

**SANTEE SCHOOL DISTRICT CAPITAL IMPROVEMENT PROGRAM PROJECTS**

**MASTER SUBLEASE AGREEMENT**

Between

**SANTEE SCHOOL DISTRICT**

and



Dated as of \_\_\_\_\_, 2019

# SANTEE SCHOOL DISTRICT CAPITAL IMPROVEMENT PROGRAM PROJECTS

## MASTER SUBLEASE AGREEMENT

This MASTER SUBLEASE AGREEMENT (“Master Sublease”) is dated as of [REDACTED], 2019, and is by and between the Santee School District, a school district duly organized and existing under the laws of the State of California (“District”), and [REDACTED], a California corporation and operating under the laws of the State of California (“Lessor” or “Contractor”).

### RECITALS:

WHEREAS, the District deems it essential for its own governmental purpose, to finance the construction of certain improvements as described \_\_\_\_\_ in Exhibit “A” attached hereto (the “Projects”) and situated on the [insert school sites] sites described in Exhibit “B” attached hereto (the “Site”); and

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

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

WHEREAS, the District owns the Sites, and pursuant to the Master Construction Services Agreement, will prepare and adopt plans and specifications for the completion of improvements, which will be approved pursuant to law as required by Section 17402 of the Education Code prior to the start of any construction for any [REDACTED] project; and

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

### WITNESSETH:

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

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

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

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

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

2. **MASTER SUBLEASE.**

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

3. **TERM OF THE MASTER SUBLEASE.**

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

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

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

- B. District's governing body has duly authorized the execution and delivery of this Master 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 Master Sublease does not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which District is a party by which it or its property is bound;
- D. There is no pending or, to the knowledge of District, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of District to perform its obligations under this Master Sublease;
- E. The Projects and the Sites are essential to District in the performance of its governmental functions and their estimated useful life to the District exceeds the Term of this Master Sublease;
- F. District 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. District shall not abandon the Sites for the use for which it is currently required by District and, to the extent permitted by law, District shall not seek to substitute or acquire property to be used as a substitute for the uses for which the site is maintained under the Master Sublease; and
- H. District shall not allow any Hazardous Substances (as such term is defined in the Site Lease and limited by that which shall be disclosed by the District prior to the Project commencement date in the Notice to Proceed) to be used or stored on, under or about the Sites.

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

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

6. **APPROPRIATION OF FUNDS.**

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

7. **SUBLEASE PAYMENTS.**

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

8. **FAIR RENTAL VALUE.**

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

9. **SUBLEASE ABATEMENT.**

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

10.

**USE OF SITES AND PROJECTS.**

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

11.

**LESSOR'S INSPECTION/ACCESS TO THE SITE.**

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

12. **PROJECT ACCEPTANCE.**

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

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

14. **MAINTENANCE AND UTILITIES.**

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

15. **TAXES.**

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

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

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



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

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

18. **NON-WAIVER.**

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

19. **ASSIGNMENT.**

Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, the District shall not (a) assign, transfer, pledge, or hypothecate this Master Sublease, the Project and the Site, or any part thereof, or any interest therein, or (b) sublet or lend the use of the Project or any part thereof, except as authorized by the provisions of the California Civic Center Act, Education Code section 38130 *et seq.* However, District may lease, license or otherwise allow use or occupation of the Sites for third party use so long as such use or occupation does not unreasonably interfere with construction of the Project. Consent to any of the foregoing prohibited acts applies only in the given instance and is not a consent to any subsequent like act by the District or any other person. The Lessor shall not assign its obligations under this Master Sublease with the exception of their obligation to issue default notices and to convey or re-convey their interest in the Project and Site to the

District upon full satisfaction of the District's obligations hereunder; however, the Lessor may assign their right, title and interest in this Master Sublease, the Sublease Payments and other amounts due hereunder and the Project in whole or in part to one or more assignees or sub-assignees at any time upon written notice to the District. No assignment shall be effective as against the District unless and until the District is so notified in writing. The District shall pay all Sublease Payments due hereunder pursuant to the direction of Lessor or the assignee named in the most recent assignment or notice of assignment. During the Sublease Term, the District shall keep a complete and accurate record of all such assignments. Subject always to the foregoing, this Master Sublease inures to the benefit of, and is binding upon, the heirs, legatees, personal representatives, successors, and assigns of the parties hereto.

20.

**OWNERSHIP.**

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

21.

**SUBLEASE PREPAYMENT/ PURCHASE OPTION.**

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

(1) The following are conditions precedent to any Sublease Prepayments made to the Lessor pursuant to a request of the Lessor and exercised by the District in its sole discretion:

- a. Satisfactory progress of the work and construction pursuant to the approved schedule and "Contract Time" pursuant to Article 9 of the Master Construction Services Agreement shall have been made as determined in Article 21(A)(2), below.
- b. Lessor shall also submit to the District (i) duly executed conditional lien releases and waivers (in the form provided in California Civil Code section 8132) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons conditionally waive all lien and stop notice rights against the District, the Project and the Project site with respect to the pending Sublease

Prepayment to be made by the District, (ii) duly executed unconditional lien releases and waivers (in the form provided in California Civil Code section 8134) from the Lessor and all subcontractors, consultants and other persons retained by the Lessor in connection with the Project, whereby such persons unconditionally and irrevocably waive all lien and stop notice rights against the District, the Project and the Project site with respect to all previous Sublease Prepayments made by the District, and (iii) any other items that the Lessor may be required to collect and distribute to the District pursuant to the terms and provisions of the CSA. Lessor shall promptly pay all amounts due to each subcontractor, consultant and other person retained by Lessor in connection with the Project no later than ten (10) days after Lessor's receipt of a Sublease Prepayment from the District.

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

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

22. **RELEASE OF LIENS.**

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

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

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

24. **SEVERABILITY.**

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

25. **INTEGRATION/MODIFICATION.**

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

26.

**NOTICES.**

Services of all notices under this Master Sublease shall be sufficient if given personally or mailed to the party involved at its respective address hereinafter set forth or at such address as such party may provide in writing from time to time. Any change in the addresses noted shall not be binding upon the other party unless preceded by no less than thirty (30) days prior written notice. Any such notices shall be deemed to have been received by the addressee if delivered to the person for whom they are intended or if sent by registered mail, return receipt requested, or by email, or fax followed by regular mail, addressed as follows:

If to Lessor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn:  
Email:

If to District:

Santee School District  
9625 Cuyamaca Street  
Santee, CA 92071  
Attn: Karl Christensen  
Email: karl.christensen@santeesd.net

27. **TITLES.**

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

28. **TIME.**

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

29. **LAWS, VENUE AND ATTORNEYS' FEES.**

The terms and provisions of this Master Sublease shall be construed in accordance with the laws of the State of California. If any action is brought in a court of law to enforce any term of this Master Sublease, the action shall be brought in a state court situated in the County of San Diego, State of California, unless a court finds jurisdiction or venue is only proper in a federal court, or a court outside this county. In the event of any such litigation between the parties, each party shall bear its own attorney's fees.

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

DISTRICT

“LESSOR”

SANTEE SCHOOL DISTRICT

**[CONTRACTOR]**

BY: \_\_\_\_\_  
\_\_\_\_\_

BY: \_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT A**  
**DESCRIPTION OF PROJECT**

***[TO BE INSERTED]***

**EXHIBIT B**  
**DESCRIPTION OF SITE**

***TO BE INSERTED***