

FACILITIES LEASE

For all or a portion of the following Site:

Oak Ridge Elementary School New Construction
4501 Martin Luther King Jr. Blvd. Sacramento, CA 95820
APN: 020-0220-004-0000

FACILITIES LEASE

This facilities lease (Í: UW]h]Yg @YUgYÍ), XUHyX Ug of _____, 20__ (Í9ZYWh]j Y 8UHÍ),]g a UXY UbX YbhYfYX]bhç Vm UbX VYhk YYb [Name of Developer] (ÍDeveloperÍ),

1.6.3 This Facilities Lease.

1.6.4 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 Facilities Lease.

1.6.5 Easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Facilities Lease and to which Developer and the District consent in writing which will not impair or impede the operation of the Site.

2. Exhibits

The following Exhibits are attached to and by reference incorporated and made a part of this Facilities Lease:

2.1 Exhibit A - Legal Description of the Site: The description of the real property constituting the Site.

2.2 Exhibit B - Description of the Project: The map or diagram depiction of the Project.

2.3 Exhibit C - Guaranteed Maximum Price and Other Project Cost, Funding, and Payment Provisions: A detailed description of the Guaranteed Maximum Price and the provisions related to the payment of that amount to Developer, including Attachment 3, the Schedule of Lease Payments and Payoff Dates and Amounts.

2.4 Exhibit D - General Construction Provisions: The provisions generally

Facilities Lease and its fee estate as lessor under the Site Lease. Developer shall continue to have and hold a leasehold estate in the Site pursuant to the Site Lease throughout the Term thereof and the Term of this Facilities Lease.

3.3 As to the Site, this Facilities Lease shall be deemed and constitute a sublease.

4. Term

4.1 Facilities Lease is Legally Binding

This Facilities Lease is legally binding on the Parties upon execution by the Parties and the District of this Facilities Lease. The Term of this Facilities Lease shall be the date when Developer delivers possession of the Project to District and when all improvements to be provided by Developer are determined by the District to be completed as set forth in Exhibit D to this Facilities Lease.

Unless earlier terminated pursuant to the provisions of the Contract Documents, the Term of this Facilities Lease shall be for a term of 99 years, commencing on the date of the execution of this Facilities Lease and ending on the date of the expiration of the term of the Site Lease.

8.2 Authorization

The District has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease.

8.3 No Violations

Neither the execution and delivery of this Facilities Lease nor the Site Lease, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the District is now a party or by which the District is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the District, or upon the Site, except Permitted Encumbrances.

8.4 Condemnation Proceedings

8.4.1 District covenants -0.001565(t)-3(e)92 reW*nBT/F6 9.96 Tf1 0 0 1 172.58 479.71 Trm

agreement or instrument to which Developer is now a party or by which Developer is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Developer, or upon the Site, except Permitted Encumbrances.

9.4 No Bankruptcy

Developer is not now nor has it ever been in bankruptcy or receivership.

9.5 No Encumbrances

Developer shall not pledge any District payments of any kind, related to the Site Lease, this Facilities Lease, or in any way derived from the Site, and shall not mortgage or encumber the Site, except as may be specifically permitted pursuant to the provisions of this Facilities Lease related to Developer by [redacted] of the project.

9.6 Continued Existence

Developer shall not voluntarily commence any act intended to dissolve or terminate the legal existence of Developer, at or before the latest of the following:

9.6.1 Eighteen (18) months following completion of the Project.

9.6.2 One (1) year following expiration or earlier termination of the Term.

9.6.3 After dismissal and final resolution of any and all disputes between the Parties and/or any third-party claims related, in any way, to the Project.

While the lease documents are in effect, Developer shall give District one hundred twenty (120) days written notice prior to dissolving or terminating the legal existence of Developer.

10. Preconstruction Services

10.1 Scope of the Preconstruction Services

Developer shall perform management and coordination services, plan and specification constructability reviews, provide value-engineering reviews and recommendations and other reviews as necessary to verify that the drawings and specifications are clear and reasonably accurate to minimize the need for changes during the construction phase of the project, including but not limited to the following:

10.1.1 General Services

10.1.1.1 Developer shall attend meetings between the Architect, the District, District site personnel, and any other applicable consultants of the District as required to discuss the Project, including budget, scope and schedule.

10.1.1.2 Developer shall assist the Architect with making formal

10.1.1.3 Developer shall prepare a rough schedule in a format acceptable to District, and update as necessary.

10.1.1.4 Developer shall prepare and update the components of the Guaranteed Maximum Price and shall be primarily responsible for ensuring that the Project can be and is constructed for no more than that amount.

10.1.1.5 While the Architect is anticipated to provide primary assistance, Developer shall assist District with City land use issues.

10.1.1.6 Architect shall act as lead and Developer will assist District and Architect with DSA review, input, and timeframe for same.

10.1.1.7

10.1.2.1.4 Provide plan review.

10.1.2.1.5 Value-engineering. Prepare a value-engineering report for District review and approval that:

Details areas of cost saving (e.g. construction processes/procedures, specified materials and equipment, and equipment or other aspects of the design documents that can be modified to reduce costs and/or the time for achieving final completion of the Project and/or to extend life-cycle and/or to reduce maintenance/operations costs, without diminution in the quality of materials/equipment/workmanship, scope or intended purposes of the Project);

Provides detailed estimate for proposed value-engineering items;

1 Defines methodology or approaches that maximize value; and

Identifies design choices that can be more economically delivered.

10.1.2.1.6 Constructability Review.

10.1.3.2.10 Rough-in;

10.1.3.2.11 Finishes;

10.1.3.2.12 Testing;

to . 10.1.3.2.13 Owner and Maintenance Manuals (not less than 2%); and

10.1.3.2.14 Punchlist and District acceptance (not less than 3%).

10.1.4 Construction Schedule and Phasing Plan

Developer shall prepare a preconstruction schedule to guide the design team through to bid dates. That schedule shall show the multiple phases and interrelations of design, constructability review, and estimating. Developer shall also prepare a full construction schedule for the Project detailing the construction activities. Developer shall further investigate, recommend and prepare a schedule for the purchase of materials and equipment requiring long lead time procurement, and coordinate the schedule with the early preparation of portions of the Contract Documents by the Architect.

10.1.5 Construction Planning and Bidding

10.1.5.1 : cf U` cZ 8Yj Y`cdYf@j UWj]]h]Yg fY`Uh]b[hc Wcbghfi W]cb planning and bidding, Developer shall comply with all applicable legal requirements, including but not limited to those set forth in Education Code section 17406.

10.1.5.2 Consult with District staff in relation to the existing site. Selected developer should make site visits, as needed to review the current site conditions. During this evaluation, Respondent may make recommendations relating to soils investigations and utility locations and capacities, in order to minimize unforeseen conditions.

10.1.5.3 Attend meetings at the Site with the Architect and the design team as needed.

10.1.5.4 Provide plan review and constructability services with an emphasis on ensuring that the Project can be completed within the established schedule and within the available budget Plan

subcontractors, and with a view to eliminating change order requests by the Architect or subcontractors.

10.1.5.8 Conduct pre-bid conferences with invitations to Architect and CM firm. Coordinate with District and the Architect in responding to subcontractor questions or providing clarification to all subcontractors.

10.1.5.9

10.4 Open Book Policy

There will be an open book policy with Developer and its construction team. District shall have access to all subcontractor bids, subcontractor schedule of values, value engineering back-up, contingency breakdown & tracking, and Developer fees.

10.5 Compensation to Developer

Developer shall not commence work for which a contractor is required to be licensed in accordance with Article 5 (commencing with Section 7065) of Chapter 9 of Division 3 of the Business and Professions Code and for which Division of the State Architect approval is required can be performed before receipt of the required Division of the State Architect approval.

11. Construction o

provisions as set forth in Exhibit D

renewals or replacements. Said policy is to be renewed by Developer and all Subcontractors for a period of five (5) years following completion of the Work or termination of this Facilities Lease. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this Facilities Lease, and will cover Developer and all Subcontractors for all claims made.

15.1.8.9 Developer shall be primary and non-contributory to any insurance or self-insurance maintained by District, its Board Members, employees and/or agents, the State of California, Construction Manager(s), Project Manager(s), Inspector(s), and/or Architect(s).

15.1.8.10 All endorsements shall waive any right to subrogation against any of the named additional insureds.

15.1.8.11 All policies shall be written on an occurrence form.

15.1.8.12 All of Developer's insurance companies with an A.M. Best rating of no less than A: XI.

15.1.8.13 The insurance requirements set forth herein shall in no way affect the performance of the Work or related activities.

15.1.8.14 Failure of Developer and/or its Subcontractor(s) to comply with the insurance requirements herein shall be deemed a material breach of the Facilities Lease and constitute a Default by Developer pursuant to this Facilities Lease.

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16. Indemnification and Defense

16.1 To the fullest extent permitted by California law, Developer shall indemnify, keep and hold harmless the District, the Architect(s)

it is the intention of the

17.2 Total Taking Prior to Project Delivery

If all of the Project and the Site is taken permanently under the power of eminent domain and Developer is still performing the work of the Project and has not yet delivered possession of the Project to District, the Term shall cease as of the day possession shall be so taken. The financial interest of Developer shall be the amount Developer has expended to date for work performed on the Project, subject to documentation reasonably satisfactory to the District.

17.3 Partial Taking

If, following delivery of possession of the Project by Developer to District, less than all of the Project and the Site is taken permanently, or if all of the Project and the Site or any part thereof is taken temporarily, under the power of eminent domain.

17.3.1 This Facilities Lease shall continue in full force and effect and shall not be terminated by virtue of that partial taking and the Parties waive the benefit of any law to the contrary, and

17.3.2 There shall be a partial abatement of any principal payments pursuant to the GMP provisions indicated in Exhibit C as a result of the application of the net proceeds of any eminent domain award to the prepayment of those payments hereunder. The Parties agree to negotiate, in good faith, for an equitable split of the net proceeds of any eminent domain award and a corresponding reduction in the payments required pursuant to the GMP provisions indicated in Exhibit C.

18.

19.3.1 Repair the Project to full use.

19.3.2 Replace the Project, at the cost of the lessor, with property of equal or greater value to the Project immediately prior to the time of the

22.3.1.10 Developer or its Subcontractor(s) is/are otherwise in breach, default, or in substantial violation of any provision of this Facilities Lease, including but not limited to a lapse in licensing or

District incurs thereby. Time is of the essence in this Facilities Lease. If the District takes over the Work as herein provided, District may, without liability for so doing, take possession of and utilize in completing the Work all materials, appliances, plan, and other property belonging to Developer as may be on the Site of the Work, in bonded storage, or previously paid for.

22.3.3 Effect of Termination

22.3.3.1 If District terminates the Site Lease and the Facilities Lease pursuant to this section, the Site and any improvements built upon the Site shall vest in District upon termination of the Site Lease and Facilities Lease, and District shall thereafter be required to pay only the principal amounts then due and owing pursuant to the GMP provisions indicated in Exhibit C, less any damages incurred by 8]ghf]Vh Xi Y hc 8Yj Y`cdYfEg Xefault, acts, or omissions.

22.3.3.2 The District shall retain all rights it possesses pursuant to this Facilities Lease including, without limitation.

22.3.3.2.1 The right to assess liquidated damages due because of any project delay; and

22.3.3.2.2 All rights the District holds to demand dYfZcfa UbVW di fgi Ubh hc 8Yj Y`cdYfEg fYei JfYX performance bond.

22.3.3.3 Developer shall, only if ordered to do so by the District, immediately remove from the Site all or any materials and personal property belonging to Developer that have not been incorporated in the construction of the Work, or which are not in place in the Work. The District retains the right, but not the obligation, to keep and use any materials and personal property belonging to Developer that have not been incorporated-5(o)5(t)-3()63(b)-(o)-ertd9-8(/6(e)6(d)-35(co)-4(r q

22.4.3 Within 30 days of the notice, Developer shall submit to the District a payment application for the actual cost for labor, materials, and services demobilization costs, that is unpaid. Developer shall have no claims against the District except for the actual cost for labor, materials, and services performed that adequately documented through timesheets, invoices, receipts, or otherwise. District shall pay all undisputed invoice(s) for work performed until the notice of termination.

22.4.4 Under a termination for convenience, the District retains the right to all the options available to the District if there is a termination for cause.

22.5 Developer Remedies Upon District Default

22.5.1 Events of Default by District Defined

The following events, which are defined in the Site Lease or this Facilities Lease, shall only mean one or more of the following events:

22.5.2.1.2 If an appraiser cannot be agreed to, an amount equal to the mean between a District appraisal and a Developer appraisal for the Project and Site, both prepared by MAI-certified appraisers.

22.5.2.2 8]ghf]Vhg cV`][Uh]cb hc a U_Y h\Y dUma Ybhg fYei]fYX pursuant to the GMP provisions indicated in Exhibit C shall be:

22.5.2.2.1 Increased by the amount of costs, expenses, and damages incurred by Developer in re-renting the Project and Site

22.6.1.1 Section 4410 of the Government Code states:

In the event a national emergency occurs, and public work, being performed by contract, is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the public agency and the contractor may, by written agreement, terminate said contract.

22.6.1.2 Section 4411 of the Government Code states:

Such an agreement shall include the terms and conditions of the termination of the contract and provision for the payment of compensation or money, if any, which either party shall pay to the other or any other person, under the facts and circumstances in the case.

22.6.2 Compensation to Developer shall be determined at the sole discretion of District on the basis of the reasonable value of the Work done, including preparatory work. As an exception to the foregoing and at the District's discretion, in the case of any fully completed separate item or portion of the Work for which there is a separate previously submitted unit price or item on the accepted schedule of values, that price may control. The District, at its sole discretion, may adopt the Schedule of Values Price as the value of the work done or any portion thereof.

22.7 Suspension of Work

22.7.1 District in its sole discretion may suspend, delay or interrupt the Work in whole or in part for such period of time as the District may determine upon three (3) days written notice to Developer.

22.7.1.1 An adjustment may be made for changes in the cost of performance of the Work caused by any suspension, delay or interruption. No adjustment shall be made to the extent:

27. Severability

In the event any provision of this Facilities Lease shall be held invalid or unenforceable by any court of competent jurisdiction,

EXHIBIT A

LEGAL DESCRIPTION OF SITE

Attached is the Legal Description for:

Oak Ridge Elementary School New Construction
4501 Martin Luther King Jr. Blvd., Sacramento, CA 95820
APN: 020-0220-004-0000

<INSERT>

EXHIBIT B

DESCRIPTION OF PROJECT

Attached is a map or diagram of the Site that is subject to this Facilities Lease and upon which Developer will construct the Project.

Project includes but is not limited to: Inc 1 Sitework package and Inc 2 Building package. Inc 1 Sitework construction will begin late August 2023. Inc 2 Building construction will begin May 2024 and will have two (2) phases. The first phase will be the construction of new single-story administration/multi-purpose/kitchen building; a two-story classroom building; and a single-story kindergarten building. Also included in the Inc 2 package will be the relocation of the school entrance on MLK Jr. Blvd. to align with the intersection of 21st and MLK Jr. and the relocation of the parking lot to the south-east corner of the property. The final phase of the project will include the demolition of the existing buildings and construction of new hard court and turf fields.

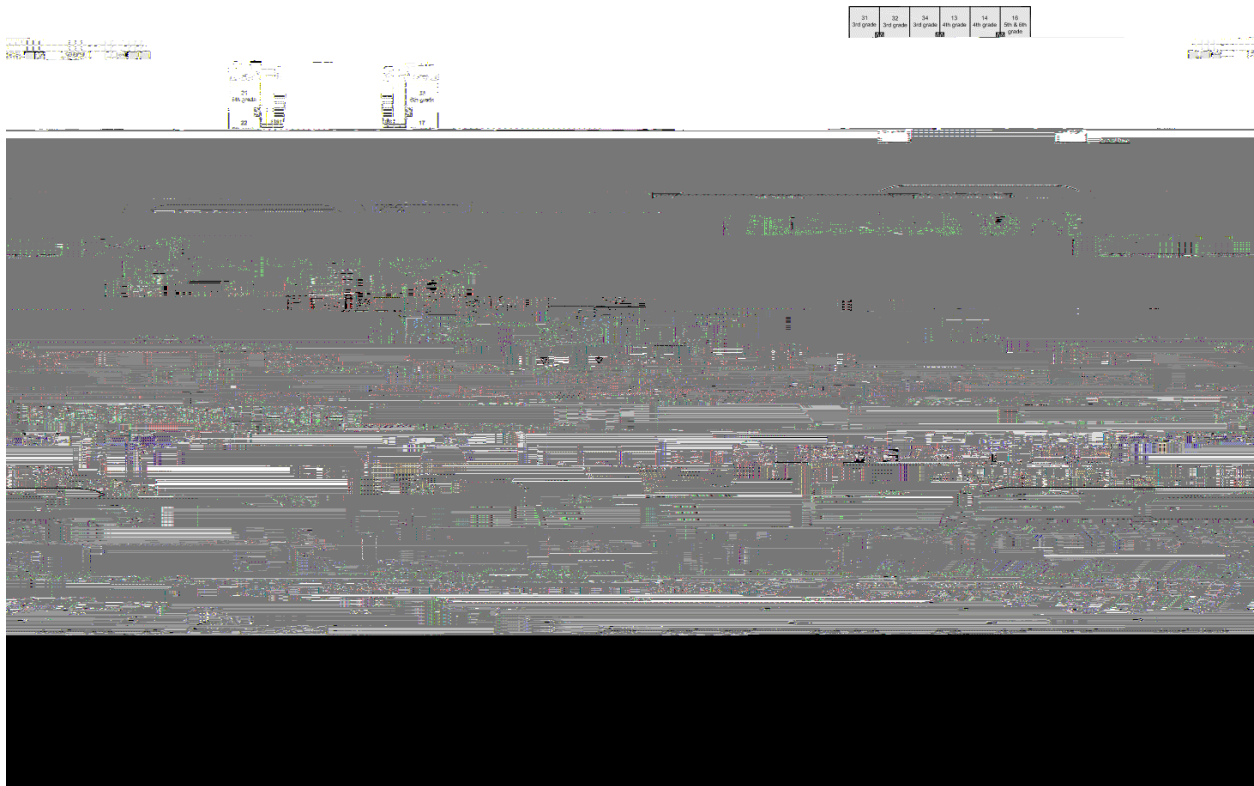


EXHIBIT C

GUARANTEED MAXIMUM PRICE AND
OTHER PROJECT COST, FUNDING, AND PAYMENT PROVISIONS

Attached are the terms and

EXHIBIT D

EXHIBIT D-1

SPECIAL CONDITIONS

Attached are the special terms and conditions for the Project.

EXHIBIT G

SCHEDULE OF VALUES

Attached is a detailed Schedule of Values that complies with the requirements of the 7cbghfi W]cb Dfcj]g]cbg (9l \]V]h[8I) UbX h\Uh\Ug VYYb Uddfcj YX Vm h\Y 8]ghf]W"

[To Be Attached Via Addendum]

EXHIBIT I

DIVISION 01 SPECIFICATION

EXHIBIT I (1) (1) GSA66a6te 1 306.05 668.02 Tm0 G (1) TJ