Awarded for History/Licensing: _____

Best Value Points Awarded for Insurance/Bonding: _____

TOTAL BEST VALUE POINTS FOR FINANCIAL STRENGTH: _____

7. Total Best Value Points for Qualifications

Contractor’s Total Best Value Qualifications Score

1. ____ Best Value Points for Technical Expertise

2. ____ Best Value Points for Safety

3. ____ Best Value Points for Schedule

4. ____ Best Value Points for Staffing

5. ____ Best Value Points for Financial Strength

Contractor’s Best Value Total Points: _____

(Maximum Point Total Available is 750)

EXHIBIT B

**Lease-Leaseback Proposal
Qualifications Questionnaire**

Firm Name: _____

Contact Person: _____

Address: _____

Phone: _____ Fax: _____ Email: _____

Contractor's License Number(s): _____, _____, _____

General

All questions in the questionnaire must be answered. Attach additional pages if necessary. If a question is not applicable, then indicate a response of "N/A." "You" or "Yours" as used herein refers to the answering individual's firm and any of its owners, officers, principals and qualifying individuals.

The responses to the questionnaire must be signed and certified under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the proposing LLB entity on whose behalf that person is signing. If any information provided by a proposing LLB entity becomes inaccurate, the proposing LLB entity must immediately notify the District and provide updated accurate information in writing, under penalty of perjury. Each applicant shall have a duly authorized owner, officer or principal complete the questionnaire and verify the truth of the information provided therein and in the financial statement.

Financial Statement

In addition to completing the attached questionnaire, each proposing LLB entity must submit its most current audited year-end financial statement, which must have been prepared by a certified public accountant within twelve (12) months of each proposing LLB entity's submission of the questionnaire. Each proposing LLB entity must also provide its most current financial statement, which must have been prepared within three (3) months of proposing LLB entity's submission of the questionnaire. Finally, each proposing LLB entity must submit a notarized statement from an admitted surety insurer (approved by the California Department of Insurance and authorized to issue bonds in the State of California) which states the proposing LLB entity's current bonding capacity.

Financial statements shall not be prepared by any individual who is in the regular employ of the firm submitting the statement, nor by any individual or entity who has more than a ten percent (10%) financial interest in the firm's business. If the individual or entity that prepared a financial statement has any financial interest in the firm's business, the firm shall notify the District of such financial interest in a separate signed statement accompanying its proposal.

Part I: Contractor's General/Financial Information Sheet

A. *General Information.*

Contractor's name as it appears on license: _____

CIRCLE ONE: Corporation Partnership Sole Proprietorship

Contact Person: _____

Street Address (P.O. Box is not acceptable): _____

Telephone: () _____ Fax: _____

E-mail address: _____

List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:

If any of your firm's license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license:

B. *History and Ownership of Firm.*

1. How many years has your firm been in business in California as a contractor under your present business name and license number? _____ years
2. Has there been any change in ownership of the firm at any time during the last three years?

NOTE: A corporation whose shares are publicly traded is not required to answer this question; please indicate “N/A – Publicly traded corporation”.

Yes No

If yes, please provide details on a separate signed page.

3. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?

NOTE: Include information about other firms if one firm owns 50 percent or more of another.

Yes No

If yes, please provide details on a separate signed page.

4. Please provide the information appropriate to your firm below.

For Firms That Are Corporations:

Date incorporated: _____

Under the laws of what state: _____

Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least ten percent of the corporation’s stock.

Name	Position	Years with Company	% Ownership

Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or 10 percent or more of its stock, if the business is a corporation.

Person's Name	Construction Firm	Dates of Person's Participation with Firm

For Firms That Are Partnerships:

Date of formation: _____

Under the laws of what state: _____

Provide all the following information for each partner who owns 10 percent or more of the firm.

Name	Position	Years with Company	% Ownership

Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, "owner" and "partner" refer to ownership of ten per cent or more of the business, or ten percent or more of its stock, if the business is a corporation.

Person's Name	Construction Company	Dates of Person's Participation with Company

For Firms That Are Sole Proprietorships:

Date of commencement of business: _____

Social security number of company owner: _____

Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of ten percent or more of the business, or ten percent or more of its stock, if the business is a corporation.

Person’s Name	Construction Company	Dates of Person’s Participation with Company

For Firms That Intend to Make a Bid or Submit a Proposal as Part of a Joint Venture:

Date of commencement of joint venture: _____

Provide all of the following information for each firm that is a member of the joint venture that expects to submit a bid or proposal on one or more projects:

Name of firm	% Ownership of Joint Venture

On a separate sheet provide all other pertinent information required in the sections above, for each corporation, partnership or sole-proprietorship that is a part of the joint venture.

5. State your firm’s gross revenues for each of the last three fiscal years:

Current year: _____
 Previous year: _____
 Year prior to previous year: _____

6. State the number of projects your firm has completed in each of the last three fiscal years:

Current year: _____
 Previous year: _____

Year prior to previous year: _____

7. Has your firm changed names or license number in the past five years?

Yes No

If yes, explain on a separate signed page, including the reason for the change.

C. Bonding.

8. Name of bonding company/surety: _____

Name of surety agent, address and telephone number:

Please attach a notarized statement from an admitted surety insurer (approved by the California Department of Insurance and authorized to issue bonds in the State of California) which states your current bonding capacity.

9. List all other sureties (name and full address) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds:

D. Financial Information.

10. Please attach your most current audited year-end financial statement, which must have been prepared by a certified public accountant, within twelve (12) months of submission of this questionnaire. Also, please provide your most current financial statement, which must have been prepared within three (3) months of submission of this questionnaire.

11. Name of accounting firm and primary contact: _____

Address: _____

Telephone: _____

How many years has this accounting firm prepared financial statements for you? _____

12. Banking information:

Name of Bank:	_____
Account Manager:	_____
Address:	_____ _____
Telephone:	_____
Account No.:	_____
Line of Credit:	_____
Amount in Use:	_____
How Secured:	_____
Expiration Date:	_____

(attach extra sheets for additional banks/accounts)

E. Recent Construction Projects Completed.

Please provide the information requested below about all current public works projects, all public works projects completed in the last two (2) years, and all DSA-approved California K-12 public projects completed in the last three (3) years. Names and references must be current and verifiable. Only list projects your firm performed as the general contractor in charge of all trades for the construction of a building.

Use separate sheets of paper that contain all of the following information for each project:

Project Name: _____

Location: _____

Owner: _____

Owner Contact (name and current phone number): _____

Architect or Engineering firm: _____

Architect or Engineer Contact (name and current phone number): _____

Construction Manager (name and current phone number): _____

Inspector of Record (name and current phone #): _____

Description of Project, Scope of Work Performed: _____

Total Value of Construction (including change orders): _____

Date Construction Commenced: _____

Original Contractual Completion Deadline: _____

Adjusted Completion Deadline Based on Time Extensions Granted by Owner: _____

Actual Date of Completion: _____

General Contractor's Project Manager (lead contact in office): _____

General Contractor's Superintendent (lead contact on project site): _____

F. Apprenticeship Program Information

13. Provide the name, address and telephone number of the apprenticeship program sponsor(s) (approved by the California Apprenticeship Council) from whom you

intend to request the dispatch of apprentices to your company for use on any public work project for which you are awarded a contract the District.

14. If your firm operates its own State-approved apprenticeship program:

- (a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.

- (b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).

- (c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

PART II: Essential Requirements

IF CONTRACTOR CANNOT PROVIDE CERTIFIED ANSWERS OF “NO” TO QUESTION NOS. 1-5 AND “YES” TO QUESTION NOS. 6-12, THEN CONTRACTOR’S PROPOSAL SHALL BE REJECTED.

1. Do you possess a valid and current California contractor’s license of the classification specified for the Project?
 Yes No

2. If you are a general contractor, do you have a liability insurance policy with a policy limit of at least \$3,000,000 per occurrence and \$5,000,000 aggregate? If you are a mechanical, electrical or plumbing subcontractor, do you have a liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate?
 Yes No

3. Do you have current workers’ compensation insurance policy as required by the Labor Code or are you legally self-insured pursuant to Labor Code section 3700 et seq.?
 Yes No

 Contractor is exempt from this requirement, because it has no employees.

4. Has your firm completed at least two California public school K-12 construction projects, subject to DSA approval?
 Yes No

5. Is your firm currently registered with the Department of Industrial Relations and qualified to submit a bid or proposal and to otherwise perform work on a public project pursuant to Section 1725.5 of the Labor Code?
 Yes No

6. Has your contractor’s license been revoked or suspended at any time in the last five years, even if later reinstated retroactively?

Yes **No**

7. At the time of submitting this questionnaire, is your firm ineligible to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract, pursuant to either Labor Code section 1777.1 or Labor Code section 1777.7?

Yes **No**

If yes, state the beginning and ending dates of your ineligibility to bid on or be awarded a public works contract, or perform as a subcontractor on a public works contract:

—

8. Is your firm currently the debtor in a bankruptcy or receivership case?

Yes **No**

If yes, please attach a copy of the bankruptcy petition, showing the case number, and the date on which the petition was filed.

9. Has a surety firm completed a contract on your behalf, or paid for completion of a contract because your firm was terminated by the project owner within the last five (5) years?

Yes **No**

10. Has your firm, or any of its owners, officers, or partners ever been found liable in a civil suit, or found guilty in a criminal action, for making any false claim or material misrepresentation to any public agency or entity?

Yes **No**

If yes, explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.

11. Has your firm, or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

Yes **No**

12. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any act of dishonesty?

Yes **No**

If yes, identify on a separate signed page the person or persons convicted, the court (the county if a state court, the district or location of the federal court), the year and the criminal conduct.

Part III: Scored Questions

A. Financial History & Licensing

1. Was your firm in bankruptcy or receivership any time during the last five years?

Yes No

If yes, please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court's discharge order, or of any other document that ended the case, if no discharge order was issued.

2. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?

Yes No

B. Disputes

3. At any time in the last five years, have liquidated damages been assessed or levied against your firm under a construction contract with either a public or private owner?

Yes No

If yes, explain on a separate signed page, identifying all such projects by owner, owner's address, the date of completion of the project, amount of liquidated damages assessed or levied by the owner, amount of liquidated damages paid or credited by you to the owner, and all other information necessary to fully explain the assessment or levy of liquidated damages.

4. In the last five years has your firm, or any firm with which any of your company's owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?

NOTE: "Associated" refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question B.4 in Part I of this form.

Yes No

If yes, explain on a separate signed page. State whether the firm involved was the firm submitting this questionnaire or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.

5. In the last five years, has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?

Yes No

If yes, explain on a separate page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than \$50,000.

6. In the past five years, has any claim by a project owner (including a complaint) against your firm concerning your firm’s work on a construction project, been filed in court or been the subject of arbitration?

Yes No

If yes, on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature and amount of the claim (including a breakdown of the major elements of the claim), the court in which the case was filed, and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

7. In the past five years, has your firm filed any claim (including a complaint) in court or arbitration against a project owner concerning work on a project or payment for a contract?

Yes No

If yes, on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the

claim was filed, a brief description of the nature and amount of the claim (including a breakdown of the major elements of the claim), the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

8. Has your firm had a contract for a public work of improvement in the last five years that was terminated for cause by a public entity, or terminated in whole or in part with or without your consent?

Note: you need not answer “yes” if the public entity terminated the contract for convenience.

Yes No

If the answer is “Yes,” for each such contract attach a separate sheet identifying the owner, your bonding company, the original contract value, the value of the work terminated and a brief explanation of the circumstances leading to the termination.

9. At any time during the past five years, has any surety company made any payments on your firm’s behalf to satisfy any claims made against a performance or payment bond issued on your firm’s behalf, in connection with a construction project, either public or private?

Yes No

If “yes,” explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

10. In the last three years has your firm held a public works contract on which more than three (3) stop payment notices were served against your firm.

Yes No

If “yes,” explain on a separate signed page.

11. In the last 3 years have you had any Stop Payment Notice result in a claim against your Payment Bond?

Yes No

If “yes,” explain on a separate signed page.

C. Insurance and Bonding

12. In the last five years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

Yes No

If yes, how many instances? _____

13. If your firm was required to pay a premium of more than one percent for a performance and payment bond on any project(s) on which your firm worked at any time during the last five years, state the percentage that your firm was required to pay, identify the project, identify the owner, and identify the dates of the project. You may provide an explanation for a percentage rate higher than one percent, if you wish to do so.

_____ %

14. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

Yes No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.

D. Compliance with Law

15. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

Note: If you have filed an appeal of a citation and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

Yes No

If yes, attach a separate signed page describing each citation.

16. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.

Yes No

If yes, attach a separate signed page describing each citation.

17. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

Yes No

If yes, attach a separate signed page describing each citation.

18. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project? _____

19. List your firm's Experience Modification Rate (EMR) (California workers' compensation insurance) for each of the past three premium years:

NOTE: An Experience Modification Rate is issued to your firm annually by your workers' compensation insurance carrier.

Current year: _____

Previous year: _____

Year prior to previous year: _____

If your EMR for any of these three years is or was 1.00 or higher, you may, if you wish, attach a letter of explanation.

20. Within the last five years, has there ever been a period when your firm had employees but was without workers' compensation insurance or state-approved self-insurance?

Yes No

E. Prevailing Wage and Apprenticeship Compliance Record

21. Has there been any occasion during the last five years on which your firm was required to pay either back wages or penalties for your own firm's failure to comply with the state's prevailing wage laws?

Yes No

NOTE: This question refers only to your own firm's violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

If yes, attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

22. During the last five years, has there been any occasion on which your firm has been penalized or required to pay back wages for failure to comply with the federal Davis-Bacon prevailing wage requirements?

Yes No

If yes, attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

23. Other than as already described in response to any question above, have any other labor or environmental charges or penalties been assessed or levied against, or paid by, your firm or the owner of a project on which your firm was the contractor in the past five years?

Yes No

24. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

Yes No

If “yes,” provide the date(s) of such findings, and attach copies of the Department’s final decision(s), **and** attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, and the public agency for which it was constructed.

PART IV: CERTIFICATION

Questionnaire responses submitted by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of each officer signing on behalf of a corporation shall be furnished.

Questionnaire responses submitted by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature.

Each person signing below makes the following representations under penalty of perjury:

The submitter of the foregoing answers to the questionnaire has read the same and the matters stated therein are true of his or her own personal knowledge. This information is provided for the purpose of submitting a proposal for the Project, and any individual, company or other agency named herein is hereby authorized to supply the District with any information necessary to verify the applicant's statements. By signing below, the submitter and the named contractor hereby grant permission to the District to contact any or all of the above listed persons or entities to confirm facts or otherwise investigate the above facts and issues.

The submitter understands that any statement which is proven to be false shall be grounds for disqualification from submitting a proposal for the Project. The submitter whose signature appears below represents and warrants that he or she has authority to bind the named contractor.

I, the undersigned, certify and declare that I have read all the foregoing answers to this questionnaire and know their contents. The matters stated in the questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

Executed this _____ day of _____, 20__, at _____.

Signature

Name of Proposing Contractor

Typed Name

(Add additional signature pages as necessary to comply with the directions above.)

In the following table, enter all proposing Contractors based on their preconstruction rate proposals in order from lowest to highest. In the event two Contractors submit proposals with the same rates, both Contractors shall be awarded the average amount of points for their positions. (For example, if two Contractors submit a rate of \$150 that ties them for the second lowest rate, each Contractor shall receive 11 points.)

CONTRACTOR	FEE PROPOSAL	POINTS
	___ . ___ %	20
	___ . ___ %	14
	___ . ___ %	8
	___ . ___ %	2
	___ . ___ %	0
	___ . ___ %	0
	___ . ___ %	0
	___ . ___ %	0
	___ . ___ %	0
	___ . ___ %	0

SECTION IV – BEST VALUE SCORE

In the following table, enter all proposing Contractors, their scores from the qualifications and fee proposal evaluations, and their total combined score. The total combined score is the Contractor’s “best value score.”

CONTRACTOR	SECTION I POINT TOTAL	SECTION II POINT TOTAL	SECTION III POINT TOTAL	SECTIONS I, II, AND III COMBINED TOTAL

SECTION V – BEST VALUE RANK

In the following table, enter all proposing Contractors and best value scores in order from the highest best value score to the lowest best value score. The Contractor with the highest best value score shall be ranked No. 1 overall.

CONTRACTOR	BEST VALUE SCORE (highest to lowest)	RANK
		1
		2
		3
		4
		5
		6
		7
		8
		9
		10

EXHIBIT D

Lease-Leaseback Agreement

LEASE-LEASEBACK AGREEMENT

Dated as of _____, 20__

Between

Oakland Unified School District

and

_____ **Contract**

_____ **Street**
_____, **California 9**_____

LEASE-LEASEBACK AGREEMENT FOR THE
_____ CONTRACT

THIS LEASE-LEASEBACK AGREEMENT (this “Agreement”) is entered into as of _____, 20__, between the Oakland Unified School District, a California public school district (the “Owner”), and _____ [insert name], a _____ [insert “California corporation and” if so] licensed general contractor (the “Contractor”). Owner and Contractor are each a “Party” and together are the “Parties” to this Agreement.

The Owner intends to make certain tenant improvements generally described in Section 1, below (the “Work”) to its _____ on the campus of its _____ School, located at _____, _____, CA 9_____, such Work being performed pursuant to the Agreement and all incorporated documents (the “Contract” and “Contract Documents”), all of which is part of the Owner’s _____ project (the “Project”). This Agreement includes and incorporates all of the Contract Documents identified in Section 1.1.1 of the General Conditions for this Contract.

This Agreement is entered into by the Parties pursuant to California Education Code section 17406, which permits the governing board of school district, without advertising for bids, to lease to any person, firm, or corporation any real property owned by the school district if the instrument by which such property is leased requires the lessee to construct on the leased premises, or provides for the construction thereon, of a building for the use of the school district during the term of the lease, and provides that title to that building shall vest in the school district at the expiration of the lease.

In connection with the approval of this Agreement, the Owner will enter into a site lease with Contractor (the “Site Lease”), under which it will lease the Contract site described and depicted in Exhibit A of the Site Lease (the “Site”) to Contractor in order for Contractor to finance and construct the Contract as described in the Scope of Work set forth in Section 1, below (the “Scope of Work”).

Contractor will lease the Site back to the Owner pursuant to a Sublease Agreement (the “Sublease”), under which the Owner will be required to make sublease payments to Contractor for the use and occupancy of the Site, including the Contract.

Contractor is experienced in the construction of the type of contract and type of work desired by the Owner and is willing to perform said construction Work for the Owner, all as more fully set forth in this Agreement.

The Owner and Contractor therefore agree as follows:

1. Scope of Work. The Contractor agrees to finance construction of the Contract and to furnish all labor, equipment and materials, including tools, implements, and appliances required, and to perform all of the Work, as that term is defined in Article 1.1.3 of the General Conditions, in a good and workmanlike manner, free from any and all liens and claims from mechanics, material

suppliers, subcontractors, artisans, machinists, teamsters, freight carriers, and laborers required for the

_____ CONTRACT
AT _____ SCHOOL
ALAMEDA COUNTY, CALIFORNIA,

all in strict compliance with the Contract Documents, including but not limited to the plans, drawings, and specifications (“Plans and Specifications”) for the Contract to be prepared by

_____ [Insert Architect Name, Address, phone Number, Fax].

The Scope of Work shall include any revisions to the Plans and Specifications that are made as a result of DSA review or at the direction of DSA.

The Scope of Work does not include Contractor’s performance of the preconstruction services as set forth in Section 2, below.

Until DSA approval of the plans, drawings and specifications for the Contract has been received by Owner, Contractor may not commence any work on the Contract for which a contractor’s license is required and DSA approval is required.

In accordance with California Public Contract Code section 3300, Contractor has a Class “B” license that Contractor shall maintain in good standing for the duration of Contractor’s work on the Contract.

During the Work, the Contractor shall ensure that all Work, including but not limited to Work performed by Subcontractors, is performed in compliance with all applicable legal, contractual, and local government requirements related to the novel coronavirus and COVID-19, including “social distancing,” masks, and hygiene as may be ordered by the State or local authorities and as may be directed in the Contract Documents.

2. Preconstruction Services During the Design Phase. Contractor shall perform the following preconstruction services during the design phase to be completed by _____, 20__, so that the architect may finalize its Plans and Specifications prior to submission to DSA for approval, and these services are estimated to require between 80 and 120 hours:

- a. *Site Evaluation.* Contractor shall perform an evaluation of the Site for the Contract and make recommendations relating to scope, constructability, and schedule of the Contract. Contractor shall also review the scope of necessary demolition work, if any, to develop a hazardous materials removal plan. The purpose of this evaluation is to improve the Contract’s design and minimize unforeseen conditions. At Owner’s request, Contractor shall provide the results of its evaluation in written form to the Owner.
- b. *Constructability Review.* Contractor shall provide at least two (2) constructability reviews of the Plans and Specifications before or at each of the following intervals of preconstruction: (i) One within two (2) weeks of the architect’s completion of design development; and (ii) one

within two (2) weeks of the architect's completion of the final Plans and Specifications that will ultimately be submitted to DSA for approval.

Contractor shall review the Plans and Specifications and related construction documents for errors and omissions, clarity, consistency, and coordination. Contractor's review shall emphasize ensuring that the Contract can be completed within the Owner's available budget to the level of quality and educational goals desired, and can be completed within the established schedule. Contractor shall specifically provide recommendations on construction feasibility, energy conservation, availability of materials and labor, time requirements for installation and construction, and factors related to cost, including costs of alternative designs of materials, preliminary budgets, and possible economies of scale. Contractor shall provide written reports, identifying by page and detail the issues to be discussed and resolved. As part of the constructability review, Contractor shall identify areas where value engineering principles could be applied (including potential cost savings and the schedule impact of such savings), and identify items requiring a long lead time before construction. Contractor shall assist the District in considering operating or maintenance costs with respect to selecting systems and products for the Contract.

- c. *Design/Coordination Meetings.* Contractor shall be responsible for facilitating all design/coordination meetings as needed. Such meetings shall include participation of design professionals and specialty subcontractors.
- d. *Schedule.* Contractor shall develop a master critical path method ("CPM") Contract schedule for the Contract that shall include all milestone dates for the Contract, completion of design development, submittal of all estimates contemplated by the Contract, re-submission of the Plans and Specifications to DSA (if necessary), anticipated re-approval by DSA (if any), finalization of Contract Documents, construction sequencing and durations, preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead time procurements, phasing, and Owner move-in. Contractor's schedule shall be submitted to the Owner for approval within 30 days of award of this Agreement; the Owner shall have the right to request reasonable changes and updates in the schedule. Contractor shall provide schedule updates with each estimate, or more often if reasonably requested by the Owner or if required in Contractor's judgment to communicate changes in market conditions.
- e. *Estimates.* Contractor shall provide an estimate of total Contract cost, as well as necessary updates to that estimate. Contractor's initial estimate shall be due to the District within two weeks of completion of its first constructability review. Updated cost estimates shall be given in accordance with the approved CPM Contract schedule. Contractor shall also provide an updated estimate upon the submission of the Plans and Specifications to DSA (and at any other time required or reasonably necessary pursuant to this Agreement). Contractor's cost estimate shall identify all trades and unit costs and shall also identify all allowable general condition costs and fees. If any cost estimate submitted to the Owner exceeds a previously approved estimate, the Contractor shall make appropriate recommendations to the Owner for reducing the estimated cost of the Contract. All estimates shall assume that construction of the Contract is subject to the payment of prevailing wages under the California Labor Code and applicable regulations, and that the Contract will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

f. *Construction Planning.* Contractor shall provide assistance to Owner in construction planning, including phasing, staging, site logistics, sequencing, fencing, office locations and means and methods of construction. The Contractor shall (1) provide a preliminary evaluation of the Owner's schedule, cost and design requirements for the Contract; (2) develop an anticipated construction schedule pursuant to Subsection (d) above; (3) develop a preliminary cost estimate for each type of work contemplated by the Contract pursuant to Subsection (e) above; (4) clarify and delineate the Architect's, the Contractor's, and the Owner's respective duties and responsibilities; and (5) set forth a plan for the administration and coordination of all Work on the Contract, including pre-construction meetings. The Architect and Owner shall review the above for acceptance. Contractor will also ensure that all Work complies with the guidelines established by the State of California Office of Public School Construction and any other Federal or State agencies having jurisdiction over the Contract. The objective of this step will be to develop an overall program strategy as relates to timing, budgets, construction materials, means and methods and the program interface during construction.

Owner shall pay Contractor _____ Dollars (\$ _____) per hour for the above preconstruction services satisfactorily performed, but total payment for such services shall not exceed Two Hundred Thousand Dollars and No Cents (\$200,000.00). Contractor may invoice for payment for such services as they are performed, but no more frequently than monthly. Owner shall make payment within sixty (60) days of submission of an undisputed invoice.

3. Contract Documents. The Contractor and the Owner agree that this Agreement, and all of the documents listed in Article 1.1.1 of the General Conditions, together form the "Contract Documents," which form the "Contract." The Contractor and its subcontractors must use the Owner's program software (_____) for projects.

4. Time to Complete and Liquidated Damages. Time is of the essence in this Contract. The time for Completion of the Work shall be _____ () calendar days which shall start to run on the date of Owner's approval of the Total Sublease Amount (as set forth in Section 5 of this Agreement), pursuant to California Education Code section 17406(a)(3). The Contractor's deadline for Completion of the Work under the previous sentence shall be the "Date for Completion."

The portion of the Work that consists of the _____, including but not limited to _____ (the "_____ Scope") shall be Completed within _____ () calendar days from the date of Owner's approval of the Total Sublease Amount. This deadline shall be the "_____ Milestone Deadline."

The site for the Contract will not be available to the Contractor for construction on the following dates: _____. The Contractor shall not be entitled to time extensions for lack of access to the site on these dates.

Failure to Complete the Work, or applicable milestones of Work, within the time and in the manner provided for by the Contract Documents, shall subject the Contractor to liquidated damages for each calendar day by which such Completion is delayed beyond the Date for Completion or

Milestone Deadline. For purposes of liquidated damages, the concept of substantial completion shall not constitute Completion and is not part of the Contract Documents. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Work, or milestone of the Work, were not Completed by the Date for Completion or Milestone Deadline are dependent upon many circumstances and conditions which could prevail in various combinations and, from the nature of the case, it is impracticable and extremely difficult to fix the actual damages. Damages that the Owner would suffer if Completion is delayed include, but are not limited to, loss of the use of the Work or Project, disruption of activities, costs of administration, supervision and the incalculable inconvenience and loss suffered by the public.

Accordingly, the parties agree that \$_____ per calendar day of delay shall be the damages which the Owner shall directly incur upon failure of the Contractor to Complete the Work within the Contract Time or Complete any specified portion of the Work by a milestone deadline, as described above. Liquidated damages will accrue for failure to meet milestone deadlines even if the Contractor Completes the Work within the Contract Time.

If the Contractor becomes liable under this Section, the Owner, in addition to all other remedies provided by law, shall have the right to withhold sublease payments, and to collect the interest thereon, which would otherwise be or become due the Contractor until the liability of the Contractor under this Section has been finally determined. If the withheld sublease payments are not sufficient to discharge all liabilities of the Contractor incurred under this Section, then the Contractor and its sureties shall continue to remain liable to the Owner for such liabilities until all such liabilities are satisfied in full.

If the Owner accepts any work or makes any payment under this Agreement after a default by reason of delays, the payment or payments shall in no respect constitute a waiver or modification of any Agreement provisions regarding time of completion and liquidated damages.

5. Total Sublease Amount. For satisfactory performance of the Work, Owner shall pay Contractor a total amount (“Total Sublease Amount”) which will be calculated after the following occurs: Contractor completes the required preconstruction services set forth above; the selection of all subcontractors in accordance with Education Code section 17406(a)(4) and the Request for Sealed Proposals; and any required DSA approval of the Plans and Specifications for the Work.

Following the occurrence of all of the events set forth in the paragraph above, Contractor shall provide Owner with objectively verifiable information of its costs to perform the Work and a written rationale for the proposed Total Sublease Amount, including documentation sufficient to support the calculation. The Total Sublease Amount shall be calculated based on (a) the Contractor’s subcontract prices for subcontractors and suppliers, including special allowances, (b) any portions of the Work to be self-performed by the Contractor, and (c) any general contingency allowance that Owner elects to include in the Total Sublease Amount. (See Sections III.D.1 and IV.E of the Request for Proposals, which is incorporated by reference into this Agreement and the Contract Documents.) The amount of (a), above, multiplied by the Contractor’s proposed percentage fee of _____ and _____ hundredths percent (_____%); the “Percentage Fee”), shall constitute the “Contractor Fee” which shall be added to (a), (b), and (c), thus arriving at the Total Sublease Amount detailed in Contractor’s written rationale. The Percentage Fee may not be applied to any general contingency allowance included by Owner (see

next paragraph). The Percentage Fee may not be applied to the cost of any Work being performed by Contractor that it obtained through the subcontractor bid process since the Contractor's bid(s) through that process are intended to cover profit and all costs (including overhead) for such Work. The material and equipment supplier costs may only include objectively verifiable information provided by Contractor to Owner.

Owner may elect to include a special allowance or general contingency allowance ("Allowance") in the Total Sublease Amount, from which the Owner may, in its sole discretion, elect to pay any additional amounts that are owed to the Contractor under the Contract Documents, rather than pay the Contractor by a Board-approved change order. Any payment from an Allowance is entirely at the discretion, and only with the advanced written approval, of the Owner. To request payment from an Allowance, the Contractor must fully comply with the Contract Documents' requirements related to Notice to Potential Changes, Change Order Requests, and Claims, including but not limited to Articles 4 and 7 of the General Conditions and its provisions regarding waiver of rights for failure to comply. If the Owner approves in writing a payment from an Allowance, no change order approved by Owner's governing body shall be required, but Contractor must sign an Allowance expenditure form, after which future sublease payments shall be adjusted as provided in the Contract Documents. Contractor's acceptance of a sublease payment that includes such payment shall act as a full and complete waiver by Contractor of all rights to recover additional money related to the underlying basis of such payment; and such waiver shall be in addition to any other waiver that applies under the Contract Documents (including Article 4 of the General Conditions). If Contractor requests a time extension or other consideration in connection with or related to a requested payment from an Allowance, Contractor must comply with the Contract Documents' requirements related to Notice to Potential Changes, Change Order Requests, and Claims, including but not limited to Articles 4, 7, and 8 of the General Conditions and their provisions regarding waiver of rights for failure to comply, and no such time extension or other consideration may be issued until a change order is approved by the Owner's governing body pursuant to the Contract Documents. The amount of an Allowance may only be increased by a change order approved by Owner's governing body. Once an Allowance is fully spent, the Contractor must request any additional compensation pursuant to the procedures in the Contract Documents for Notices of Potential Claim, Change Order Requests, and Claims, and payment must be made after a change order approved by the Owner's governing body pursuant to the General Conditions. Upon Completion of the Work, all amounts in an Allowance that remain unspent and unencumbered shall remain the property of the Owner, Contractor shall have no claim to such funds, the Owner shall be entitled to a credit for such unused amounts against the above contract price, and the Owner may withhold such credit from any sublease payment or release of retention.

The Percentage Fee shall not be applied to any costs other than subcontractor contract prices or material or equipment supplier costs since the Percentage Fee is intended to cover Contractor's profit and all other costs incurred by Contractor in performing the Work and its obligations under the Contract Documents, including but not limited to (i) Contractor's costs for overhead (home office and field), materials, equipment, and employees/labor, (ii) all bonds and insurance, (iii) general conditions and general requirements, (iv) financing costs, and (v) profit. (See Section III.D.1 of the Request for Sealed Proposals for other covered costs.)

Except as otherwise provided in the General Conditions, the Contractor shall assume the risk of all costs in excess of the Total Sublease Amount in the performance of such work and shall not be entitled to additional payments because of such excess costs.

Contractor shall finance the cost of construction of the Work. Contractor shall pay all subcontractors and suppliers as they perform Work or furnish supplies. The Owner shall pay Contractor sublease payments pursuant to the terms and conditions of the Contract Documents, including but not limited to Section 6 of the Sublease (the "Sublease Payments"). The sum of the Sublease Payments shall not exceed the Total Sublease Amount established under this Article 4.

To the extent that the Total Sublease Amount includes any amounts for allowances, the use of such funds is entirely at the discretion, and only with the advanced written approval, of the Owner. Contractor must establish entitlement to such an allowance payment pursuant to the Contract Documents' requirements for notices of potential change, change order requests, and claims, including but not limited to Section 4.5 of the General Conditions. The amount of any allowance may only be increased by a Board-approved change order. The unspent amount of the allowances shall be excluded from any calculations of Sublease Payments under the Contract Documents. If an allowance is fully spent or Owner elects to not spend remaining allowance funds, the Contractor must request any additional compensation pursuant to the procedures in the Contract Documents, including but not limited to Section 4.5 of the General Conditions regarding notices of potential change, change order requests, and claims. Upon Completion of the Work, all such allowance funds that are unspent and unencumbered shall remain the property of the Owner, Owner shall have no obligation to pay such funds to Contractor, and Contractor shall have no claim to such funds.

The proposed Total Sublease Amount shall be approved or rejected by the Owner at a public meeting before Contractor may proceed with any further Work under the Contract Documents. Once approved, the Parties shall execute **Exhibit A** of the Sublease, setting forth the Total Sublease Amount and Sublease Payments, whereupon **Exhibit A** shall be incorporated into, and become part of the Contract Documents. Contractor shall immediately commence the Work after approval of the Total Sublease Amounts by the Owner, and the time for Completion of the Work shall commence to run upon such approval by the Owner. If the Owner rejects the Total Sublease Amount and requests another calculation from Contractor, then Contractor shall submit another calculation complying with this Section's procedures. If the Owner rejects the Total Sublease Amount and does not request another calculation from Contractor, then such rejection will act as a Termination for Convenience pursuant to Article 14.3.2 of the General Conditions and the Owner may award a lease-leaseback contract for the Contract to the next highest best value contractor from the selection process used for the Contract.

6. Changes. Should the Contractor believe that it is entitled to an increase in the Total Sublease Amount or a time extension for completion, it must request such change pursuant to the procedures in the Contract Documents, including but not limited to Section 4.5 of the General Conditions regarding notices of potential change, change order requests, and claims. To be enforceable, any written amendment or change order must be signed by both parties and approved by the Owner's governing body.

7. Term and Termination. The term of the Contract (the "Lease Term") begins on _____, 201__, [*insert effective date of the agreement; see first paragraph of agreement,*

above] and automatically ends on the date that the final Sublease Payment is due (as may be adjusted during the Contract) or on the date that the Contract is terminated, all in accordance with the Contract Documents. The Lease Term and the Sublease Payments may be extended as provided in the Sublease. All of the covenants, representations and warranties set forth in the Contract, including indemnification obligations, that are intended to bind the Parties after the Completion of the Work or termination of the Contract will survive such Completion or termination for the periods provided for in the Contract or otherwise allowed by law. The Site Lease and the Sublease each shall automatically end at the same time as this Agreement, with the Parties' respective leasehold interests thereunder automatically ended and released, and title to the Site and Work automatically and fully vested in the Owner.

8. Prequalification of Contractor and Certain Contractors.

Prequalification is required as described in the Request for Sealed Proposals and Qualifications.

9. Selection of Subcontractors. Work shall be let by Contractor to subcontractors, except as otherwise permitted below. For each scope of Work that exceeds 0.5% of the Work, Contractor shall provide public notice of availability of work to be subcontracted in accordance with the District's competitive bidding process (including but not limited to Public Contract Code section 20112) including a fixed date and time on which qualifications statements, bids, or proposals will be due. Contractor shall establish reasonable qualification criteria and standards and shall award each subcontract to the lowest responsive and responsible bidder. All subcontractors shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (commencing with Public Contract Code section 4100). If Contractor wishes to perform a portion of the Work itself rather than enter a subcontract for it (regardless of whether that portion exceeds 0.5% of the Work), it may only self-perform that Work if it uses the applicable subcontractor selection process under Education Code section 17406(a)(4), timely submits a bid for that portion of the Work that covers all of its profit and costs (including overhead), and its bid is the lowest responsive and responsible bid for that portion of the Work. Contractor's subcontractor selection process shall be subject to review by, and approval of Owner.

10. Prevailing Wages. The Contract is a public work, the Work shall be performed as a public work, and under California Labor Code section 1770 *et seq.*, the Director of the California Department of Industrial Relations ("DIR") has determined the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification or type of worker needed to execute this Contract. Per diem wages shall be deemed to include employer payments for health and welfare, pension, vacation, apprenticeship or other training programs, and similar purposes. Copies of the rates are on file at the Owner's principal office. The rate of prevailing wage for any craft, classification or type of workmanship to be employed on this Contract is the rate established by the applicable collective bargaining agreement which rate so provided is hereby adopted by reference and shall be effective for the life of this Agreement or until the Director of the DIR determines that another rate be adopted. It shall be mandatory upon the Contractor and on any subcontractor to pay not less than the said specified rates to all workers employed in the execution of this Agreement.

The Contractor and any subcontractor under the Contractor as a penalty to the Owner shall forfeit not more than Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each

worker paid less than the stipulated prevailing rates for such work or craft in which such worker is employed. The difference between such stipulated prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor.

The Contractor and each Subcontractor shall keep or cause to be kept an accurate record for work on this Contract showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this Contract or any subcontract thereunder, and showing also the actual per diem wage paid to each of such workers, which records shall be open at all reasonable hours to inspection by the Owner, its officers and agents and to the representatives of the Division of Labor Standards Enforcement of the DIR. Contractor and all subcontractors shall comply with Labor Code section 1776. In accordance with Labor Code section 1771.4(a)(1), the Contract is subject to compliance monitoring and enforcement by the DIR. The Contractor and each subcontractor shall furnish a certified copy of all payroll records directly to the Labor Commissioner on a monthly basis, unless directed by the Owner to furnish such records more often, and in the format prescribed by the Labor Commissioner.

As a public work, the Contract is subject to compliance monitoring and enforcement by the Department of Industrial Relations. For all projects over Twenty-Five Thousand Dollars (\$25,000), in order to be qualified to submit a bid or to be listed in a bid proposal subject to the requirements of Public Contract Code section 4104, or enter into, or engage in the performance of any contract of public work (as defined by Division 2, Part 7, Chapter 1 (§§1720 *et seq.*) of the Labor Code), a contractor or subcontractor must be currently registered and qualified under Labor Code section 1725.5 to perform public work as defined by Division 2, Part 7, Chapter 1 (§§1720 *et seq.*) of the Labor Code.

11. Working Hours. Under California Labor Code sections 1810 to 1815, the time of service of any worker employed by the Contractor or a Subcontractor doing or contracting to do any part of the Work contemplated by this Agreement is limited and restricted to 8 hours during any one calendar day and 40 hours during any one calendar week, provided, that work may be performed by such employee in excess of said 8 hours per day or 40 hours per week provided that compensation for all hours worked in excess of 8 hours per day, and 40 hours per week, is paid at a rate not less than 1½ times the basic rate of pay. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by them in connection with the Work. The Contractor and every Subcontractor shall keep the records open at all reasonable hours to inspection by representatives of the Owner and the Division of Labor Standards Enforcement. The Contractor shall as a penalty to the Owner forfeit \$25.00 for each worker employed in the execution of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day, and 40 hours in any one calendar week, except as herein provided.

12. Apprentices. The Contractor shall comply with California Labor Code sections 1777.5 and 1777.6. These sections require that contractors and subcontractors employ apprentices in apprenticeable occupations in a ratio of not less than 1 hour of apprentice's work for each 5 hours of work performed by a journeyman (unless an exemption is granted in accordance with Labor

Code section 1777.5) and that contractors and subcontractors shall not discriminate among otherwise qualified employees as indentured apprentices on any public works solely on the ground of sex, race, religious creed, national origin, ancestry or color. Only apprentices as defined in Labor Code section 3077, who are in training under apprenticeship standards and who have signed written apprentice agreements, will be employed on public works in apprenticeable occupations. The responsibility for compliance with these provisions is fixed with the Contractor for all apprenticeable occupations.

13. Skilled and Trained Workforce. The skilled and trained workforce requirements of Public Contract Code Sections 2600-2603 do not apply due to the District's Project Labor Agreement.

14. DSA Oversight Process. The Contractor must comply with the applicable requirements of the Division of State Architect ("DSA") Construction Oversight Process ("DSA Oversight Process"), including but not limited to (a) notifying the Inspector of Record ("IOR") upon commencement and completion of each aspect of the work as required under DSA Form 156; (b) coordinating the Work with the IOR's inspection duties and requirements; (c) submitting verified reports under DSA Form 6-C; and (d) coordinating with the Owner, Owner's Architect, any Construction Manager, any laboratories, and the IOR to meet the DSA Oversight Process requirements without delay or added costs to the Contract.

Contractor shall be responsible for any additional DSA fees related to review of proposed changes to the DSA-approved construction documents, to the extent the proposed changes were caused by Contractor's wrongful actions or omissions. If inspected Work is found to be in non-compliance with the DSA-approved construction documents or the DSA-approved testing and inspection program, then it must be removed and corrected. Any construction that covers unapproved or uninspected Work is subject to removal and correction, at Contractor's expense, in order to permit inspection and approval of the covered Work in accordance with the DSA Oversight Process.

15. Indemnification, Insurance, and Bonds. The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees and others as provided in the General Conditions.

By this statement the Contractor represents that it has secured the payment of Workers' Compensation in compliance with the provisions of the California Labor Code and during the performance of the work contemplated herein will continue so to comply with said provisions of said Code. The Contractor shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive 30 days' notice of cancellation.

Contractor shall provide the insurance set forth in the General Conditions. The amount of general liability insurance shall be \$_____ per occurrence for bodily injury, personal injury, and property damage, and the amount of automobile liability insurance shall be \$_____ per accident for bodily injury and property damage combined single limit.

Contractor shall provide the bonds set forth in the General Conditions, including performance and payments bonds.

16. Entire Agreement. The Contract constitutes the entire agreement between the Parties, and supersedes any prior or contemporaneous agreement between the Parties, oral or written, unless such agreement is expressly incorporated herein. The Owner makes no representations or warranties, express or implied, not specified in the Contract. The Contract is intended as the complete and exclusive statement of the Parties' agreement pursuant to California Code of Civil Procedure section 1856.

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

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

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

20. Severability; Governing Law; Venue. If a court of competent jurisdiction shall hold any provision of the Contract invalid or unenforceable, then such holding shall not invalidate or render unenforceable any other provision hereof. The laws of the State of California, other than its laws regarding choice of law, shall govern the Contract. Any action or proceeding seeking any relief under or with respect to this Agreement shall be brought solely in the Superior Court of the State of California for the County of Alameda, subject to transfer of venue under applicable State law, provided that nothing in this Agreement shall constitute a waiver of immunity to suit by Owner.

21. Amendments. The terms of the Contract shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever except by written agreement signed by the Parties and approved or ratified by the Owner's Governing Board.

22. Assignment of Contract. The Contractor shall not assign or transfer by operation of law or otherwise any of its rights, burdens, duties or obligations without the prior written consent of the surety on the payment bond, the surety on the performance bond, and the Owner.

23. Written Notice. Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified or overnight mail to the last business address known to the person who gives the notice.

24. Terms Not Defined. Capitalized terms used in this Agreement that are not otherwise defined have the same meaning as in the General Conditions or other Contract Documents.

25. Parties Bound by Agreement. Each person signing this Agreement below warrants and guarantees that he or she is legally authorized to execute this Agreement on behalf of the listed Party and that such execution binds that Party to the terms and conditions of this Agreement.

26. Sanctions in Response to Russian Aggression. The Owner requires Contractor to comply with the Governor’s March 4, 2022, Executive Order N-6-22 (“Order”) relating to any existing sanctions imposed by the United States government and the State of California in response to Russia’s actions in Ukraine, including additional requirements for contracts of \$5 million or more. Failure to comply may result in the termination of the Contract.

CONTRACTOR:

OWNER:

_____,
a California _____

Oakland Unified School District

BY: _____
TITLE: President, Vice-President, or Chairperson

BY: _____
TITLE: Superintendent

BY: _____
TITLE: Secretary, Assistant Secretary,
CFO, or Assistant Treasurer

CALIFORNIA CONTRACTOR'S
LICENSE NO.

LICENSE EXPIRATION DATE

NOTE: Contractor must give the full business address of the Contractor and sign with Contractor’s usual signature. Partnerships must furnish the full name of all partners and the Agreement must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Corporations must sign with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officer signing on behalf of a corporation shall be furnished.

Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion: The undersigned certifies to the best of its knowledge and belief that it and its officials are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>

Director of Facilities Planning and Management
Oakland Unified School District

Date _____

SPECIMEN

EXHIBIT E

Site Lease

LEASE-LEASEBACK

SITE LEASE AGREEMENT

Dated as of _____, 201__

Between

Oakland Unified School District

and

The _____ Contract

at _____ School,

_____, _____, CA

SPECIMEN

**LEASE-LEASEBACK
SITE LEASE AGREEMENT FOR THE
THE [REDACTED] CONTRACT**

THIS LEASE-LEASEBACK SITE LEASE AGREEMENT (“Site Lease”) is entered into as of _____, 201__, between the Oakland Unified School District, a California public school district (the “Owner”), as lessor, and _____, a California corporation and licensed contractor (the “Contractor”), as lessee. Owner and Contractor are each a “Party” and together are the “Parties” to this Site Lease.

The Owner desires to provide for the construction of certain public improvements (the “Work”) more fully described in that certain Lease-Leaseback Agreement, dated _____, 201__, between the Owner and Contractor (the “Contract”) and located at [REDACTED] School, [REDACTED] [street address], [REDACTED], California, (the “Site”), all of which is part of the Owner’s [REDACTED] project (the “Project”); and

The Owner’s governing body has determined that it is in the best interests of the Owner and for the common benefit of the residents it serves to construct and finance the Contract by leasing the Site on which the Contract is to be constructed to Contractor, and subleasing from Contractor the Site, including the Contract, under that certain Sublease Agreement dated _____, 201__, between Owner and Contractor (the “Sublease”); and

The Owner is authorized under California Education Code section 17406 to lease the Site, and its governing body has authorized the execution and delivery of this Site Lease; and

The purpose of the Site Lease is for Contractor to have necessary access to and use of the Site for the purpose of financing and constructing the Contract; and

Contractor is authorized to lease the Site as lessee and to finance and construct the Contract on the Site, and has authorized the execution and delivery of this Site Lease.

The Parties therefore agree as follows:

1. Site Lease. The Owner leases to Contractor and Contractor leases from the Owner, on the terms and conditions of this Site Lease, the Site more specifically described or depicted in **Exhibit A** attached to this Site Lease, including any real property improvements now or later placed on the Site. References in this Site Lease to the term “Contractor” means Contractor and Contractor’s assigns for those rights, interests, and obligations that may be assigned by Contractor. The Site is leased to Contractor on an “as is” basis. Owner shall not be required to make or construct any alterations including structural changes, additions or improvements to the Site. By entering and taking possession of the Site pursuant to this Site Lease, Contractor accepts the Site in “as is” condition. Any agreements, warranties, or representations not expressly contained herein shall in no way bind either Owner or Contractor, and Owner and Contractor expressly waive all claims for damages by reason of any statement, representation, warranty, promise or agreement, if any, not contained in this Site Lease or the Contract Documents.

2. Term. The term of this Site Lease (“Term”) shall be coterminous with the term of the Lease-Leaseback Agreement. Upon termination of the Contract, as set forth in the Lease-Leaseback Agreement, the Parties’ respective interests under this Site Lease will automatically end and be released, and title to the Site and Work will automatically and fully vest in the Owner. The Work is and shall at all times be and remain the sole property of Contractor until termination of the Contract, and the Owner shall have no right, title, or interest in or to it until termination of the Contract, except as expressly set forth in the Sublease.

3. Representations and Warranties of the Owner. The Owner represents and warrants to Contractor that:

(a) The Owner has good and merchantable fee title to the Site and has authority to enter into and perform its obligations under this Site Lease;

(b) There are no liens on the Site other than permitted encumbrances;

(c) All taxes, assessments, or impositions of any kind with respect to the Site, if applicable, except current taxes, have been paid in full;

(d) The Site is properly zoned for the intended purpose and utilization of it or the Owner intends to render zoning inapplicable pursuant to Government Code section 53094;

(e) The Owner is in compliance with all laws, regulations, ordinances and orders of public authorities applicable to the Site;

(f) There is no litigation of any kind currently pending or threatened regarding the Site or the Owner’s use of the Site for the purposes contemplated by this Site Lease, the Sublease, and the Lease-Leaseback Agreement;

(g) To the best of the Owner’s knowledge, after actual inquiry: (i) other than those addressed in the Scope of Work, as set forth in the Lease-Leaseback Agreement, 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 owner of the Site or Contractor or Contractor’s subcontractors to any damages, penalties or liabilities under any applicable Environmental Regulation (hereinafter collectively called “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 underground storage tank is now located in the Site; (v) 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 now any investigation or report involving the Site by any governmental entity or agency which in any way relates to Hazardous Substances; (vi) 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; (vii) 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; (viii) 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 (ix) 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 Owner shall not abandon the Site for the use for which it is currently required by the Owner and further, shall not seek to substitute or acquire property to be used as a substitute for the uses for which the Site and Work are to be maintained under the Sublease.

(i) The term "permitted encumbrances" as used herein shall mean, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent; (ii) this Site Lease, the Sublease, any right or claim of any mechanic, laborer, materialman, 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 Owner consent in writing which will not impair or impede the operation of the Site.

4. Representations and Warranties of Contractor. Contractor represents and warrants to the Owner 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 duly authorized by all necessary corporate 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 Contractor, threatened action, or proceeding before any court or administrative agency that will materially adversely affect the ability of Contractor to perform its obligations under this Site Lease.

5. Rental. Contractor shall pay to the Owner as and for advance rental hereunder \$1.00 per year per Site, on or before the date of commencement of the term of this Site Lease.

6. Purpose. Contractor shall use the Site solely for the purpose of constructing the Contract on the Site and for subleasing the Site to the Owner. Contractor warrants that it will not engage in any unlawful activities on the Site and that Contractor will not engage in activities on the Site not authorized by the Owner.

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 beginning of the term of this Site Lease, reasonable wear and tear excepted; (ii) to release and reconvey to the Owner 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 but not limited to the Work, shall remain on the Site and title to all such improvements shall vest in the Owner. Notwithstanding the Owner's rights in the event of termination under this Section 7, Contractor shall retain the right to full compensation for all services rendered before the termination in accordance with the Lease-Leaseback Agreement and the Sublease.

8. Quiet Enjoyment. The Owner 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 the Owner'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 Owner 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.

9. No Liens. The Owner 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 Owner from granting utility easements across the Site to facilitate the use and operation of the Work for which it is intended. Contractor warrants that at all times during this Site Lease, the Site and Work shall remain free and clear of all liens (including mechanic's liens), mortgages, deeds of trust, easements and all other encumbrances, other than liens existing at the time the Work starts, unless the Owner gives Contractor prior written permission to place, or allow to be placed, any liens, mortgages, deeds of trust, easements or other encumbrances on the Site.

10. Right of Entry. The Owner 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 doing so shall not interfere with Contractor's operations on the Contract.

11. Assignment and Subleasing. Contractor will not assign or otherwise dispose of or encumber the Site or this Site Lease without the prior written consent of the Owner.

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.

13. Eminent Domain. In the event 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 Sublease Payments then due or past due and the next succeeding Sublease Payment. The balance of the award, if any, shall be paid to the Owner.

14. Taxes. The Owner covenants and agrees that as between Owner and Contractor, Owner shall pay any and all assessments of any kind or character and also all taxes, including possessory interest - taxes, levied or assessed upon the Site or the improvements thereon.

15. Severability. If a court of competent jurisdiction shall hold any provision of this Site Lease invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Site Lease, unless elimination of such provision materially alters the rights and obligations embodied in this Site Lease.

16. Binding Effect. This Site Lease shall inure to the benefit of and shall be binding upon the Parties and their respective successors in interest and permitted assigns, if any.

17. Amendments and Modifications. This Site Lease shall not be effectively amended, changed, modified, altered, or terminated without the written agreement of both Parties.

18. Execution in Counterparts. This Site Lease may be simultaneously executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

19. Applicable Law. This Site Lease and the rights of the Parties under it shall be governed by and construed in accordance with the laws of California.

20. 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 of this Site Lease.

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

22. Terms Not Defined. Capitalized terms used in this Site Lease that are not defined shall have the same meaning as in the Lease-Leaseback Agreement, General Conditions, and other Contract Documents.

CONTRACTOR

OWNER

Oakland Unified School District

By: _____

By: _____

Title: President, Vice-President, or Chairperson

Superintendent

By: _____

Title: Secretary, Assistant Secretary, CFO,
or Assistant Treasurer

EXHIBIT A

LEASE-LEASEBACK SITE LEASE

DESCRIPTION OR DEPICTION OF SITE

(See attached diagram depicting the Site)

[Attach a diagram of the school site with the area being leased clearly shown, either delineated with colored lines or shaded with color.]

EXHIBIT F

Sublease

LEASE-LEASEBACK

SUBLEASE AGREEMENT

Dated as of _____, 20__

Between

Oakland Unified School District

and

The _____ Contract

_____ [insert school name or location]

SPECIMEN

**LEASE-LEASEBACK
SUBLEASE AGREEMENT
THE [REDACTED] CONTRACT**

THIS LEASE-LEASEBACK SUBLEASE AGREEMENT (“Sublease”) is entered into as of _____, 20__, between _____, a California [corporation] and licensed contractor (“Contractor”), as lessor, and the Oakland Unified School District, a California public school district (the “Owner”), as lessee. Owner and Contractor are each a “Party” and together are the “Parties” to this Sublease.

This Sublease is entered into by the Parties pursuant to California Education Code section 17406 (“Section 17406”), which permits the governing board of school district to lease to any person, firm, or corporation any real property owned by the school district if the instrument by which such property is leased requires the lessee to construct on the leased premises, or provides for the construction thereon, of a building for the use of the school district during the term of the lease, and provides that title to that building shall vest in the school district at the expiration of the lease.

The Owner deems it essential for its own governmental purpose to construct and install certain improvements (the “Work”) described in Section 1 of that certain Lease-Leaseback Agreement entered into between the Owner and Contractor and dated _____, 201__, and situated on the Site described or depicted in Exhibit A of that certain Site Lease dated _____, 201__, between the Owner and Contractor (the “Contract”), all of which is part of the Owner’s [REDACTED] project (the “Project”).

Pursuant to Section 17406, the Owner is leasing the site of the Work (the “Site”) to Contractor under the Site Lease in consideration of Contractor subleasing the Site, including the Contract, to the Owner under the terms of this Sublease.

Contractor will finance construction of the Contract. As part of its Sublease Payments (as described in Section 6, below) to Contractor, District will compensate Contractor for the cost of financing construction of the Contract.

The Owner and Contractor therefore agree as follows:

1. Sublease. Contractor subleases to the Owner, and the Owner subleases from Contractor, the Site, including any real property improvements now or later placed on the Site. Reference in this Sublease to the term “Contractor” means Contractor and Contractor's assigns for those rights, interests, and obligations that may be assigned by Contractor. The purpose of this Sublease is (1) for the Owner to have necessary access to and use of the Site at such times and in such a manner as will not impede the construction of the Work; (2) for the Owner to obtain financing for the Work from the Contractor; and (3) during the term of the Sublease, for the Owner to enjoy beneficial use and occupancy of the Site and the completed Work.

During the term of the Sublease, Owner and its agents, employees and invitees may enter into and upon the Site and the Work at all reasonable times necessary for the Owner to conduct its business. During construction of the Work, the Owner shall not unduly disturb, or unreasonably interfere with Contractor’s

Work and related improvements to the Site. Following completion of the Work, the Owner shall enjoy full and undisturbed use of the Site during the remainder of the Sublease Term.

2. Term. The term of this Sublease (“Lease Term”) shall be coterminous with the term of the Lease-Leaseback Agreement and Contract. Upon the end of the Lease Term, the Parties’ respective interests under this Sublease will automatically end and be released, and title to the Site and Work will automatically and fully vest in the Owner. The Work is and shall at all times be and remain the sole property of Contractor until termination of the Contract, and the Owner shall have no right, title, or interest in or to it until termination of the Contract, except as expressly set forth in this Sublease.

3. Representations and Warranties of the Owner. The Owner represents and warrants to Contractor that:

(a) The Owner is a public school district, duly organized and existing under the Constitution and laws of the State of California with authority to enter into and perform all of its obligations under this Sublease.

(b) The Owner’s governing body has duly authorized the execution and delivery of this Sublease and further represents and warrants that all requirements have been met and procedures followed to ensure its enforceability.

(c) The execution, delivery, and performance of this Sublease 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 Owner is a party by which it or its property is bound.

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

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

(f) The Owner shall take such action as may be necessary to include all Sublease payments in its annual budget and annually to appropriate an amount necessary to make such Sublease payments.

(g) The Owner shall not abandon the Site for the use for which it is currently required by the Owner and, to the extent permitted by law, the Owner shall not seek to substitute or acquire property to be used as a substitute for the use for which the Site is maintained under the Sublease.

(h) Except as may be permitted under federal or state laws, the Owner shall not allow any hazardous materials or substances to be used or stored on, under, or about the Site.

4. Representations and Warranties of Contractor. Contractor represents and warrants to the Owner 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 **[revise paragraph accordingly if not a corporation]** ;

(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 knowledge of Contractor, threatened action, or proceeding before any court or administrative agency that 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 Sublease payments, except as permitted under this Sublease.

5. Construction/Acquisition.

(a) The Owner has entered into the Contract with Contractor in order to acquire and construct the Work, while enjoying use of the Site. The cost of the acquisition, construction and installation of the tenant improvements defined as the Work and the Owner's use of the Site under this Sublease is determined by the Total Sublease Amount as set forth in the Lease-Leaseback Agreement and *Exhibit A* of this Sublease.

(b) In order to ensure that moneys sufficient to pay all costs will be available for this purpose when required, the Owner shall maintain on deposit in its general or other appropriate fund, and shall annually appropriate funds sufficient to make all Sublease payments which become due to Contractor under this Sublease.

6. Sublease Payments.

(a) Over the Term of this Sublease, the owner will pay to the Contractor the Total Sublease Amount (excluding any allowance or contingency) in [] () monthly installments

(each such installment being a "Sublease Payment")

pursuant to the Schedule of Sublease Payments which shall be prepared based on the form attached as *Exhibit A*, executed by the Contractor, and then approved by the Owner's governing board when it approves the Total Sublease Amount pursuant to Education Code section 17406(a)(3). Upon execution by the Parties and approval by the Owner's governing body, the Schedule of Sublease Payments shall act as a written amendment to this Sublease. Payments shall be made by the fifth day of each month, pursuant to the General Conditions. The Sublease Payments shall be made in accordance with the Contract Documents, including but not limited to the General Conditions. The parties expressly agree that the Total Sublease Amount represents the fair market value for the Work and for the Owner's use of the Site during the term of the Sublease.

(b) During the Lease Term, the Owner will adjust the Total Sublease Amount to account for any changes in the scope of the Work or use of the Site during the term of the Sublease, including but not limited to (i) spent allowances or contingency, (ii) any change orders, or (iii) Contractor's actual costs being less than its estimated costs. As set forth in the General Conditions, any changes in the Total Sublease Amount shall result in a prorated increase, or decrease, in Sublease Payments made following the adjustment to the Total Sublease Amount.

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

7. Extension of Sublease Term.

(a) *Excusable Delay.* If the Date for Completion is extended by change orders that grant time extensions for delay pursuant to the Contract, then the Sublease Term shall be extended by one month for each full month of total time extensions, and Owner shall increase the number, and lower the equal dollar amounts, of the remaining Sublease Payments based on the months added to the Sublease Term.

(b) *Inexcusable Delay.* If the Work will not be completed by the Date for Completion set forth in the Lease-Leaseback Agreement due to delay that is not excusable under the terms of the Contract, including Article 8 of the General Conditions, then the Sublease Term shall be extended by one month for each full month of such delay, and Owner shall either (i) elect not to make a Sublease Payment during construction for each month added to the Sublease Term, or (ii) increase the number, and lower the equal dollar amounts, of the remaining equal Sublease Payments based on the months added to the Sublease Term.

(c) If the total delay in completion is only partially entitled to time extensions for excusable delay under the terms of the Contract, then the Sublease Term shall be extended by one month for each full month of total delay. If the delays entitled to time extensions are less than half of the total delay in completion, then the Owner shall elect between the procedures in Section 7(b)(i) and (ii) above; and if such delays are equal to or more than half of the total delay in completion, the Owner shall proceed pursuant to Section 7(b)(ii) above.

8. Fair Rental Value. Sublease Payments shall be paid by the Owner in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Work and the Site during this Sublease.

The Parties have agreed and determined that such total rental is not in excess of the fair rental value of the Work and the Site. In making such determination, consideration has been given to the fair market value of the Work and the Site, other obligations of the Parties under this Sublease (including, but not limited to, costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Work and the Site and the benefits from the Work and Site which will accrue to the Owner and the general public, the ability of the Owner to make additions, modifications and improvements to the Work and the Site which are not inconsistent with the Lease-Leaseback Agreement and which do not interfere with Contractor's work on the Contract and Site.

9. Sublease Abatement. Sublease Payments due with respect to the Contract shall be subject to abatement prior to the commencement of the use of the Work or during any period in which, by reason of material damage to or destruction of the Work or the Site, there is substantial interference with the use and right of possession by the Owner of the Work and the Site or any substantial portion the Site. For each potential incident of substantial interference, decisions to be made on: (i) whether or not abatement shall apply; (ii) the date upon which abatement shall commence; (iii) the applicable portion of Sublease Payments to be abated and; (iv) the concluding date of the particular abatement, shall all be subject to determinations by the Owner 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 Sublease Payments paid by the Owner during the period of Work 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 Work or the Site, this Sublease shall continue in full force and effect.

10. Use of Site and Project. During the Sublease Term, Contractor shall provide the Owner with quiet use and enjoyment of the Site without suit or hindrance from Contractor or its assigns. The Owner 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 Owner shall provide all permits and licenses, if any, necessary for the operation of the Project. In addition, the Owner 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 Owner may contest in good faith the validity or application of any such law or rule in any reasonable manner which does not, in the opinion of Contractor, 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, as defined in the General Conditions, Contractor shall provide the Owner 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 at the Site by Contractor.

11. Contractor's Inspection/Access to the Site. The Owner 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 Work and to examine and inspect the Site and the Work. The Owner 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 Work in the event of failure by the Owner to perform its obligations under this Sublease.

12. Contract Acceptance. The Owner shall perform a final inspection and acknowledge Completion of the Work, as set forth in Article 9.7 of the General Conditions. The Owner's governing body shall accept the Work and Contract to the extent required by the Contract Documents, including Article 9.7 of

the General Conditions, but acceptance of the Work as Complete shall not terminate the Lease Term. The validity of this Sublease will not be affected by any delay in or failure of Completion of the Contract.

13. Alterations and Attachments. All permanent additions and improvements that are made to, and as part of, the Project shall belong to and become the property of Contractor until termination of the Contract, subject to the provisions of this Sublease. Separately identifiable attachments added to the Project by the Owner shall remain the property of the Owner.

14. Physical Damage; Public Liability Insurance. The Contractor and the Owner shall maintain such damage and public liability insurance policies with respect to the Project and the Site as are required of them by the Lease-Leaseback Agreement.

15. Taxes. The Owner 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 later 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.

16. Non-Waiver. No covenant or condition to be performed by the Owner or Contractor under this Sublease can be waived except by the written consent of the other Party. Forbearance or indulgence by the Owner or Contractor in any regards whatsoever shall not constitute a waiver of the covenant or condition in question. Until complete performance by the Owner or Contractor of a 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 that forbearance or indulgence.

17. Assignment. Without the prior written consent of Contractor, the Owner shall not (a) assign, transfer, pledge, or hypothecate this Sublease, the Project and the Site, or any part of them, or any interest in them, or (b) sublet or lend the use of the Project or any part of it, except as authorized by the provisions of the California Civic Center Act, Education Code section 38130 *et seq.* Consent to any of the prohibited acts listed applies only in the given instance and is not a consent to any subsequent like act by the Owner or any other person. Contractor shall not assign its obligations under this Sublease with the exception of its obligations to issue default notices and to convey or reconvey its interest in the Project and Site to the Owner upon full satisfaction of the Owner's obligations under this Sublease; however, Contractor may assign its right, title and interest in the Sublease Payments and other amounts due under this Sublease and the Project in whole or in part to one or more assignees or subassignees at any time with the consent of the Owner which shall not be unreasonably withheld. No assignment shall be effective as against the Owner unless the Owner is so notified in writing. The Owner shall pay all Sublease Payments according to the direction of Contractor or the assignee named in the most recent assignment or notice of assignment. During the Sublease Term, the Owner shall keep a complete and accurate record of all such assignments. Subject always to the foregoing, this Sublease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors, and assigns of the Parties.

18. Release of Liens.

(a) Upon termination of the Contract, Contractor or its assignee and the Owner shall release Contractor's leasehold interest in the Project.

(b) Contractor shall authorize, execute, and deliver to the Owner all documents reasonably requested by the Owner to evidence (i) the release of any and all liens created under this Sublease and the Site Lease, and (ii) any other documents required to terminate the Site Lease and this Sublease.

19. Severability. If a court of competent jurisdiction shall hold any provision of this Sublease invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Sublease, unless elimination of such provision materially alters the rights and obligations embodied in this Sublease.

20. Entire Agreement. This Sublease, the Site Lease, the Lease-Leaseback Agreement, and the Contract Documents that make up the "Contract" constitute the entire agreement between the Parties with respect to the Work and the Project, and the Contract shall not be amended, altered, or changed except by a written agreement signed by both Parties.

21. Headings. 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 of this Sublease.

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

23. Sublease Interpretation. This Sublease and the rights of the Parties under it shall be governed by and construed in accordance with the laws of California.

24. Execution in Counterparts. This Sublease may be simultaneously executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

25. Terms Not Defined. Capitalized terms used in this Sublease that are not defined shall have the same meaning as in the Lease-Leaseback Agreement, General Conditions, or other Contract Documents.

CONTRACTOR:

OWNER:

Oakland Unified School District

BY: _____

BY: _____

TITLE: President

Superintendent

BY: _____

TITLE: Corporate Secretary

EXHIBIT A

FORM FOR SCHEDULE OF SUBLEASE PAYMENTS

The following form shall be used as an amendment to the Sublease when the Owner's governing board approves the Total Sublease Amount prior to the commencement of construction.

* * * * *

AMENDMENT TO LEASE-LEASEBACK SUBLEASE

TOTAL SUBLEASE AMOUNT AND SCHEDULE OF SUBLEASE PAYMENTS

For the Lease-Leaseback Agreement, Site Lease, and Sublease entered into between the Oakland Unified School District ("Owner") and _____ ("Contractor"), and dated _____, 20__, for the Owner's _____ work (the "Contract"), the Owner and Contractor hereby agree that the Total Sublease Amount shall be \$_____.00, which includes the following _____ [insert "allowances," "contingency," or "allowances and contingency"]:

- An allowance of \$_____ for _____ work;
- An allowance of \$_____ for _____ work; and
- A contingency of \$_____.

This Total Sublease Amount has been calculated as provided in the Contract, including but not limited to Section 5 of the Lease-Leaseback Agreement.

Based on the Total Sublease Amount (less any allowances or contingency) and the _____ [insert number of sublease payments; see Sublease §6] required Sublease Payments, the Schedule of Sublease Payments for the Contract shall be as follows:

<u>Payment No.</u> [adjust the number of payments to match Section 6(a) above]	<u>Date Payment Is Due</u>	<u>Amount of Payment</u>
1	_____, 20__	\$ _____.
2	_____, 20__	_____.
3	_____, 20__	_____.
4	_____, 20__	_____.
5	_____, 20__	_____.
6	_____, 20__	_____.

7	5, 20	.
8	5, 20	.
9	5, 20	.
10	5, 20	.

CONTRACTOR:

BY: _____
 TITLE: President

OWNER:

Oakland Unified School District

BY: _____
 Superintendent

BY: _____
 TITLE: Corporate Secretary

EXHIBIT G
Proposal Form

PROPOSAL FORM

OAKLAND UNIFIED SCHOOL DISTRICT
FACILITIES PLANNING & MANAGEMENT DEPARTMENT
955 HIGH STREET
OAKLAND, CALIFORNIA 94601

Dear Board Members:

The undersigned doing business under the firm name of:

_____ hereby proposes and agrees to enter into a Lease-Leaseback Contract, with the Oakland Unified School District (“District”) to furnish any and all labor, materials, applicable taxes, equipment and services (including preconstruction services) for the completion of Work as described hereinafter and in the Contract Documents as

**The Modernization Project at Fremont High Street
4610 Foothill Boulevard (Main Campus)
and 4529 Foothill Boulevard (Mac Dre site)
Oakland, California 94601**

The Contract Documents were prepared by

**Hibser Yamauchi Architects, Inc.
300 27th Street
Oakland, California 94612
510 446-2222**

Proposed Rate for Preconstruction Services:

The undersigned proposes and agrees to perform such preconstruction services for a rate of _____ Dollars (\$ _____) per hour up to a not-to-exceed amount of \$200,000 for all preconstruction services.

Proposed Fee:

The undersigned proposes and agrees to furnish such labor, materials, applicable taxes, equipment and services (other than such preconstruction services) for a fee of _____ and _____ hundredths percent (____.____%) applied to the costs specified in the Request for Proposals. Such fee shall be paid in addition to the reimbursement of costs described in the Request for Proposals.

Miscellaneous:

The best value proposal shall be determined as described in the Contract Documents.

The undersigned certifies to the best of its knowledge and belief that it and its officials are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this bid certifies that this contractor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>

If written notice of the Award of Contract is mailed, faxed, or delivered to the undersigned, the undersigned shall, within ten (10) days after the date of such mailing, faxing, or delivering of such notice, execute and deliver an agreement in the form of agreement present in these Contract Documents.

The undersigned declares that it has read and understands the Contract Documents, including but not limited to the Notice to Contractors, the RFQP, the Agreements, the General Conditions, the Drawings, the Specifications, and any Special Conditions.

The undersigned hereby designates as the office to which such Notice of Award of Contract may be mailed, faxed, or delivered:

Our Public Liability and Property Damage Insurance is placed with:

Our Workers' Compensation Insurance is placed with:

Circular letters, bulletins, addenda, etc., bound with the specifications or issued during the time of proposing are included in the proposal, and, in completing the Contract, they are to become a part thereof.

The receipt of the following addenda to the specifications is acknowledged:

Addendum No. _____	Date _____	Addendum No. _____	Date _____
Addendum No. _____	Date _____	Addendum No. _____	Date _____
Addendum No. _____	Date _____	Addendum No. _____	Date _____
Addendum No. _____	Date _____	Addendum No. _____	Date _____
Addendum No. _____	Date _____	Addendum No. _____	Date _____

This proposal may be withdrawn at any time prior to the scheduled time for the submission of proposals, or any authorized postponement thereof, but otherwise may not be withdrawn.

A proposer shall not submit a proposal unless the proposer's California contractor's license number appears clearly on the proposal, the license expiration date and class are stated, and the proposal contains a statement that the representations made therein are made under penalty of perjury. Any proposal submitted by a contractor who is not licensed pursuant to Business and Professions Code section 7028.15 shall be considered nonresponsive and shall be rejected. Any proposal not containing the above information may be considered nonresponsive and may be rejected.

NOTE: Each proposal must give the full business address of the proposer and be signed by proposer with proposer's usual signature. Proposals by partnerships must furnish the full name of all partners and must be signed in the partnership name by a general partner with authority to bind the partnership in such matters, followed by the signature and designation of the person signing. The name of the person signing shall also be typed or printed below the signature. Proposals by corporations must be signed with the legal name of the corporation, followed by the name of the state of incorporation and by the signature and designation of the chairman of the board, president or any vice president, and then followed by a second signature by the secretary, assistant secretary, the chief financial officer or assistant treasurer. All persons signing must be authorized to bind the corporation in the matter. The name of each person signing shall also be typed or printed below the signature. Satisfactory evidence of the authority of the officers signing on behalf of a corporation shall be furnished with the proposal.

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made in this proposal are true and correct.

Print or Type Name: _____

Title: _____

Name of Company as Licensed in California: _____

Business Address: _____

Telephone Number: _____

California Contractor License No.: _____

Class and Expiration Date: _____

State of Incorporation, if Applicable: _____

INDIVIDUAL:

Dated: _____, 20__

(Name)

EXHIBIT H

Designation of Subcontractors

DESIGNATION OF SUBCONTRACTORS

Each proposing LLB entity shall set forth below the name and the location of the place of business of each subcontractor, the portion of the Work which will be performed by each subcontractor, the California contractor license number of each subcontractor and, for projects over Twenty-Five Thousand Dollars (\$25,000), the public works contractor registration of each subcontractor who will perform the following types of work or labor, or render the following types of service, to the proposing LLB entity in or about the construction of the Work or improvement:

An inadvertent error in listing a California contractor's license number shall not be grounds for filing a protest or for considering the proposal nonresponsive if the proposing LLB entity submits the corrected contractor's license number to the District within 24 hours after the deadline for submittal of the proposal, or any continuation thereof, so long as the corrected contractor's license number corresponds to the submitted name and location for that subcontractor.

If the proposing LLB entity fails to specify a type of subcontractor listed above, the proposal shall be deemed nonresponsive.

After award of the LLB Contract, other subcontractors may be selected by the LLB entity for the Work as provided by Education Code section 17406(a)(4)(B).

Subletting or subcontracting of any portion of the Work as to which no subcontractor was designated in the original proposal or added pursuant to Education Code section 17406(a)(4)(B) shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the legislative body of the District.

For projects over Twenty-Five Thousand Dollars (\$25,000): For any proposal submitted, and for any contract for public work entered into, an inadvertent error in listing a subcontractor who is not registered under Labor Code section 1725.5 shall not be grounds for filing a protest or grounds for considering the proposal nonresponsive, provided that either (a) the subcontractor is registered prior to the deadline for submittal of the proposal, (b) the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5(a)(2)(E), if applicable, within 24 hours after the deadline for submittal of the proposal; or (c) the subcontractor is replaced by another registered subcontractor under Public Contract Code section 4107. Failure of a listed subcontractor to be registered shall be grounds under Public Contract

Code section 4107 for the Contractor, with the District's consent, to substitute a registered subcontractor for the unregistered subcontractor.

Failure to provide this information in a legible manner may result in the rejection of an otherwise acceptable proposal.

NOTE: *Reproduce the following table for additional listings that do not fit on it.*

SPECIMEN

NOTE: *Reproduce the above table for additional listings that do not fit on it.*

* * * * *

I am the authorized representative of the proposing LLB entity submitting this Designation of Subcontractors and I declare that each subcontractor listed holds a valid and current contractor license in good standing in California to perform the portion of work for which the subcontractor is listed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20____, at _____ [city], _____ [state].

Signature: _____

Print Name: _____

Title: _____

EXHIBIT I

Workers' Compensation Certification

WORKERS' COMPENSATION CERTIFICATE

Labor Code Section 3700, in relevant part, provides:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer or as one employer in a group of employers. Said certificate may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees, ... "

I am aware of the provisions of the Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract. I shall supply the Owner with certificates of insurance evidencing that Workers' Compensation Insurance is in effect and providing that the Owner will receive thirty (30) days' notice of cancellation.

Name of Contractor

Signature

Print Name

Date

(In accordance with Article 5 (commencing at Section 1860), Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the contract.)

EXHIBIT J

Iran Contracting Act Certification

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code sections 2202-2208)

(To be Executed by Proposing Entity and Submitted With Proposal)

As required by Public Contract Code (“PCC”) section 2204 for contracts of \$1,000,000 or more, please insert proposer’s or financial institution’s name and Federal ID Number (if available) and complete **one** of the options below. Please note that California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (PCC §2205.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the proposer/financial institution identified below, and the proposer/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by California Department of General Services (“DGS”) and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/proposer, for 45 days or more, if that other person/proposer will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS. (PCC §2204(a).)

<i>Proposer Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		
<i>Date Executed</i>	<i>Executed in</i>	

OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a proposer/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to submit a proposal for, or enter into or renew, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Proposer Name/Financial Institution (Printed)</i>		<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>		
<i>Printed Name and Title of Person Signing</i>		<i>Date Executed</i>

EXHIBIT K

DVBE Certification

(NOT APPLICABLE)

EXHIBIT L

DVBE Worksheet

(NOT APPLICABLE)

EXHIBIT M
Noncollusion Declaration

NONCOLLUSION DECLARATION

Owner: Oakland Unified School District
Contract: _____ *[insert name of contract]*
Project: _____ *[insert name of project; but delete this line if name
is the same as the contract]*
Site: _____ *[insert name of school or campus]*

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid or proposal ("Bid").

The Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Bid is genuine and not collusive or sham. The bidder or proposer ("Bidder") has not directly or indirectly induced or solicited any other Bidder to put in a false or sham bid. The Bidder has not directly or indirectly colluded, conspired, connived, or agreed with any Bidder or anyone else to put in a sham Bid, or to refrain from bidding or proposing ("Bidding"). The Bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid price of the Bidder or any other Bidder, or to fix any overhead, profit, or cost element of the Bid price, or of that of any other Bidder. All statements contained in the Bid are true. The Bidder has not, directly or indirectly, submitted his or her Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, Bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____, 20 __, at _____ [city], _____ [state].

Signature

Print Name

EXHIBIT N

Sufficient Funds Declaration

SUFFICIENT FUNDS DECLARATION
(Labor Code section 2810)

To Be Executed by Bidder and Submitted with Bid

Owner: Oakland Unified School District
Contract: _____ *[insert name of contract]*
Project: _____ *[insert name of project; but if same
as contract name, delete this line]*
Site: _____ *[insert name of school or campus]*

I, _____, declare that I am the _____
[insert title] of _____, the entity making and submitting the bid for
the above Project that accompanies this Declaration, and that such bid includes sufficient
funds to permit _____ *[insert name of entity]* to comply with all local,
state or federal labor laws or regulations during the Project, including payment of
prevailing wage, and that _____ *[insert name of entity]* will comply with
the provisions of Labor Code section 2810(d) if awarded the Contract.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct and executed on _____ 20____, at _____ *[city]*,
_____ *[state]*.

Date: _____
Signature _____
Print Name: _____
Print Title: _____

EXHIBIT O

Roof Project Certification

ROOF PROJECT CERTIFICATION

(Public Contract Code §3006(a) and (b))

Owner: Oakland Unified School District

Contract: _____ Contract
 _____ Project

_____ *[insert name of school or campus]*
_____, Alameda County, California

I, _____ *[name]*, _____ *[name of employer]*, certify that I have not offered, given, or agreed to give, received, accepted, or agreed to accept, any gift, contribution, or any financial incentive whatsoever to or from any person in connection with the roof project contract. As used in this certification, “person” means any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals. Furthermore, I, _____ *[name]*, _____ *[name of employer]*, certify that I do not have, and throughout the duration of the contract, I will not have, any financial relationship in connection with the performance of this contract with any architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor that is not disclosed below.

I, _____ *[name]*, _____ *[name of employer]*, have the following financial relationships, with an architect, engineer, roofing consultant, materials manufacturer, distributor, or vendor, or other person in connection with the following roof project contract:

[name and address of building, contract date and number]

[name and address of building, contract date and number]

[name and address of building, contract date and number]

[name and address of building, contract date and number]

I certify that to the best of my knowledge, the contents of this disclosure are true, or are believed to be true.

_____ Signature

_____ Date

_____ Print Name

_____ Print Name of Employer

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EXHIBIT P

Fingerprinting Notice and Acknowledgement

**FINGERPRINTING NOTICE AND ACKNOWLEDGMENT
FOR CONSTRUCTION CONTRACTS**
(Education Code Section 45125.2)

Business entities entering into contracts with the Owner for the construction, reconstruction, rehabilitation or repair of a facility may comply with Education Code section 45125.2, in which case it would not have to comply with Section 45125.1. If such an entity is not compliant with Section 45125.2, then it must comply with Section 45125.1. Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations. Therefore, the following information is provided simply to assist you with compliance with the law:

1. The Owner has determined that your employee(s), or you as a sole proprietor, will have more than limited contact with students, therefore the law requires that you must use one or more of the following methods to ensure the safety of pupils (Education Code §45125.2(a)):
 - a. Install a physical barrier at the worksite to limit contact with pupils.
 - b. If you are not a sole proprietorship, have one of your employees, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony (see *Attachment A* to this Notice and Acknowledgement), continually monitor and supervise all of your employees. For the Department of Justice to so ascertain, your employee may submit fingerprints to the Department of Justice pursuant to Education Code section 45125.1(a).
 - c. Arrange, with Owner's approval, for surveillance of your employees by Owner's personnel.

Prior to commencing the Work, you shall submit the Independent Contractor Student Contact Form (see *Attachment B* to this Notice and Acknowledgement) to the Owner, which will indicate which of the above methods you will use.

2. If you are providing services in an emergency or exceptional situation, you are not required to comply with Education Code section 45125.2, above. An "emergency or exceptional" situation is one in which pupil health or safety is endangered or when repairs are needed to make a facility safe and habitable. Owner shall determine whether an emergency or exceptional situation exists. (Education Code §45125.2(d).)
3. If you use one or more of the three methods in Section 1 (above), you are not required to comply with Education Code section 45125.1. (Education Code §45125.2(b).)

I have read the foregoing and agree to comply with the requirements of this notice and Education Code sections 45125.1 and 45125.2 as applicable.

Dated: _____

Signature

Name: _____

Title: _____

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ATTACHMENT A

Violent and Serious Felonies

Under Education Code section 45125.2, no employee of a contractor or subcontractor who has been convicted of or has criminal proceedings pending for a violent or serious felony may come into contact with any student. A violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.
- (8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.
- (9) Any robbery.
- (10) Arson, in violation of subdivision (a) or (b) of Section 451.
- (11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.
- (12) Attempted murder.
- (13) A violation of Section 18745, 18750, or 18755.
- (14) Kidnapping.

- (15) Assault with the intent to commit a specified felony, in violation of Section 220.
- (16) Continuous sexual abuse of a child, in violation of Section 288.5.
- (17) Carjacking, as defined in subdivision (a) of Section 215.
- (18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.
- (19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.
- (21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- (22) Any violation of Section 12022.53.
- (23) A violation of subdivision (b) or (c) of Section 11418.

A serious felony is any felony listed in subdivision (c) Section 1192.7 of the Penal Code. Those felonies are presently defined as:

- (1) Murder or voluntary manslaughter; (2) Mayhem; (3) Rape; (4) Sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) Oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) Lewd or lascivious act on a child under the age of 14 years; (7) Any felony punishable by death or imprisonment in the state prison for life; (8) Any felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) Attempted murder; (10) Assault with intent to commit rape, or robbery; (11) Assault with a deadly weapon or instrument on a peace officer; (12) Assault by a life prisoner on a non-inmate; (13) Assault with a deadly weapon by an inmate; (14) Arson; (15) Exploding a destructive device or any explosive with intent to injure; (16) Exploding a destructive device or any explosive causing bodily injury, great bodily injury, or mayhem; (17) Exploding a destructive device or any explosive with intent to murder; (18) Any burglary of the first degree; (19) Robbery or bank robbery; (20) Kidnapping; (21) Holding of a hostage by a person confined in a state prison; (22) Attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) Any felony in which the defendant

personally used a dangerous or deadly weapon; (24) Selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) Any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) Grand theft involving a firearm; (27) carjacking; (28) any felony offense, which would also constitute a felony violation of Section 186.22; (29) assault with the intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220; (30) throwing acid or flammable substances, in violation of Section 244; (31) assault with a deadly weapon, firearm, machine gun, assault weapon, or semiautomatic firearm or assault on a peace officer or firefighter, in violation of Section 245; (32) assault with a deadly weapon against a public transit employee, custodial officer, or school employee, in violation of Sections 245.2, 245.3, or 245.5; (33) discharge of a firearm at an inhabited dwelling, vehicle, or aircraft, in violation of Section 246; (34) commission of rape or sexual penetration in concert with another person, in violation of Section 264.1; (35) continuous sexual abuse of a child, in violation of Section 288.5; (36) shooting from a vehicle, in violation of subdivision (c) or (d) of Section 26100; (37) intimidation of victims or witnesses, in violation of Section 136.1; (38) criminal threats, in violation of Section 422; (39) any attempt to commit a crime listed in this subdivision other than an assault; (40) any violation of Section 12022.53; (41) a violation of subdivision (b) or (c) of Section 11418; and (42) any conspiracy to commit an offense described in this subdivision.

ATTACHMENT B

**INDEPENDENT CONTRACTOR STUDENT CONTACT FORM
FOR CONSTRUCTION CONTRACTS**

Note: This form must be submitted by Contractor before it may commence any work.

Contractor Firm Name: _____
Supervisor/Foreman Name: _____
Start Date: _____
Completion Date: _____
Location of Work: _____
Hours of Work: _____
Length of Time on Grounds: _____
Number of Employees on the Job: _____

I am an owner or officer of Contractor authorized to sign this document on behalf of Contractor. Contractor acknowledges that the Owner has determined that Contractor's employees, or that Contractor as a sole proprietor, will have more than limited contact with students. Therefore, in order to comply with Education Code section 45125.2, Contractor will use the following methods to ensure student safety (check at least one):

- A physical barrier will be installed at the worksite to limit contact with pupils.
- Contractor is not a sole proprietorship, and its employees will be continually monitored and supervised by one of its employees who has not been convicted of a violent or serious felony.

Name of Supervising Employee: _____

Date of Department of Justice verification that supervising employee has not been convicted of a violent or serious felony: _____

Name of employee who is the custodian of the Department of Justice verification information: _____

- The Owner has agreed that Contractor's employees, or Contractor as sole proprietor, will be surveilled by Owner's personnel.

If Contractor does not comply with the requirements of Education Code section 45125.2, then Contractor will comply with the requirements of Education Code section 45125.1.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: _____

Signature: _____

Typed Name: _____

Title: _____

Contractor: _____

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EXHIBIT Q

Drug-Free Workplace Certification

Drug-Free Workplace Certification must be submitted within ten (10) days after Notice of Award of Contract.

DRUG-FREE WORKPLACE CERTIFICATION

The Drug-Free Workplace Act of 1990 (Government Code sections 8350 *et seq.*) requires that every person or organization awarded a contract or grant for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract, or both, and the contractor may be subject to debarment from future contracting if the state agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or organization's policy of maintaining a drug-free workplace;
 - (3) The availability of drug counseling, rehabilitation and employee-assistance programs;
 - (4) The penalties that may be imposed upon employees for drug abuse Violations;
- (c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the Owner determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract or grant awarded herein is subject to suspension of payments, termination, or both. I further understand that should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350 *et seq.*

I acknowledge that I am aware of the provisions of Government Code Section 8350 *et seq.* and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Name of Contractor

Signature

Print Name

Date

EXHIBIT R

Payment Bond

Payment Bond must be submitted prior to award and within ten (10) days of issuance of the Notice of Intent to Award.

PAYMENT BOND
(Labor and Material)

Bond Number: _____

KNOW ALL MEN BY THESE PRESENTS:

That WHEREAS, the Oakland Unified School District (the "Owner" of the public works contract described below) and _____, hereinafter designated as the "Principal," have entered into a Contract for the furnishing of all materials and labor, services and transportation, necessary, convenient, and proper to construct

the _____ Contract, at _____ *[insert location]*, which consists of _____ *[insert description and location of the Work under the Contract]*,

which said agreement dated _____, 20__, and all of the Contract Documents are hereby referred to and made a part hereof;

and

WHEREAS, the Principal is required, before entering upon the performance of the work, to file a good and sufficient bond with the body by whom the Contract is awarded to secure the claims arising under said agreement.

NOW, THEREFORE, THESE PRESENTS WITNESSETH:

That the said Principal and the undersigned _____ ("Surety") are held and firmly bound unto all laborers, material men, and other persons, and bound for all amounts due, referred to in Civil Code section 9554, subdivision (b), in the sum of _____ Dollars (\$ _____) which sum well and truly be made, we bind ourselves, our heirs, executors, administrators, successors, or assigns, jointly and severally, by these presents.

The condition of this obligation is that if the said Principal or any of its subcontractors, or the heirs, executors, administrators, successors, or assigns of any, all, or either of them, shall fail to pay any of the persons named in Civil Code section 9100, or any of the amounts due, as specified in Civil Code section 9554, subdivision (b), that said Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay costs and reasonable attorney's fees to be awarded and fixed by the Court, and to be taxed as costs and to be included in the judgment therein rendered.

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

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

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

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety this _____ day of _____, 20__.

(To be signed by)
(Principal and Surety,)
(and acknowledged and)
(Notarial Seal attached)

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Principal

Surety

By: _____
Attorney-in-Fact

The above bond is accepted and approved this _____ day of _____.

EXHIBIT S

Performance Bond

Performance Bond must be submitted prior to award and within ten (10) days of issuance of the Notice of Intent to Award.

PERFORMANCE BOND

Bond Number: _____

KNOW ALL MEN BY THESE PRESENTS that we, _____,
as Principal, and _____, as Surety, are held and firmly bound
unto the Oakland Unified School District, in the County of Alameda, State of California,
hereinafter called the "Owner," in the sum of _____
Dollars (\$ _____) for the payment of which sum well and truly made, we bind
ourselves, our heirs, executors, administrators, and successors, jointly and severally, to
the Owner for the full performance of a certain contract with the Owner, the terms of
which are incorporated herein by reference, dated _____, 20____, for
construction of

the **[insert description and location of contract's work]** (the "Contract").

The condition of this obligation is such that, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Owner, with or without notice to the Surety, and for the period of time specified in the Contract after completion for correction of faulty or improper materials and workmanship and during the life of any guaranty or warranty required under the Contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreement of any and all duly authorized modifications of said Contract that may hereafter be made, then this obligation is to be void, otherwise to remain in full force and virtue.

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

No further agreement between Surety and Owner shall be required as a prerequisite to the Surety performing its obligations under this bond. In the event that the Surety elects to complete the Work of the Contract after termination of the Contract by Owner, the Surety may not hire Principal, or any of Principal's owners, employees, or subcontractors, to perform the Work without the written consent of Owner, and the Owner may grant or withhold such consent within its sole discretion.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals this _____ day of _____, 20____, hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(To be signed by _____)
(Principal and Surety, _____)
(and acknowledged and _____)
(Notarial Seal attached _____)

(Affix Corporate Seal)

(Individual Principal)

(Business Address)

(Affix Corporate Seal)

(Corporate Principal)

(Business Address)

(Affix Corporate Seal)

(Corporate Surety)

(Business Address)

By: _____

The rate of premium on this bond is _____ per thousand.

The total amount of premium charged is _____.

The above must be filled in by Corporate Surety.

EXHIBIT T

Sole Source Determination

OUSD's Material Standards and "sole source" materials, services, products or things as approved by the Board of Education Resolution No. 2122-0152 can be found in the following link:

<https://drive.google.com/drive/folders/1aWAjrOp0Ec6h1Nd2o-KOwyLiKU3y6wHR>

Access to shared folder will be granted upon request.

EXHIBIT U

General Conditions

Specimen of the General Conditions can be found at the following link:

<https://drive.google.com/drive/folders/1aWAjrOp0Ec6h1Nd2o-KOwyLiKU3y6wHR>

Access to shared folder will be granted upon request.