LEASE-LEASEBACK AGREEMENT

Dated as of ____________, 2019

Between

Madera Unified School District

and

__________________________

Concurrent Enrollment Middle School Project

Madera, California
LEASE-LEASEBACK AGREEMENT
CONCURRENT ENROLLMENT MIDDLE SCHOOL PROJECT

THIS LEASE-LEASEBACK AGREEMENT (this “Agreement”) is entered into as of __________, 2019 between the Madera Unified School District, a California public school district (the “Owner”), and ______________________, a California corporation and 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 (the “Project”) to the campus of its Concurrent Enrollment Middle School located in Madera, California, the scope of which is generally described in Section 1, below.

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 Project site described and depicted in Exhibit A of the Site Lease (the “Site”) to Contractor in order for Contractor to finance and construct the Project as described in the Scope of Work set forth in Section 1, below (the “Scope of Work”).

Contractor will lease the Site and the Project 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 Project.

Contractor is experienced in the construction of the type of project 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 Project 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:

**CONCURRENT ENROLLMENT MIDDLE SCHOOL PROJECT
MADERA COUNTY, CALIFORNIA,**

all in strict compliance with the plans, drawings and specifications (“Plans and Specifications”) for the Project submitted to the Division of State Architect (“DSA”) for approval and prepared by:

SIM-PBK Architects, 7790 N Palm Ave, Fresno, CA 93711, (559) 448-8400
and other contract documents relating to the Project.

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 any pre-construction services.

Until DSA approval of the plans, drawings and specifications for the Project has been received by Owner, Contractor may not commence any work on the Project 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 Project.

2. 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.”

3. Time to Complete and Liquidated Damages. Time is of the essence in this Contract. The time for completion of the Project shall be 12 months from the date indicated on the Notice to Proceed.

Date for Completion (as that term is defined in Article 8.1.1. of the General Conditions) of the Project shall be on or before July 17, 2020.

Failure to complete the Project within the date(s) 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. The actual occurrence of damages and the actual amount of the damages which the Owner would suffer if the Project were not completed by the Date for Completion, 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 Project, disruption of activities, costs of administration, supervision and the incalculable inconvenience and loss suffered by the public.

Accordingly, the Parties agree that the following dollar figures shall be the amount of damages which the Owner shall directly incur upon failure of the Contractor to complete the Project within the time specified: $2,500.00 for each calendar day by which completion of the Project is delayed beyond the Date for Completion.

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 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 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 Leaseback after a default by reason of delays, the acceptance of payment shall in no respect constitute a waiver or modification of any Leaseback provisions regarding time of completion and liquidated damages.

4. Total Sublease Amount. Owner shall pay Contractor a total amount for the Scope of Work (“Total Sublease Amount”) consisting of (1) periodic Tenant Improvement Payments; and (2) monthly Sublease Payments, as described herein, both of which will be calculated following: (i) any required DSA approval of the Plans and Specifications for the Work; and (ii) the selection of all subcontractors in accordance with Education Code section 17406(a)(4) and the Request for Sealed Proposals.

Tenant Improvement Payment
The Tenant Improvement Payment shall be the sum total of the base construction costs and the Construction Fee as set forth below. The monthly Tenant Improvement Payment amount shall be equal to ninety-five percent (95%) of the undisputed value of the Work performed during the previous month. The Owner shall retain the other five percent of the value for work satisfactorily performed (the “Retention”), which shall be paid to Contractor Consistent with the General Conditions.

Base Construction Costs
Following the selection of subcontractors, Contractor shall provide Owner with objectively verifiable information of its costs to perform the Work and a written rationale, including documentation sufficient to support the calculation (“Schedule of Values”). Each item in the Schedule of Values shall detail the “base construction cost” for the Project, consisting of (a) all subcontracts to be awarded by Contractor, plus (b) any separately awarded contracts for materials and supplies. The Schedule of Values shall also include a schedule of estimated monthly payment requests (cash flow) due to the Contractor, showing the values and construction time of the various portions of the Work to be performed by it and by its Subcontractors or material and equipment suppliers, containing such supporting evidence as to its correctness as the Owner may require.

Construction Fee
The base construction cost, multiplied by the Percentage offered by the Contractor in its response to the Request for Sealed Proposals shall be the “Construction Fee,” which shall also be set forth in Contractor’s Schedule of Values to be attached hereto as Exhibit B to this Leaseback. The Construction Fee is intended to cover all of the main office labor costs, including but not limited to, Principals, Accounting, Administration, Clerical, fringe benefits, bonds, insurance, builder’s risk insurance, overhead and profit, and all other expenses the Contractor will incur in providing the Work. The Construction Fee is not to be applied to the General Conditions Fee.

Sublease Payment
In addition to the Tenant Improvement Payment, Owner shall pay to the Contractor monthly installments, (each such installment being a “Sublease Payment”), in the amount to be included in Exhibit A of the Sublease. The Sublease Payments are intended to cover the cost of all general conditions and general requirements, including but not limited to temporary facilities, general requirements, supervision, and equipment consistent with Exhibit A of the Sublease, for sixty (60) days following the Date for Substantial Completion. Contractor shall not be entitled to recover its aforementioned general conditions and general requirements costs after such time unless approved by Owner in advance pursuant to Article 7 of the General Conditions. The balance of the remaining Sublease Payments shall be withheld from the Retention following Substantial Completion of the
Project, and paid monthly in accordance with Exhibit A of the Sublease ("Financed Amount"). The Financed Amount may include the interest rate secured by the Contractor through a third party approved by the Owner, except that in no event shall the interest rate exceed the prime rate published in the Wall Street Journal plus two percent (2%) on the date the Owner releases the Retention. Without penalty, the Owner shall have the right to prepay all remaining Sublease Payments prior to releasing the Retention in order to avoid the accrual of interest.

Board Approval
The Sublease Payments and Tenant Improvement Payment portion shall be approved by the Owner at a public meeting before Contractor may proceed with Work. If the proposed cost is approved, the Parties shall complete Exhibit B of this Leaseback, setting forth the sum total of the Tenant Improvement Payment, and execute Exhibit A of the Sublease, setting forth the Sublease Payments, whereupon Exhibit B of this Leaseback and Exhibit A of the Sublease shall be incorporated into, and become part of the Contract Documents. If the Owner rejects the proposed cost and requests another calculation from Contractor, then Contractor shall submit another calculation complying with this Section’s procedures. If the Owner rejects the proposed cost 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 Project to the next highest best value contractor from the selection process used for the Project. In such event, Contractor shall not be entitled any payment.

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. 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 it pursuant to the procedures in the General Conditions for change orders and claims.

5. 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 General Conditions for change orders and claims.

6. Term and Termination. The term of the Contract (the “Lease Term”) automatically ends on September 17, 2020 (“Termination Date”). The Owner or Contractor may terminate the Contract prior to the Termination Date, but only as provided in the General Conditions. 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 Project 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 the Contract, with the Parties’ respective leasehold interests thereunder automatically ended and released, and title to the Site and Project automatically and fully vested in the Owner.

7. Prequalification of Contractor and Certain Contractors. Owner has determined that the Project is subject to prequalification pursuant to Education Code section 17406 subsection (a)(2)(C) and Public Contract Code section 20111.6 subsections (b) through (m). Accordingly, the Owner’s Request for Proposals for the Project required that all entities proposing for this Contract, including Contractor, must be prequalified as well as all electrical, mechanical, and plumbing subcontractors to be utilized on the Project.
Any subcontractors that Contractor may select after award pursuant to Section 9, below, must be prequalified by Owner pursuant to Education Code section 17406 subsection (a)(2)(C) and Public Contract Code section 20111.6 subsections (b) through (m) if bidding or proposing 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 or other ‘C’ licenses specified by Owner in the Request for Proposals. Contractor may not accept a bid or proposal and may not award a subcontract to a bidding or proposing subcontractor that has not met the requirements of this Section. When soliciting bids or proposals from subcontractors, the Contractor shall provide notice to all subcontractors of which subcontractors must be prequalified to submit bids or proposals, and Contractor shall state where the prequalification applications may be obtained and where and when they must be submitted. The prequalification questionnaires and financial statements are not public records and are not open to public inspection.

8. Selection of Subcontractors; DVBE Goals; Local Outreach. For any subcontractors not listed in Contractor’s proposal who will perform more than 0.5% of the Work, Contractor shall provide public notice of availability of work to be subcontracted in accordance with the publication date applicable to 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 either on best value basis as described in Education Code section 17406(a)(4) or to the lowest responsible bidder. All subcontractors shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act (commencing with Public Contract Code section 4100). Contractor’s subcontractor selection process shall be subject to review by, and approval of Owner.

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

The Contractor must make a good faith effort to contact and utilize DVBE subcontractors and suppliers in securing bids, in the manner set forth in this Section for performance of the Project. Information regarding certified DVBE firms can be obtained from the State’s Office of Small Business and DVBE Services (OSDS) at (916) 375-4940 as well as the OSDS website at www.bidsync.com/DPXBisCASB. Verification of DVBE status must be obtained from the OSDS by receiving an approved certification letter and reference number from that office. Contractor is required, as a material condition of this Agreement, to retain documentation of its good faith efforts in utilizing DVBEs for this Project, for submission to the Owner or to the applicable state agency in the event such documentation is requested.

Good faith efforts are demonstrated by evidence of the following: (a) contact was made with the Owner regarding the identification of DVBEs; (b) contact was made with other state agencies and with local DVBE organizations to identify DVBEs; (c) advertising was published in trade papers and other papers focusing on DVBEs; (d) invitations to bid or proposal solicitations were submitted to potential DVBE contractors; and (e) available DVBEs were considered. Contractor shall certify, under penalty of perjury, that a good faith effort was made to include DVBE subcontractors and suppliers in the Project.
Prior to, and as a condition precedent for the final Sublease payment made to Contractor by the Owner pursuant to Section 6 of the Sublease, the Contractor shall provide the Owner with written documentation identifying the amount paid to certified DVBE subcontractors and suppliers in performance of the Project. The Contractor shall also provide the Owner with a copy of the DVBE Certification Letter issued by OSDS for each DVBE that has participated in the Project. This documentation will be used by the Owner to evaluate its success in meeting its DVBE participation goal.

Contractor has also made a commitment to meet the Owner’s local outreach goal that 50% of the Total Sublease Amount qualify as a local expenditure. For purpose of this Agreement, a “local expenditure” includes but is not limited to the following:

1. Fees, wages, salaries and benefit costs paid to a resident of Madera County, whether working for a business headquartered in Madera County or not. Proof of residency in Madera County shall be a utility bill for power, gas, or water service in the individual’s name or proof of registration to vote in Madera County.
2. Payments made directly to a building trade contractor with a current physical address located in Madera County.
3. Payments made to a supplier with a current physical address located in Madera County.
4. Payments made to a professional services provider with an address located in Madera County.
5. Payments made to a business with a current physical address located in Madera County otherwise supporting the Project, such as hospitality and utility providers.

For each calendar month during the Work, Contractor shall provide a compliance report to the Owner demonstrating its efforts to meet the local outreach goal for that month. The compliance report shall include supporting documentation of qualified expenditures and other such documents requested by the Owner. In the event the Contractor has not met the local outreach goal, Contractor shall demonstrate good faith efforts to do so. At a minimum, such good faith efforts must consist of solicited proposals, formal local outreach, and a written plan to reach the goal the following month. Contractor’s monthly compliance reports shall be subject to the California Public Records Act (commencing with Government Code section 6250), and shall be open to public inspection.

9. Prevailing Wages. The Project 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 Project 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 Project showing the names, addresses, social security numbers, work classification, straight time and overtime hours worked and occupations of all laborers, workers and mechanics employed by them in connection with the performance of this 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 Project 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 Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. 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.

10. 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.

11. 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.

12. Skilled and Trained Workforce. The Contractor and its subcontractors at every tier shall comply with Education Code section 17407.5 and Public Contract Code sections 2600-2602, which require the Contractor and its subcontractors at every tier to employ a skilled and trained workforce, as defined herein, to perform all work on the Project that falls within an apprenticeable occupation in the building and construction trades.

For the purpose of this Section 13, the following definitions apply:

A. “Apprenticeable occupation” means an occupation for which the Division of Apprenticeship Standards of the DIR had approved an apprenticeship program before January 1, 2014.

B. “Graduate of an apprenticeship program” means either (a) an individual that has been issued a certificate of completion under the authority of the California Apprenticeship Council for completing an apprenticeship program approved by the DIR pursuant to Section 3075 of the Labor Code, or (b) an individual that has completed an apprenticeship program located outside California and approved for federal purposes pursuant to apprenticeship regulations adopted by the federal Secretary of Labor.

C. “Skilled and trained workforce” means that all of the workers are either apprentices registered in an apprenticeship program approved by the DIR, or skilled journeypersons, with, for work performed on or after January 1, 2019 and before January 1, 2020, at least 50 percent of the skilled journeypersons employed on the Project in an apprenticeable occupation by Contractor or any of its subcontractors at every tier being graduates of an apprenticeship program for the applicable occupation. The 50 percent requirement will increase over time (see details in Public Contract Code §2601(d)(2)). Pursuant to Sections 2600-2602 of the Public Contract Code, the percentage requirement may be partially met in some apprenticeable occupations by skilled journeypersons who commenced working before an apprenticeship program existed, may be met by the hours performed by the skilled journeypersons, need not be met if less than ten (10) hours of work were performed, and need not be met by some subcontractors.

D. “Skilled journeyperson” means any of the following: (i) a person who has graduated from an apprenticeship program for the applicable occupation that was approved by the DIR, (ii) a person who has graduated from an apprenticeship program for the applicable occupation that was located outside of California and approved for federal purposes in accordance with regulations adopted by the federal Secretary of Labor, or (iii) a person who has at least as many hours of on-the-job experience in the applicable occupation as would be required to graduate from an apprenticeship program approved by the DIR.
For each calendar month during the Work, Contractor shall provide a compliance report to the Owner for each contractor or subcontractor before the fifth day of each month, using the format attached hereto as Exhibit A, or in a substantially similar format, demonstrating compliance with this Section 13. Such monthly compliance reports shall be subject to the California Public Records Act (commencing with Government Code section 6250), and shall be open to public inspection.

If Contractor fails to comply with this Section 13 then Owner, at its sole discretion, may terminate the Agreement pursuant to Article 14 of the General Conditions, in addition to any other rights or remedies provided to Owner in the Contract Documents. Notwithstanding any other provision of the Agreement or the General Conditions if Contractor fails to provide any required monthly compliance report pursuant to this Section 13 on or before the fifth day of the following month, or provides an incomplete report, Owner shall withhold further payments to Contractor that would otherwise be due and payable consistent with Public Contract Code section 2602(b).

13. 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, Construction Manager, any laboratories, and the IOR to meet the DSA Oversight Process requirements without delay or added costs to the Project.

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.

14. Indemnification, Insurance, and Bonds. The Contractor will defend, indemnify and hold harmless the Owner, its governing board, officers, agents, trustees, employees, Construction Manager, Architect, 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 $5,000,000 per occurrence and $10,000,000 aggregate, for bodily injury, personal injury, and property damage, the amount of builder's all-risk insurance, written on a non-reporting, completed value basis, shall be in an amount not less than the contract price for the Project, and the amount of automobile liability insurance shall be $1,000,000 per accident for bodily injury
and property damage combined single limit. The insurance requirements set forth in this Section will not limit a Party’s liability.

If the policy is written on a claims-made form, it will continue for three years following termination of this Agreement. The policy will provide for a retroactive date of placement prior to or coinciding with the Effective Date of this Agreement.

The Owner, the Construction Manager, and the Architect will be named as an additional insureds on the policy. Within thirty (30) days of the execution of this Agreement, Contractor will furnish Owner with a Certificate of Insurance (“Certificate of Insurance”) evidencing compliance with the insurance provisions of this Agreement. Contractor is required to give 30 days’ advance written notice to Owner of any modification, change, or cancellation with respect to the Insurance.

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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 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 Madera, 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.

20. 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.
21. **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.

22. **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.

23. **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.

24. **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.

* * * * * * * * * * * * * * * * * * * *

CONTRACTOR: __________________________
Madera Unified School District

BY: _________________________________
NAME: Todd Lile
TITLE: President

BY: _________________________________
TITLE: Corporate Secretary

OWNER: _____________________________

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.
EXHIBIT A – Lease-Leaseback Agreement

SKILLED AND TRAINED WORKFORCE COMPLIANCE REPORT
FOR WORK PERFORMED
ON OR AFTER JANUARY 1, 2019 AND BEFORE JANUARY 1, 2020
(Education Code § 17407.5 and Public Contract Code §§ 2600-2602)

Owner: Madera Unified School District

Contract: Concurrent Enrollment Middle School Project
Madera, Madera County, California

The undersigned declares:

I am the ______________ of ______________, the “Contractor” on the Project identified above.
I hereby certify that during the month of __________, 20__, there were a total of ______ workers
employed in the apprenticeable occupations designated under Public Contract Code section 2600 et seq. and these workers performed a total of ______ hours of work within an apprenticeable occupation. I certify that all of these workers in an apprenticeable occupation are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Department of Industrial Relations (DIR), and that all of these hours performed in this apprenticeable occupation were performed by such skilled journeypersons and apprentices. I certify that each subcontractor who performed work during the aforementioned month has provided to Contractor a Skilled and Trained Workforce Compliance Report consistent with Public Contract Code section 2602.

Following review of all Skilled and Trained Workforce Compliance Reports, I also certify as follows [check applicable box(es)]:

☐ A. Exemption from Percentage Compliance

Of the above total number of hours of work performed by workers employed in an apprenticeable occupation this month, ______ (____) were performed by skilled journeypersons, which is less than the statutory threshold of ten (10) hours.

☐ B. Percentage Compliance by Number of Workers

1. Of the above total number of workers employed in an apprenticeable occupation this month, _____ (____) were apprentices registered in an apprenticeship program approved by the DIR.

2. Of the above total number of workers employed in an apprenticeable occupation in this month, _____ were skilled journeypersons. Included in these skilled journeypersons are the following:

   a. ______ who are graduates of an apprenticeship program for the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems
installer, operating engineer, pile drive, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher;

b. ______ who are graduates of another apprenticeship program not listed in subsection (a) for the applicable occupation; and

c. ______ who are not graduates of an approved apprenticeship program for this apprenticeable occupation, but (a) no apprenticeship program had been approved by the DIR before January 1, 1995, for this apprenticeable occupation; and (b) these workers commenced working in this apprenticeable occupation before DIR approval of an apprenticeship program for that occupation in the county in which the Project is located.

The combined number of skilled journeypersons listed in Section B.1 and Section B.2 meets the requirements as contained in Education Code section 17407.5 and Public Contract Code sections 2600-2602, with no more than half of this percentage requirement being satisfied by the number of skilled journeypersons listed in Section B.2.c.

C. Percentage Compliance by Number of Hours

1. Of the above total number of hours of work performed by workers employed in this apprenticeable occupation this month, _____ hours were performed by apprentices registered in an apprenticeship program approved by the DIR.

2. Of the above total number of hours of work performed by workers employed in this apprenticeable occupation in this month, _____ hours were performed by skilled journeypersons. Included in these hours are the following:

   a. _____ hours performed by graduates of an apprenticeship program for the following occupations: acoustical installer, bricklayer, carpenter, cement mason, drywall installer or lather, marble mason, finisher, or setter, modular furniture or systems installer, operating engineer, pile driver, plasterer, roofer or waterproofer, stone mason, surveyor, teamster, terrazzo worker or finisher, and tile layer, setter, or finisher;

   b. ______ hours performed by graduates of another apprenticeship program not listed in subsection (a) for the applicable occupation; and

   c. ______ hours performed by skilled journeypersons who are not graduates of an approved apprenticeship program for this apprenticeable occupation, but (a) no apprenticeship program had been approved by the DIR before January 1, 1995, for this apprenticeable occupation; and (b) these workers commenced working in this apprenticeable occupation before DIR approval of an apprenticeship program for that occupation in the county in which the Project is located.
The combined hours of work performed by skilled journeypersons listed in Section C.1 and Section C.2 meets the percentage requirements as set forth in Education Code section 17407.5 and Public Contract Code sections 2600-2602, with no more than half of this percentage requirement being satisfied by the hours performed by skilled journeypersons listed in Section C.2.c.

D. Failure of a Subcontractor to Demonstrate Compliance

This Skilled and Trained Workforce Compliance Report does not demonstrate compliance with the graduate percentage requirement due to the failure of the following subcontractor(s):

_______________________________________________________________________________
_______________________________________________________________________________

The value of the monthly billing for the listed subcontractor(s) is $ ________________. I have attached sufficient information to document the value of the monthly billing and understand that the District will withhold 150 percent of the aforementioned amount until a plan to achieve substantial compliance is approved by the District consistent with Public Contract Code section 2602(c).

I certify that the subcontractor(s) will be substituted pursuant to Public Contract Code section 4100 et seq., unless the subcontractor provides a plan to achieve compliance consistent with Public Contract Code section 2602(c).

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], California.

[Name]
EXHIBIT B – Lease-Leaseback Agreement

CONTRACTORS WRITTEN RATIONALE FOR TENANT IMPROVEMENT PAYMENT AND SCHEDULE OF VALUES

[TO BE ADDED FOLLOWING SELECTION OF SUBCONTRACTORS]