DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "**Agreement**") dated as of November 13, 2020 for reference purposes only, is made by and between **LOS ANGELES UNIFIED SCHOOL DISTRICT**, a school district duly organized and existing under the laws of the State of California ("**LAUSD**"), and **VAUGHN NEXT CENTURY LEARNING CENTER,** a California public benefit corporation organized and existing under the laws of the State of California, ("**Developer**"), with reference to the following facts:

RECITALS:

A. LAUSD owns that certain real property located at 13330 Vaughn Street, Los Angeles, CA 91340, County of Los Angeles, State of California, as depicted on **Exhibit A** attached hereto, formerly Vaughn Elementary School (herein "**Campus**").

B. LAUSD and Developer have entered into that certain Sole Occupant Agreement dated January 17, 2013, as amended by that First Amendment to Sole Occupant Agreement fully executed on January 11, 2019, pursuant to which Developer is operating a charter school known as **"Vaughn Next Century Learning Center"** (or **"Vaughn"**) educating public students on the Campus and has requested permission to construct the project described in **Exhibit B**, attached hereto and incorporated herein by reference (the "**Project**").

C. Developer has previously received LAUSD augmentation grant bond funds for the demolition of three (3) Department of Housing portables and construction of three (3) permanent classrooms (Board Report No. 042-13/14) and for the demolition of 15 portable classrooms and the construction/installation of 14 classrooms (Board Report No. 341-15/16) on the Campus.

D. Pursuant to Board Report No. 347-18/19, LAUSD awarded Developer an augmentation grant of up to $8,200,000 (the "**Augmentation Grant Award**") to be used in connection with and to complete the construction of the Project.

E. LAUSD is willing to allow Developer to construct the Project on the Campus and to disburse funds up to the Augmentation Grant Award to Developer pursuant to the terms and conditions contained herein.

NOW THEREFORE, in consideration of mutual covenants, benefits and agreements hereinafter contained, LAUSD and Developer hereby agree as follows:

ARTICLE I

CONDITIONS PRECEDENT AND SUBSEQUENT

The effectiveness of this Agreement and Developer's right and ability to commence construction of any improvements of any kind or nature on the Campus, and all of Developer's rights hereunder shall be contingent upon the satisfaction of the Conditions Precedent set forth in the Lease and satisfaction occurrence of all the following (collectively, the "**Conditions Precedent**"). LAUSD and Developer hereby covenant and agree that in the event that the

Conditions Precedent have not been satisfied or waived as of June 30, 2021, as the sole and exclusive remedy of the parties hereto, this Agreement shall automatically terminate and neither LAUSD nor Developer shall have any further obligations under this Agreement. In addition, at any time prior to Developer's commencement of Construction (as hereinafter defined), Developer shall have the right, upon written notice to LAUSD, to terminate this Agreement, provided that Developer shall pay LAUSD's out-of-pocket costs, including attorney's fees and expenses, in connection herewith.

1.1 Other Approvals. At its sole cost and expense, Developer shall have obtained and provided evidence to LAUSD of all necessary consents, permits and approvals required in order to commence the construction of the Project by law, rule or regulation applicable to the Project as if a public school district was constructing it including, without limitation, any necessary approvals by the California Department of Education ("**CDE**"), the California Division of the State Architect ("**DSA**"), the California Department of Toxic Substances Control ("**DTSC**"), and any approval related to compliance with the California Environmental Quality Act ("**CEQA**"), all in a manner acceptable to LAUSD.

1.2 Funding. Developer shall have provided evidence satisfactory to LAUSD of adequate funding to undertake and complete the Project in accordance with the terms of this Agreement.

1.3 LAUSD Approval of Plans. LAUSD shall have reviewed and approved the Construction Plans as provided in Section 2.3.2 below.

ARTICLE II

CONSTRUCTION

2.1 Definition of Construction. For purposes of this Agreement, **"Construction"** or **"Constructing"** shall include, without limitation, (i) the delivery of any materials or supplies for the pre-construction, construction, and completion of the Project, (ii) demolition and/or renovation of any existing improvements on the Campus, (iii) any necessary preparation and grading of the Campus, (iv) bid procedures and retention of Architect and Contractor (each as hereinafter defined), (v) retention of all subcontractors, consultants, engineers and other professionals comprising the Construction Team (as hereinafter defined), (vi) construction of the Project, (vii) construction and installation of separate meters for water, electricity, gas, cable service, telephone and other utilities appropriate for the operation of the Project, and (viii) landscaping of the Campus.

2.2 Project Schedule. Subject to Developer's satisfaction of all of the Conditions Precedent, Developer shall commence and complete the Construction in accordance with the project schedule set forth in **Exhibit C** attached hereto (the "**Project Schedule**"), which LAUSD hereby approves, and shall complete such Construction pursuant to the Project Schedule (subject to extension for Force Majeure Delay (as hereinafter defined), but in no event later than the date that is three (3) years from and after the date that all Conditions Precedent are satisfied.

2.3 Pre-Construction.

2.3.1 Personnel.

2.3.1.1 Architect and Contractor. Developer shall disclose to LAUSD its selection of architect ("**Architect**"), construction manager ("**Construction Manager**") and the general contractor or multiple prime contractors ("**Contractor**") for Construction, which Architect, Construction Manager Contractor, and subcontractors shall be licensed, in good standing and authorized to do business in the State of California throughout the Construction of the Project, and selected in accordance with the California Public Contract Code ("**Contract Code**") and be on LAUSD's list of approved vendors. Contractor shall be bonded for an amount no less than one hundred percent (100%) of the total cost of Construction and the bond shall be in a form substantially similar to that Form of Payment and/or Performance Bond set forth in **Exhibit D** hereto (the "**Performance Bond**"), which Performance Bond shall be maintained throughout the Construction of the Project. Prior to commencement of Construction, Developer shall provide to LAUSD a true and accurate copy of the Performance Bond.

2.3.1.2 Construction Team. Developer shall disclose to LAUSD each subcontractor listed by Contractor in the bid(s) recommended for acceptance by Developer for Construction or substituted pursuant to the Subletting and Subcontracting Fair Practices Act (Contract Code Section 4100 et seq.) (each, a "**Major Sub**" and collectively "**Major Subs**"), engineer, consultant and other professional retained for Construction (each, a "**Consultant**"). Developer shall, within sixty (60) days following request by LAUSD, provide to LAUSD a list of all personnel, including Architect and Contractor, retained by Developer in connection with Construction (the "**Construction Team**") provided that in no event shall Developer be required to provide such list more than one time. Developer agrees to comply with California Labor Code ("Labor Code") Section 1771 in its retention of all members of the Construction Team.

2.3.1.3 Labor Compliance Program. Developer shall execute and deliver the Memorandum of Understanding attached hereto as **Exhibit E** ("**MOU**") concurrently with this Agreement, and shall retain LAUSD to operate and enforce a labor compliance program ("**Labor Compliance Program**") in accordance therewith. Developer shall adhere to the provisions of the MOU, and any Developer breach of the MOU shall be a breach under this Agreement.

2.3.1.4 Contracts. All contracts entered into by Developer related to Construction of the Project shall be collaterally assigned to LAUSD, and which assignment LAUSD may invoke without Developer's consent or the consent of the contracting party and without the payment of any fee whatsoever; provided, that LAUSD may only invoke such assignment after a Default by Developer hereunder and upon receipt of written notice from LAUSD. This collateral assignment shall be provided in the form of a dual oblige rider which allows LAUSD to act as a co-obligee with the Developer. In addition, Developer agrees that it shall competitively bid the general construction contract and any other contracts so required by applicable law, rule or regulation. All contracts entered into by Developer related to Construction shall contain appropriate language concerning the requirements of Developer's Labor Compliance Program.

2.3.2 Construction Documents. The final construction drawings and specifications for the Project (the "**Construction Plans**") are identified on **Exhibit F** hereto and Developer represents that the same have been approved by and comply with the requirements of DSA. Developer represents that it has obtained final approval from DSA for the Construction Plans. Developer has submitted the Construction Plans to LAUSD for LAUSD's review and approval in connection with this Agreement, and any and all conditions to the Augmentation Grant (including, without limitation, conformance with LAUSD's Design Standards and Technical Specifications). In the event LAUSD discovers any material inconsistency between the Construction Plans and any permit or approval for the Project which has a material adverse impact on the Project or the intended use of the Project as a public school facility, LAUSD will notify Developer in writing of the same and if Developer fails to explain the inconsistency to the reasonable satisfaction of LAUSD or fails to cure the same within a reasonable time period after written notice from LAUSD, then LAUSD may require Developer to cease such portions of the Construction that relate to such inconsistency until the discrepancy is resolved to the reasonable satisfaction of LAUSD. As a result of LAUSD's review and approval of the Constructions Plans, LAUSD shall incur no liability for the accuracy, completeness, conformance with law (including, without limitation, applicable building codes or the California Education Code) and is not reviewing such Construction Plans for purposes of confirming any of the preceding factors.

2.3.4 Permits; Compliance. Developer, at its sole cost and expense, shall be responsible for obtaining all governmental permits, consents and approvals for the Project including, without limitation, approvals from DSA, CDE, DTSC and any approval related to CEQA. Developer shall also comply with and cause the Contractor and the Construction Team to comply with the Environmental Import/Export Materials Testing requirements attached here to as **Exhibit G** (as may be revised from time to time), and the same shall be factored into all construction costs and construction bids obtained by Developer in connection with the Project. Developer shall obtain all other necessary permits, consents and approvals from all governmental agencies having authority over Construction and shall undertake all steps necessary to insure that Construction is accomplished in compliance with all applicable laws, rules and regulations and the requirements and standards of any insurance underwriting board, inspection bureau or insurance carrier insuring the Campus pursuant to this Agreement.

2.3.5 Fence. Developer shall, at its sole cost and expense, erect (to the satisfaction of LAUSD, in the reasonable discretion of LAUSD) a fence or other appropriate measure (the "**Fence**") to secure the Construction site to prevent access by non-Construction personnel and minimize risk of damage, destruction, injury or death. Subject to the applicable law, the Fence shall be, at a minimum, eight (8) feet high and constructed so as to prevent ingress and egress except through locked gates. Developer shall provide or cause to be provided to LAUSD a set of keys for the gates.

2.3.5.1 Fingerprinting. Beyond erecting a fence, if there is a possibility that the Contractor's employees may come in contact with LAUSD students while working on the Campus. Pursuant to Education Code Section 45125.1, Contractor shall either conduct criminal background checks of all employees of Contractor assigned to the Project site, shall certify that no employees who have been convicted of serious or violent felonies (as specified in Education Code

Section 45125.1), will have contact with pupils, by utilizing the Certification Regarding Background Checks and the corresponding **Exhibit H**.

If it is determined that Contractor must provide certification of employees, as part of such certification, Contractor must provide the Developer and LAUSD with a list of all employees providing services and Contractor shall not utilize any employees who are not included on the above-referenced list.

2.3.6 Commencement of Construction. Except as otherwise disclosed to LAUSD as of the date of this Agreement, Developer agrees that no Construction or delivery of materials related to the Project shall commence unless and until the Conditions Precedent have been satisfied, until the Fence has been completed to the satisfaction of LAUSD and until Developer has provided LAUSD at least ten (10) days for LAUSD to post notices of non-responsibility or any other notices which LAUSD deems necessary for its proper protection. Notwithstanding the preceding sentence, Developer shall have commenced construction of the Project within three (3) months after the satisfaction of the Conditions Precedent.

2.3.7 No LAUSD Liability. LAUSD shall not be the guarantor of, nor responsible for, the correctness or accuracy of any plans, specifications and/or Construction Plans, or the compliance thereof with applicable laws, rules or regulations, and LAUSD shall incur no liability of any kind by reason of granting approval of, accepting or acknowledging the Construction Plans, members of the Construction Team or commencement of Construction.

2.3.8 Acknowledgement from Construction Team. Developer shall secure from Architect, Construction Manager, and Contractor an executed statement acknowledging that the Project is not constructed by LAUSD and is not an LAUSD project, and that LAUSD is not responsible or liable for the Project.

2.4 Construction.

2.4.1 Construction by Developer. Developer, through its Construction Team, shall undertake Construction of the Project at its sole cost and expense (with the right to receive the Augmentation Grant Award as set forth in Article XV below). Developer shall conduct and shall cause the Construction Team to utilize all new materials (including new materials constructed from recycled materials) and supplies in building the Project (unless otherwise approved by LAUSD in writing), conduct all work with respect to Construction in a good and workmanlike manner by properly qualified personnel and in accordance with all applicable laws, rules and regulations, and such work shall be diligently prosecuted to completion once commenced.

2.4.2 Limitations on Construction. Developer in good faith and using its commercially reasonable efforts shall endeavor to conduct and shall cause the Construction Team to endeavor to conduct all work with respect to Construction with as minimal impact as commercially practicable to any student instruction (or any other student activity) at the Campus.

2.4.3 Reports and Changes During Construction. The parties acknowledge that the Construction Plans may require changes during Construction, including, changes required by law or due to unforeseen circumstances. In the event of a material change to the Construction

Plans, Developer shall deliver to LAUSD written notice describing the change, the reason for the change, a copy of DSA's evaluation of said change or a written, executed statement by Architect that said change does not require DSA evaluation, a statement of any decrease or increase to the estimated cost of Construction of the Project, and all other details reasonably requested by LAUSD. For the purpose of this Article II a "material change" is a change or series of changes to the Construction Plans that singularly or cumulatively are reasonably estimated to (i) increase the Cost of the Project by two percent (2%) or more or (ii) increase the time to complete the project by sixty (60) days or more.

Developer covenants and agrees that it will have completed the bid process for the Construction of the Project within ninety (90) days from the satisfaction of all conditions precedent to the Development Agreement, and further covenants and agrees that it will deliver the Project Schedule (which the parties will thereafter attach hereto as Exhibit C) and Cost of the Project to LAUSD within three (3) Business Days of Developer completing such bid process. For purposes of this Agreement, "**Cost of the Project**" means hard and soft costs to construct the Project. Any material increase to the Cost of the Project prior to Developer commencing Construction shall be submitted to and approved by LAUSD in its reasonable discretion.

During the term of this Agreement if there is any material change in the estimated Cost of the Project, regardless of cause (e.g. whether from inaccurate estimating, any change to the Construction Plans, or cause within or outside of Developer's control), Developer shall provide evidence reasonably satisfactory to LAUSD of adequate and acceptable funding to complete Construction of the Project. If LAUSD, in its reasonable discretion, determines that Developer has not established adequate funding to complete Construction of the Project, LAUSD may issue to Developer written notice to cease Construction of the Project at a logical stage in the construction of the Project so as to minimize any adverse impact on the development or use of the Project and Developer shall do so until it has established adequate funding to complete Construction of the Project and all costs, expenses and liabilities incurred by Developer arising from the stoppage of Construction shall be the sole responsibility of Developer.

During the term of this Agreement, Developer shall provide to LAUSD a progress report in the form attached hereto as **Exhibit I** and any and all supporting documentation substantiating such report and any additional documentation reasonably requested by LAUSD ("**Progress Report**") on a quarterly basis starting in the first financial quarter to close after Developer commences Construction of the Project through and including the date that Developer achieves Substantial Completion.

During the term of this Agreement, Developer shall promptly notify LAUSD in writing regarding any material adverse change in its funding arrangements disclosed in satisfaction of Section 1.3 above if such change affects Developer's ability to complete the Project. LAUSD shall review Developer's information and may require Developer to provide additional information and evidence of its ability to fund and complete Construction of the Project. If, in response to such material adverse change, LAUSD, in its reasonable discretion, determines that Developer has not established adequate funding to complete Construction of the Project, LAUSD may require Developer to cease Construction of the Project at a logical stage in the construction of the Project so as to minimize any adverse impact on the development or use of the Project until satisfactory

evidence of sufficient funding has been provided to LAUSD regardless of whether Developer has some funds to continue Construction but not enough to complete Construction.

As an example, and not as a limitation, if Developer has funds to complete a building but not enough funds to complete the Project, LAUSD shall allow the building to be completed and require Developer not to proceed with the construction of the remainder of the Project until Developer provides evidence of sufficient funds to complete Construction of the Project.

2.4.4 Meetings and Inspections. LAUSD shall have the right, but not the obligation, to attend any and all on or off site meetings among the Developer, Contractor, Construction Manager and/or Architect to review the Project, its progress, scheduling and other related matters ("**Project Meetings**"). Developer shall notify LAUSD's project manager (currently Isela Lopez, or as otherwise designated by LAUSD) in writing at least seven (7) days in advance of any regularly scheduled Project Meetings and shall use reasonable efforts to give LAUSD at least twenty-four (24) hours prior notice of any other Project Meetings. Further, LAUSD shall have the right, but not the obligation, to inspect Construction at any time during the progress thereof. Developer shall pay the costs and expense for an inspector of record approved by DSA (the "**DSA Inspector**") from LAUSD or, if the DSA inspectors employed by LAUSD do not have availability for Developer's Project, a DSA inspector reasonably approved by LAUSD to inspect the Project during Construction and after completion for compliance with the applicable DSA rules and regulations. The DSA inspector shall be permitted to access the Project at all times during construction, which access shall be coordinated between the DSA inspector and Developer, and Developer shall provide notice to all other co-located users of the Property. If LAUSD or the DSA Inspector gives notice to Developer that any aspect of Construction represents a material change from the Construction Plans, or violates any applicable law, rule or regulation, Developer shall cause the Contractor to promptly make corrections required by the DSA Inspector or reasonably required by LAUSD. Neither LAUSD's right to make such inspections nor the making of such inspections, regardless of any assertions that such inspections amount to unauthorized supervision of Construction, or the supervision of Construction by the DSA Inspector, shall operate as a waiver of any rights of LAUSD to require that Construction be accomplished with new materials (including new materials constructed from recycled materials, unless otherwise approved by LAUSD in writing), and executed in a good and workmanlike manner in accordance with the Construction Plans in all material respects, and applicable law, rule or regulation**.** Further, LAUSD shall not be responsible for any delays caused by or in connection with the DSA Inspector's inspection of the Construction, and Developer hereby waives any and all claims against LAUSD associated with delays caused by the DSA inspector.

2.4.5 Insurance. Prior to commencing any Construction or the delivery of any materials or supplies for the Project, Developer shall provide LAUSD with copies of certificates of the insurance required herein and in Article X below. At all times during Construction and until Completion of Construction (as hereinafter defined), Developer, at its sole cost and expense, shall provide and keep in force (i) "all risk" builder's risk insurance, including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site, (ii) evidence of workers' compensation insurance covering all persons employed in connection with the work in compliance with all applicable laws, rules and regulations, and (iii) the insurance

coverage required in Article X below, such insurance to remain in full force and effect until such improvements have been completed and fully insured in accordance with Article X below.

2.4.6 Substantial Completion of the Project. Upon Substantial Completion (as hereinafter defined) of Construction of the Project, Developer shall provide written notice to LAUSD and LAUSD shall have the right, but not the obligation, to timely conduct an inspection to confirm Substantial Completion of the Project. For purpose of this Agreement, "**Substantial Completion**" or "**Substantially Completed**" shall mean that the applicable portion of the Project is physically and functionally complete in all material respects, in accordance with the applicable portions of the Construction Plans and all applicable laws, rules and regulations, except for any items that are unfinished, deficient or require correction in order to conform with the Construction Plans in all material respects (the "**Punch List Items**").

2.4.7 Completion of Project Construction. Upon completion of the Punch List Items, Developer shall provide written notice to LAUSD and LAUSD shall have the right, but not the obligation, to timely conduct an inspection to confirm that the Project is complete and fully conform to the Construction Plans in all material respects. Construction shall be deemed complete only after (i) the Project is physically and functionally complete in all respects in material conformance with the Construction Plans and all applicable laws, rules and regulations, and is ready to be occupied and utilized in accordance with the terms of this Agreement, and that all Punch List Items have been successfully completed, and (ii) the applicable governmental agency having appropriate jurisdiction over the Project has issued a certificate of occupancy or its equivalent (collectively, "**Completion of Project Construction**").

2.4.8 No LAUSD Liability. Developer understands and agrees that LAUSD is not a guarantor of, nor responsible for, Construction or the Project as completed, or the compliance thereof with applicable laws, rules or regulations. LAUSD shall not incur liability of any kind by reason of granting approval or otherwise allowing Construction or the Project to be developed on the Campus and Developer shall indemnify and defend LAUSD from any and all liability, claims, and/or damages that may arise directly or indirectly from Construction or the Project, except to the extent that such liability, claim, and/or damages arise from LAUSD's breach of this Agreement, gross negligence or willful misconduct.

2.4.9 Notice of Completion. Within fifteen (15) days after Completion of the Project Construction, Developer shall cause a Notice of Completion to be recorded in the office of the Recorder of Los Angeles in accordance with Section 8182 of the California Civil Code ("**Civil Code**") or any successor statute, and shall furnish LAUSD a copy thereof upon recordation.

2.4.10 Copy of Construction Plans. Upon Completion of Project Construction, Developer shall deliver to LAUSD one (1) set of copies of the Construction Plans with any field changes reflected thereon during the Construction ("**As-Builts**") in CAD AND pdf format on compact disc or other media specified by LAUSD, along with a hard copy half-size set, within ninety (90) days following issuance of a certificate of occupancy or its equivalent. Developer shall also deliver to LAUSD a copy of any warranties relating to the Project and all improvements, equipment and systems therein.

2.5 Use of Project. Developer agrees that Developer shall have no right to use the improvements of the applicable Phase of the Project until it has satisfied all of the following:

2.5.1 Developer has obtained a certificate of occupancy or its equivalent for the applicable Phase of the Project from the DSA and a completed Essential Safety Checklist & Approval Form has been issued by the Office of Environmental Health and Safety ("**OEHS**");

2.5.2 The DSA Inspector has completed its inspection and issued clearance for the use of the applicable Phase of the Project and a copy of such has been delivered to LAUSD;

2.5.3 Except for any Punch List Items and disputed claims, the Construction Team has released and waived all claims arising from the portions of the Construction of the Project that are complete, and all liens and encumbrances arising from the same have been discharged from the fee and leasehold as provided in Article IX; and

2.5.4 Developer shall have provided to LAUSD one (1) copy of the initial Construction Plans and any field changes for the Project as detailed in Section 2.4.10.

2.6 Failure to Complete Construction. In the event Developer fails to observe the Project Schedule or timely complete Construction of the Project, LAUSD shall have the right to pursue all rights and remedies available at law. In addition to the foregoing, Developer agrees LAUSD shall have the right, but not the obligation, to pursue the completion of Construction of the Project and Developer agrees that if LAUSD makes such election Developer authorizes LAUSD to deduct from the general revenue account of Developer an administrative management fee in an amount equivalent to the actual costs and expenses incurred by LAUSD for its employee(s) or agent to complete Construction of the Project. The phrase "general revenue account" shall mean the general purpose entitlement and categorical block grant, as defined in subdivisions (a) and (b) of the California Education Code Section 47632. If LAUSD elects not to complete Construction of the Project, LAUSD shall secure the Campus and Developer authorizes LAUSD to deduct from the general revenue account of Developer the costs incurred by LAUSD to secure the Campus and an administrative management fee in an amount equivalent to the actual costs and expenses incurred by LAUSD for its employee(s) or agent to secure the Campus and maintain reasonable security to minimize damage and/or destruction of the Campus, Project and supplies.

ARTICLE III

OWNERSHIP OF THE PROJECT IMPROVEMENTS

Subject to the Sole Occupant Agreement, during the term of occupancy by Developer on the Campus, all improvements of the Project on the Campus shall be owned by LAUSD; provided, further, that the land upon which the Project is situated shall at all times remain the fee property of LAUSD. At the termination of the occupancy by Developer of the Campus or upon LAUSD's request, Developer shall execute and deliver any documentation required by LAUSD to evidence LAUSD's ownership of the improvements to the Project, and LAUSD shall have no obligation to pay for the improvements of the Project or provide any compensation to Developer (except for the

release of the Augmentation Grant Award under Article XV below). This Article III shall survive the expiration or earlier termination of this Agreement.

ARTICLE IV

MAINTENANCE AND REPAIR

4.1 Maintenance and Repair.

4.1.1 Maintenance and Repair Obligations. LAUSD shall not be required or obligated to do any maintenance or to make any repairs, changes, alterations, additions, improvements or replacements of any nature whatsoever in, on or about the Project through completion of Construction. Nothing contained herein shall be construed as requiring LAUSD to make any repairs or to do any maintenance necessitated by reason of the act or omission of Developer or anyone claiming under Developer, or by reason of the failure of Developer, to observe or perform any conditions, covenants or agreements contained in this Agreement, or by reason of any damage to or destruction of other property caused by any improvements, alterations or additions made by Developer or anyone claiming through Developer. All other maintenance obligations are addressed in the Lease under Article 7, including Article 7.9 governing LAUSD supplied maintenance and operation services.

4.1.2 Developer's Maintenance and Repair and Replacement Obligations. At all times during the term of this Agreement, Developer, at its sole cost and expense and without cost to LAUSD, shall keep and maintain the Campus in good, clean, sanitary and safe condition and repair and in compliance with all laws, rules, and regulations applicable to a public school and LAUSD's standards, policies and bulletins.

4.2 Survival. This Article IV shall survive the expiration or earlier termination of this Agreement.

ARTICLE V

TERM

The term of this Agreement shall commence on the Effective Date and shall expire upon the date of Completion of Project Construction and Developer's satisfaction of Section 2.5 above, unless sooner terminated pursuant to the terms herein(the "**Expiration Date**"). Notwithstanding the preceding sentence, Developer covenants and agrees that it shall achieve Completion of Project Construction on or before the date that is thirty (30) months after the date that Developer commences Construction of the Project.

ARTICLE VI

CERTAIN COVENANTS

From the Execution Date until the Expiration Date, in addition to any covenants set forth elsewhere in this Agreement, Developer agrees to the following:

6.1 Litigation. Developer shall not commence any litigation with respect to Construction or the Project or affecting LAUSD's interest in the Campus without first providing written notice to LAUSD.

6.2 Funding. Developer shall maintain adequate and acceptable funding arrangements and shall fulfill its funding obligations under this Agreement in order for Developer to undertake the transactions contemplated by this Agreement and for Developer to complete Construction in accordance with the terms of this Agreement. Upon request by LAUSD, Developer shall provide to LAUSD evidence satisfactory to LAUSD that all such funding arrangements are in place and that all such funding obligations are being fulfilled. Except as expressly provided pursuant to Article XV below, LAUSD discloses and Developer agrees that LAUSD has no obligation to provide any funding in the event Developer does not have sufficient funding to complete the Construction of the Project in accordance with the terms of this Agreement, or any obligation to complete Construction of the Project. LAUSD further discloses that the Project shall be required to comply with LAUSD's Project Stabilization Agreement and the CHPS program, and Developer may be required to temporarily cease Construction until Developer establishes compliance with the Project Stabilization Agreement and the CHPS program.

ARTICLE VII

COSTS

Developer shall pay, or cause to be paid: (i) all Costs of the Project; and (ii) all charges which are incurred by Developer or which may be a charge or lien against the Campus, including, without limitation, payments for insurance premiums, gas, electricity, wiring, heating, light, power, other utilities, security, trash removal, disposal and management of Hazardous Materials (as hereinafter defined) to the extent caused by Developer, interior cleaning and janitorial services, ground maintenance, landscaping, cable television, telephone, or other communications systems used, rendered or supplied upon or in connection with the Project, and any other charges, costs, obligations, liabilities, requirements and expenses which arise with regard to the Construction of the Project (collectively, "**Developer Costs**"), during the term of this Agreement. LAUSD shall not bear any cost, expense or liability for the Construction of the Project. This Article VII shall survive the expiration or earlier termination of this Agreement.

ARTICLE VIII

LIENS AND STOP NOTICE CLAIMS

8.1 Developer shall not suffer or permit any liens or stop notice claims to stand against the fee title to the Campus or against the Project, or any part thereof, by reason of any work, labor, services or materials done, or supplied, or claimed to have been done or supplied to Developer or anyone holding the Campus or the Project, or any part thereof, through or under Developer. If any such lien or stop notice claim shall at any time be filed against the Campus or the Project, Developer shall provide LAUSD written notice thereof as soon as notice of such lien, stop notice or action comes to the knowledge of Developer and shall cause the same to be discharged of record within one hundred sixty (160) days after the date of the recordation of a notice of completion for the Project, by either payment, recorded release of lien or stop notice, recorded release bond

deposit or bond, unless a bond therefor is already in effect or commencement of a lawsuit pursuant to Civil Code Section 8480, et seq. for a decree to release the property from the lien, or in the case of a stop notice, commencement of a summary proceeding pursuant to Civil Code Section 9500 et seq. or Developer's interpleader of funds subject to stop notice claims. If Developer is unable to discharge the lien or stop notice, Developer shall defend and indemnify LAUSD in any mechanics' lien or stop notice litigation filed in connection with the Campus or Project. The failure of Developer to discharge a lien recorded or stop notice filed on the Campus or the Project, or any part thereof, within one hundred sixty (160) days after the date of recordation of a notice of completion for the Project and Developer's refusal to defend and indemnify LAUSD in any mechanics' lien or stop notice litigation filed in connection with the Project shall constitute a Default under this Agreement and any other agreement providing Developer occupancy and use of the Campus. Nothing in this Agreement shall imply any consent or agreement on the part of LAUSD to subject its fee estate in the Campus to liability under any mechanics' lien law or to any claimant as defined in Civil Code Section 8004.

8.2 If any such liens or stop notices are not so discharged within one hundred sixty (160) days after the date of recordation of a notice of completion for the Project, LAUSD may, without notice to Developer, without waiving its rights and remedies based on such breach of Developer and without releasing Developer from any of its obligations, cause such liens or stop notices to be released by any means it shall deem proper, including payment in satisfaction of the claim giving rise to such lien. Promptly following notice by LAUSD, Developer shall, but no later than ten (10) business days after Developer's receipt of LAUSD's notice, pay to LAUSD any sum paid by LAUSD to remove such liens, together with interest at the lesser of (a) the rate publicly announced from time to time by the largest (as measured by deposits) chartered bank operating in California, as its prime rate, reference rate or other similar benchmark rate, plus two percent (2%) or (b) the maximum rate then allowed by law (the "**Interest Rate**"), from the date of such payment by LAUSD, which Interest Rate shall commence as of the day LAUSD makes payment in satisfaction of the claim giving rise to such lien or stop notices and shall continue until Developer has remitted full payment to LAUSD.

8.3 In addition to the foregoing, Developer shall assure that the Project is free of any stop notices filed by Contractor or any of Contractor's subcontractors. In the event any such stop notice is filed, Developer shall provide stop notice releases or stop notice release bonds for each and every stop notice on the Project, along with dismissals of any stop notice litigation. In the event a stop notice is filed with LAUSD, Developer shall provide LAUSD with a stop notice release or stop notice release bond. In addition, Developer shall defend and indemnify LAUSD in any litigation arising from a stop notice filed on the Project.

8.4 The provisions of this Article VIII shall survive the expiration or earlier termination of this Agreement.

ARTICLE IX

ENVIRONMENTAL ISSUES

9.1 Hazardous Materials.

9.1.1 Definitions. As used in this Agreement, the following definitions shall apply: "**Environmental Laws**" shall mean all federal, state and local laws, ordinances, rules and regulations now or hereafter in force, as amended from time to time, in any way relating to or regulating human health or safety, or environmental evaluations of potential school sites or health care facilities, or industrial hygiene or environmental conditions, or protection of the environment, or pollution or contamination of the air, soil, surface water or groundwater, and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601, *et seq*., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq*., the Clean Water Act, 33 U.S.C. § 1251, *et seq*., the Hazardous Substance Account Act, California Health and Safety Code § 25300, *et seq*., the Hazardous Waste Control Law, California Health and Safety Code § 25100, *et seq*., the Medical Waste Management Act, California Health and Safety Code § 25015, *et seq*., and the Porter-Cologne Water Quality Control Act, California Water Code § 13000, *et seq*., Education Code § 17210, *et seq*., and California Code of Regulations, Title 5 § 14010, *et seq*. "**Hazardous Materials**" shall mean any substance or material that is described as a toxic or hazardous substance, explosive material, radioactive substance, waste or a pollutant or contaminant or infectious waste, or words of similar import, in any of the Environmental Laws, and includes, but is not limited to, asbestos, petroleum or petroleum products (including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any mixture thereof), polychlorinated byphenyls, urea formaldehyde, radon gas, radioactive matter, medical waste, and chemicals which may cause cancer or reproductive toxicity. "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the environment, including continuing migration, of Hazardous Materials into or through soil, air, surface water or groundwater in violation of Environmental Laws.

9.1.2 Developer Covenants. Developer shall not use, produce, process, manufacture, generate, treat, handle, store or dispose of any Hazardous Materials in, on or under the Campus or the Project, or use the Campus or the Project for any such purposes, or Release any Hazardous Materials into any air, soil, surface water or groundwater comprising the Campus or the Project, in each of the foregoing cases, in violation of any Environmental Laws. Developer shall comply with all Environmental Laws applicable to the Campus or the Project, or the construction or use or occupancy thereof, or any operations or activities therein or thereon.

9.2. Hazardous Materials Claims. Each party hereto shall immediately advise the other party in writing of: (i) any written notices received by such party (whether such notices are from the Environmental Protection Agency, or any other federal, state or local governmental agency or regional office thereof) of the violation or potential violation of any applicable Environmental Laws occurring on or about the Campus or the Project, (ii) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened in writing pursuant to any Environmental Laws, (iii) any written notices received by such party of all claims made or threatened by any third party against any party, the Campus or the Project relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials relating to the Campus or the Project (the matters set forth in clauses (i), (ii) and (iii) above are hereinafter referred to as "**Hazardous Materials Claims**") and (iv) any party's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the

Campus that could have a reasonable likelihood to cause the Campus or the Project or any part thereof to be subject to any Hazardous Materials Claims. Each party hereto shall have the right but not the obligation to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims.

9.3 Indemnity by Developer. Developer shall be solely responsible for, and shall indemnify, defend and hold harmless LAUSD and its School Board, staff, students, faculty and/or invited guests from and against, any claim, demand, lawsuit, loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, Release by Developer (including its general contractor, subcontractor, representative or owner) of Hazardous Materials on, under or derived from the Campus or the Project in violation of applicable law during the term of this Agreement, including, without limitation: (i) claims of third parties (including governmental agencies) for injury or death to any person or for damage or destruction of any property, (ii) claims for response costs, clean-up costs, costs and expenses of removal and restoration, including fees of attorneys' and experts, and costs of determining the existence of Hazardous Materials and reporting same to any governmental agency, (iii) any and all other claims for expenses or obligations, including attorneys' fees, costs, and other expenses, (iv) any and all penalties threatened, sought or imposed on account of a violation of any Environmental Law, and (v) all fees of any consultants, attorneys and engineering firms retained in connection with monitoring the Hazardous Materials; provided, however, that the foregoing indemnity shall not apply to any claim, demand, lawsuit, loss, damage, cost, expense or liability to the extent arising from (A) any act or omission on the part of the LAUSD, or the staff, faculty, and students or invited guests of LAUSD or any other party claiming through any of the foregoing (provided the same are acting in their official, professional or invited, as applicable, capacity), or (B) any Hazardous Materials that existed on, under or derived from the Campus, the Project or other properties as of the date of this Agreement or which later is found to exist following the date of this Agreement as a result of underground migration.

9.4 Removal of Hazardous Materials. To the extent Developer is liable under Section 9.3 above and in connection with any Hazardous Materials remediation required in connection with the Project, Developer, at its sole cost and expense, shall, with due care, in a safe manner and in accordance with all applicable laws, detain the spread of, ameliorate and remove from the Campus or the Project any Hazardous Materials contamination located on or beneath the Campus or the Project in violation of applicable law and shall monitor or cause to be monitored the levels of Hazardous Materials on, under or derived from the Campus and the Project or in the ground water in accordance with the terms and procedures required by any federal, state or local governmental agency having jurisdiction including, without limitation, any Regional Water Quality Control Board and the Environmental Protection Agency. Further, any and all such remediation shall be according to the following protocol: (1) any such abatement or remediation report, abatement work, and demolition work shall be performed by an LAUSD approved demolition and abatement contractor as applicable; (2) LAUSD's Facilities Environmental Technical Unit ("**FETU**") shall review and approve any such abatement/remediation report in writing prior to the commencement of any abatement, demolition or removal work of the applicable materials or structures; and (3) FETU shall review all such remediation work, and Developer shall grant FETU access to all reports, records and files as requested by FETU in connection with overseeing such remediation work, access to the Campus, and shall promptly

respond to all inquiries of and request for information from FETU regarding such remediation work.

9.5 Survival. The provisions of this Article IX shall survive the expiration or earlier termination of this Agreement.

ARTICLE X

INSURANCE; INDEMNITY

10.1 Developer Insurance.

10.1.1 Insurance. At all times during the term of this Agreement, at Developer's sole cost and expense, Developer shall, as a covenant of this Agreement, provide and keep in force and effect:

10.1.1.1 All Risk Builder's Risk Insurance. "All risk" builder's risk insurance, including vandalism and malicious mischief, covering improvements in place and all material and equipment at the job site. The minimum limits of liability shall be a combined single limit with respect to each occurrence in an amount of not less than that specified in **Exhibit J**.

10.1.1.2 Commercial General Liability Insurance. Commercial General Liability Insurance on an occurrence basis against claims for personal injury, death and/or property damage occurring in or about the Campus or the Project with respect to the Construction thereof. Such insurance shall provide primary coverage without contribution from any other insurance carried by or for the benefit of LAUSD and its Board of Education, and Developer shall obtain blanket broad-form contractual liability coverage to insure its indemnity obligations herein. The minimum limits of liability shall be a combined single limit with respect to each occurrence in an amount of not less than that specified in **Exhibit J**.

10.1.1.3 Fire and Extended Coverage. Fire and hazard "all risk" insurance covering one hundred percent (100%) of the full replacement cost valuation of the Project. Such insurance shall provide protection against any peril included within the classification "Fire and Extended Coverage", together with insurance against fire sprinkler damage, vandalism and malicious mischief. Such insurance shall contain (i) no coinsurance or contribution clauses and (ii) a Replacement Cost Endorsement.

10.1.1.4 Automobile Insurance. Primary automobile liability insurance in an amount not less than that specified in **Exhibit J**.

10.1.1.5 Workers' Compensation Insurance. Workers' compensation insurance policies as required by law and Employer's Liability insurance in an amount not less than that specified in **Exhibit J**.

10.1.2 Developer Insurance Policies. All policies of insurance provided for herein shall be issued by insurance companies authorized to do business in California and rated in Best's Insurance Guide, or any successor thereto as having a "Best's Rating" of "A-" or better and a

"Financial Size Category" of at least "VII" or better or, if such ratings are not then in effect, the equivalent thereof or such other financial rating as LAUSD may at any time consider appropriate. All policies held by Developer in connection with this Agreement shall name Developer as the insured and LAUSD and the School Board as additional insureds, and shall provide that they may not be cancelled by the insurer for nonpayment of premiums or otherwise or be terminated or lapse of their own accord or by their own terms until at least thirty (30) days after written notice of the proposed cancellation upon all parties named in such policies as insureds. All insurance required to be carried by Developer shall contain a provision that no act or omission of Developer shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained. All such policies shall contain language to the effect that any loss shall be payable notwithstanding any act or negligence of LAUSD that otherwise might result in the forfeiture of the insurance. All public liability, property damage and other casualty policies shall be written as primary policies, not contributing with any other coverage which LAUSD or Developer may carry. Developer agrees that with respect to all such policies carried by or to be carried by Developer, Developer shall require its insurance broker to provide LAUSD with written notice whenever there are paid losses on Developer's insurance policies which result in a twenty percent (20%) or greater erosion of limits. Upon the Execution Date, and thereafter at least ten (10) days prior to the expiration date of such policy, Developer shall deliver to LAUSD copies of the policies for all the insurance required to be carried by Developer hereunder. Developer shall cause each property insurance policy obtained by Developer to provide that the insurance company waives all right of recovery by way of subrogation against LAUSD or Developer in connection with any damage covered by any such policy or policies, and Developer hereby waives all such claims against LAUSD. LAUSD shall cause each property insurance policy obtained by LAUSD (if any) to provide that the insurance company waives all right of recovery by way of subrogation against Developer or LAUSD in connection with any damage covered by any such policy or policies, and LAUSD hereby waives all such claims against Developer.

10.1.3 Blanket Insurance. Notwithstanding the foregoing, all of the insurance requirements set forth herein on the part of Developer shall be deemed satisfied if covered by a blanket insurance policy providing the coverage required by this Agreement.

10.2 Waiver. Except as otherwise provided in this Agreement or at law or equity, LAUSD shall not be liable for and Developer hereby waives all claims against LAUSD for damage to any property or injury, illness or death of any person in or upon the Campus or the Project arising at any time during the term of this Agreement, except the extent the same results from the gross negligence or willful misconduct of LAUSD or any party claiming through LAUSD. LAUSD shall not be liable for and Developer hereby waives all claims against LAUSD arising in any way due to, in connection with or related to, directly or indirectly, the Campus or the Project or any activities by Developer in, on or about the Campus, including the Construction of the Project, except the extent the same results from the negligence or willful misconduct of LAUSD or any party claiming through LAUSD.

LAUSD and Developer hereby agree and acknowledge that Developer is acting on its own behalf in constructing the Project and is not operating as an agent of LAUSD. Should LAUSD, through no fault of LAUSD, be named as a defendant in any suit brought against Developer in connection with or related to, directly or indirectly, Developer's Construction of the Project,

Developer shall pay to LAUSD the costs and expenses LAUSD incurs in such suit, including without limitation, its actual professional fees such as appraisers', accountants' and attorneys' fees.

The provisions of this Section 10.2 shall survive the expiration or sooner termination of this Agreement.

10.3 Developer Indemnity. In addition to the Developer's other indemnity obligations set forth elsewhere in this Agreement, to the fullest extent permitted by law, Developer shall indemnify, protect, defend and hold LAUSD and its staff, students, faculty and invited guests harmless from and against any and all claims, losses, costs, loss, attorneys' fees, damages, expenses and liabilities incurred or arising from any cause in connection with: (i) the Construction of the Project, (ii) the failure of Developer to pay or cause to be paid any Developer Costs, (iii) the failure of Developer to observe or perform any of the terms, covenants or conditions of this Agreement on Developer's part to be observed or performed and (iv) any claim by a third party that LAUSD is responsible for any actions by Developer in connection with the Construction of the Project (collectively "**Liabilities**"). Notwithstanding anything to the contrary set forth in this Section 10.3, the provisions of this Section 10.3 shall not apply to the extent that all or part of the Liabilities are due to the negligence, willful misconduct or act or omission of LAUSD or its staff or invitees (provided the same are acting in their official, professional or invited, as applicable, capacity). Developer agrees to promptly notify LAUSD of the commencement of any litigation or proceedings pending, threatened or commenced in writing (whether or not served) against Developer or any Developer representatives in connection with the matters covered hereby. The provisions of this Section 10.3 shall survive the expiration or sooner termination of this Agreement.

ARTICLE XI

DEFAULT; REMEDIES

11.1 LAUSD's Default. LAUSD shall not be in default of any of its obligations under this Agreement unless LAUSD fails to perform such obligations within a reasonable time, but in no event less than thirty (30) days, after written notice by Developer to LAUSD specifying wherein LAUSD has failed to perform such obligations; provided, however, that if the nature of LAUSD's default is such that more than thirty (30) days are required for its cure, LAUSD shall not be in default if LAUSD commences such cure within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

11.2 Developer's Remedies. In the event of any default by LAUSD as described in Section 11.1 above, subject to all applicable laws that may restrict remedies against a school district, including, but not limited to, restrictions within the Education Code, Developer's sole remedies under this Agreement are to pursue LAUSD for actual damages, including reasonable attorneys' fees and costs, resulting from LAUSD's default.

11.3 Developer's Default. The occurrence of any one of the following events shall be considered a "Default" of this Agreement by Developer:

11.3.1 Costs. The failure of Developer to pay or cause to be paid before delinquency any Developer Costs or other fees, charges, or payments due hereunder, or to observe or perform any of Developer's financial covenants and obligations hereunder.

11.3.2 Construction. The failure of Developer to construct the Project in substantial accordance with the Construction Plans or to observe or perform any of its covenants and obligations hereunder pertaining to Construction.

11.3.3 Project Schedule. The failure of Developer to meet the deadline for any milestone as set forth in the Project Schedule, or to observe or perform any of its covenants and obligations hereunder pertaining to the Project Schedule.

11.3.4 Liens. The failure of Developer to discharge a lien recorded on the fee title to the Campus or on the Project, or any part thereof caused by Developer or any party claiming through Developer relating to Construction of the Project, or to observe or perform any of its covenants and obligations hereunder pertaining to liens on the Campus or on the Project.

11.3.5 Insolvency. The making by Developer of any general assignment or general arrangement for the benefit of creditors, or the filing by or against Developer of a petition to have Developer adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Developer, the same is dismissed as soon as reasonably practical but in any event within 120 days), or the appointment of a trustee or receiver to take possession of substantially all of Developer's assets in the Project or on the Campus or of Developer's interest in this Agreement, where possession is not restored to Developer as soon as reasonably practical but in any event within sixty (60) days, or the attachment, execution or other judicial seizure of substantially all of Developer's assets in the Project or on the Campus or of Developer's interest in this Agreement, where such seizure is not discharged as soon as reasonably practical but in any event within sixty (60) days.

11.3.6 Assignment. The actual or attempted assignment, transfer, mortgage, encumbrance, or lease of, or the actual or attempted granting of any license, concession, franchise or other permission to use the Campus or the Project, except as provided herein, by Developer, or the actual or attempted assignment or attempted assignment of this Agreement by Developer, in violation of Article XIII hereof.

11.3.7 Failure to Perform. The failure of Developer to perform or observe any of Developer's covenants and obligations hereunder.

Notwithstanding anything to the contrary contained in this Agreement, LAUSD shall have no rights as a result of any Default until LAUSD gives thirty (30) days written notice to Developer specifying the nature of the Default. Developer shall then have the right to cure such Default, and Developer shall not be deemed in default if Developer cures such Default within thirty (30) days after receipt of notice of the Default; provided, however if the nature of the Default is such that it cannot be cured within said thirty (30) days, Developer shall commence the cure within said thirty (30) days and prosecute such cure with diligence to completion.

11.4 LAUSD Remedies. In the event of any Default by Developer, after the expiration of any applicable cure period provided herein to Developer, LAUSD may pursue any rights or remedies it may have at law, in equity or otherwise and the pursuit of any right or remedy shall not waive nor prohibit LAUSD from pursuing any other available right or remedy, including the following additional rights:

11.4.1 Right to Perform. LAUSD shall have the right, but not the obligation, to enter the Project or the Campus at all times for the purpose of performing any covenant or condition that Developer has failed to perform, at LAUSD's option. All costs incurred by LAUSD in so performing shall promptly be reimbursed to LAUSD by Developer, together with the administrative/management fee provided for in Section 2.6 above or ten percent (10%) of the costs and expenses incurred by LAUSD or the amount expended under any performance or surety bond as an administrative/management fee, whichever is selected by LAUSD, AND interest at the Interest Rate, from the date such cost or expense is incurred by LAUSD following Developer's Default up to and including the date paid. In rendering such performance, LAUSD shall have the right to execute any agreements relating to Construction, or otherwise in connection with, the Campus and/or the Project. Any performance by LAUSD of Developer's obligations shall not waive or cure such Default.

11.4.2 Costs of Enforcement. LAUSD shall have the right to reimbursement from Developer promptly following demand by LAUSD for all costs and expenses incurred by LAUSD, including attorneys' fees (whether or not legal proceedings are instituted), in enforcing the covenants and obligations of Developer under this Agreement.

ARTICLE XII

ASSIGNMENT; LEASE; ENCUMBRANCES

12.1 Assignment by Developer. Developer shall not assign this Agreement or any rights and obligations hereunder without the prior written approval of LAUSD, which approval may be denied or conditioned in LAUSD's sole and absolute discretion. Notwithstanding anything to the contrary contained in this Agreement, the Augmentation Grant Award is personal to the Developer and is not transferrable in connection with any assignment of this Agreement.

12.2 Reserved.

12.3 Assignment by Developer. Under no circumstance shall Developer assign all or part of its interest in the Campus and/or the improvements of the Project, to any entity, except with the prior written consent of LAUSD, which consent may be withheld at LAUSD's reasonable discretion, and in no event shall Developer transfer its interest in the improvements of the Project and/or the Campus separate from Developer's interests and obligations under this Agreement.

12.4 Mortgage by Developer. Developer shall not execute a mortgage encumbering all or any portion of the right, title and estate of Developer in the improvements of the Project, without LAUSD's prior written consent which may be withheld in LAUSD's sole and absolute discretion.

In the event a mortgage on the improvements of the Project is allowed, then such mortgage shall at all times be subject and subordinate to, and shall not affect or become a lien upon, LAUSD's fee estate in the Campus, and shall only encumber Developer's right, title or interest in the improvements of the Project or Developer's leasehold interest.

12.5 Encumbrance. Developer shall not, without the prior written consent of LAUSD, encumber its interest in the improvements of the Project, or any part thereof, and if Developer fails to ensure that such encumbrance is subordinated to LAUSD's fee estate in the Campus and if Developer fails to comply with this Section 12.5, such failure shall be deemed to be an immediate Default hereunder.

12.6 Other. Any assignment, transfer, mortgage, encumbrance or lease of, or any license, concession, franchise or other permission to use the improvements of the Project or the Campus granted by Developer to any person or entity shall be expressly subject and subordinate to all applicable terms and conditions of this Agreement. Any purported or attempted assignment, transfer, mortgage, encumbrance or lease of, or any license, concession, franchise or other permission to use the improvements of the Project or the Campus contrary to the provisions of this Article XII shall be void, constitute a Default under this Agreement, and, at the option of LAUSD, shall terminate this Agreement.

12.7 LAUSD Approval. Notice of any actual or proposed assignment, transfer, mortgage, encumbrance, lease or hypothecation of the improvements of the Project, the Campus or this Agreement shall be given by Developer to LAUSD, together with a copy of the proposed documentation thereof (including, in the event of an assignment, the assumption document in which the assignee or proposed assignee agrees to assume all obligations of Developer under this Agreement), with all necessary and appropriate details for LAUSD to provide an approval. Any approval or disapproval by LAUSD under this Article XII is at LAUSD's reasonable discretion.

12.8 Costs. Developer shall reimburse LAUSD for LAUSD's costs and attorney's fees incurred in conjunction with the processing and documentation of any actual or proposed assignment, transfer, mortgage, encumbrance, lease or hypothecation of the improvements of the Project, the Campus or this Agreement by Developer, or any license, concession, franchise or other permission to use the improvements of the Project or the Campus granted by Developer to any person or entity.

12.9 Assignment by LAUSD. Subject to applicable legal requirements, LAUSD shall have the right at any time and from time to time during the term of this Agreement to sell or assign all or any portion of its fee interest in the Campus; provided, however, that under no circumstances shall LAUSD assign all or part of the Campus to any entity separate from LAUSD's interests and obligations under this Agreement. Notice of any assignment or proposed assignment of this Agreement made in conjunction with such transfer shall be given by LAUSD to Developer at least thirty (30) days prior to such assignment or proposed assignment, together with a copy of the assumption document by which the assignee or proposed assignee agrees to assume all obligations of LAUSD under this Agreement.

ARTICLE XIII

NOTICES

Any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery delivered by a representative of the party giving such notice, or (b) overnight delivery by recognized overnight courier, or (c) United States mail, postage prepaid, registered or certified mail or (d) facsimile, addressed to the person(s) identified in **Exhibit J** or to such other address or to the attention of such other person as hereafter shall be designated in writing by the applicable party sent in accordance herewith. Any such notice or communication shall be deemed to have been delivered either at the time of personal delivery actually received by the addressee or a representative of the addressee at the address provided above or, if delivered on a business day in the case of delivery service or certified or registered mail, as of the earlier of the date delivered or the date seventy-two (72) hours following the date deposited in the United States mail at the address provided herein, or if by telecopier, upon electronic confirmation of good receipt by the receiving telecopier. Developer and LAUSD hereby agree that notices may be given hereunder by the parties' respective counsel and that, if any communication is to be given hereunder by Developer's or LAUSD's counsel, such counsel may communicate directly with all principals as required to comply with the provisions of this Article XIII.

ARTICLE XIV

MISCELLANEOUS

14.1 LAUSD's Successors. In the event of any transfer of the fee title of or interest in the Campus, LAUSD shall be relieved, from and after the date of such transfer, of all liability for LAUSD's obligations hereunder thereafter to be performed, provided such transferee accepts and assumes all such liability in writing. The obligations contained in this Agreement to be performed by LAUSD shall, subject as aforesaid, be binding on LAUSD's successors and assigns only during their respective periods of ownership. Notwithstanding anything to the contrary contained in this Agreement, all indemnities set forth in this Agreement shall survive the expiration or earlier termination of this Agreement.

14.2 Intentionally omitted.

14.3 Captions. The captions and headings in this Agreement are inserted only as a matter of convenience and for reference, and they in no way define, limit or describe the scope of this Agreement or the intent of any provision thereof.

14.4 Choice of Law. This Agreement shall be governed and construed by the laws of the State of California.

14.5 Interpretation. This Agreement shall be deemed to be jointly prepared by both of the parties hereto, and any ambiguities or uncertainties herein shall not be construed for or against either of the parties hereto.

14.6 Further Assurances. LAUSD and Developer agree to execute all documents and instruments reasonably required in order to consummate the transactions contemplated under this Agreement.

14.7 Attorneys' Fees. In the event either party hereto should commence an action against the other to enforce any obligation set forth herein, the unsuccessful party shall pay to the prevailing party its cost of litigation or arbitration, including reasonable attorneys' fees.

14.8 Counterparts. This Agreement may be executed in one or more counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument.

14.9 Entire Agreement. This Agreement, and any additional agreements entered into concurrently with this Agreement contain all of the agreements of the parties hereto with respect to the matters covered hereby, and no prior agreements, oral or written, or understandings or representations of any nature whatsoever pertaining to any such matters shall be effective for any purpose unless expressly incorporated in the provisions of this Agreement. The provisions of this Agreement shall not be amended or altered except by an agreement in writing signed by both of the parties hereto.

14.10 Successors and Assigns. Subject to the provisions hereof relative to assignment and to Section 13.1 hereof, this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, transferees, successors and assigns of the respective parties hereto.

14.11 Time Is of the Essence. Time is of the essence with respect to the performance or observance of each of the obligations, covenants and agreements under this Agreement. Except as otherwise provided herein, the parties agree that any matter that requires the approval or consent of a party under this Agreement, such approval or consent shall be given or withheld within thirty (30) days following request; provided, however, if the party fails to respond in such time period or if the party denies or disapproves the request and fails to specify in detail the reasons for such denial or disapproval, then the request shall be deemed disapproved.

14.12 Gender. As used herein, the neuter gender includes the feminine and the masculine, the masculine includes the feminine and the neuter and the feminine includes the masculine and the neuter, and each includes corporation, partnership or other legal entity when the context so requires.

14.13 Waiver. Either party hereto may waive the satisfaction or performance of any conditions or agreements in this Agreement which have been inserted for its own benefit, so long as the waiver is signed and specifies the waived condition or agreement and is delivered to the other party hereto. No waiver of any provision hereof shall be deemed a waiver of any other provision hereof. Consent to or approval of any act by one of the parties hereto shall not be deemed to render unnecessary the obtaining of such party's consent to or approval of any subsequent act, nor shall any custom or practice which may develop between the parties in the administration of the terms hereof be deemed a waiver of, or in any way affect, the right of one of the parties to insist upon the performance by the other party in strict accordance with said terms.

14.14 Cumulative Remedies. No remedy herein shall be considered exclusive of any other remedy, but the same shall be cumulative and, shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity or by statute, and every power and remedy given by this Agreement may be exercised from time to time and as often as occasion may arise or as may be deemed expedient.

14.15 No Subordination. Nothing contained in this Agreement shall be deemed to subordinate LAUSD's interest in the Campus to the interest of Developer.

14.16 Severability. The invalidity or unenforceability of any provision of this Agreement as determined by a court of competent jurisdiction shall in no way affect the validity of any other provisions hereof.

14.17 Force Majeure. All time periods set forth in this Agreement shall be extended by one day for each day of Force Majeure Delay that occurs, but in no event shall the Completion of Project Construction be extended by more than one hundred eighty (180) days as a result of Force Majeure Delays. "**Force Majeure Delay**" shall mean any actual delays due to strikes, lockouts or other labor disturbance, civil disturbance, riot, sabotage, blockage, embargo, inability to secure materials, supplies or labor through ordinary sources by reason of regulation or order of any government or regulatory body, severe or unusual shortages of material, supplies or labor, lightning, rain, earthquake, fire, storm, hurricane, tornado, flood, washout, explosion, terrorist act, or any other cause outside of LAUSD's or Developer's reasonable control; provided, however, that, notwithstanding the foregoing, Developer shall in any event pay any sum of money required to discharge any lien if at any time the Campus, or portion thereof, or the Project, or any part thereof, shall be in danger of being foreclosed, forfeited or lost.

14.18 Reimbursement Charges. Notwithstanding anything to the contrary set forth in this Agreement, other than in the context of a default under this Agreement, the parties shall reasonably cooperate with each other to minimize any and all reimbursement obligations under this Agreement.

14.19 Incorporation. The terms and conditions of the Exhibits attached hereto are incorporated herein by this reference thereto.

Exhibit A: Site Plan

Exhibit B: Project Description

Exhibit C: Project Schedule

Exhibit D: Form of Payment and/or Performance Bond

Exhibit E: Labor Compliance MOU

Exhibit F: Index of DSA Approved Construction Plans

Exhibit G: Environmental Import/Export Materials Testing

Exhibit H: Fingerprinting Requirements

Exhibit I: Form of Progress Report

Exhibit J: Insurance Requirements

Exhibit K: Form of Contractor Invoice

14.20 Days. The word "days" as used in this Agreement shall mean and refer to calendar days unless expressly stated as business days and, due to budget cuts, shall not include any furlough day observed by LAUSD. If the time period for the performance of any act under this Agreement expires on a Saturday, Sunday or any other day in which banking institutions in the State of California are authorized or obligated by law or executive order to close ("**Holiday**"), the act in question may be performed on the next succeeding day that is not a Saturday, Sunday or Holiday.

14.21 Signatures. Each individual executing this Agreement on behalf of Developer represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of Developer, and that this Agreement is binding upon Developer in accordance with its terms. Each individual executing this Agreement on behalf of LAUSD represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of LAUSD and that this Agreement is binding upon LAUSD in accordance with its terms.

ARTICLE XV

DISBURSEMENT OF AUGMENTATION GRANT AWARD

The Augmentation Grant Award shall be used by Developer to fund the Cost of the Project after the expenditure of all but $1,000,000 of any and all other funds Developer is using to complete the Project other than the Augmentation Grant Award. Any amounts of the Augmentation Grant Award not drawn by Developer under this Agreement may be reallocated by LAUSD under its facilities bond program. LAUSD shall disburse funds up to the Augmentation Grant Award in as many as, but not more than, five (5) Disbursements (defined below) to be used by Developer to fund the Costs of the Project pursuant to the following procedure:

15.1 Application for Disbursement. At least sixty (60) days prior to the month in which Developer projects it will need to make a draw against the Augmentation Grant Award, Developer shall submit to LAUSD a written itemized statement(s) signed by Developer ("**Application**") setting forth:

15.1.1 the total amount projected to be incurred by Developer and to be paid for from the Augmentation Grant Award (each a "**Disbursement**"), and such Disbursement shall not be more than the amount reasonably estimated by Developer required to complete the projected work to be performed, material to be supplied and/or costs to be incurred or due for sixty (60) days after the Disbursement is released;

15.1.2 an invoice in the form attached hereto as **Exhibit K** showing the projected work to be performed, material to be supplied and/or costs to be incurred or due in connection with the Project (and are reasonably incurred in connection with the Cost of the Project) and the specific time period for which Disbursement is requested;

15.1.3 a Progress Report describing the portion of the Project that has been completed;

15.1.4 an officer's certificate, signed by an officer of Developer, certifying to LAUSD that there is no default under the Sole Occupant Agreement or this Agreement and that Developer has sufficient funds (after taking into account Developer's receipt of the Disbursement that is the subject of the Application) for the Completion of Project Construction, along with a bank statement, dated not less than thirty (30) days before the date of such officer's statement, evidencing the availability of such funds; and

15.1.5 the materials required to be delivered to LAUSD under Section 15.2.4 below for LAUSD's review and approval or waiver as conditions precedent to the applicable Disbursement.

15.2 Conditions Precedent to Each Disbursement. LAUSD shall have the right to condition the release of any Disbursement from the Augmentation Grant Award upon LAUSD's review and approval or written waiver of any and all of the following conditions:

15.2.1 LAUSD's receipt of a timely and complete Application, including without limitation, the contents of such Application;

15.2.2 no Default under this Agreement or the Sole Occupant Agreement is then occurring or an event that with notice and the passage of time would constitute a Default under such agreements;

15.2.3 LAUSD's inspection of the improvements and verification of completion of improvements that were to have been constructed up to the date of the Application then being reviewed by LAUSD; and

15.2.4 Prior to the first Application for Disbursement, Developer shall have delivered to LAUSD an officer's certificate, signed by an officer of Architect or Contractor, certifying to LAUSD that, based on the current Project plan and timeline, within sixty (60) days following the date of such officer's certificate, the cost required for Completion of Project Construction (including without limitation, the Specific Phase II Improvements) will be less than the sum of (i) Augmentation Grant Award plus (ii) $1,000,000.00, along with documentation evidencing the portion of the Project that has been completed and the portion of the Project remaining to be completed (and the cost thereof) as of the date of such certificate.

15.3 Funding of the Disbursement. Provided that the conditions precedent have been reviewed and approved or waived by LAUSD, LAUSD shall use commercially reasonable efforts to wire the applicable Disbursement to an account specified and controlled by Developer within sixty (60) days of Developer's timely and complete Application, which funds Developer shall thereafter use to pay for the Cost of the Project and for no other purpose.

IN WITNESS WHEREOF, LAUSD and Developer have executed this Agreement as of the dates set forth with the respective signatures.

LAUSD:

LOS ANGELES UNIFIED SCHOOL DISTRICT,
a school district duly formed and existing under the laws of the State of California

By: _____

Name: AL GRAZIOLI

Title: ASSIST DEVELOPMENT DIR.

Date: 11.22.2020

DEVELOPER:

VAUGHN NEXT CENTURY LEARNING CENTER,
a California public benefit corporation organized and existing under the laws of the State of California

By: _____

Name: YVONNE CHAN

Title: Founder, Project Manager

Date: November 20, 2020

By: _____

Name: _____

Title: _____

Date: _____

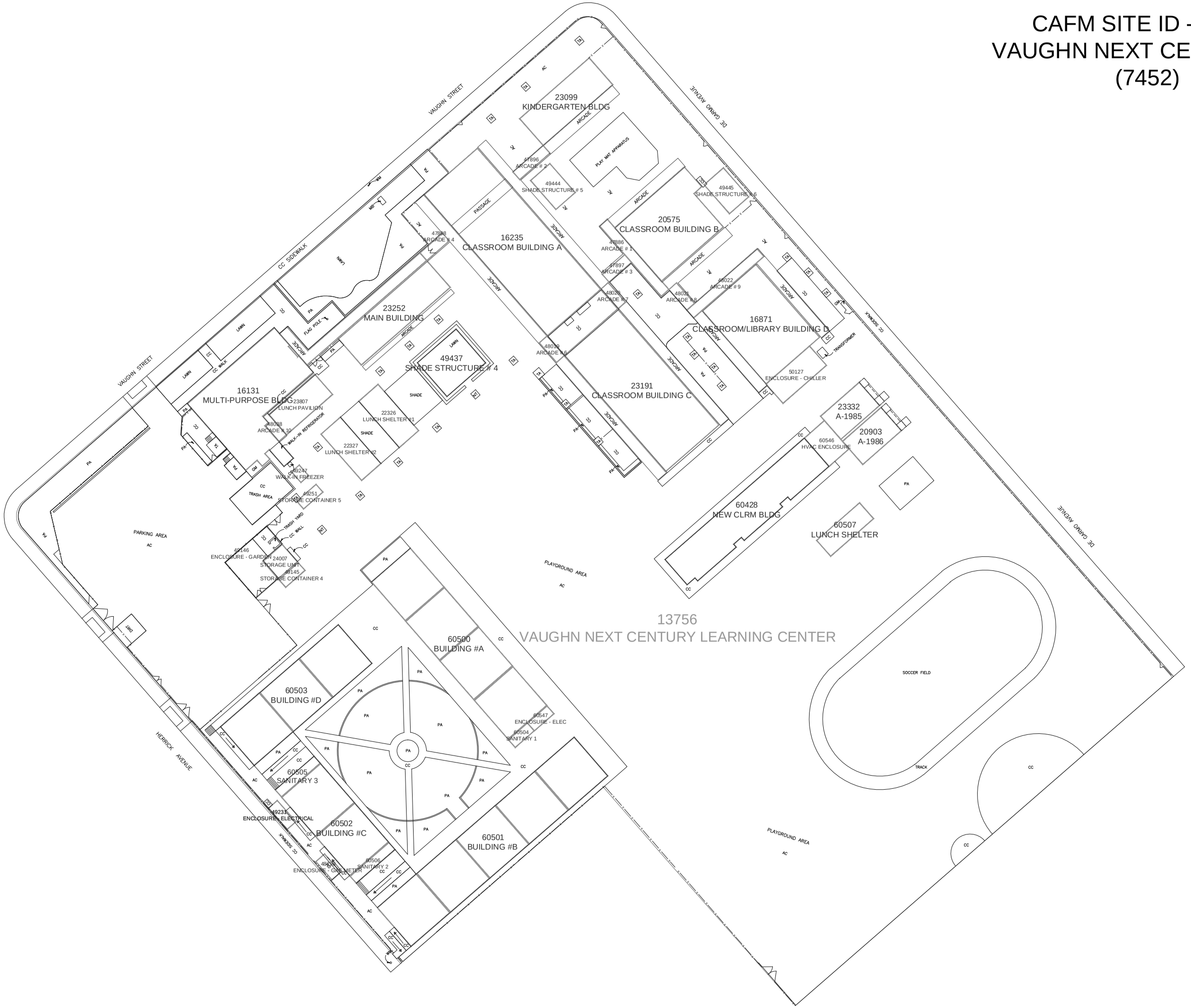
EXHIBIT A

Site Plan

(See attached)

EXHIBIT A

CAFM SITE ID - 13756
VAUGHN NEXT CENTURY LC
(7452)



SCALE: NTS

ASSET MANAGEMENT BRANCH
FACILITIES PLANS & RECORDS UNIT
333 S. BEAUDRY AVENUE, 23rd FLR, LOS ANGELES, CA 90017

PLOT PLAN

VAUGHN NEXT CENTURY LC
13330 VAUGHN ST.
SAN FERNANDO, CA 91340

LEGEND

CENTER LINE	
PROPERTY LINE	
FENCE LINE	
RAILING OR SCREEN	
CHANGE IN GRADE	
ASPHALT CONCRETE	A.C.
CEMENT CONCRETE	C.C.
PLANTING AREA	P.A.
TREE AREA	OR T.A.
DECOMPOSED GRANITE	D.G.
GAS METER	G.M.
WATER METER	W.M.
FLAGPOLE	F.P.
AREAWAY	A.W.
STUDENT BODY OWNED	S.B.O.
FIELD LIGHT STANDARD	
SANDBOX	S.B.

DRAWN BY
ORA

DATE
10/22/2020

INDEX NO.
1/1

EXHIBIT B

Project Description

The Project consists of the removal of the current main office with surrounding student assembly area, and construction of a permanent two-story, 26,000 square foot structure with six learning pods (equivalent to 12 classrooms) to accommodate 259 students, health and administrative offices, a media/literacy pod, an IT network room, a teacher work and professional development room, and a food service area.

EXHIBIT C

Project Schedule

(See sttached)

11/03/2020

Project Schedule

Vaughn New Admin & Kitchen Building
CSDA Project No. 1949.01

	Start	Completion	Duration	Comments
Architect NTP	**6/24/2019**	6/24/2019	1 day	
Existing Facilities Analysis	6/24/2019	**7/1/2019**	7 days	Concurrent with SD Phase
Schematic Design	6/17/2019	7/17/2019	30 days	
Design Development final submittal	7/25/2019	9/23/2019 (10:00AM)	60 days	
District Review &Comment	9/24/2019	11/01/19	45 days	Bluebeam session
50% CD's due to LAUSD	9/24/2019	12/20/2019	87 days	CSDA's final deadline to LAUSD
LAUSD Closed	12/25/2019	01/01/2020	7 days	Added per LAUSD's request
District Review and Comment	01/02/2020	02/24/2020	~~20 days~~	Concurrent District Review. Review period revised per LAUSD request.
100% Construction Documents	01/23/2020	03/27/2020	45 days	
CSDA Final Upload to LAUSD	3/27/2020	4/14/2020	18 days	CSDA Final Upload to LAUSD
District Review and Comment	4/21/2020	05/21/2020	30 days	Bluebeam/Concurrent LAUSD Review
Finalize LAUSD comments	11/2/2020	**11/13/2020**	14 days	
DSA Approval Coordination	11/2/2020	**11/30/2020**	28 days	
Vaughn Bid	12/01/2020	**01/01/2021**	4 weeks	
Contract Negotiation, Award, GC NTP	01/02/2021	**01/31/2021**	2-4 weeks	Immediately after LAUSD board approval of CEQA study
Pre-construction tasks	1/15/2021	**2/15/2021**	4-6 weeks	Include LCP meeting and training, LAUSD IOR on board
Abatement, demolition, relocation & temp services	1/15/2021	**03/01/2021**	4-6 weeks	Pending LAUSD's FETU availability to monitor site
Construction Administration	03/01/2021	**04/01/2022**	14 months	
Final Punchlist/ Move-In	05/01/2022	**05/30/2022**	30 days	
School Occupancy	06/01/2022	**06/10/2022**	1 week	School Move-in Day
Delivery of As-Built Drawings	06/10/2022	08/10/2022	2 months	
CONSOLIDATION PROJECT				
Consolidation Start of Project	10/26/2020	**-**	1 day	
Consolidation drawings	11/02/2020	**11/27/2020**	21 days	
Submittal to LADWP	11/30/2020	**-**	1 day	

EXHIBIT D

Form of Payment and/or Performance Bond

FAITHFUL PERFORMANCE BOND

WHEREAS _____, a California public benefit corporation, hereinafter called Developer, and

_____

hereinafter called CONTRACTOR, have entered into a Contract, which is incorporated by reference herein in its entirety, dated:

_____

for:

_____

Contract Amount:

_____

NOW, THEREFORE, CONTRACTOR, as Principal, and _____ as Surety; are held and firmly bound to Developer, its successors and assigns in the amount set forth under the bond, for the payment whereof in the manner specified, the CONTRACTOR and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

FAITHFUL PERFORMANCE BOND

In an amount equal to One Hundred Percent (100%) of the above Contract Amount. The condition of this obligation is that if the CONTRACTOR shall in a workmanlike manner promptly, competently, and faithfully perform all of the terms and conditions of the Contract in strict conformity therewith, then this obligation shall be null and void, otherwise it shall remain in full force and effect

The Surety, for value received, hereby stipulates and agrees that no adjustment to the Contract Amount and or Contract Times, alteration, additions and/or deletions to the terms of the Contract, or to the work to be performed thereunder, shall in anyway affect its obligations on the above bond, and it does hereby waive notice of any such change, adjustment, alteration, addition or deletion to the terms of the Contract Documents. The Surety hereby acknowledges and agrees that Developer may assign its rights herein to the State of California or any state agency providing funding or financing for the Project, a private or institutional lender providing funding or financing for the Project and any school district with whom Developer has a charter agreement without the consent of Surety.

No final settlement between the Developer and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

In case any suit is brought upon this bond, reasonable attorneys' fees shall be awarded to the prevailing party, only the amount thereof being within the Court's discretion. Attorneys' fees awarded against the Surety can exceed the penal sum of this bond.

Signed and sealed this _____day of _____ 20__.

CONTRACTOR	SURETY
	By_____ Attorney-in-Fact
By_____ Title_____	Address_____ Telephone Number_____ Bond Number_____

Developer will obtain the following certification:

CERTIFICATION BY LOS ANGELES COUNTY CLERK'S OFFICE OR THIRD PARTY APPROVED BY LAUSD

I hereby certify:

1. The named Surety is currently certified by the State Insurance Commissioner as an admitted Surety Insurer and such authority is in full force and effect; and

2. (A) This office has on file the financial statement of the named surety for the period ending_____ showing capital and surplus not less than ten (10) times the Contract Amount, or (B) such other evidence reasonably acceptable to the LAUSD.

EXHIBIT E

Labor Compliance MOU

(See attached)

Memorandum of Understanding
By and Between the Los Angeles Unified School District and
Vaughn Next Century Learning Center

This Memorandum of Understanding ("MOU") is dated this 20th day of November 2020 ("Effective Date") by and between the Los Angeles Unified School District ("LAUSD" and/or "District"), a political subdivision of the State of California, and **Vaughn Next Century Learning Center, a California public benefit corporation,** organized and existing under the laws of the State of California ("**Developer**"). The District and **Developer** are herein sometimes collectively referred to as the "Parties".

Whereas, the California Labor Code requires the payment of prevailing wages which requires all workers employed on a public works project be paid not less than the general prevailing wage rate of per diem wages, including but not limited to payment for travel and subsistence; and not less than the general prevailing rate of per diem wages for holiday, overtime and shift differential work, as determined by the California State Director of Industrial Relations for each craft, classification or type of work needed to execute the work.

Whereas, **Developer** intends to demolish the main administration building and replace it with a two (2) story administration and classroom building upon certain LAUSD-owned real property which will be partially or fully publicly funded known as **the new 2-Story Addition , which consists of the removal of the current main office with surrounding student assembly area, and construction of a permanent two-story, 26,000 square foot structure with six learning pods (equivalent to 12 classrooms), health and administrative offices, a media/literacy pod, an IT network room, a teacher work and professional development room, and a food service area** ("Project") located at **13330 Vaughn St., San Fernando, CA 91340.**

Whereas, the District operates a state-approved Labor Compliance Program acting with delegated authority from the Labor Commissioner to enforce the applicable statutes, laws, and regulations governing the payment of prevailing wages;

Whereas, it is the intent of the District to actively enforce this program upon all District construction sites requiring the payment of prevailing wage rates.

Now, therefore, in consideration of the mutual covenants and terms contained herein, the parties agree as follows:

1. **Principles of Agreement**

   The District's Labor Compliance Department ("LCD"), as the enforcing agency, will monitor and enforce the applicable statutes, laws, and regulations governing the payment of prevailing wages on the project. **Developer**, as the awarding body, agrees to cooperate with the District LCD to monitor and enforce the payment of prevailing wages, including, but not limited, to the withholding of contract payments where necessary on the project and the depositing of any and all penalties incurred as a result of enforcement to the District.

2. **Developer Rights and Obligations**

2.1. In General. **Developer** through and by its Principal agrees to assist the LCD in investigation, monitoring and enforcement of prevailing wage laws and regulations.

2.2. Compliance with Awarding Body responsibilities as defined in California Labor Code Section 1720-1861. **Developer** through and by its Principal shall comply with the "awarding body" responsibilities as defined in Labor Code section 1720 – 1861 which include, but is not limited to:

2.2.1. **Developer** shall take cognizance of prevailing wage violations committed in the course of the execution of contracts and shall promptly report suspected violations to the LCD.

2.2.2. **Developer** shall ensure compliance with contractor and subcontractor Public Works Contractor registration requirements as defined in Labor Code 1771.1.

2.2.3. **Developer** shall ensure any and all contracts issued pursuant to the Developer/Operator Agreement with the District include language identifying the contract as a public work subject to the prevailing wage requirements.

2.3. Prevailing Wage Applicability. **Developer** through and by its Principal shall refer all contracts related to the Developer/Operator Agreement with the District to the LCD to determine prevailing wage applicability.

2.4. Labor Compliance Program Approval and Listing of Prevailing Wage Requirements in Bid and Contract Documents.

2.4.1. **Developer** agrees to include in all bid invitations:

a. Attachment A – Notice of Labor Compliance Program Approval in accordance with the requirements of Title 8 CCR section 16429;
b. Attachment B – Bid Language for LAUSD Labor Compliance Enforcement

2.4.2. **Developer** agrees to include in all contracts:

a. Attachment A – Notice of Labor Compliance Program Approval in accordance with the requirements of Title 8 CCR section 16429;
b. Attachment C – General Conditions for LAUSD Labor Compliance Enforcement

2.5. Documents and Information. **Developer** agrees to provide any and all contracts issued pursuant to the Developer Agreement to the LCD. In addition, the below information and resources will be provided to the LCD for the purposes of monitoring, investigating, and enforcement of prevailing wages:

a. Bid Invitation and Proof of Publication
b. Contact person for Labor Compliance matters
   i. Contact Information of Project Manager in charge for both Prime Contractor and District Representative
   ii. Pre-Job/Pre-Bid Notification
   iii. Charter School Project Manager
c. Contract Documents
   i. Contract Language (General Conditions)
   ii. Copy of Fully Executed Contract Agreement
   iii. Proof of Insurance from Prime Contractor/Subcontractors (Bonding Companies with bond number)
   iv. Scope of Work and General Conditions of Contract
   v. Copy of Request for Proposals/Request for Qualifications

vi. Bid Tabulation and Selection of Prime Contractor with Award Amounts and Bid Amounts
vii. Notice to Proceed
viii. List of Contact Information for Prime and all Subcontractors
ix. Notice of Completion

d. Project Documents
i. Inspection Reports
ii. Daily Construction Reports

e. Other documents as deemed necessary

2.6. Public Works Project Award Notification (PWC 100 form) to DIR. Pursuant to Labor Code section 1773.3, **Developer** shall, within thirty (30) days of award submit the PWC-100 form to the Department of Industrial Relations ("DIR"). **Developer** will indicate Los Angeles Unified School District Labor Compliance Department as the agency responsible for carrying out the Awarding Body's Labor Compliance Program for the project. The following contact information will be included on the form:

Name:	Jessica Tam
Email Address:	lcp@lausd.net
Contact Number:	(213) 241-4665

Prior to issuance of final payment due to the contractor, **Developer** shall update the PWC-100 form to provide a complete list of all subcontractors at the same time notifying the LCD.

2.7. Notice of Withholding of Contract Payments. **Developer** agrees to assist the LCD in the investigation, monitoring, and enforcement of prevailing wages including, but not limited to, the withholding of contract funds as determined by the LCD. **Developer** will withhold contract payments pursuant to Labor Code section 1727(a) from contractors when a Notice of Withholding Contract Payments has been issued by the LCD. When there has been a final determination that a contractor has violated prevailing wage requirements, whether through non-response, settlement agreement, decision by the DIR, or any other means, funds in an amount equal to the amount of back wages, training funds, penalties, and liquidated damages assessed shall be deemed forfeited by the contractor. Penalties forfeited by contractors pursuant to the LCD actions under this MOU shall be deposited to the LAUSD.

2.8. Job Site Posting at Project – LAUSD Monitoring. **Developer** agrees to post Attachments A and D at the job site to inform the public and workers that this is a project monitored by a DIR approved Labor Compliance Program and that the payment of prevailing wages is required.

2.9. Site Visits – LAUSD Monitoring. **Developer** agrees to allow LAUSD and representatives from LAUSD's Work Preservation Group access to project to conduct in-person inspections at the job site randomly or as deemed necessary by the LCD. Activities will include interviewing workers while working, taking pictures of workers and/or project site.

2.10. No LAUSD Liability for Labor Violations of Contractor. **Developer** understands and agrees that LAUSD is not a guarantor of, nor responsible for noncompliance with Labor Code 1771.1, 1773.3, 1781, and/or 1782 by contractor or subcontractors. LAUSD shall incur no liability of any kind for monitoring prevailing wage compliance, nor for any violations of LAUSD's Labor Compliance Program by the contractor or subcontractors providing construction services for the Project. Developer shall indemnify and defend LAUSD from any and all liability, claims, and/or damages that may arise directly or indirectly from Construction or the Project, except to the extent that such

liability, claim, and/or damages arise from LAUSD's breach of this MOU Agreement, gross negligence or willfull misconduct.

2.11. Miscellaneous. – Upon receipt, **Developer** will immediately forward to the LCD all Labor Compliance-related complaints and requests, including, but not limited to, requests for Certified Payroll Reports and stop notices issued by the Department of Industrial Relations. Additionally, any and all documents intended for the LCD sent to **Developer** shall be immediately forwarded to the LCD upon receipt by **Developer**.

3. **LAUSD's Rights and Obligations**

3.1. In General. LAUSD acknowledges that the purpose of this MOU is to provide prevailing wage monitoring and enforcement services to **Developer**. The LCD will be responsible in conducting all prevailing wage monitoring and enforcement activities as required by the California Labor Code and California Code of Regulations.

3.2. Expenses and Costs. Expenses and costs associated with the monitoring, investigation, and enforcement of prevailing wages will be the responsibility of LAUSD.

3.3. LCD Administration. The LCD shall maintain its status as an approved Labor Compliance Program and continue to perform all duties and responsibilities required of such program. The LCD will provide the following administrative duties:

3.3.1.1. Receive and maintain Certified Payroll Reports ("CPRs") and all related payroll records;
3.3.1.2. Act as Custodian of Record for labor compliance related documents for the project;
3.3.1.3. Respond to all public record request(s) for Labor Compliance-related documents in a timely manner;
3.3.1.4. Maintain a database of all incidents of non-compliance of prevailing wage requirements on project. Contractors/subcontractors found to be in non-compliance with prevailing wage requirements will have their assessments posted at http://www.laschools.org/contractor/lc/documents/download/lc-assessments/lc-assessments.xls for three (3) years.

3.4. Education. The LCD will provide education to contractors and subcontractors in the prevailing wage requirements. Education activities to be provided by the LCD shall include the following:

3.4.1.1. Labor Compliance Certification class;
3.4.1.2. Labor Compliance Re-certification class;
3.4.1.3. Online Certified Payroll Reporting System Hands-On Training;
3.4.1.4. Attendance of pre-construction/job start meetings to explain prevailing wage requirements to all contractors present;
3.4.1.5. Labor Compliance pre-job conference video available via LAUSD LCD website.

3.5. LCD Monitoring and Enforcement. The LCD shall monitor and analyze contractors' compliance with the prevailing wage requirements as mandated by the California Labor Code and California Code of Regulations. Monitoring and analysis by the LCD shall include but not be limited to the following:

3.5.1.1. Require contractors and subcontractors of every tier to submit CPRs to the District's Online Certified Payroll Reporting system on a weekly basis.

3.5.1.2. Monitor, review and confirm contractors' CPRs to ensure compliance with State prevailing wage laws and requirements.

3.5.1.3. Investigate and resolve prevailing wage issues arising with from monitoring, review and confirmation of CPRs.

3.5.1.4. Respond to complaints and conduct investigations into allegations of noncompliance of prevailing wages.

3.5.1.5. Conduct source document reviews of contractors to verify compliance of prevailing wage requirements.

3.5.1.6. Conduct on-site interview with workers and contractors to ensure payment of prevailing wages and compliance with prevailing wage laws for all workers working on the project. Site visits may be conducted by the District's Work Preservation Group Volunteers.

3.6. Staffing and Support. The LCD will assign necessary and sufficient staff to perform the administrative, education, monitoring and enforcement activities within the scope of services of this MOU. This will include providing staff to provide evidence in any hearing and providing legal representation at any hearing before the Director of Industrial Relations ("Director"), or in any court proceeding challenging a decision by the Director.

3.6.1.1. A designated person from the LCD will be assigned to **Developer** to conduct all activities referenced above and be the direct contact person for all questions related to this MOU and its activities.

4. **Miscellaneous**

4.1. Law Governing: This MOU shall be governed by, interpreted under, and enforced in accordance with the laws of the State of California. In any action or proceeding arising herefrom, the parties hereby consent to the jurisdiction of any competent court within the Los Angeles County.

4.2. Successors and Assigns: This MOU is binding upon and shall insure to the benefit of the Parties, their respective agents, Board(s), representatives, shareholders, officers, directors, partners, divisions, corporations, subsidiaries, parents, affiliates, successors, predecessors, assigns, heirs, executors, administrators, past, present, and future.

4.3. Authority to Execute: Each signatory executing this MOU on behalf of the Parties represents and warrants that he or she is authorized to sign this MOU and that he or she has full and complete authority to commit the Parties to this MOU and the provisions thereof.

4.4. Counterparts; Facsimile Signatures: This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together shall constitute one and the same instrument. Facsimile signatures shall be binding upon receipt.

4.5. Supplemental Agreements; Amendments: This MOU reflects the entire agreement between the LCD and **Developer**. There are no additional agreements expressed or implied. However, any

modification of this MOU shall be effective only if it is in writing and signed by both parties hereto.

4.6. Headings: The headings used in this MOU are for convenience and ease of reference only and shall not be used to construe, interpret, expand or limit the terms of the MOU.

4.7. Effective Date and Term of this Agreement: This MOU will commence upon execution by the authorized representatives of the parties, and will remain in effect until the expiration of the applicable statute of limitations for enforcement of prevailing wage laws on the project.

The parties hereto have caused this MOU to be executed by their duly authorized representative.

Vaughn Next Century Learning Center
A California public benefit corporation organized and existing under the laws of the State of California

By: _____
Authorized Representative

Name: YVONNE CHAN

Title: Founder, Project Manager

Date: November 20, 2020

Los Angeles Unified School District
A political subdivision of the State of California

By: _____
Authorized Representative

Name: Jessica Tam

Title: Labor and Contract Compliance Administrator

Date: 12/4/2020

C: File
Labor Compliance Department (via lcp@lausd.net)

ATTACHMENT A

Notice of Labor Compliance Program Approval

STATE OF CALIFORNIA

PETE WILSON, *Governor*

DEPARTMENT OF INDUSTRIAL RELATIONS
OFFICE OF THE DIRECTOR
45 Fremont Street, 32nd Floor
San Francisco, CA 94105

December 11, 1996

Kirk C. Rascoe
Director
Equal Opportunity Section
Los Angeles Unified School District
P. O. Box S, Grand Avenue, Suite 1125
Los Angeles, CA 90071

Re: Labor Compliance Program

Dear Mr. Rascoe:

This is to inform you that your request for final approval of your Labor Compliance Program (LCP) is hereby granted effective December 27, 1996 pursuant to California Code of Regulations (CCR) Section16427. As provided in this regulation, you are to enter into an agreement with the State Labor Commissioner to provide for a procedure for securing approval of forfeitures. You are also required to submit an annual report on the operation of your LCP as outlined in CCR Section16431 within 60 days after the close of your fiscal year (July 1).

Congratulations on what appears to be a successful LCP.

If you have any questions, please contact Assistant State Labor Commissioner, Nance Steffen at (415) 975-2080.

Very truly yours,

John C. Duncan
Chief Deputy Director

cc: Roberta Mendonca
Nance Steffen

AFFIRM. ACTION
PROGRAMS SECT.
96 DEC 23 PM 12: 56

ATTACHMENT B

Bid Language for LAUSD Labor Compliance Enforcement

LABOR COMPLIANCE MOU AGREEMENT
BID LANGUAGE for LAUSD LABOR COMPLIANCE ENFORCEMENT

Invitation to Bid Language:

Public Works Registration:

Pursuant to Labor Code section 1771.1, a contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5.

It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by section 7029.1 of the Business and Professions Code, or by section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Labor Code section 1725.5 at the time the contract is awarded.

Pursuant to Labor Code Section 1771.7, this Project will be subject to the Los Angeles Unified School District (LAUSD) approved Labor Compliance Program (Final Approval, December 27, 1996). For questions or assistance concerning the LAUSD Labor Compliance Program, contact the Labor Compliance Office at (213) 241-4665 or lcp@lausd.net, or visit www.laschools.org/lcp. Any Contractor to whom a contract for the Work is awarded by the Owner shall comply with the provisions of the California Labor Code, as well as the LAUSD's Labor Compliance Program for the Project, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the Work is to be performed in accordance with, without limitation, Sections 1771, 1773.1, 1774, 1775, 1776 and 1813 of the California Labor Code and the obligation to comply with Section 1777.5 of the California Labor Code governing employment of apprentices. Copies of the prevailing rates of per diem wages are available to any interested party at www.laschools.org/contractor/lc or www.dir.ca.gov/dlsr.

The successful bidder will be required to pay prevailing wages in accordance with law and is required to have the following State of California Contractor license current at the time of bid submission:

Instructions to Bidders – Certification Language Part 2:

Prevailing Wages
Bidder will be required to comply with, but not limited to, the provisions of the Certification Requirements in its entirety.

Certification Requirements Section 00 4500:

1.04 PREVAILING WAGES

A. In compliance with provisions of the California Labor Code, all workers employed by bidder or any bidder subcontractor in the execution of Work shall be paid not less than the general prevailing rate of per diem wages, including payment for travel and subsistence; and not less than the general prevailing rate of per diem wages for holiday and overtime work, as determined by the California State Director of Industrial Relations for each craft, classification or type of worker needed to execute the Work.

B. Copies of the prevailing rate of per diem wages are on file in the following Los Angeles Unified School District (LAUSD) Labor Compliance Program Office and shall be made available to an interested party on request:

Labor Compliance Department	or	DLSR
333 S. Beaudry Ave, 21st Floor		P.O. Box 420603
Los Angeles, CA 90017		San Francisco, CA 94142
(213) 241-4665		(415) 703-4780

C. Information on the prevailing rate of per diem wages and the LAUSD Labor Compliance Program is available at the following link:

http://www.laschools.org/lcp

D. Bidder certifies that it will submit the certified payroll records of Bidder and all subcontractors, of any tier, including Non-Performance payroll records, on a weekly basis to the LAUSD Labor Compliance Program in the method provided by the LAUSD Web-based Certified Payroll Reporting System.

E. Bidder certifies that its bid amount includes funds sufficient to allow Bidder to comply with all applicable local, state and federal laws and regulations governing the labor and services to be provided for the performance of the Work of the Contract and shall indemnify, defend and hold District harmless from and against any and all claims, demands, losses, liabilities and damages arising out of or relating to Bidder's failure to comply with applicable law in this regard.

ATTACHMENT C

General Conditions for LAUSD Labor Compliance Approval

LABOR COMPLIANCE MOU AGREEMENT GENERAL CONDTIONS for LAUSD LABOR COMPLIANCE ENFORCEMENT

6.49 ***Prevailing Wages:***

6.49.1 Labor Compliance Program

6.49.1.1 CONTRACTOR and all Subcontractors must comply with the Los Angeles Unified School District ("LAUSD") Labor Compliance Program ("LCP") requirements, including, but not limited to, all applicable statutes and regulations, LAUSD LCP's LCP Manual, and OWNER's Contract requirements. In the event that additional or revised information is required pursuant to enforcement of the LCP, such requirement shall not result in an increase to the Contract Time or the Contract Amount. CONTRACTOR will be responsible for all failures by all Subcontractors to comply with LAUSD's LCP requirements. CONTRACTOR, consistent with California Public Contract Code section 6109, is prohibited from performing a portion of work with a Subcontractor who is debarred pursuant to Sections 1777.1 or 1777.7 of the Labor Code.

6.49.1.2 Notice of LCP Approval:

LAUSD's LCP was granted final approval/extended authority by the Department of Industrial Relations on December 27, 1996. For questions and assistance, please contact the LAUSD LCP Office at (213) 241-4665, lcp@lausd.net, or at www.laschools.org on the web.

6.49.1.3 CONTRACTOR and all Subcontractors must send an authorized representative responsible for LCP compliance to the first available Labor Compliance Certification Training class following contract award. If a CONTRACTOR or Subcontractor has already attended LAUSD's Labor Compliance Certification Training class less than one (1) year before contract award on the Project, it does not have to retake the Labor Compliance Certification Training Class. A representative responsible for LCP compliance for CONTRACTOR and each Subcontractor must take the online Labor Compliance Recertification class within one (1) year after taking the Labor Compliance Certification Training class.

6.49.2 Prevailing Wages

6.49.2.1 This Project is a public work, as defined in Labor Code section 1720, and must be performed in accordance with the requirements of Labor Code sections 1720 to 1815 and Title 8 California Code of Regulations (CCR) sections 16000 to 17270, which govern the payment of prevailing wage rates on public works projects.

6.49.2.2 Payment of Prevailing Wages

In accordance with Labor Code sections 1720, 1771, 1771.5, 1774, and 1815 and Title 8 CCR section 16433, LAUSD requires the payment of prevailing wages for all publicly-funded projects over twenty-five thousand ($25,000) dollars when the project is for construction or installation work, and for all projects over fifteen

thousand ($15,000) dollars when the project is for alteration, demolition, repair, warranty or maintenance work.

6.49.2.3 Pursuant to Labor Code sections 1770 et seq., LAUSD has obtained from the Department of Industrial Relations determinations of the prevailing wage rates and the prevailing wage rates for holiday and overtime work for Los Angeles County where the Project is to be performed. Copies of these prevailing wage rates are on file and available to any interested party upon request at the LAUSD LCP's office and the following websites: www.laschools.org/contractor/lc or www.dir.ca.gov/dlsr/pwd.

6.49.2.4 Questions pertaining to prevailing wage rates should be directed to the LAUSD Labor Compliance Department or to the Division of Labor Statistics and Research at the following respective addresses:

Labor Compliance Department	or	DLSR
333 S. Beaudry Ave, 21st Floor		P.O. Box 420603
Los Angeles, CA 90017		San Francisco, CA 94142
(213) 241-4665		(415) 703-4780
lcp@lausd.net		www.dir.ca.gov/DLSR/

6.49.2.5 CONTRACTOR shall post at appropriate and conspicuous locations on the Project site the following:

6.49.2.5.1 A schedule showing all applicable prevailing wage rates in accordance with Labor Code section 1773.2; and

6.49.2.5.2 Notice of LAUSD LCP approval sufficient to satisfy Title 8 CCR sections 16429 and 16451(d).

6.49.2.5.2 Notice of Project Subject to Monitoring by LAUSD LCP (Attachment A)

6.49.2.6 CONTRACTOR and all Subcontractors must provide itemized wage statements to their employees in accordance with Labor Code section 226.

6.49.2.7 CONTRACTOR represents and warrants that the Contract Amount includes sufficient funds to allow CONTRACTOR and all Subcontractors to comply with all applicable laws and contractual agreements. CONTRACTOR shall defend, indemnify and hold OWNER, LAUSD, and LAUSD LCP harmless from and against any and all claims, demands, losses, liabilities and damages arising out of or relating to the failure of CONTRACTOR or any Subcontractor to comply with any applicable law in this regard, including, but not limited to Labor Code section 2810. CONTRACTOR agrees to pay any and all assessments, including wages, penalties and liquidated damages, made against OWNER, LAUSD and LAUSD LCP in relation to such failure.

6.49.2.8 Failure to comply with the payment of prevailing wages shall result in a penalty to the District pursuant to Labor Code section 1775 and applicable regulations, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate for the work or craft in which such worker is employed by the Contractor

or Subcontractor. This includes, but is not limited, to the failure to pay applicable shift differential rates.

6.49.2.9 The CONTRACTOR and the bond insurer will be jointly and severally liable for the back wages, penalties, and/or Labor Code Liquidated Damages due as a result of a prevailing wage violation. "Labor Code Liquidated Damages" are equal to the total underpayment of wages remaining unpaid sixty (60) days after service of the Notice of Withholding of Contract Payments pursuant to Labor Code section 1742.1. The underpaid employee will receive both the Labor Code Liquidated Damages and the underpayment amount.

6.49.2.10 Pursuant to Labor Code section 1778, every person, who individually or as a representative of an awarding or public body or officer, or as a contractor or subcontractor doing public work, or agent or officer thereof, who takes, receives or conspires with another to take or receive, for his own use or the use of any other person any portion of the wages of any workman or working subcontractor, in connection with services rendered upon any public work is guilty of a felony.

6.49.3 Apprentices

6.49.3.1 CONTRACTOR and all Subcontractors shall comply with all requirements in Labor Code section 1777.5 and Title 8 CCR sections 200 et seq. CONTRACTOR is responsible for compliance with Labor Code section 1777.5 for all apprenticeable crafts or trades. CONTRACTOR and any Subcontractor(s) who fail to comply with Labor Code section 1777.5 shall be subject to the penalties specified in Labor Code section 1777.7.

6.49.3.2 CONTRACTOR and all Subcontractors shall submit contract award information using the Division of Apprenticeship Standards (DAS 140) Form to the applicable apprenticeship committee within ten (10) days of the date of execution of contract and no later than the first day of work in accordance with Title 8 CCR section 230. CONTRACTOR shall simultaneously submit a copy of the completed DAS 140 Form to the LAUSD's Labor Compliance Department in the method provided by LAUSD's Online Certified Payroll Reporting System.

6.49.4 Working Hours

6.49.4.1 CONTRACTOR and all Subcontractors shall comply with the following provisions for working hours:

6.49.4.1.1 Pursuant to Labor Code section 1810, eight (8) hours labor shall constitute a legal day's work.

6.49.4.1.2 Pursuant to Labor Code section 1811, the time of service of any worker employed at any time by CONTRACTOR or any Subcontractor is limited and restricted to eight (8) hours during any one day and forty (40) hours during any one week, except as otherwise provided by law.

6.49.4.1.3 Notwithstanding the foregoing provisions, work performed in excess of eight (8) hours per day and forty (40) hours during any one week, shall be

permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours per week at not less than one and one-half (1 ½) times the basic rate of pay, or as otherwise required by law. All work performed on Saturday, Sunday, and/or holidays shall be paid pursuant to the Prevailing Wage Determination.

6.49.4.1.4 Unless otherwise prescribed by law, where a single shift is worked, eight (8) consecutive hours between 7 AM and 11:30 PM shall constitute a work day at the applicable prevailing wage rate(s) including but not limited to shift differential pay. Please contact the Department of Industrial Relations for shift differential pay requirements.

6.49.4.1.5 Unless otherwise prescribed by law, forty (40) hours between Monday 7 AM and Friday 11:30 PM shall constitute a workweek at the applicable prevailing wage rate(s), including but not limited to shift differential pay requirements

6.49.4.1.6 The OWNER's Labor Compliance Department audit and investigation uses the working hours contained in Articles 6.49.4.1.4 and 6.49.4.1.5 and determines violations and penalties accordingly, unless evidence is found to the contrary, such as in the Supplementary Conditions, or is prescribed by law.

6.49.4.1.7 After the Effective Date of the Contract, the work day and workweek may only be modified as authorized in the contract. Any other Work performed by workers necessary to be performed outside of the work day and workweek shall be performed without adjustment to the Contract Amount or any other additional expense to the OWNER.

6.49.4.2 Failure to comply with the payment of overtime wages shall result in a penalty to the District pursuant to Labor Code section 1813 and applicable regulations, for each calendar day, or portion thereof, during which worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week without proper compensation in violation of Labor Code section 1810 *et seq.* and/or applicable regulations.

6.49.5 Certified Payroll Reporting Forms and Payroll Records

6.49.5.1 CONTRACTOR shall be responsible for the submission of electronic certified payroll records of CONTRACTOR and all Subcontractors within ten (10) days of the week ending date of each week. CONTRACTOR shall submit weekly electronic certified payroll records, including certified Non-Performance payroll records, in the method provided by the LAUSD's Web-based Certified Payroll Reporting System, to the LAUSD's Labor Compliance Program. When a Contract has various school projects, Certified Payroll Reporting Forms for each individual school shall be maintained and submitted in the method provided by LAUSD.

6.49.5.2 CONTRACTOR must comply with all requirements of LAUSD's Web-based Certified Payroll Reporting System, including, but not limited to, electronic signature, electronic submittal of documents and forms, and use of other electronic modules. This obligation includes compliance with all existing requirements and all new requirements developed during the term of the Project.

6.49.5.3 CONTRACTOR shall submit to LAUSD's Labor Compliance Department, an estimated start date for all Subcontractors, within five (5) days of the Subcontractor work start date and shall submit a revised estimate, if applicable, within five (5) days of knowledge of any changes to any estimated start date. This document must contain the name and address of each Subcontractor, each Subcontractor's contractor license number and the estimated start date.

6.49.5.4 CONTRACTOR shall provide, and shall cause all Subcontractors to provide, "Payroll Records" to LAUSD, within ten (10) days of written request, at no cost to LAUSD and/or OWNER. "Payroll Records" are all un-redacted certified payroll records, time cards, sign-in sheets, daily construction reports, check stubs, cancelled checks, cash receipts, trust fund forms, books, documents, schedules, forms, reports, receipts or other evidences which reflect job assignments, work schedules by days and hours, and the disbursement by way of cash, check or in whatever form or manner, of funds to a person(s) by job classification and/or skill pursuant to the Project. All received documents will become property of LAUSD.

6.49.5.5 Failure to submit Payroll Records within ten (10) days of such due date shall result in a penalty to District pursuant to Labor Code section 1776 and applicable regulations, until strict compliance is effectuated.

6.49.6 Withholding of Contract Payments

6.49.6.1 LAUSD will assess and OWNER will withhold payment from CONTRACTOR in accordance with its rights and obligations under Labor Code section 1720 et seq. and applicable regulations, including for back wages, penalties and Labor Code Liquidated Damages.

6.49.6.2 Notwithstanding any other provision in these General Conditions, OWNER shall withhold payment from any portion of the Contract Amount then or thereafter due the CONTRACTOR for violation by CONTRACTOR or any Subcontractor of the requirements of Article 6.49 or any of its subsections. Without limitation to the foregoing, payment shall not be made to the CONTRACTOR when certified payroll records by CONTRACTOR or any of its Subcontractors are delinquent or inadequate in accordance with Title 8 CCR 16435.

6.49.7 Incorporation by Reference

All statutory Codes and Regulations cited in this contract are understood by the parties to be incorporated in full by the references to those statutes and regulations herein.

Attachment A

This public works project is subject to the monitoring and investigative activities by the Labor Compliance Department of the Los Angeles Unified School District (LAUSD LCD). This Notice is intended to provide information to all workers employed in the execution of the contract for public work and to all contractors and other persons have access to the job site to enable the LAUSD LCD to ensure compliance with and enforcement of prevailing wage laws on public works projects.

The prevailing wage laws require that all workers be paid at least the minimum hourly wage as determined by the Director of Industrial Relations for the specific classification (or type of work) performed by workers on the project. These rates are listed on a separate job site posting of minimum prevailing rates required to be maintained at the project site by the contractor. Complaints concerning nonpayment of the required minimum wage rates to workers on this project may be filed with the LAUSD LCD at:

Los Angeles Unified School District
Labor Compliance Department
333 S. Beaudry Ave. 21st Floor
Los Angeles, CA 90017
Tel: (213) 241-4645
Email: lcp@lausd.net

Complaints should be filed in writing immediately upon discovery of any violations of prevailing wage laws due to the short period of time following the completion of the project that the LAUSD LCD may take legal action against those responsible.

Complaints should contain details about the violations alleged (for example, wrong rate paid, not for all hours paid, overtime rate not paid for hours worked in excess of 8 per day or 40 per week, etc.) as well as the name of the employer, the public entity which awarded the public works contract, and the location and name of the project.

For general information concerning the prevailing wage laws and how to file a complaint concerning any violation of these prevailing wage laws, you may contact any Division of Labor Standards Enforcement (DLSE) office. Complaint forms are also available at the Department of Industrial Relations website found at www.dir.ca.gov/dlse/PublicWorks.html

EXHIBIT F

Index of DSA Approved Construction Plans

(See attached)

EXHIBIT G

Environmental Import/Export Materials Testing

(See attached)

NOTES TO OAR: This Section must be included in Division 01 whenever any earthwork, including related sections 31 2200, 31 2313, 31 2316, 31 2319, 31 2323, 31_2333 and 32 1100, is included in the scope of work of the project. All imported and exported fill materials are required to be tested; such testing shall be conducted at site of origin. In the event that site is balanced and does not require either export or import, then requirements of this section shall not apply; however, this section is still required to be included in bidding documents. Clean gravel from a pre-evaluated commercial source may also be eligible for a variance to this section (01 4524) with prior written approval from OEHS. While OWNER Consultant (soils engineer) provides testing for compaction, grading, etc., CONTRACTOR retains the services of a licensed environmental professional and an independent State of California certified laboratory to sample and test for the requirements of this section. A request for variance to the Specification must be submitted in writing to OEHS two weeks in advance of need and be accompanied by a memo explaining the rationale for the variance and a project funding code to cover OEHS review. ***DELETE THIS TEXT BOX PRIOR TO ISSUING THIS SPECIFICATION.***

SECTION 01 4524

ENVIRONMENTAL IMPORT/EXPORT MATERIALS TESTING

PART 1 - GENERAL

1.01 SUMMARY

A. This Section specifies the requirements for the sampling, testing, transportation and certification of imported fill materials or exported fill materials from school sites.

B. This Section defines:

1. CONTRACTOR requirements for use of existing, imported or generated materials on school sites.
2. CONTRACTOR requirements for stockpiling materials for use on schools sites.
3. CONTRACTOR requirements for exporting materials from a school site including transportation.
4. Testing requirements for all materials imported, exported, stockpiled or generated for use on a school site.
5. CONTRACTOR testing and reporting requirements.
6. CONTRACTOR submittal requirements.

C. Related Requirements:

1. Division 1: General Requirements.
2. Section 01 1100: Summary of Work.
3. Section 01 3113: Project Coordination.
4. Section 01 3213: Construction Schedule.
5. Section 01 3300: Submittal Procedures.
6. Section 01 7700: Contract Closeout.

7. Section 31 2200: Grading.
8. Section 31 2313: Excavation and Fill.
9. Section 31 2316: Excavation and Fill. (Pavement)
10. Section 31 2319: Excavation and Fill (Structures).
11. Section 31 2323: Excavation and Fill (Utilities).
12. Section 31 2333: Excavation and Fill for Synthetic Play Fields.
13. Section 32 1100: Base Course.

1.02 OBJECTIVES

A. Ensure that fill materials imported to school sites are safe for students, staff and visitors.

B. Ensure that materials exported from school sites for use at school and non-school sites or offsite disposal/recycling are adequately characterized for lawful disposition.

C. Ensure that representative data be collected so that analytical determinations can be made in regard to the first two objectives.

D. Require CONTRACTOR to contract with and pay for the services of a licensed environmental professional (licensed State of California Professional Engineer [PE Civil] or Professional Geologist [PG]) familiar with environmental site assessment and waste classification and disposal requirements to perform such services.

E. Require CONTRACTOR to contract with and pay for an independent, approved California Department of Health Services certified testing laboratory to perform analytical testing of imported, exported and site generated fill materials.

F. Require CONTRACTOR to pay all fees required by authorities having jurisdiction over area.

G. Require CONTRACTOR to post bonds required by authorities having jurisdiction over area.

1.03 DEFINITIONS

A. Definitions not furnished in text of this section:

1. CEQA: California Environmental Quality Act.
2. EIR: Environmental Impact Report.
3. Environmental Health Supervisor, Environmental Compliance Group: Individual at OEHS, who ensures OWNER compliance with all pertinent regulations, ordinances, codes, and/or policies.
4. OEHS: OWNER's Office of Environmental Health and Safety.
5. Licensed Environmental Professional: Person licensed in the State of California and with sufficient knowledge and experience to competently perform environmentally-related work, including (but necessarily limited to) environmental site investigations, remedial projects, and other tasks involving the collection of soil, soil vapor, and groundwater samples; the selection of

analytical methods for said samples; the interpretation of analytical data; the preparation of work plans, reports, and other relevant documents; and the supervision and/or oversight of remedial contractors. For the purposes of this Section, a licensed environmental professional shall include a Professional Geologist or "P.G." or a Civil Professional Engineer or "P.E."

6. ug/kg: micrograms/kilogram.

7. mg/kg: milligrams/kilogram.

8. NA: Not Applicable.

9. RCRA: federal Resource Conservation and Recovery Act.

10. Soil Certification/Sample Data Report: Report documenting location, volume, sampling procedures, analytical methods, chemical test results, and recommendations for either disposing or re-using stockpiled soil excavated from OWNER sites or proposed for import to same. Preparation of report is to follow the procedures given in Article 1.04 of this Section.

11. Soil Sampling Plan (SSP): As described in Article 1.04 of this Section, a document providing sufficient guidance with which to adequately characterize soil proposed for import to, or export from, an OWNER's school Site. Guidance in this document is to be in accordance with the procedures described in Article1.04 of this Section.

12. STLC: Soluble Threshold Limit Concentrations as defined in Tables II and III, Chapter 11, Article 3, § 66261.24-1 of Title 22 of the California Code of Regulations (CCR).

13. TCLP: Toxicity Characteristic Leaching Procedure, test Method 1311, documented in Title 40, Part 261, Subpart C, § 261.24 of the Code of Federal Regulations (CFR).

14. TPH: Total Petroleum Hydrocarbons.

15. TTLC: Total Threshold Limit Concentrations, as defined in Tables II and III, Chapter 11, Article 3, § 66261.24-1 of Title 22 of the CCR.

16. USEPA or EPA: United States Environmental Protection Agency.

17. VOCs: Volatile Organic Compounds.

18. WET: Waste Extraction Test, as defined in Appendix II-1, Chapter 11 of Title 22 of the CCR.

1.04 SUBMITTALS

A. CONTRACTOR shall submit to OAR for transmittal to the OEHS:

1. A qualifications statement for CONTRACTOR's independent California certified testing laboratory and required licensed environmental professional (California Professional Civil Engineer (PE) or Professional Geologist (PG) prior to the start of Work. CONTRACTOR's licensed environmental professional must possess

recent demonstrated environmental experience in soil sampling and waste classification.

2. A draft import/export Soil Sampling Plan (SSP) prepared by CONTRACTOR's licensed environmental professional for review and concurrence by OEHS. The objective of the SSP is to obtain representative sample data. The Draft SSP or equivalent document acceptable to OEHS must be submitted at least 72 hours prior to all proposed import/export sampling activities. The consultant's proposal (with or without fees) is acceptable in lieu of a SSP.

   a. At a minimum, the Draft SSP shall include a site map which shows the location of the proposed import/export soils and the location and number of the proposed stockpile samples. The draft SSP shall also contain information pertaining to the total volume of the stockpile proposed for sampling and the rationale in support of the proposed sampling approach. Existing environmental documentation specific to the import/export site shall be utilized by the CONTRACTOR's environmental professional to support the proposed sampling approach and analytical method suite. It is the responsibility of the CONTRACTOR to request this information in advance from the OAR if they do not already have access to a copy at the jobsite.

   b. Lacking this information or rationale, samples shall be analyzed for all analytical methods described in paragraph 3.02 E. Guidance for the minimum number of samples per total volume of soil to be excavated is provided in Table 1. Supplemental samples may be required by OEHS if pothole sampling is utilized. In addition, the draft SSP shall contain all necessary contact information for the import/export site and a proposed schedule for the sampling activities.

   c. OEHS will either approve the document or request that revisions be made. This process shall continue until OEHS approves the draft SSP.

3. Draft Soil Certification/Sample Data Report:

   a. A draft Soil Certification/Sample Data Report prepared by CONTRACTOR's licensed environmental professional for review and concurrence. At a minimum the draft Soil Certification/Sample Data Report shall contain:

      1) A site map showing the location of the in situ sampling locations or the stockpile(s) and stockpile sample locations.

      2) A detailed discussion and evaluation of the laboratory results.

      3) A summary of findings and recommendations that provide a determination on the waste classification of the subject materials, based on the representative sample results.

      4) Recommendations for additional step-out samples, if any.

      5) Chain-of-custody forms and all laboratory data with respective QA/QC sheets.

b. CONTRACTOR must allow OEHS a minimum of 72 hours to review the draft Soil Certification/Sample Data Report. OEHS will either approve the document or request that revisions be made. This shall continue until OEHS approves the draft Soil Certification/Sampling Data Report.

c. Upon revision of the draft Soil Certification/Sample Data Report by the CONTRACTOR'S licensed environmental professional and acceptance by OEHS, the final report, signed and stamped by the licensed professional, shall be submitted to the OAR for distribution to OEHS and the project file. If the soil is to be exported to or imported from, an OWNER school site, if it satisfied the requirements of paragraphs 3.02.F and 3.02.G of this Section, then a PG or civil PE must sign and stamp the final report.

1) The Environmental Health Supervisor, Environmental Compliance Group will confirm that the proposed waste classification for the proposed import/export material is appropriate. For materials designated unacceptable for export except to a licensed facility, or for those materials sent electively by CONTRACTOR to a licensed facility, the Environmental Health Supervisor, Environmental Compliance Group will provide information on the necessary waste manifest documentation.

2) If an OAR/Complex Project Manager (CPM) would like OEHS to conduct the soil sampling and/or soil removal, the OAR/CPM should submit a Project Referral Form with completed COLIN funding line information to OEHS at least 3 weeks prior to when the work needs to be conducted. Submit the Project Referral Form to: environmental_review@lausd-oehs.org

4. Written documentation, e-mail is acceptable, verifying that all export soil data for any soils exported for use at a non-school site, including the final Certification Report prepared by CONTRACTOR's licensed environmental professional, were provided to the proposed recipient prior to export and delivery.

5. Prior to import/export, written documentation in the form of a letter sent by the transporter to the CONTRACTOR, who must in turn submit it to OEHS, to verify the following:

a. The hauling contract for each load imported to, or exported from, the school site specifies the use of "clean" trucks and/or trailer beds, in which the material will be carried;

b. The actual trucks and/or trailer beds utilized for import/export activities will be clear of visible contamination or deleterious materials;

c. The trucks will go directly from the source location to the recipient location with no detours or stops at other locations; and

d. Short loads will not be augmented by other materials that were not tested as part of the final SSP.

e. All import/export transportation activities shall be conducted in accordance with all applicable local, state and federal rules and regulations.

6. Certification, in the form of haul tickets or completed waste manifests, documenting the volume and recipient of all import/export materials and activities. This documentation shall be coordinated through the OEHS Environmental Health Supervisor, Environmental Compliance Group.

   a. For approved import/export to unregulated facilities (landfill) or non-school sites, haul tickets may be utilized, but shall contain the following minimum information:

      1) Date(s) of haul activity.

      2) Address of source site.

      3) Address of recipient.

      4) Load volume.

      5) Time of departure from source.

      6) Time of arrival at recipient site.

      7) Signature of recipient or recipient's agent.

      8) It is the CONTRACTOR's responsibility to confirm that no other trips or short-load augmentation occurred and submit documentation to the OAR and OEHS.

   b. For export to regulated facilities (landfills, recyclers, etc.), the appropriate waste manifest as determined by the OEHS Environmental Health Supervisor, Environmental Compliance Group in paragraph 1.04.A.3 must be completed and a copy of the executed manifest, signed by the receiving site, must be provided to the OAR. The waste manifest copy, signed by the receiving facility and based on the manifest address, will be sent directly to OEHS and the OEHS Environmental Health Supervisor, Environmental Compliance Group.

1.05 APPROVALS

A. No import or export of earth or geotechnical grading or filling materials can occur at OWNER sites without prior approval by OEHS.

PART 2 – PRODUCTS

2.01 MATERIALS

A. Imported:

1. Soils: Soils proposed for import shall be tested pursuant to the requirements of this Section (01 4524), unless a variance has been requested by CONTRACTOR and approved by OEHS prior to the import of the subject materials.

2. Gravels: Clean gravel, consisting of native rock from a commercial source, may be granted a variance from the testing requirements of this Section provided a request

for variance is submitted by CONTRACTOR for review and approval at least 72 hours prior to import. CONTRACTOR shall provide written documentation, which identifies the source, volume and proposed transport date(s) of the material for review.

a. Furthermore, a letter signed and stamped by either a Civil PE or PG and originating from the commercial source must state the following:

1) The quarry does not mine ultramafic (i.e. natural asbestos containing) materials.

2) The gravel is produced from virgin aggregate materials and does not contain any contaminated or reclaimed or recycled materials.

b. Additionally, a letter from the material transporter and signed by the same must state the following:

1) Haul truck and/or trailer beds transferring the material are clear of visible contamination and deleterious materials.

2) Haul trucks will go directly from the quarry source to the site with no trips or augmentation of short loads with other materials.

c. The request for variance requires approval by OEHS prior to CONTRACTOR importing the materials.

3. Sands: Clean sand from a commercial source may be granted a variance from the testing requirements of this Section provided a request for variance is submitted by CONTRACTOR for review and approval at least 72 hours prior to import. CONTRACTOR shall provide written documentation, which identifies the source, volume and proposed transport date of the material for review.

a. Furthermore, a letter signed and stamped by either a Civil PE or PG and originating from the commercial source must state the following:

1) The source does not mine ultramafic (i.e. natural asbestos containing) materials.

2) The sand is produced from virgin materials and does not contain any contaminated or reclaimed or recycled materials.

b. Additionally, a letter from the material transporter and signed by the same must state the following:

1) Haul truck and/or trailer beds transferring the material are clear of visible contamination or deleterious materials.

2) Haul trucks will go directly from the commercial source to the site with no trips or augmentation of short loads with other materials.

c. The request for variance requires approval by OEHS prior to CONTRACTOR importing the materials.

4. Miscellaneous Material: No miscellaneous material containing crushed concrete, asphalt, construction debris, recycled, or other potential deleterious materials may be utilized or imported to an OWNER project site for use as fill or grading material.

B. Exported/Site Generated:

1. Soils: Soils proposed for export shall be tested pursuant to the requirements of the subject section, unless a variance has been requested by CONTRACTOR and approved by OEHS prior to the import of the subject materials. Once soils or other materials for export have been tested, they cannot be disturbed or reused for any purpose without prior approval by OEHS.

2. Gravels/Sands: Gravels, sands, or other natural rock materials shall not be exported from an OWNER project site without prior testing by CONTRACTOR pursuant to this Section (01 4524) and/or approval by OEHS. An exception to this provision is gravel adhering to concrete or asphalt pavement. In this instance and in consultation with OEHS, which shall make the final decision, CONTRACTOR may dispose of said materials and construction debris without sampling and analytical testing required under this Section.

3. Miscellaneous Material. No miscellaneous material or other similar materials shall be exported from an OWNER project site without prior testing by CONTRACTOR pursuant to this Section (01 4524) and/or approval by OEHS. No crushed miscellaneous material containing concrete, asphalt, construction debris, or other potential deleterious materials that is generated onsite may be used as fill or grading material of any sort at an OWNER project site. Crushed asphalt shall be segregated and stockpiled separately. The onsite use of crushing equipment is not permitted.

PART 3 - EXECUTION

3.01 GRADING/EXCAVATION

A. If the CONTRACTOR encounters an area with discolored, stained, and/or odorous soils or any other evidence of contamination during excavation/grading work, CONTRACTOR must immediately notify the OAR, cease work in the aforementioned area, and secure the area with fencing, tape, stakes or other suitable means to prevent entry by personnel or equipment. In turn, the OAR will immediately notify OEHS, which will initiate a construction response to address the contamination, in accordance with pertinent regulatory requirements.

3.02 SAMPLING AND TESTING

A. CONTRACTOR shall contract with, and pay for, the services of a licensed environmental professional, licensed State of California Professional Civil Engineer (PE) or Professional Geologist (PG), to oversee or perform sampling of Materials that are subject to this Section.

B. CONTRACTOR shall contract with, and pay for, an independent, approved California Department of Health Services certified testing laboratory to perform testing of imported, exported and site generated fill materials.

C. All fill/grading material, unless otherwise specified in writing by OEHS, whether imported or exported, must be tested at the site of origin. Import/export testing and certification process shall include the steps listed below. OWNER retains the right to refuse any fill material proposed for use at a school site.

1. Stockpile all materials for sampling (standard stockpile or backhoe pothole stockpile). Crushed fill materials generated by CONTRACTOR at a school site must be segregated by material.

2. Submit draft SSP for review and concurrence by OEHS. SSP must include figures identifying the site location, the in situ sampling boundary or stockpile location, the sampling locations, and a brief site history including the type of remedial activity that occurred at the source site, if any.

3. Collect and analyze samples (see Table 1 for number of samples per volume) per the SSP. Samples must include both discrete samples and composite samples.

   a. Discrete samples correspond to a single sample depth at a single sampling/boring location. Discrete samples are to be used for producing composite samples, as described in subparagraph b. below, and for analysis, in accordance with paragraph 3.02.E.1, which applies only to VOCs and TPH-g. For analysis of these compounds, the licensed professional shall collect one discrete sample from each sampling location and samples should be collected at different depths between these locations, so that all stockpile depths are equally represented.

   b. Composite samples correspond to three sample depths from a single sampling location (this includes in situ samples). Each composite sample shall consist of three discrete samples collected near the top, middle, and bottom of the stockpile or in situ boring location at each sampling location. The licensed environmental professional shall then have the analytical laboratory combine the discrete samples into a single composite sample. The laboratory should be directed to retain a sufficient quantity of each discrete sample for further analysis, as necessary. The composite sample shall be analyzed, in accordance with paragraph 3.02.E.2, which describes required testing other than for VOCs and TPH-g. Once materials for export have been stockpiled and tested, they may not be used onsite for any purpose without prior approval by OEHS.

      1) Composite samples with analyte concentrations approximating or exceeding acceptable screening criteria, as specified below in paragraphs F through H, may be attributed to constituents within one or more discrete samples. Analyzing the discretes comprising the composite may reveal the discrete samples with elevated analyte concentrations and, thus, better isolate (and minimize) the volume of soils within the stockpile requiring removal and licensed disposal.

4. Submit draft Soil Certification/Sample Data Report for review and concurrence by OEHS.

5. Submit final Soil Certification/Sample Data Report to the OEHS. All certified material not utilized or exported within a period of 90 days will be subject to retesting unless a variance is requested by CONTRACTOR and is approved by OEHS prior to use or import/export of the subject materials.

6. Submit required pre import/export documentation/record to the OAR and to OEHS, e-mail is acceptable.

7. Submit post import/export certifications to the OAR and OEHS, e-mail is acceptable.

8. In addition to the preceding, requirements, and as necessary or as specified by OEHS, certifications and submittals as indicated in previous articles of PART 3 or in the remainder of this Section may be required.

D. Import/export fill materials shall be samples in situ or stockpiled by CONTRACTOR (or at export site) and are deemed acceptable for import/export or reuse only when it is demonstrated to the satisfaction of OEHS that the subject materials meet the requirements of this Section.

E. As described in paragraph 1.04.A.2.b, lacking site-specific data or sample rationale to support a more focused analytical approach; the CONTRACTOR shall analyze all samples for the following substances according to the methods indicated below. Table 3 is a waste classification flowchart for use by CONTRACTOR's licensed environmental professional. In all cases, detection levels and quality assurance/quality control methods shall be in accordance with standard method reporting limits, best laboratory practices and the following USEPA (EPA) methods for discrete and composite samples:

1. Discrete samples shall be analyzed for Volatile Organic Compounds (VOCs), utilizing EPA Method 8260B/5035 and for Total Petroleum Hydrocarbons (TPH) gasoline (TPH-g), utilizing EPA Method 8015M [with EPA Method 5035 extraction using either volatile organic analysis (VOA) kits, EnCores®, or an equivalent soil collection device].

2. Composite samples shall be analyzed for the following:

   a. TPH, utilizing EPA Method 8015M, for full carbon-chain speciation (including diesel, oil, and other long-chain hydrocarbons).

   b. Polychlorinated biphenyls, utilizing EPA Method 8082.

   c. Semi-Volatile Compounds (SVOCs), utilizing EPA Method 8270C.

   d. Organochlorine Pesticides (OCPs), utilizing EPA Method 8081A.

   e. Organophosphorous Pesticides (OPPs), utilizing EPA Method 8141A.

   f. Chlorinated Herbicides, utilizing EPA Method 8151A.

   g. California Code of Regulations Title 22 (CAM 17) Metals, utilizing EPA Method 6010B/7470A.

   h. Hexavalent Chromium, utilizing EPA Method 7199.

   i. Arsenic/Thallium, utilizing EPA Method 6020.

3. For EPA Method 8270C, a Method Detection Limit (MDL) of 250 ug/kg in addition to the Practical Quantitation Limit (PQL) or equivalent. This requirement is due to a recent DTSC directive requiring MDLs or PQLs to be sufficiently low to detect Carcinogenic Polycyclic Aromatic Hydrocarbons (CPAHs) in the composite sample, even if these compounds exceed actionable concentrations (900 ug/kg) in only one of the three discrete samples comprising the composite.

4. The certified laboratory may also need to analyze the composite samples for polycyclic aromatic hydrocarbons (PAHs), a component of semi-volatile compounds, if the data evaluation performed in accordance with paragraph 3.02.G of this Section (01 4524) does not meet DTSC requirements. The analytical methods to be used for this purpose are EPA Method 8270 SIM, if the samples contain relatively high concentrations of hydrocarbons, or EPA Method 8310, if the samples contain low concentrations of hydrocarbons.

F. Import/export fill material may be deemed defective for use by OEHS at a school site if any of the following results are obtained:

1. TPH are present at concentrations exceeding 100 milligrams per kilogram (mg/kg) for gasoline and/or 1,000 mg/kg for oil/diesel and long-chain hydrocarbons.

2. Solvents and other VOCs are present at concentrations exceeding the laboratory reporting limit. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

3. PCBs are present at concentrations exceeding the laboratory reporting limit. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

4. SVOCs are present at concentrations exceeding the laboratory reporting limit. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

5. OCPs are present at concentrations exceeding the laboratory reporting limit. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

6. OPPs are present at concentrations exceeding the laboratory reporting limit. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

7. Chlorinated herbicides are present at concentrations exceeding the laboratory reporting limit. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

8. California Code of Regulations Title 22 (CAM 17) Metals at concentrations exceeding site-specific background. Detections between the laboratory reporting limit and the practical quantitation limit (J-flags) should not be reported.

9. Hexavalent chromium is present at concentrations exceeding 300 ug/kg.

G. As mentioned in paragraph 3.02.E, evaluate concentrations of CPAHs, a subset of SVOCs, in the import/export material by conducting the analyses set forth below.

1. Comparing CPAH concentrations with the benzo(a)pyrene [b(a)p] equivalent concentration of 900 ug/kg, the background concentration for CPAHs defined in "A Methodology For Using Background PAHs To Support Remediation Decisions," prepared by the Environ Corporation for the Southern California Gas Company and Southern California Edison, January 24, 2002 (referred to as "document"). In this document, CPAHs are defined in Table 2, and Potency Equivalency Factors (PEFs) for each CPAH are listed in Table 3. Using the correct PEF for each CPAH, the licensed environmental professional shall convert the concentration of each CPAH into its b(a)p equivalent concentration. The summation of these b(a)p equivalents for each CPAH must not exceed 900 ug/kg. If CPAHs do not exceed the laboratory reporting limit, then the licensed environmental professional must perform the procedure described above, using the PEF and the laboratory reporting limit (LRL) for each CPAH. The result will be the LRL for each CPAH converted to b(a)p equivalent concentrations. The summation of these b(a)p equivalent concentrations (representing the LRL for each CPAH) must not exceed 900 ug/kg.

H. Evaluate concentrations of metals in import fill by conducting the analysis set forth below.

1. Compare the maximum detected metal concentrations in import/export material samples to either DTSC or US EPA regulatory action levels for either residential or school sites, whichever is more conservative. If any metal concentration exceeds its listed regulatory action level, the fill material fails and shall be deemed defective and unacceptable for use.

2. In addition to paragraph 3.02.G.1, import/export fill shall be deemed defective and unacceptable for use if any of the following results are obtained:

a. Arsenic concentrations greater than or equal to12.0 mg/kg.

b. Lead concentration greater than or equal to 80 mg/kg.

c. Import/Export materials at school sites with total lead concentrations greater than or equal to 50 mg/kg shall be analyzed for leachability (STLC) prior to export. Materials exceeding STLC limits identified in Table 2 are deemed defective and unacceptable for use at school sites.

d. Import/Export materials at school sites with total chromium concentrations greater than or equal to 100 mg/kg shall be tested for hexavalent chromium.

I. All export/import material shall be characterized, handled, and documented in accordance with applicable US EPA and State of California hazardous waste and hazardous materials regulations (See Table 2). For the purpose of this specification, "contaminated" shall mean any soil or geotechnical material with constituent concentrations, which would require disposal at a regulated facility (i.e., California hazardous waste or RCRA hazardous waste). Refer to Article 3.03 COSTS which outline the disposal fee requirements for excavated contaminated soil. OAR must be notified at least 72 hours prior to the disposal of hazardous waste or hazardous material. No material disposal or reuse can take place without prior written approval of OEHS.

J. Specification test results and OEHS approvals are valid for a period of 90 days from the date of the subject testing unless a variance is requested by CONTRACTOR and approved by OEHS. Previously approved materials shall not be utilized or disposed offsite after the 90 day limit without prior review and approval by OEHS.

K. Requests for variances to this Specification Section shall be submitted in writing to OEHS a minimum of two weeks in advance of need for review and approval. The request for a variance from soil sampling for export must state the following: "The soil for export is less than 10 cubic yards, has no visible staining, is not odorous, and appears native". A photograph of the stockpiled soil must be included in the variance request. The photograph must have a representative scale within it in order for OEHS to determine the volume of soil to be exported. The request for variance must provide all available testing data, and a rationale to support the request. OEHS will review the request for variance and will provide its preliminary determination within 72 hours. Once OEHS approves the variance from sampling, the soil stockpile may be removed as "construction related debris". Certain requests may require final approval by the DTSC.

3.03 TRANSPORTATION

A. Details of the samples and testing must be submitted to and approved by OEHS Environmental Compliance Manager before the materials from which the samples were collected undergo transportation.

B. Haul Routes and Regulations/Restrictions: CONTRACTOR must comply with requirements of project environmental disclosure documents (i.e., CEQA EIR) and authorities having jurisdiction over the project area and the proposed activities (e.g. Regional Water Quality Control Board, DTSC, etc.).

3.04 COSTS

A. CONTRACTOR shall pay all fees required by authorities having jurisdiction over area.

B. Contractor shall pay all fees for disposal and/or processing of impacted and/or hazardous fill materials at a regulated facility.

C. CONTRACTOR shall post and pay for all bonds required by authorities having jurisdiction over area.

TABLE 1: MINIMUM SAMPLING FREQUENCY	
Volume (Cubic Yards)*	Sampling Frequency*
0 - 500	1 per 100 CY
501 - 1,000	1 per 250 CY
1,001 - 5,000	1 per 250 CY for first 1000 CY 1 per 500 CY thereafter
> 5,000	12 samples for first 5000 CY 1 per 1000 CY thereafter

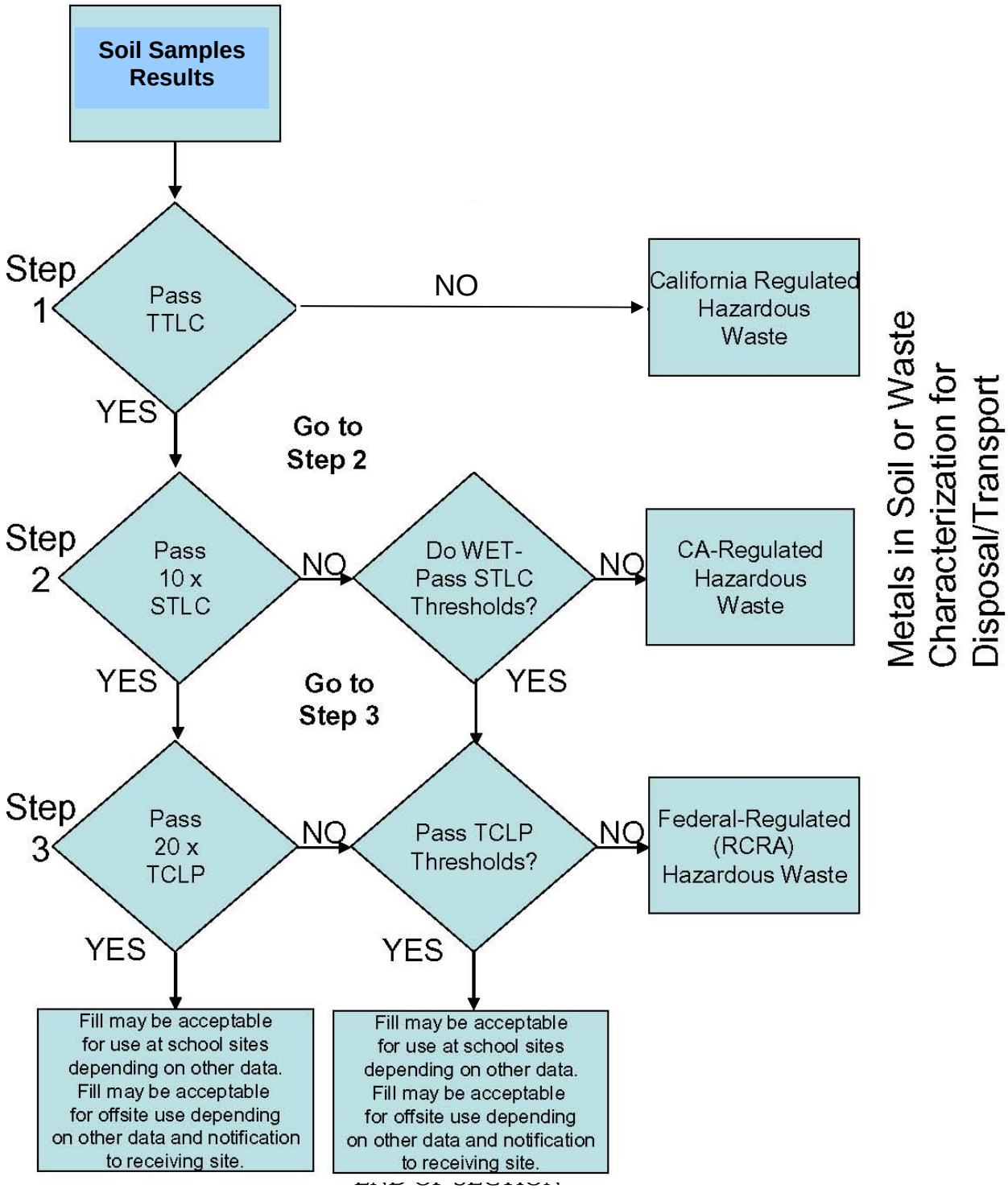
All samples are to be collected, analyzed and accepted before import/export: materials going to licensed facilities must meet sampling criteria from that facility. The rationale for sample approach should be discussed in the draft SSP.

Pothole stockpile sampling may require discrete depth supplemental sampling in order to achieve representative results. The rationale for sample approach should be discussed in the draft SSP. In-situ (in place) sampling by mechanical boring or a hand auger method is acceptable if no space exists to store the soil stockpile at the site with prior OEHS approval.

*Discuss alternative screening & sampling approaches with OEHS representative for project.

Chemicals of Potential Concern	TABLE 2 WASTE CHARACTERIZATION				
	Hazardous Waste if Exceed Criteria - TTLC Level* (mg/kg)	Additional WET Leaching Tests if Exceed Hazardous Waste Criteria - 10 times STLC Level** (mg/kg)	California-Regulated Hazardous Waste - Soluble Threshold Limit Concentration -STLC Level (mg/l)	Additional TCLP Leaching Tests if Exceed Hazardous Waste Criteria - 20 times TCLP Level** (mg/kg)	Federally-Regulated (RCRA) Hazardous Waste - Toxicity Characteristic Leaching Procedure - TCLP Level (mg/l)
CAM 17 Metals					
Antimony	500	150	15	NA	NA
Arsenic	500	50	5	100	5
Barium	10,000	1,000	100	2,000	100
Beryllium	75	7.5	0.75	NA	NA
Cadmium	100	10	1	20	1
Chromium	2,500	50	5	100	5
Cobalt	8,000	800	80	NA	NA
Copper	2,500	250	25	NA	NA
Lead	1,000	50	5	100	5
Mercury	20	2	0.2	4	0.2
Molybdenum	3,500	3,500	350	NA	NA
Nickel	2,000	200	20	NA	NA
Selenium	100	10	1	20	1
Silver	500	50	5	100	5
Thallium	700	70	7	NA	NA
Vanadium	2,400	240	24	NA	NA
Zinc	5,000	2,500	250	NA	NA
Chromium (VI)	500	50	5	NA	NA

TABLE 3 – WASTE CLASSIFICATION FLOWCHART



END OF SECTION

EXHIBIT H

CONTRACTOR CERTIFICATION REGARDING BACKGROUND CHECKS

_____ certifies that it has performed one of the following:
[Name of contractor/consultant]

Pursuant to Education Code Section 45125.1, Contractor has conducted criminal background checks, through the California Department of Justice, of all employees providing services to the [Insert School or Community College] District, pursuant to the contract/purchase order dated _____, and that none have been convicted of serious or violent felonies, as specified in Penal Code Sections 1192.7(c) and 667.5(c), respectively.

As further required by Education Code Section 45125.1, attached hereto as Attachment "A" is a list of the names of the employees of the undersigned who may come in contact with pupils.

OR
Pursuant to Education Code Section 45125.2, Contractor will ensure the safety of pupils by one or more of the following methods:

1. The installation of a physical barrier at the worksite to limit contact with pupils.
2. Continual supervision and monitoring of all employees of the entity by an employee of the entity whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date_____, 20___

_____
[Name of Contractor/Consultant]

_____

By its:_____

EXHIBIT I

Form of Progress Report

(See attached)

Exhibit I
Insert School Name and Address

Progress Report

Vaughn Next Century Learning Center

Submit Two Hard Copies

Date: _____
Period: _____

LAUSD Project Number: _____
Project Description: _____
Approved Budget: _____

Billing Phases Per Construction Contract	Fee Alloc. Per Contract	Maximum fee amount per Fee and Payment Schedule of Construction Contract	Previous Percentage Billed	Fee Amount Completed per Billing Phase or Total Monthly Fee Invoiced To Date	Percentage Billed the Period	Amount Billed this Period	Balance Remaining to be invoiced
Basic Construction Cost							$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
		$ -	0.00%	$ -			$ -
Sub Total	0%	$ -		$ -			$ -
Extra Services							
		$ -		$ -			$ -
		$ -		$ -			$ -
Sub Total		$ -		$ -			$ -
Approved Change Work Orders							
		$ -		$ -			$ -
		$ -		$ -			$ -
Sub Total		$ -		$ -			$ -
Total: Basic Construction	xxxxx				**Total: Balance Remaining**		$ -
Total: Extra Services & Change Orders		xxxx					
Total Budgeted		xxxx					

I certify under penalty of perjury that to the best of my knowledge and belief, the information provided in this Progress Report is true, correct and accurate.

_____ _____
Charter School Project Manager **Date**

Attached a copy of the latest contractor invoice.

EXHIBIT J

Specific Information or Requirements

Builder's Risk Insurance See Section 10.1.1 above.

For the total value of the Project, currently projected to be $16,400,000

Commercial General Liability Insurance: See Section 10.1.1.1 above.

Minimum limit of not less than $5,000,000 per occurrence, $5,000,000 annual aggregate, and $5,000,000 umbrella policy.

Automobile Insurance: See Section 10.1.1.3 above.

Minimum of $1,000,000 per occurrence covering owned, hired and non-owned vehicles used by Developer.

Worker's Compensation Insurance: See Section 10.1.1.4 above.

Minimum of $1,000,000 or that required by law, whichever is higher.

Addresses for Notices: See Article XIII

To Developer: Vaughn Next Century Learning Center
13330 Vaughn Street
San Fernando, CA 91340
Attn: Fidel Ramirez, Executive Director
Telephone: (818) 896-7461
Fax:
E-mail: framirez@myvaughncharter.com

To LAUSD: Los Angeles Unified School District
333 South Beaudry Avenue, Floor 23
Los Angeles, CA 90017
Attention: Office of General Counsel –Facilities Legal
Facsimile: (213) 241-8386

and a copy to: Los Angeles Unified School District
333 South Beaudry Avenue, Floor 23
Los Angeles, CA 90017
Attention: Isela Lopez, Facilities Development Manager
Phone: (213) 241-6461
Facsimile: (213) 241-6782

EXHIBIT K

Form of Contractor Invoice

(See attached)

Exhibit K
Insert School Name and Address

Contractor Invoice

Vaughn Next Century Learning Center

Submit Two Hard Copies

Billing Address:
Los Angeles Unified School District
Asset Management
Attention: Isela Lopez
333 S. Beaudry Avenue, 23rd Flr.
Los Angeles, CA 90017

Date:
Invoice Period:
Invoice Number:
Payment Request Number:
LAUSD Project Number:
Project Description:
Approved Budget:

				Insert Date of Invoice	Anticipated Payments (next two months)					
Total Project Costs	**Total Budget (Reference Only)**	**Contract #**	**Percent Complete**	**Amount Paid to Date**	**Estimated First Month (insert month)**	**Estimated Second Month (insert month)**	**Total Forecasted Expenditure (next two monhs)**	**Total Amount Billed to Date plus Two month forecast**	**Estimate to complete (formula)**	**Project Estimate at Completion**
Environmental						$ -	$ -	$ -		
Plans				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Construction				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Overhead				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Tests				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Inspection				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Furniture and Equipment				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Community Outreach				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Contingncy				$ -	$ -	$ -	$ -	$ -	$ -	$ -
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Sub Total	$ -			$ -	$ -	$ -	$ -	$ -		$ -
Extra Services									$ -	
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
Approved Change Work Orders									$ -	$ -
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
				$ -	$ -	$ -	$ -	$ -	$ -	$ -
TOTAL				$ -	$ -	$ -	$ -	$ -	$ -	$ -

Disbursement Amount Requested $

Reconciled Bank Balance at **DATE of Invoice** **Attach Bank Statement and the Reconciliation**	
Less Estimated Two Month Forecast	**$ -**
Estimated Balance at end of (invoice date + two months)	**$ -**

I certify under penalty of perjury that to the best of my knowledge and belief, this invoice is true, correct and accurate and that the total amount requested under this invoice has not been previously requested and/or received by the applicant.

APPROVED FOR PAYMENT:

Charter School Project Manager **Date**

LAUSD Authorized Signature **Date**