

**GROUND LEASE AND DEVELOPMENT AGREEMENT
BY AND BETWEEN THE ORCUTT UNION SCHOOL DISTRICT
AND [INSERT NAME]**

THIS GROUND LEASE AND DEVELOPMENT AGREEMENT ("Lease") is entered into as of this ____ day of _____, 20XX, by and between the Orcutt Union School District, a California public school district ("District"), and [INSERT NAME], ("Lessee"). District and Lessee may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

- A. **WHEREAS**, District is the owner of approximately 9.53 acres of real property, commonly referred to as a portion of Key Site 17, in the Township of Orcutt, California, in the County of Santa Barbara, Assessor's Parcel Numbers 105-134-004, 105-134-005, 105-330-005, 105-330-006, which is further described in **Exhibit "A"** attached hereto, and which consists of vacant, and underdeveloped land adjacent to District facilities ("Property"); and
- B. **WHEREAS**, the District conducted an asset management plan in 2006 to determine, among other things, how best to utilize the District's undeveloped or underutilized properties, and after which the District convened a 7-11 committee which determined that the most economically beneficial use of the Property was a long-term ground lease; and
- C. **WHEREAS**, the District determined that a viable use of the Property was for a senior housing development, and, after several years of engagement by the District with the County of Santa Barbara, the County of Santa Barbara rezoned the property and revised the Orcutt Community Plan to accommodate such a use; and
- D. **WHEREAS**, the District obtained a waiver from the California Department of Education to forego certain requirements for the disposition of surplus property to instead solicit proposals for the negotiation of lease and development of the Property for the purpose of developing a senior housing development, after which the District solicited proposals for a long-term ground lease and development of the Property for said use from qualified firms, and to which Lessee submitted the proposal most satisfactory to the District; and
- E. **WHEREAS**, the District's Board is authorized to enter into this Lease pursuant to Education Code section 17456, *et seq.*

NOW THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. Term of Lease; Extension Options.

- 1.1. Term. The term of this Lease ("Term") shall be for a period of [Insert Term] (XX) years, commencing on _____, 2019 ("Commencement Date") and ending on _____, 20XX, or on such earlier date upon which this Lease may be terminated as hereinafter provided ("Term").
- 1.2. Option to Extend the Term. [If Parties agree to a renewal option] The Parties may agree to extend the Term of the Lease for an additional term of [Insert Term] (XX) years commencing at the expiration of the Term ("Extended Term"), provided, however, that Lessee is in full compliance with all provisions, covenants, conditions, and requirements of this Lease. Lessee may request extension of the Term by providing District written notice of its intent at least thirty-six (36) months prior to the expiration of the Term. Any extended term shall be evidenced by a written amendment to this Lease confirming such Extended Term and approved by the District's governing board.

2. Ground Rent; Security Deposit.

- 2.1. Ground Rent. [The Parties shall agree to a Rent based on the selected Firm's lease terms and the subsequent negotiations] Lessee shall pay District, without offset or deduction and without notice of demand, annually the sum of [AMOUNT] ("Rent"). Lessee shall pay promptly to District the monthly Rent on the first (1st) day of each month in advance during the Term of this Lease. Rent shall be paid by electronic funds transfer and the Parties agree to exchange necessary information prior to the date Rent is first due after the Commencement Date to enable the transfer of funds.
- 2.2. Participation Rent. [If the Parties agree to any participation rents, or to any profit sharing by the District, the Parties shall include the terms here]
- 2.3. Escalation. The annual Rent and corresponding monthly installments due under this Lease shall increase effective as of the commencement of the second five (5) year period of the Term, and as of the commencement of each subsequent five (5) year period of the Term and any Extended Term thereafter (each such date, an "Adjustment Date"), in the manner provided below. The annual Rent shall be subject to adjustment as of each Adjustment Date, as follows: the base for computing the adjustment is the Consumer Price Index for All Urban Consumers (base year 1982-84=100) for San Francisco-Oakland-San Jose All Items published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), which is most recently published prior to the Commencement Date (the "Beginning index"). If the Index most recently published prior to the Adjustment Date ("Extension Index") has increased over the Beginning Index, the annual Rent for the following five (5) year period shall be set by multiplying the annual Rent set forth in the first paragraph of this Section 2.1 by a fraction, the numerator of which is the Extension Index, and the denominator of which is the Beginning Index. Notwithstanding the foregoing, in no event shall any such adjustment be less than ten percent (10%) or greater than fifteen percent (15%). If the Index is changed so that the base year differs from that used for the Beginning Index, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or

revised during the Term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

- 2.4. Security Deposit. [If the Parties agree to a Security Deposit, the Parties shall include the terms here.]

3. Possession.

- 3.1. Lessee acknowledges that it has inspected the Property and accepts the Property in its existing condition, "AS IS", without any express or implied warranties from District, except as those provided herein, and subject to all defects and conditions, whether patent or latent, and subject further to all legal requirements including, but not limited to, taxes, assessments, zoning, use permit requirements and building codes, save and except for any Hazardous Materials (defined below) conditions affecting the Property prior to Lessee's occupancy date of the Original Lease, other than Hazardous Materials Handled (defined below) by Lessee or Lessee's Representatives (defined below). Lessee takes possession of the Property based solely on Lessee's own inspection, analysis, and evaluation and not in reliance on any information provided by or on behalf of District. District shall not be required to make or construct any alterations including structural changes, additions, or improvements to the Property.
- 3.2. The Parties further acknowledge that neither District nor District's agents have made any representation or warranty as to the suitability of the Property for Lessee's use, except in so far as the District has represented that the County of Santa Barbara has zoned the property for a senior housing development. Any agreements, warranties, or representations not expressly contained in this Lease shall in no way bind the District or Lessee, and District and Lessee hereby expressly waive all claims for damages by reason of any statement, representation, warranty, promise, or agreement, if any, not contained in this Lease.
- 3.3. The District makes the following representations and warranties to Lessee. These representations are made based on the District's knowledge and those facts known to the District at the time of the execution of this Lease.
- 3.3.1. The District has no knowledge of any written notice that the Property is in violation of any applicable laws;
- 3.3.2. The District has no knowledge of any pending or threatened condemnation proceedings, governmental investigations, or any other litigation that affects the Property; and
- 3.3.3. The District has no knowledge any written notice of the presences of any hazardous material on, in, under, or adjacent to the Property except for permitted hazardous materials used in conjunction with District operations or as otherwise disclosed.

4. Use.

- 4.1. The purpose of this Lease is for Lessee to develop, construct, operate, and maintain for the Term of the Lease, or any Extended Term thereafter, a senior housing development as described in Exhibit "B" (the "Development"). Lessee may use the Property for the development, construction, operation and maintenance of the Development described in the Section herein below entitled "Construction and Installation of Improvements." Lessee shall not use the Property for any use other than that specified in this Section and described in Exhibit "B," without the prior written consent of the District, which consent shall not be unreasonably withheld, conditioned, or delayed. In the event Lessee requests District's consent to use the Property for purposes other than for the Development, the Rent due hereinunder shall be re-evaluated by the mutual agreement of the Parties. In no event, however, shall the rent amount be lowered due to Lessee's desire to use the Property for a different purpose.
- 4.2. The District recognizes that the operation of the Development might require the Lessee to provide different uses of the Property supplementary or related to the primary use as a senior housing development. Lessee shall not permit any use of the Property not reasonably related to the operation of the Development as a senior housing development and shall only permit those uses of the Property that a reasonable senior housing development would provide under the same or similar circumstances.
- 4.3. Lessee shall not permit a use of the Property that shall interfere or harm adjacent District facilities, or persons thereon.
- 4.4. Lessee agrees to maintain the Property and to develop, construct and operate the Development in a manner that meets all federal, state and local regulations relating to the Property and to the operation of the Development, and to comply with all federal, state and local laws, regulations and ordinances, now or hereafter enacted concerning the Property, the use of the Property, and/or the Development.
- 4.5. The execution of this Lease shall be subject to the Lessee obtaining any and all permits or approvals which may be required in order for the Lessee to develop, construct, and operate the Development on the Property. Lessee shall not use or permit the Property to be used in whole or in part during the Term, or any Extended Term, of this Lease for any purpose or use in violation of the laws or ordinances applicable thereto. Lessee shall indemnify, defend, and hold District harmless against any loss, expense, damage, attorneys' fees or liability arising out of failure of Lessee to comply with any applicable law, regulation, rule, or ordinance. Lessee shall not commit or suffer to be committed, any waste upon the Property, or allow any sale by auction upon the Property, or allow the Property to be used for any unlawful purpose, or place any loads upon the floor, walls or ceiling which endanger the structure, or place any harmful liquids in the plumbing, sewer or storm water drainage system of the Property. No waste materials or refuse shall be dumped upon or permitted to remain upon any part of the Property except in trash containers designated for that purpose.
- 4.6. If required, Lessee and all subtenants shall obtain a use permit(s) from the County of Santa Barbara for Lessee's use throughout the Term of this Lease. Lessee shall require all subtenants, licensees, and invitees, to use the Property only in conformance with the permitted use and with applicable governmental laws, regulations, rules, and ordinances.

- 4.7. Lessee represents that it has or will obtain, at its sole expense, all the necessary licenses required to develop, construct, operate, and maintain the Development for the Term, or any Extended Term, of this Lease, the evidence of which shall be provided to the District at the District's request. Lessee shall be solely responsible for the financing, development, construction, operation, and maintenance of the Development at its sole expense, including the hiring of all employees once the development has been fully entitled and constructed. Lessee shall be responsible for verifying the qualifications, credentials, certificates, and licenses of its staff, agents, consultants and/or subcontractors who may provide services in conjunction with Lessee's activities on the Property.

5. Compliance with All Laws.

- 5.1. Lessee shall at Lessee's expense comply with all requirements of all governmental authorities, in force either now or in the future, affecting the Property, Development, or Improvements and Lessee's use thereof, and shall faithfully observe in Lessee's use of the Property or Improvements all laws, regulations and ordinances of these authorities, in force either now or in the future, including, without limitation, all applicable federal, state, and local laws, regulations, and ordinances pertaining to air and water quality, hazardous material, waste disposal, air emission, and other environmental matters (including the California Environmental Quality Act ("CEQA") and its implementing regulations in Lessee's use of the Property or Development), and all District policies, rules, and regulations.
- 5.2. Lessee shall comply with all applicable federal, state, and local laws, regulations and ordinances pertaining to the Development. Lessee shall indemnify, defend, and hold District harmless against any loss, expense, damage, attorneys' fees or liability arising out of failure of Lessee to comply with any applicable law, regulation, rule, or ordinance pertaining to Lessee's operation and or maintenance of the Development.
- 5.3. The judgment of a court of competent jurisdiction, or Lessee's admission in an action or a proceeding against Lessee, whether District be a party to it or not, that Lessee has violated any law or regulation or ordinance in Lessee's use of the Property or Improvements shall be considered conclusive evidence of that fact as between District and Lessee. If Lessee fails to comply with any law, regulation, or ordinance, District reserves the right to take necessary remedial measures at Lessee's expense, for which Lessee agrees to reimburse District on demand.

6. Utilities and Assessments.

- 6.1. Lessee, at its sole cost and expense, shall obtain and pay all costs associated with the provision of all electricity, gas, potable water, fire suppression water, sewer, waste water services, telecommunication services, and other utilities needed to construct, maintain, and operate the Development, Improvements and the Property during the Term (collectively "Utilities").
- 6.2. Lessee shall be responsible for the payment when and as due of all real property taxes and assessments assessed against the Property or Lessee's possessory interest therein. District may at any time, in its discretion, pay taxes, assessments, and other charges that Lessee fails to pay when and as due, including, in District's discretion, any fees, penalties, and charges assessed by reason of Lessee's failure to make timely payment. In this event, Lessee

shall reimburse District within five (5) business days upon written request for reimbursement. **DISTRICT HEREBY GIVES LESSEE NOTICE, AND LESSEE ACKNOWLEDGES RECEIPT OF NOTICE, AS REQUIRED PURSUANT TO CALIFORNIA REVENUE AND TAXATION CODE SECTION 107.6, THAT THE LEASEHOLD INTEREST CREATED BY THIS LEASE MAY RESULT IN A POSSESSORY INTEREST TAX BEING LEVIED AGAINST THE PROPERTY AND/OR LESSEE'S LEASEHOLD INTEREST, AND THAT LESSEE SHALL BE OBLIGATED TO PAY THE TAX.**

- 6.3. Lessee shall indemnify and hold District, the Property, Development, the Improvements, and any improvements already constructed or placed on the Property free and harmless from any liability, loss, or damage resulting from any taxes, assessments, or other charges required by this Lease to be paid by Lessee and from all interest, penalties, and other sums imposed thereon and from any sales or other proceedings to enforce collection of any taxes, assessments, or other charges.
7. **Construction and Installation of Improvements.** Lessee shall construct or cause to be performed all construction related to the Development ("Work") required to complete the Development pursuant to and as set forth in Exhibit "B" ("Improvements"), and will commence construction of **[Insert "Phase 1" if the Parties agree to a phased schedule of Improvements]** of the Improvements as set forth in the construction schedule set forth in Exhibit "C," subject to extension for force majeure delays as described hereinafter in this Lease.
8. **Title to and Removal of Lessee's Additional Improvements / Property; Equipment Requirements.**
- 8.1. During the Term, all improvements, including but not limited to the Work of Improvements and the Additional Improvements, shall be owned by Lessee. In addition to the Improvements identified in Exhibit "B" and the provisions applicable thereto, with prior written approval of the District, Lessee may, at its sole cost and expense, construct or cause to be constructed on the Property those additional improvements which Lessee deems necessary to the operation of the Development provided such additional improvements are subject to local site, zoning, and design review and other required approvals and provided District has approved all such additional improvements ("Lessee's Additional Improvements"), as set forth herein. In the case of any District consent or approval required herein, District shall grant or withhold such consent or approval in writing delivered to Lessee not later than thirty (30) days after written notice is given by Lessee to District requesting such consent or approval.
- 8.2. In regard to Lessee's Additional Improvements constructed on the Property consistent with the provisions of this Lease, Lessee shall, prior to construction, renovation, major repair or demolition of any improvements on the Property that includes structural modifications, including exterior aesthetic modifications, obtain the prior written consent of District thereto (which consent shall not be unreasonably withheld) and to the final plans, specifications, and schedule for completion thereof. No such consent of District shall be required for any non-structural construction, renovation, or demolition, but any such improvement must comply with applicable federal, state, and local laws, including, but not limited to that of the County of Santa Barbara, which includes the Orcutt Community Plan. Lessee shall also, prior to construction of any of Lessee's Additional Improvements, obtain written approval from District for Lessee's Additional Improvements and their related costs, to the extent such approval is required by law. Said approval or disapproval must be expressly made by District in writing, except as provided in Section 8.1 above. Lessee shall

not proceed with any construction of Lessee's Additional Improvements until Lessee has obtained District's, to the extent required under the provisions of this paragraph. District and Lessee recognize that approvals may be completed in phases, such that Lessee may initially request conceptual approval and, if approved by District, then proceeds to draw the plans and specifications. District will respond to Lessee with its approval or disapproval within fifteen (15) days after District acknowledges receipt of a written request with architectural plans and drawings from Lessee. District's approval shall not be unreasonably withheld or delayed. As a condition of its approval, District may require that Lessee agree to remove certain improvements and restore the Property to its original condition upon expiration or earlier termination of this Lease and/or provide District with adequate security for removal of improvements.

- 8.3. Not less than fifteen (15) days prior to the construction, renovation or demolition of any of Lessee's Additional Improvements on the Property, Lessee shall provide District with information regarding the contractor's financial condition and evidence to District's reasonable satisfaction that adequate funds to complete Lessee's Additional Improvements are committed and available or that completion has been otherwise adequately assured. Such assurances may include, in District's reasonable discretion, a completion guarantee. No construction shall commence until District has given Lessee written acceptance of such assurances.
- 8.4. Lessee shall give District fifteen (15) days prior written notice before commencing any of Lessee's Additional Improvements so that District may provide and Lessee shall post such notices of non-responsibility with respect thereto as District may deem appropriate.
- 8.5. Not less than fifteen (15) days prior to the construction, renovation or demolition of any of Lessee's Additional Improvements on the Property, Lessee shall provide District with sufficient evidence that it has obtained all required approvals and permits for the work and that Lessee or Lessee's contractor(s) has in effect, with premiums paid, adequate casualty and liability insurance (including builder's risk) coverage and workers compensation that is satisfactory to District in its sole discretion.
- 8.6. Upon commencement of construction of any of Lessee's Additional Improvements, Lessee shall cause the work to be diligently pursued to completion in accordance with the schedule for completion reasonably approved by District, subject to unavoidable delays caused by weather, supply shortages, strikes, or acts of God.
- 8.7. All work of Lessee's Additional Improvements shall be performed in a sound and workmanlike manner, in compliance with all applicable laws and building codes, in conformance with the plans and specifications approved by District and DSA, if applicable, or any modifications thereto which have been approved in writing by District. If an improvement project requires the use of DSA-approved Inspector services, Lessee shall procure and pay for or reimburse District for the costs related to said services.
- 8.8. District or District's agent shall have a continuing right at all times during the period that Lessee's Additional Improvements are being constructed on the Property to enter the Property and to inspect the work provided that such entries and inspections do not unreasonably interfere with the progress of the construction. Lessee shall require its

contractors who construct Lessee's Additional Improvements on the Property to reasonably cooperate with District and its agent in such inspections.

- 8.9. Within ninety (90) days after completion of construction of any work of Lessee's Additional Improvements on the Property, Lessee shall deliver to District two (2) full and complete sets of as-built plans for the work so completed in original pdf format.
- 8.10. Upon completion of Lessee's Additional Improvements requiring DSA approval, Lessee shall ensure diligent and timely certification by the DSA and deliver such certifications not later than nine (9) months after the work of Lessee's Additional Improvements is completed.
- 8.11. Upon the expiration or sooner termination of the Lease, Lessee shall, upon written demand by District, at Lessee's sole cost and expense, forthwith and with all due diligence, remove any alterations, additions, or improvements made by Lessee, designated by District in writing at the time of approval to be removed, and Lessee shall, forthwith and with all due diligence, at its sole cost and expense, repair any damage to the Property caused by such removal.
- 8.12. For purposes of all terms and obligations of this Lease, with the exception of the Section herein entitled "Construction and Installation of Improvements," Lessee's Additional Improvements shall be included within the term "Improvements" when referenced in this Lease.

9. Maintenance and Repairs.

- 9.1. Maintenance by Lessee. At all times during the Term, Lessee shall, at Lessee's own cost and expense, keep and maintain the Property (including, without limitation, all structural, non-structural, interior, exterior, landscaped areas, systems, equipment, facilities, driveways, parking lots, fences, and signs) in good order, condition and repair. Lessee's maintenance obligations shall include restorations, replacements, and renewals when necessary to keep the Property, the Development and all Improvements thereon in good order, condition, and repair. In keeping the Property and Improvements in good order, condition and repair, Lessee shall exercise and perform industry standard practices for high quality maintenance.
- 9.2. Requirements of Governmental Agencies. At all times during the Term, Lessee shall, at Lessee's own cost and expense, do the following:
 - 9.2.1. Make all alterations, additions, or repairs to the Property, Development and Improvements required by any law, ordinance, statute, order, or regulation now or hereafter made or issued by any federal, county, local, or other governmental agency or entity;
 - 9.2.2. Observe and comply with all laws, ordinances, statutes, orders, and regulations now or hereafter made or issued respecting the Property, Development and Improvements by any federal, county, local, or other governmental agency or entity; and
 - 9.2.3. Indemnify, defend, and hold District and the property of District, including the Property, Development and Improvements, free and harmless from any and all

liabilities, losses, damages, fines, penalties, claims, and actions resulting from Lessee's failure to comply with the requirements of this Section.

9.3. Lessee's Duty to Restore Property and Improvements. Subject to the provisions of Section 13.2 herein, should, at any time during the Term, the Property, Development and Improvements be destroyed in whole or in part by fire, theft, the elements, or any other cause not the fault of District, Lessee, at Lessee's own cost and expense, shall repair and restore the damaged or destroyed Property and Improvements according to the original final plans and specifications therefore or according to any modified plans and specifications that provide for improvements consistent in terms of size, design, and quality with the original Property and Improvements.

9.3.1. If the work of repair and restoration does not require the issuance of any building permit or other permit from governmental authorities or the preparation of plans, then the work shall be commenced by Lessee within sixty (60) days after the damage or destruction occurs and shall be completed as soon as reasonably possible and as set forth in a construction schedule reasonably approved by the District for such restoration work.

9.3.2. If the work of repair and restoration requires the issuance of any building permit or other permit from governmental authorities or the preparation of plans, then the work shall commence within ninety (90) days after the last to occur of obtaining of the necessary permit or permits or the preparation of plans and shall be completed as soon as reasonably possible and as set forth in a construction schedule reasonably approved by District for such restoration work.

9.3.3. The Parties agree that events or conditions may preclude in some instances the immediate making of permanent repairs. The Parties agree that in those instances Lessee shall make interim repairs that will protect the Improvements from further deterioration and permit the continued use of the Property to the extent possible for the purposes for which they were constructed. In all other respects, the work of repair and restoration shall be done in accordance with the requirements for the original Work set forth herein.

9.4. Application of Insurance Proceeds. Any and all fire or other insurance proceeds that become payable at any time during the Term, or any Extended Term, because of damage to or destruction of any the Development or Improvements shall be paid to Mortgagee (as hereinafter defined), where a Mortgagee exists, and otherwise to District. Where Mortgagee receives such proceeds, Mortgagee shall disburse such proceeds, in accordance with conditions set forth in the Loan Documents (as hereinafter defined), to repair or rebuild the damaged or destroyed Improvements on the Property unless: (a) Lessee is in default under the Loan Documents at such time beyond any applicable notice or cure periods, (b) this Lease has been terminated or will be terminated due to the casualty in accordance with the terms of this Lease, or (c) Mortgagee reasonably determines that even if the insurance proceeds were to be used for repair or rebuilding the damaged or destroyed Improvements, the value of its security interest will be materially impaired from its value immediately prior to the damage or destruction. Where District receives any said proceeds, said proceeds shall be used toward the repair, restoration, and replacement of the damaged or destroyed Development or Improvements in the manner required herein; provided, however, that any

fire or other insurance proceeds remaining after the repair, restoration, reconstruction, and/or replacement of the damaged or destroyed Development or Improvements has been completed to the reasonable satisfaction of District (the "Remaining Insurance Proceeds") shall be allocated between Lessee and District as follows:

- 9.4.1. That percentage of the Remaining Insurance Proceeds which equals the percentage of the unexpired portion of the Term, at the time the repair, restoration, reconstruction and/or replacement of the damaged or destroyed Development or Improvements has been completed, shall belong to and be the sole property of Lessee; and
 - 9.4.2. That percentage of the Remaining Insurance Proceeds which equals the percentage of the expired portion of the Term, at the time the repair, restoration, reconstruction and/or replacement of the damaged or destroyed Development or Improvements has been completed, shall belong to and be the sole property of District.
- 9.5. District's Right of Entry. District and District's agents shall have the right to enter at reasonable hours after prior notice of the time and place of entry into and upon any portions of the Property as necessary for the purpose of ascertaining that the Development and/or Improvements are kept and maintained in good condition and repair as provided for in this Section and that the terms of this Lease are observed.

10. Hazardous Materials; Compliance with Laws; Inspection.

10.1. Definitions.

10.1.1. "Hazardous Materials" shall mean any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Materials" includes, without limitation, petroleum products, asbestos, PCB's, and any material or substance which is (i) defined as hazardous or extremely hazardous pursuant to Title 22 of the California Code of Regulations, Division 4.5, Chapter 11, Article 4, section 66261.30 *et seq.* (ii) defined as a "hazardous waste" pursuant to section (14) of the federal Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.* (42 U.S.C. 6903), or (iii) defined as a "hazardous substance" pursuant to section 10 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.* (42 U.S.C. 9601), or (iv) otherwise toxic, explosive, corrosive, flammable, infectious, mutagenic, radioactive, carcinogenic, a pollutant or a contaminant, including gasoline, diesel, petroleum hydrocarbons, polychlorinated biphenyls (PCBs), asbestos, radon and urea formaldehyde foam insulation.

10.1.2. "Hazardous Materials Law" shall mean any statute, law, ordinance, or regulation of any governmental body or agency (including the U.S. Environmental Protection Agency, the California Regional Water Quality Control Board and the California Department of Health Services) which regulates the use, storage, release or disposal of any Hazardous Material, including common law tort principles (such as public and private nuisance and strict liability for conducting abnormally dangerous activities).

10.1.3. "Handle," "Handled" or "Handling" shall mean any installation, handling, generation, storing, treatment, use, disposal, discharge, release, manufacture, refinement, emission, abatement, removal, transportation, presence or migration of any Hazardous Materials brought on the Property by Lessee or Lessee's Representatives, or any other activity by Lessee or Lessee's Representatives of any type in connection with or involving Hazardous Materials.

10.1.4. "Lessee's Representatives" shall mean Lessee's officers, employees, contractors, representatives, assignees, sublessees, licensees, agents, invitees, and any trespassers on the Property during the Term.

10.2. Indemnification by Lessee. In addition to, and not in derogation of any other indemnification contained in this Lease, Lessee agrees to indemnify, defend, and hold harmless District, its respective agents, representatives, officers, consultants, employees, trustees, and volunteers from all costs, expenses, damages, liabilities, claims, suits, and actions of any kind, fines, penalties, interest, judgments, and losses of any kind arising from or in any way related to Lessee's or Lessee's Representatives' Handling of Hazardous Materials during the Term and any Extended Term, or failure to comply in full with this Section, including, but not limited to, consequential damages, damages for personal or bodily injury, property damage, damage to natural resources occurring on or off the Property, encumbrances, liens, costs and expenses of investigations, monitoring, clean up, removal or remediation of Hazardous Materials, defense costs of any claims (whether or not the claim is ultimately defeated), good faith settlements, attorneys' and consultants' fees and costs, and losses attributable to the diminution of value, loss or use or adverse effects on marketability or use of any portion of the Property, whether or not the Environmental Losses are contingent or otherwise, matured or unmatured, foreseeable or unforeseeable. If District is ever made a party to any action or proceeding by reason of a matter for which Lessee is obligated to indemnify District, then Lessee, upon notice from District, shall, at District's option, either defend that action or proceeding on behalf of District at Lessee's expense with counsel satisfactory to District or reimburse District for all defense costs District actually incurs in defending against the action or proceeding, whether or not the action or proceeding is ultimately defeated. This indemnity is intended by the Parties to be as broad and comprehensive as possible under law and shall apply regardless of the fault (including active or passive negligence) of either Lessee or District.

10.3. District's Consent to Handling of Hazardous Materials. Except for those Hazardous Materials normally and customarily used in the development, construction and operation of the Development or that are used, stored, transported and disposed of in accordance with all applicable laws, Lessee and Lessee's Representatives shall not Handle any Hazardous Materials at or about the Property without District's prior written consent, which consent may be granted, denied, or conditioned upon compliance with District's requirements, all in District's absolute discretion.

10.4. Delivery of Certain Documents to District. Concurrently with the execution of this Lease, and again prior to the commencement of any Extended Term, and in any event upon request by District, Lessee shall deliver to District copies of all permits, authorizations, plans and reports, and supporting documentation therefor, including any Hazardous Materials Management Plan, which are required by law or by any governmental authority with respect to Lessee's use or proposed use of the Property to the extent involving any Handling of

Hazardous Materials. The provisions of this Section shall apply to all Hazardous Materials Handled by Lessee or Lessee's Representatives, whether or not District has given Lessee its consent to Handle the Hazardous Materials. Lessee's and Lessee's Representatives' Handling of all Hazardous Materials shall comply at all times with all Environmental Requirements and Lessee shall, at its own expense, promptly take all actions required by any governmental authority in connection with Lessee's or Lessee's Representatives Handling of Hazardous Materials at or about the Property. Lessee shall keep District fully and promptly informed of all Handling of Hazardous Materials on the Property, including notifying District as soon as possible after any spill, release, discharge, or emission.

- 10.5. Additional Delivery Requirements. Lessee shall deliver to District prior to delivery to, or promptly after receipt from, any governmental authority or other person or entity copies of all permits, manifests, closure or remedial action plans, notices, investigations, inquiries, claims, citations, summons, complaints, writs, orders and all other communications or documents relating to (i) the Handling of Hazardous Materials at or about the Property, (ii) the actual, alleged or threatened violation of Environmental Requirements or (iii) the liability of Lessee for Environmental Losses. Any communications, written or oral, regarding any release, discharge, emission or any other occurrence posing an imminent threat of damage or contamination to the Property or the environment shall be delivered or, if oral, communicated, to District within twenty-four (24) hours after receipt. All other communications shall be delivered to District within ten (10) days after receipt. District shall have no obligation to review or evaluate any such communication and shall not be deemed to have approved, consented to or participated in any act or omission described or required by the communication.
- 10.6. Compliance Program. If and to the extent Lessee commences the use of Hazardous Materials on the Property (other than cleaning solvents and other Hazardous Materials customarily used by schools, in reasonable quantities and in full compliance with applicable laws), Lessee shall maintain, at its own expense, a written program to ensure and monitor Lessee's continued compliance with this Section and all Environmental Requirements. At District's request, Lessee shall provide District with a copy of its program, including monitoring results; provided, however, that Lessee acknowledges that the program will be supplied to District solely for informational purposes, and that District shall have no obligation to review the information provided, shall not be deemed to have approved or consented to any matter set forth therein, and shall have no liability for any deficiencies therein. District agrees not to disclose to any third parties the contents of any written program provided by Lessee, unless Lessee consents to the disclosure; provided, however, District may disclose the information on a confidential basis to its attorneys, property managers or its other agents, or as required in connection with the procurement of insurance or financing, or as required by law.
- 10.7. Indemnification by Lessee. In addition to, and not in derogation of any other indemnification contained in this Lease, Lessee agrees to indemnify, defend, and hold harmless District, its respective agents, representatives, officers, consultants, employees, trustees, and volunteers from all costs, expenses, damages, liabilities, claims, suits, and actions of any kind, fines, penalties, interest, judgments, and losses of any kind arising from or in any way related to Lessee's or Lessee's Representatives' Handling of Hazardous Materials during the Term and any Extended Term, or failure to comply in full with this Section, including, but not limited to, consequential damages, damages for personal or

bodily injury, property damage, damage to natural resources occurring on or off the Property, encumbrances, liens, costs and expenses of investigations, monitoring, clean up, removal or remediation of Hazardous Materials, defense costs of any claims (whether or not the claim is ultimately defeated), good faith settlements, attorneys' and consultants' fees and costs, and losses attributable to the diminution of value, loss or use or adverse effects on marketability or use of any portion of the Property, whether or not the Environmental Losses are contingent or otherwise, matured or unmatured, foreseeable or unforeseeable. If District is ever made a party to any action or proceeding by reason of a matter for which Lessee is obligated to indemnify District, then Lessee, upon notice from District, shall, at District's option, either defend that action or proceeding on behalf of District at Lessee's expense with counsel satisfactory to District or reimburse District for all defense costs District actually incurs in defending against the action or proceeding, whether or not the action or proceeding is ultimately defeated. This indemnity is intended by the Parties to be as broad and comprehensive as possible under law and shall apply regardless of the fault (including active or passive negligence) of either Lessee or District.

10.8. Indemnification by District. In addition to, and not in derogation of any other indemnification contained in this Lease, District agrees to indemnify, defend, and hold harmless Lessee, its respective agents, representatives, officers, consultants, employees, trustees, and volunteers from all costs, expenses, damages, liabilities, claims, suits, and actions of any kind, fines, penalties, interest, judgments, and losses of any kind arising from or in any way related to Hazardous Materials affecting the Property to the extent they were not caused by Lessee's or Lessee's Representatives' Handling of Hazardous Materials during the Term and Extended Term, or failure to comply in full with Lessee's obligations under this Section, including, but not limited to, consequential damages, damages for personal or bodily injury, property damage, damage to natural resources occurring on or off the Property, encumbrances, liens, costs and expenses of investigations, monitoring, clean up, removal or remediation of Hazardous Materials, defense costs of any claims (whether or not the claim is ultimately defeated), good faith settlements, attorneys' and consultants' fees and costs, and losses attributable to the diminution of value, loss or use or adverse effects on marketability or use of any portion of the Property, whether or not the Environmental Losses are contingent or otherwise, matured or unmatured, foreseeable or unforeseeable. If Lessee is ever made a party to any action or proceeding by reason of a matter for which District is obligated to indemnify Lessee, then District, upon notice from Lessee, shall, at Lessee's option, either defend that action or proceeding on behalf of Lessee at District's expense with counsel satisfactory to Lessee or reimburse Lessee for all defense costs Lessee actually incurs in defending against the action or proceeding, whether or not the action or proceeding is ultimately defeated. This indemnity is intended by the Parties to be as broad and comprehensive as possible under law and shall apply regardless of the fault (including active or passive negligence) of either Lessee or District.

10.9. Lease Closure. Prior to the expiration or termination of this Lease, Lessee shall, at its sole expense, promptly remove from the Property, using the then best available technology, all Hazardous Materials Handled by Lessee or Lessee's Representatives during the Term ("Lease Closure"), notwithstanding any lesser standard of removal or remediation which might be allowable under applicable law or governmental policies, and perform or cause to be performed all actions necessary, as determined by District in its reasonable business judgment, to ensure that Lease Closure has been completed, including inspection, testing and post-Lease Closure monitoring. Lessee, at its sole expense, shall repair any damage

caused by the work and unless otherwise requested by District, shall close, at the completion of all testing and monitoring, in accordance with applicable law, any and all monitoring and extraction wells and boreholes installed as a result of or in connection with Lessee's occupancy of the Property or otherwise installed by Lessee, or at Lessee's direction. All consultants or contractors performing work on behalf of Lessee pursuant to this Section shall be qualified and licensed to undertake the applicable work. All work required to be performed under this Section, and Lessee's and Lessee's Representatives' Handling of all Hazardous Materials, shall be performed in a good, safe and workmanlike manner and in a manner that will not interfere with the use, operation, leasing or sale of the Property.

- 10.10. Lessee shall be responsible and liable for the compliance with all of the provisions of this Section by Lessee's Representatives.
- 10.11. Discharge of Liens. Lessee shall discharge and remove at its own expense, by bond or otherwise, all liens or charges of any kind filed or recorded against the Property in connection with Lessee's or Lessee's Representatives' Handling of Hazardous Materials, within ten (10) business days after the filing or recording of any lien or charge, and if Lessee fails to do so, District shall have the right, but not the obligation, to remove the lien or charge at Lessee's expense in any manner District deems expedient.
- 10.12. District's Rights. District and its representatives and consultants shall have the right, but not the obligation, to enter the Property at any reasonable time upon twenty-four (24) hours' prior notice (except in the case of an emergency) (i) to confirm Lessee's compliance with the provisions of this Section, including the right to physically investigate the condition of the Property and review all permits, reports, plans, and other documents regarding the Handling of Hazardous Materials, and (ii) to perform Lessee's obligations under this Section if Lessee has failed to timely do so. Lessee shall pay the costs of District's consultants' fees and all other costs incurred by District pursuant to clause (i) above if the investigation is undertaken because Lessee has failed to provide full and complete information regarding any release, discharge, or other Handling of Hazardous Materials and shall pay, in any case, all costs incurred pursuant to clause (ii) above.
- 10.13. Environmental Audit. District shall have the right, but not the obligation, to require, annually during the Term, any Extended Term, and again within five (5) business days after the termination or expiration of the Term, that a detailed review ("Environmental Audit") be undertaken to determine whether the Property and Lessee and Lessee's Representatives' Handling of all Hazardous Materials comply with this Section. Lessee shall pay all costs incurred in connection with any Environmental Audit required by District, including without limitation, the costs and expenses of all consultants and sampling and analysis, in the event that as a result of the Environmental Audit, it is determined that Lessee's or Lessee's Representatives' Handling of all Hazardous Materials do not comply with this Section, or (ii) the Environmental Audit is undertaken at the termination or expiration of the Term. In all other cases, District shall pay the costs of any Environmental Audit it requires pursuant to this Section. The Environmental Audit shall be conducted by independent, qualified, licensed environmental consultants selected by Lessee and reasonably acceptable to District. If the consultants chosen by Lessee are unacceptable to District, District shall be entitled to engage its own consultants to conduct the Environmental Audit, and Lessee shall pay District's consultants' fees and all costs incurred by District in performing the Environmental Audit. The Environmental Audit shall include an

inspection of the Property, interviews with the occupants of the Property and any other matters which the consultants think, in the exercise of their professional judgment, are necessary to ascertain whether the Property is in compliance with this Section, including the installation of monitoring wells, and soils and water testing. Lessee shall fully cooperate with the consultants and comply with all information requests. After the completion of the Environmental Audit, a written report shall be prepared and copies shall be distributed to both District and Lessee.

- 10.14. Release of Hazardous Materials. In the event of any release, discharge or other event caused or to the extent contributed to by the acts or omissions of the Lessee or Lessee's Representatives which poses a threat of damage or contamination to the Property or the environment, whether discovered by District or Lessee, Lessee shall fully document the facts relating to the event, including the circumstances existing prior to and after the occurrence of the event, the precise nature of the release, discharge or event, including specific compounds and quantities involved, and all actions Lessee has taken and will take to remediate the release, discharge or event. Lessee shall provide this documentation to District promptly after the occurrence at issue. Lessee shall pay the reasonable costs and fees charged by District's environmental consultants to review any documentation and provide peer review confirming the adequacy of the measures, past and future, taken by Lessee to remediate the problem.
- 10.15. Inspection. District's consultants shall have the right, but not the obligation, to enter into the Property at any time, in the case of an emergency, and otherwise at reasonable times, for the purpose of (a) inspecting the condition of the Property and reviewing all permits, reports, plans, and other documents regarding the Handling of Hazardous Materials, (b) verifying compliance by Lessee with this Lease, and (c) performing Lessee's obligations under Section if Lessee has failed to timely do so.

11. Indemnification.

- 11.1. Lessee Indemnification. Except to the extent of the negligence or willful misconduct of District or any agent, employee, contractor, licensee, or invitee of District, Lessee agrees to indemnify, reimburse, hold harmless, and defend District, its trustees, officers, employees and agents against any and all claims, causes of action, judgments, obligations or liabilities, and all reasonable expenses incurred in investigating or resisting the same (including reasonable attorneys' fees), on account of, or arising out of, the operation, condition, use or occupancy of the Property and all areas appurtenant thereto or from the conduct of the Development or from any activity, work, or other things done, permitted or suffered by Lessee in or about the Property. This Lease is made on the express condition that District shall not be liable for, or suffer loss by reason of, injury to person or property, from whatever cause in any way connected with the condition, use or occupancy of the Property specifically including, without limitation, any liability for injury to the person or property of the Lessee, its agents, officers, employees, licensees and invitees.
- 11.2. Further Lessee Indemnification. Lessee shall further indemnify, hold harmless, and defend District against and from any and all claims arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any act, omission or negligence of the Lessee, or any officer, agent, employee, guest, or invitee of Lessee, and from all costs, attorney's fees, and liabilities

incurred in or about the defense of any such claim or any action or proceeding brought thereon. If any action or proceeding is brought against District by reason of such claim (regardless of whether a claim is filed), Lessee upon notice from District shall defend the same at Lessee's expense. Lessee shall give prompt written notice to District's Risk Manager in case of casualty or accidents in or on the Property.

- 11.3. Costs to Enforce Indemnification. Any reasonable costs incurred (including filing fees, attorney's fees, etc.) after providing written request for indemnification to the indemnifying Party for indemnification shall be owed to the requesting Party if it is determined the indemnification was owed. In addition, the indemnifying Party shall pay reasonable attorneys' fees and costs incurred to enforce the indemnity obligations of this Lease to the indemnified Party.

12. Insurance.

- 12.1. Liability Insurance. Lessee shall, at Lessee's own cost and expense, obtain and keep in force during the Term, and any Extended Term, of this Lease a policy of commercial general liability insurance and a comprehensive auto liability policy insuring District and Lessee against claims and liabilities arising out of the operation, condition, use, or occupancy of the Property, Development, Improvements, and all areas appurtenant thereto, including parking areas. All such general liability insurance shall be noncontributing, and the Mortgagee, if any exists, shall be named as an additional insured under such policies. Lessee's comprehensive auto liability policy shall insure all vehicle(s), whether hired, owned or non-owned. During the life of any Work on the Development and/or Improvements, Contractor(s) performing such Work must acquire equivalent insurance as required of the Lessee herein.

- 12.1.1. Lessee's commercial general insurance shall be at least as broad as the Insurance Service Office (ISO) CG 00-01 form and in an amount of not less than Two Million Dollars (\$2,000,000) in Constant Dollars for bodily injury or death and property damage as a result of any one occurrence and a Four Million Dollar (\$4,000,000) general aggregate policy limit in Constant Dollars.

- 12.1.2. The insurance carrier, deductibles and/or self-insured retentions shall be approved by District. The deductible/occurrence for said insurance shall not exceed Twenty-Five Thousand Dollars (\$25,000) in Constant Dollars for any and all losses resulting from negligence, errors and omissions of Lessee, its Board, officers, agents, employees, invitees and/or students.

- 12.1.3. "Constant Dollars" shall mean the present value of the dollars to which each minimum requirement refers. The first adjustment of Constant Dollars shall occur on January 1, 2023 and shall be adjusted every five (5) years thereafter. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted (the policy limit minimum requirement) by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number. The Base Index Number is the level of the Index for January 2018. The Current Index Number is the level of the Index for the month of December of the year preceding the adjustment year. The Index is the Consumer Price Index for All Urban Consumers (CPI-U), San Francisco/Oakland/San Jose, published by the Bureau of

Labor Statistics of the United States Department of Labor, or if a publication of that Index is discontinued, a substitute index selected by the Parties. If/when this calculation results in an increase that exceeds fifteen percent (15%), the minimum requirement for the coverage limits shall be increased to the next million-dollar increment, and the then Current Index Number shall thereafter become the Base Index Number for the next Adjustment Date(s).

12.1.4. Umbrella Liability Insurance

12.1.4.1. Lessee shall procure and maintain during the Term, and any Extended Term, of this Lease an Excess Liability and/or Umbrella liability Insurance Policy. Any Umbrella Liability Insurance Policy shall protect the Lessee, Contractor(s), the District, State, Construction Manager(s), Project Manager(s), and Architect(s), as applicable, in the amounts indicated herein and shall comply with all requirements for Commercial General Liability and Automobile liability and Employer's Liability Insurance. This coverage shall be provided in a form at least as broad as the Insurance Services Office (ISO) standard form.

12.1.4.2. There shall be no gap between the per occurrence amount of any underlying policy and the start of the coverage under the Umbrella Liability Insurance Policy.

12.1.4.3. Whether this Excess Liability and/or Umbrella Liability Insurance Policy is written on a "follow form" or "stand alone" form, the coverages shall equal or greater Contractor's Commercial General Liability and Automobile Liability and Employer's Liability Insurance with no exclusions that reduce or eliminate coverage items.

12.1.4.4. During the life of any Work on the Development and/or Improvements, Contractor(s) performing such Work must acquire equivalent insurance as required of the Lessee herein.

12.2. Fire and Casualty Insurance. Lessee shall, at Lessee's own cost and expense, at all times during the Term, and any Extended Term, keep all buildings, improvements, Lessee's personal property and other structures on the Property, as well as any and all additions thereto, insured for their full replacement value (as defined below), by insurance companies authorized to issue such insurance in the State of California and having a rating of not less than "AVII" as set forth in the then current Best's Insurance Guide, against loss or destruction by fire and the perils commonly covered under the standard extended coverage endorsement to fire insurance policies in the geographic area in which the Property is located. Each insurance policy shall be issued in the names of District, Lessee and any Mortgagee, as their interests may appear. Each insurance policy shall provide that any loss payable under the insurance shall be payable in Trust to District and Mortgagee as loss payees. Any proceeds received because of a loss covered by the insurance shall be used and applied in the manner required by the Section herein entitled "Application of Insurance Proceeds." On termination of this Lease, the insurance policy or policies and all rights thereunder other than rights with respect to any insurance proceeds shall be assigned to District at District's election; provided, however, that District shall reimburse Lessee for any

unearned premiums that Lessee prepaid for the year in which this Lease is terminated and for years after this Lease is terminated.

12.3. Workers' Compensation and Employer's Liability Insurance.

12.3.1. During the term of this Lease, and any Extended Term, Lessee shall comply with all provisions of law applicable to Lessee with respect to obtaining and maintaining workers' compensation insurance.

12.3.2. During the term of this lease, and any Extended Term, Lessee shall procure and maintain Employer's liability insurance for all its employees working at the Development. This coverage shall cover, at a minimum, medical and surgical treatment, disability benefits, rehabilitation therapy, and survivors' death benefits.

12.3.3. In accordance with provisions of section 3700 of the California Labor Code, Contractor(s) and Subcontractor(s) performing Work on the Development and/or Improvements shall be required to secure the payment of compensation to its employees.

12.3.4. Contractor(s) shall procure and maintain, during the performance of any Work on the Development and/or Improvements, Worker's Compensation Insurance and Employer's Liability Insurance for all its employees engaged in Work on the Development and/or Improvements. This coverage shall cover, at a minimum, medical and surgical treatment, disability benefits, rehabilitation therapy, and survivors' death benefits. Contractor shall require its Subcontractor(s), if any, to procure and maintain Worker's Compensation Insurance and Employer's Liability Insurance for all employees of Subcontractor(s). Any class of employee or employees not covered by a Subcontractor's insurance shall be covered by Contractor's insurance. If any class of employee or employees engaged in Work on the Development and/or Improvements is not produced under the Worker's Compensation Insurance, Contractor shall provide, or shall cause a Subcontractor to provide, adequate insurance coverage for the protection of any employee(s) not otherwise protected before any of those employee(s) commence Work.

12.4. Contractor's Risk Insurance: Contractor's Risk "All Risk" Insurance.

12.4.1. Lessee and Contractor(s) performing Work on the Development and/or Improvements shall procure and maintain, during the life of its Work on the Development and/or Improvements, Contractor's Builders Risk (Course of Construction), or similar first party property coverage acceptable to the District, issued on a replacement cost value basis. The cost shall be consistent with the total replacement cost of all insurable Work on the Development and or Improvements.

12.4.2. Coverage is to insure against all risks of accidental physical loss and shall include without limitation the perils of vandalism and/or malicious mischief (both without any limitation regarding vacancy or occupancy), sprinkler leakage, civil authority, sonic disturbance, collapse, wind, fire, lighting, and smoke. Coverage shall include debris removal, demolition, increased costs due to enforcement of all applicable ordinances and/or laws in the repair and replacement of damaged and undamaged

portions of the Property, and reasonable costs for any architect's and engineering services and expenses required as a result of any insured loss upon Work in connection with the Development and/or Improvements, including completed Work and Work in progress, to the full insurable value thereof.

- 12.5. Earthquake and Flood Coverage. The District may require the Lessee to include coverage for "earthquake(s)" and/or "flood" and Lessee shall provide the price for those additional coverages for the District's consideration prior to including or charging the District for those Coverages. The deductible for this insurance shall be paid for by the Contractor.
- 12.6. Professional Liability Insurance.
- 12.6.1. Lessee at all times during the Term, and any Extended Term, of this Lease, shall maintain professional liability insurance in connection with the use of the Development in at least the amounts set forth below.
- 12.6.2. Contractor(s) and Subcontractor(s) during performance of Work on the Development and/or Improvements shall maintain professional liability insurance in least the amounts set forth below. Additionally, the policy must contain terms or endorsements extending coverage that requires the insurer to defend and indemnify for acts which happen before the effective date of the policy provided the claim is first made during the policy period, coverage to continue through completion of the Work on the Development and/or Improvements, plus "tail" coverage for two (2) years thereafter.
- 12.7. Subtenant Insurance. During the Term of this Lease, Lessee shall require any subtenant of all or any portion of the Property, if any, to maintain in effect during the term of its sublease, insurance coverage equivalent to that required to be maintained by Lessee.
- 12.8. Contractor and Subcontractor Insurance: Lessee, in connection with any Work to be performed in connection with the Development and/or Improvements, shall require its Contractor(s) to procure equivalent insurance required of the Lessee. Contractor(s) shall require its Subcontractor(s), if any, to procure and maintain Commercial General Liability Insurance, Automobile Liability Insurance, and Umbrella Liability Insurance with minimum limits equal to at least fifty percent (50%) of the amounts required of the Contractor and Lessee.
- 12.9. Specific Perils to Be Insured. Notwithstanding anything to the contrary contained herein, the insurance required in this Lease shall, whether or not included in the standard extended coverage endorsement, insure all buildings, improvements, and other structures on the Property, as well as any and all additions thereto, against loss or destruction by fire after an earthquake, explosion, riot, riot attending a strike, civil commotion, acts of terrorism, sabotage or other warlike acts, malicious mischief, vandalism, aircraft, fire, smoke damage and sprinkler leakage. Furthermore, the insurance required herein during the performance of the Work on the Development and/or Improvements shall have course of construction, vandalism, and malicious mischief clauses attached insuring the Work during construction and all materials delivered to the Property for their full replacement value.
- 12.9.1. For purposes of this Section, the "full replacement value" of any building or other

improvements to be insured shall consist of the replacement costs as of the time and place of loss, without deduction or depreciation, necessary to replace the then-existing building with all required updates to the building as prescribed by then-applicable law or code. The full replacement value shall be determined by the company issuing the insurance policy at the time the policy is initially obtained. Every two (2) years thereafter, or as otherwise provided herein, either Party shall have the right to notify the other Party that it elects to have the replacement value re-determined by any insurance company. The redetermination shall be made promptly in accordance with the rules and practices of the Board of Fire Underwriters, or a like board recognized and generally accepted by the insurance company, and each Party shall be promptly notified of the results. The insurance policy or policies shall be adjusted accordingly to reflect the re-determined value.

12.10. Notice of Cancellation of Insurance. Each insurance policy required by this Lease shall contain a provision that it cannot be cancelled or materially changed for any reason unless thirty (30) days' prior written notice of the cancellation or change is given to District in the manner required by this Lease for service of notices on District by Lessee.

12.11. Evidence of Insurance. Prior to the Commencement Date, or, in the case of Contractor(s) or Subcontractor(s) performing Work on the Development and/or Improvements, prior to the performance of such Work, Lessee shall deliver to District insurance certificates evidencing the existence of the policies required hereunder and copies of endorsements stating that such policies shall:

12.11.1. Not be canceled or altered without thirty (30) days prior written notice to District;

12.11.2. Insure performance of the indemnity set forth in this Lease;

12.11.3. State the coverage is primary and any coverage by District is in excess thereto;

12.11.4. Contain a cross liability endorsement; and

12.11.5. Include a separate endorsement naming District as an additional insured.

At least thirty (30) days prior to the expiration of each certificate, and every subsequent certificate, Lessee shall deliver to District a new certificate of insurance consistent with all of the terms and conditions required in connection with the original certificate of insurance as described above.

12.12. Insurance Limits, Rating of Insurers and Certificates.

12.12.1. It is the intent of the Parties that policy limits set herein shall be raised from time to time during the Term of this Lease, but not more frequently than every five (5) years, to account for (i) increases in Annual Rent for the Property, (ii) increases in the estimated full replacement cost of the Property, and (iii) increases in the general marketplace insurance limits for tenancies as defined herein or subtenancies consistent with the provisions of this Lease. Except as otherwise provided herein, insurance is to be placed with insurers with a current A.M. Best Insurance rating of no less than A-minus: VII and subject to the approval of

District. Lessee shall furnish District with the original certificates and amendatory endorsements effecting coverage required.

12.12.2. The limits of insurance shall not be less than the following amounts:

Commercial General Liability	Includes: Personal & Advertising Injury, Product Liability and Completed Operations	\$2,000,000 each occurrence; \$4,000,000 general aggregate
Automobile Liability – Any Auto	Combined Single Limit	\$2,000,000 per occurrence
Excess Liability (Umbrella)		\$6,000,000 each occurrence; \$6,000,000 general aggregate
Workers Compensation		Statutory Limits pursuant to state law
Employer’s Liability		\$2,000,000 each accident, each disease; \$2,000,000 policy limit
Builder’s Risk (Course of Construction)		Issued for the value and scope of Work indicated herein.
Professional Liability, if required by the District		\$1,000,000 per occurrence and annual aggregate

12.13. Unavailability of Coverage. Notwithstanding anything to the contrary contained herein, should insurance coverage meeting all the requirements set forth in this Lease be unavailable due to circumstances beyond the control of Lessee, Lessee and District shall agree as to substitute coverage which shall to the greatest extent possible meet the requirements set forth in this Lease, provided that any substitute coverage shall not be less than insurance coverage available to and actually obtained for comparable facilities in the State of California.

12.14. Mutual Release. Except as set forth in this Lease, each Party hereby releases the other Party, and its trustees, officers, agents and employees from any and all claims, demands, loss, expense or injury to the Property or to the furnishings, fixtures, equipment, inventory or other personal property in, about, or upon the Property, which is caused by perils, events or happenings which are covered by the insurance required by this Lease or which are the subject of insurance carried by the releasing party and in force at the time of loss. Lessee shall procure an appropriate clause in, or an endorsement to, all policies required by this Lease or any other insurance policy maintained by Lessee, pursuant to which the insurance company or companies waive subrogation or consent to a waiver of a right of recovery against the District.

13. Casualty Damage.

13.1. In the event that any portion of the Property is destroyed or damaged by an uninsured peril, District or Lessee may, upon written notice to the other, given within thirty (30) days after the occurrence of the damage or destruction, elect to terminate this Lease; provided, however, that either Party may, within thirty (30) days after receipt of notice, elect to make the required repairs and/or restoration at that Party's sole cost and expense, in which event this Lease shall remain in full force and effect, and the Party having made the election to

restore or repair shall thereafter diligently proceed with the repairs and/or restoration.

- 13.2. In the event the Property is damaged or destroyed from any insured peril to the extent of fifty percent (50%) or more of the then replacement cost of the Property, District or Lessee may, upon written notice, given to the other within thirty (30) days after the occurrence of the damage or destruction, elect to terminate this Lease. Notwithstanding the foregoing, following an election to terminate given by either Party, the other Party may, within thirty (30) days after receipt of notice, elect to make the required repairs and/or restoration at that Party's sole cost and expense, in which event this Lease shall remain in full force and effect, and the Party having made the election to restore or repair shall thereafter diligently proceed with the repairs and/or restoration.

14. Condemnation.

- 14.1. In the event of a permanent condemnation or taking of all or part of the Property, Lessee shall have the right to terminate this Lease upon written notice to District if said taking would substantially interfere with Lessee's ability to construct and/or operate the Development on the Property, as determined by Lessee in its sole discretion. District shall be entitled to any and all awards which may be made in the taking or condemnation relating to all interests, including the fee title, to the Property. Nothing contained in this Section shall be deemed to give the District any interest in or to require Lessee to assign to the District any separate award as designated by the condemning authority made to Lessee for (i) the taking of Lessee's personal property or Lessee's interest in the improvements on the Property, including but not limited to the Improvements and Lessee's Additional Improvements, (ii) interruption of or damage to Lessee's business, (iii) loss of goodwill, or (iv) amounts attributable to Lessee's relocation expenses.

15. Assignment and Subletting.

- 15.1. District's Consent Required. Except as expressly provided in the Sections herein entitled "Additional Provisions Regarding Assignment and Subletting" Lessee shall not voluntarily or by operation of law assign, encumber or otherwise transfer this Lease or any right or interest in this Lease or the Property and Improvements, or permit all or any portion of the Property or Improvements to be occupied by anyone other than Lessee, or sublet all or any part of the Property and Improvements, or enter into any material amendment of a sublease without the express prior written consent of District, which shall not be unreasonably withheld. A change in the control of Lessee shall be deemed to constitute an assignment requiring District's consent. The transfer, on a cumulative basis during the Term, of twenty-five percent (25%) or more of the voting control of Lessee (where Lessee is a for profit company) shall constitute a change in control for this purpose. Except as permitted by Article 16 herein, any assignment or subletting without the prior written consent of District, whether voluntary or involuntary, by operation of law or otherwise, shall be void and shall constitute a non-curable Event of Default. The consent by District to any one assignment or subletting shall not be deemed to be consent to any subsequent assignment or subletting. Without limiting the matters that may be considered by District in determining whether to consent to any requested assignment or subletting, District may take into account the proposed assignee's or sublessee's financial strength and ability to perform all of the obligations of Lessee under this Lease. No assignment of this Lease shall be effective unless and until the proposed assignee shall have executed and delivered to District a written

agreement in form and content satisfactory to District pursuant to which the proposed assignee shall assume and agree to perform when due all of Lessee's obligations under this Lease.

15.2. Additional Provisions Regarding Assignment and Subletting.

15.2.1. Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to District's determination as to the financial and operational responsibility and appropriateness of the proposed assignee. If the proposed assignee intends to use the Property for use other than that agreed to by the Parties, the proposed assignee must provide satisfactory evidence to the District that the proposed use complies with all federal, local, and state laws applicable to the Property, including, but not limited to, the Santa Barbara County Municipal Code and the Orcutt Community Plan. Lessee shall also reimburse District for District's reasonable attorneys' fees incurred in connection with any such assignment or subletting for which District's consent is required. Lessee agrees to provide District with any other or additional information and documentation as may be reasonably requested.

15.2.2. District may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of any assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of District's right to exercise its remedies for Lessee's default.

15.2.3. District's consent to any assignment or subletting shall not constitute consent to any subsequent assignment or subletting.

15.2.4. Following any assignment of this Lease, the assigning Lessee shall remain fully liable for the full and timely performance and observance of each obligation of the "Lessee" under this Lease, as it may be amended from time to time. Such continuing liability shall be primary and concurrent with that of the successor Lessee and shall not be affected by any amendment of this Lease entered into between District and the successor Lessee after the date of the assignment. Upon any Event of Default, District may proceed directly against the assigning Lessee or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee, without first exhausting District's remedies against any other person or entity responsible therefor, or any security held by District.

15.2.5. Any assignee of this Lease shall, by reason of accepting the assignment or entering into a sublease, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of the assignment, other than the obligations as are contrary to or inconsistent with provisions of an assignment to which District has specifically consented to in writing.

15.2.6. No assignee shall have a right further to assign or sublet without complying with this Section.

- 15.2.7. Any payments and other economic consideration received by Lessee as a result of any assignment shall be remitted to District after Lessee has recovered from the payments and consideration the actual brokerage commissions and reasonable attorneys' fees incurred in the assignment. The remittance shall be payable to District without affecting or reducing any other obligation of Lessee hereunder.
- 15.2.8. The term of any sublease shall not extend beyond the Term.
- 15.2.9. Each sublease shall by its own terms be expressly subject to all of the terms, covenants and conditions of this Lease, and Lessee shall remain fully liable to District for the payment of any monies due hereunder and performance of all other obligations under this Lease.
- 15.2.10. Each sublease shall contain a provision, satisfactory to District, that upon the termination of this Lease for any reason, at District's election either (i) the sublease shall terminate or (ii) the sublessee shall attorn to District and pay rent and perform all of the other obligations of the sublessee under its sublease directly to District.
- 15.2.11. Each sublease shall contain a provision, satisfactory to District, that if Lessee defaults under this Lease and fails to deliver to District any security deposit or prepaid rent paid to Lessee by a sublessee under such sublease, then (i) District shall have no obligation or liability to such sublessee for the return of any security deposit or prepaid rent paid to Lessee, (ii) the sublessee shall be solely responsible to pursue its rights and remedies against Lessee for recovery of any security deposit or prepaid rent paid to Lessee, and (iii) the sublessee shall deliver to District, within thirty (30) days after demand by District, a security deposit in the same amount as set forth in the sublease, and notwithstanding any prepayment by the sublessee of rent to Lessee, shall be obligated to pay to District rent set forth in the sublease commencing upon termination of this Lease and notice thereof to sublessee by the District.
- 15.2.12. Promptly after execution of any sublease or an amendment to any sublease, Lessee shall deliver to District a complete and correct copy of the fully executed and effective sublease or amendment, including all exhibits and attachments.
- 15.2.13. Lessee hereby assigns and transfers to District all of Lessee's interest in all rent payable to Lessee under any sublease, and District may collect such rent and apply same toward Lessee's obligations under this Lease; provided, however, that until an Event of Default shall have occurred under this Lease, Lessee may collect the Rent. District shall not, by reason of the foregoing or any assignment of any sublease, nor by reason of the collection of any rent thereunder, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to any sublessee. Lessee hereby irrevocably authorizes and directs any sublessee, upon receipt of a written notice from District stating that an Event of Default exists under this Lease, to pay to District all rent due and to become due under the sublease. The sublessee shall rely upon any notice from District and shall pay rent to District without any obligation or right to inquire as to whether an Event of Default exists, notwithstanding any claim from Lessee to the contrary.

15.2.14. Upon the occurrence of any Event of Default under this Lease, District may, at its option, require any sublessee to attorn to District, in which event District shall undertake the obligations of the sublessor under any sublease from the time of the exercise of the option to the expiration of any sublease; provided, however, that District shall not be liable for any prepaid rent or security deposit paid by any sublessee (except to the extent actually paid over to District) or for any prior defaults of any sublessor.

16. Encumbrance of Leasehold Estate.

16.1. Lessee's Right to Encumber. Lessee may, at any time and from time to time during the Term, encumber to any bank, insurance company or other institutional lender, herein called "Mortgagee," by deed of trust (the "Security Instrument"), Lessee's interest under this Lease and the leasehold estate hereby created (the "Leasehold Estate"), provided that:

16.1.1. The Security Instrument and all rights acquired under it shall, by its express terms, be subject to each and all of the covenants, conditions and restrictions stated in this Lease and to all rights and interests of District;

16.1.2. Lessee shall deliver to District: (i) a complete and correct copy of the Security Instrument and all related promissory notes, loan agreements, security agreements, indemnity agreements, guarantees, financing statements and other loan documents executed by Lessee or for Lessee's benefit in connection therewith (the "Loan Documents"), each as fully executed and delivered, within five (5) business days after the execution thereof, and (ii) a complete and correct copy of the recorded Security Instrument, confirmed by the recorder to show the date or recordation and other recording information, within five (5) business days after the date of recordation;

16.1.3. The Security Instrument shall expressly provide that any proceeds from fire or extended coverage insurance shall be held by Mortgagee and that Mortgagee shall disburse such proceeds, in accordance with conditions set forth in the Loan Documents to repair or rebuild the damaged or destroyed Improvements on the Property unless: (a) Lessee is in default under the Loan Documents at such time beyond any applicable notice or cure periods, (b) this Lease has been terminated or will be terminated due to the casualty in accordance with the terms of this Lease, or (c) Mortgagee reasonably determines that even if insurance proceeds were to be used for repair or rebuilding the damaged or destroyed Improvements, the value of its security interest will be materially impaired from its value immediately prior to the damage or destruction, and in any such instance, Mortgagee may apply such proceeds to any amounts outstanding under the Loan Documents in any order;

16.1.4. The Security Instrument shall contain a provision that all notices of default under the Loan Documents must be sent to District and Lessee and that District shall have ten (10) business days after District's receipt of written notice to cure a default by Lessee under the Loan Documents where the default can be cured by the payment of money to Mortgagee or (b) thirty (30) business days in the event of any non-monetary default (provided that if District requires possession of the Property in order to cure the default, then District shall have, in addition to the ten (10) business

day or thirty (30) calendar day period, such further time as is reasonably needed to terminate Lessee's right to possession of the Property), and neither District's right to cure any default nor any exercise of its right shall constitute an assumption of liability under any Loan Document;

16.1.5. Lessee shall immediately reimburse District for the cost of any default cured by District with interest thereon; and

16.1.6. No encumbrance incurred by Lessee pursuant to this Section or otherwise shall, have power to incur any encumbrance that will, constitute in any way a lien or encumbrance on District's fee title to the Property or on any other interest of District in the Property which is set forth in this Lease.

16.2. Notice to and Service on Mortgagee. If Lessee executes any Security Instrument in accordance with this Lease, District shall deliver to Mortgagee by nationally recognized and reputable overnight courier a duplicate copy of any and all notices District may from time to time give to or serve on Lessee pursuant to or relating to this Lease. Lessee shall at all times keep District informed in writing of the name and mailing address of Mortgagee and any changes in Mortgagee's mailing address. Any notices or other communications permitted by this or any other Section of this Lease or by law to be served on or given to Mortgagee by District shall be deemed duly served on or given to Mortgagee when delivered by nationally recognized and reputable overnight courier at the last mailing address for Mortgagee furnished in writing to District by Lessee or Mortgagee.

16.3. Rights of Mortgagee. If Lessee executes any Security Instrument in accordance with this Lease and then defaults under the related Loan Documents, Mortgagee shall have the right during the Term to the extent permitted by the Loan Documents to realize on the security afforded by the Security Instrument by instituting and completing judicial or non-judicial foreclosure proceedings, bringing an action for the appointment of a receiver with respect to the Property, and pursuing all other remedies available at law or in equity or under the Loan Documents, subject to the following provisions:

16.3.1. Mortgagee shall not acquire or thereafter assign to any third party less than Lessee's entire interest in this Lease;

16.3.2. Mortgagee's or its affiliate's acquisition of Lessee's interest under this Lease by purchase at Mortgagee's foreclosure sale or by acceptance of an assignment in lieu of foreclosure shall not be considered an assignment of this Lease and therefore shall not be subject to District's consent or to any of the other conditions and restrictions applicable to assignments contained herein, but from and after the date of such acquisition Mortgagee or such affiliate, as applicable (whichever party acquired the Leasehold Estate by foreclosure or deed in lieu of foreclosure) shall be bound by all of the terms and conditions of this Lease except with respect to defaults which are not reasonably susceptible of being cured or performed by Mortgagee ("Non-Curable Defaults") and except as otherwise expressly provided herein;

16.3.3. The acquisition of Lessee's interest under this Lease by any person or entity other than Mortgagee by purchase at Mortgagee's foreclosure sale or by acceptance of

an assignment in lieu of foreclosure shall be considered an assignment of this Lease and therefore shall be subject to all of the conditions and restrictions applicable to assignments contained herein; and

16.3.4. The acquisition of Lessee's interest under this Lease by any person or entity other than Mortgagee by purchase at Mortgagee's foreclosure sale or by acceptance of an assignment in lieu of foreclosure may be financed by such person or entity by encumbering to any new Mortgagee by a new Security Instrument Lessee's entire Leasehold Estate, provided that such encumbrance and such Mortgagee shall be subject to all of the terms and conditions of this Section.

16.4. Right of Mortgagee to Cure Defaults. If Lessee executes any Security Instrument in accordance with this Section, then, before District may terminate this Lease because of any default under this Lease by Lessee, District must give written notice of the default to Mortgagee and afford Mortgagee the opportunity after service of the notice to cure the default within (a) ten (10) business days after Mortgagee's receipt of written notice where the default can be cured by the payment of money to District or some other person or (b) thirty (30) days in the event of any non-monetary default, provided, however, that such thirty (30)-day period shall be extended for the time reasonably required by the Mortgagee to complete such cure, including the time required for the Mortgagee to obtain possession of the Property (including possession by a receiver), institute foreclosure proceedings or otherwise perfect its right to effect such cure, and the Mortgagee shall not be required to cure Non-Curable Defaults. The Mortgagee shall have the absolute right to substitute itself or an affiliate for Lessee and perform the duties of Lessee hereunder for purposes of curing such default. District expressly consents to such substitution, agrees to accept such performance, and authorizes the Mortgagee, its affiliate (or either of their employees, agents, representatives or contractors) to enter upon the Property to complete such performance with all of the rights and privileges of Lessee. District shall not terminate this Lease prior to expiration of the cure periods available to a Mortgagee as set forth above. Further, neither the bankruptcy nor the insolvency of Lessee shall be grounds for terminating this Lease if the Rent and all other amounts payable by Lessee hereunder are paid by the Mortgagee in accordance with the terms hereof and Non-Curable Defaults shall be deemed waived by District upon completion of foreclosure proceedings or other acquisition of the Lessee's leasehold estate. Mortgagee's cure of any default under this Lease by Lessee shall not excuse or waive any future default under this Lease by Lessee or preclude or limit the exercise of any rights or remedies afforded District under this Lease as a result of such future default.

16.5. No Merger of Leasehold and Fee Estates. While any Security Instrument remains in effect, there shall be no merger without the consent of Mortgagee of the Leasehold Estate and the fee estate in the Property merely because both estates have been acquired or become vested in the same person or entity.

16.6. Mortgagee as Assignee of Lease. No Mortgagee shall be liable to District as the successor to the rights and obligations of Lessee under this Lease unless and until such Mortgagee acquires the Leasehold Estate through foreclosure or other proceedings in the nature of foreclosure or as a result of an assignment in lieu of foreclosure or other action or remedy. If any Mortgagee shall acquire the Leasehold Estate, such Mortgagee may further assign the entire Leasehold Estate, provided that such Mortgagee complies fully with all of the

conditions and restrictions contained herein. Notwithstanding any provision to the contrary contained elsewhere in this Lease, Mortgagee shall not be liable for any Event of Default that may occur after the effective date of any such further assignment.

- 16.7. Mortgagee as Including Subsequent Security Holders. No transfer by Mortgagee of its lien or security interest on or in the Leasehold Estate shall be valid or effective as against District until Mortgagee shall have given District written notice of the name, address, telephone number of the transferee. The term "Mortgagee" as used in this Lease shall mean not only the initial institutional lender named as beneficiary, mortgagee, or secured party in the Security Instrument, but also any institutional lenders that may subsequently acquire the lien or security interest created by the Security Instrument.
- 16.8. Estoppel Certificates by District. District from time to time and within ten (10) days of the written request of Lessee or any Mortgagee, shall furnish a written statement that this Lease is in full force and effect and that there is no default hereunder by Lessee, or if there is a default, such statement shall specify the default which District claims to exist, provided that District shall not be required to deliver more than three such statements during any 12-month period.
- 16.9. New Lease to Mortgagee. If, while any Security Instrument is in effect, this Lease shall be terminated prior to the stated expiration hereof for any reason not related to damage or condemnation (including, without limitation, termination in any bankruptcy of the Lessee), then District upon request by Mortgagee will enter into a new lease with Mortgagee for the remainder of the Term, effective as of the date of such termination, on the terms specified in this Lease, subject to the following conditions:
- 16.9.1. Mortgagee shall make written request to District for such new lease within thirty (30) days after the date of such termination and such written request shall be accompanied by a payment to District of Rent and other reasonable sums then due to District under this Lease;
- 16.9.2. Mortgagee shall pay to District, at the time of the execution and delivery of such new lease, any and all Rent and other reasonable sums which would at the time of the execution and delivery thereof be due under this Lease but for its termination, and in addition thereto, any reasonable expenses, including attorneys' fees and court costs, to which District shall have been subject by reason of any default by Lessee;
- 16.9.3. Mortgagee shall perform all other material obligations required to have been performed under this Lease by Lessee to the extent that Lessee shall have failed to perform such obligations and Mortgagee was reasonably able to perform such obligations prior to taking possession of the Leasehold Estate;
- 16.9.4. The new lease shall commence and rent and all obligations shall accrue as of the date of termination of this Lease. The new lease shall be superior to and have priority over all encumbrances, liens, conveyances and interests upon and in the Property, other than those of record to which this Lease may be subject as of the date hereof; and

16.9.5. This Section shall survive the termination of this Lease.

- 16.10. Surrender or Amendment. Notwithstanding anything to the contrary set forth in this Lease, including but not limited to the provisions of Sections 13 or 14.1, there shall not be any cancellation, mutual termination, surrender, or acceptance of surrender of this Lease, or any or amendment of this Lease that is materially adverse to Lessee, without the prior written consent of Mortgagee which consent shall not be unreasonably withheld and shall be deemed granted if contrary notice is not received by District within ten (10) business days after Mortgagee's consent is requested.
- 16.11. Subordination. District's rights under this Lease with respect to fire or other property insurance proceeds that become payable because of damage to or destruction of any improvements on the Property and with respect to compensation or damages awarded or payable because of the taking of any improvements on the Property by eminent domain shall be subject and subordinate to the rights of Mortgagee under the Security Instrument; provided, however, that nothing in this Section shall be construed as a subordination of or encumbrance on District's fee title to the Property.

17. Default and Remedies.

- 17.1. Events of Default. Any of the following events, and any events otherwise designated as such herein this Lease, shall constitute an "Event of Default" under this Lease:
- 17.1.1. Lessee fails to make any payment of money called for by any provision of this Lease (whether to District or any third party) within five (5) business days after delivery of written notice by District that the payment is past due; or
- 17.1.2. **[If Parties Agree to a Phased Construction Schedule]** Lessee's failure to commence the Work of the Improvements with respect to Phase 1 by the deadline set forth in Exhibits "B" and "C" hereto; or
- 17.1.3. The failure of Lessee to observe or perform any of its other covenants or obligations hereunder, which failure continues for thirty (30) days after written notice thereof by District to Lessee (unless the nature of the default is such that more than thirty (30) days are required for its cure and Lessee shall have commenced a cure within the thirty (30) day period and thereafter diligently prosecute the same to completion; provided, however, in no event shall the default continue for more than ninety (90) days after written notice thereof by District to Lessee); provided, however, that any notice shall be in lieu of, and not in addition to, any notice required under Code of Civil Procedure section 1161, and the thirty (30) day cure period shall run concurrently with any cure period required under California law, including Code of Civil Procedure section 1161; or
- 17.1.4. The failure by Lessee to utilize the Property for the sole purpose of construction and operating the Development as authorized by this Lease and the terms and conditions set forth herein; or

- 17.1.5. Revocation or non-renewal of Lessee's license, permits, or other authorizations to operate the Development, without the prompt restoration of such license, permits, or other authorizations following notification of the lapsation; or
- 17.1.6. Failure to keep in effect insurance as required herein, without the prompt restoration of any such coverage following notification of the lapsation; or
- 17.1.7. Lessee or any guarantor of Lessee's obligations hereunder are generally not able to pay its debts as they become due or admit in writing its inability to pay its debts; or
- 17.1.8. The making by Lessee of any general assignment or general arrangement for the benefit of creditors; the filing by or against Lessee or any guarantor of the Lease of a petition to have Lessee or any guarantor of the Lease 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 Lessee or any guarantor of the Lease, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of the Lessee's assets located at the Property, or of Lessee's interest in the Lease, where possession is not restored to Lessee within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Property or of Lessee's interest in the Lease, where such seizure is not discharged within thirty (30) days; or
- 17.1.9. The making or furnishing by Lessee of any warranty, representation or statement to District in connection with the Lease, or any other agreement to which Lessee and District are parties, which is false or misleading in any material respect when made or furnished; or
- 17.1.10. The assignment, subletting or other transfer, or any attempted assignment, subletting or other transfer, of the Lease in violation of the terms of this Lease.
- 17.2. District Remedies. Subject to the provisions of **Exhibit "B"** to this Lease, in the event of any Event of Default by Lessee, and expiration of any notice or cure period required hereunder, District shall have the following rights, in addition to all other rights available to District under this Lease or now or later permitted by law or equity, which District may exercise cumulatively or in the alternative:
- 17.2.1. Recovery of Rent. District shall be entitled to keep this Lease in full force and effect (whether or not Lessee shall have abandoned the Property) and to enforce all of its rights and remedies under this Lease, including the right to recover Rent and other sums as they become due, plus interest at the rate of Bank of America's or its successor's reference rate plus three percent (3%) per annum from the due date of each installment of Rent or other sum until paid;
- 17.2.2. Termination. District may terminate this Lease by giving Lessee written notice of termination. On the giving of the notice all of Lessee's rights in the Property shall terminate. Upon the giving of the notice of termination, Lessee shall surrender and vacate the Property in the condition required under this Lease, and District may, in compliance with applicable laws, re-enter and take possession of the Property and all the remaining improvements or property and eject Lessee or any of Lessee's

subtenants, assignees, or other person or persons claiming any right under or through Lessee or eject some and not others or eject none. This Lease may also be terminated by a judgment specifically providing for termination. Any termination under this section shall not release Lessee from the payment of any sum then due District or from any claim for damages or rent previously accrued or then accruing against Lessee. In no event shall any one or more of the following actions by District constitute a termination of this Lease:

17.2.2.1. Maintenance and preservation of the Property;

17.2.2.2. Efforts to relet the Property;

17.2.2.3. Appointment of a receiver in order to protect District's interest hereunder;

17.2.2.4. Consent to any subletting of the Property or assignment of this Lease by Lessee, whether pursuant to provisions hereof concerning subletting and assignment or otherwise; or

17.2.2.5. Any other action by District or District's agents intended to mitigate the adverse effects from any breach of this Lease by Lessee.

17.2.3. Damages. In the event of an Event of Default or this Lease is terminated, District shall be entitled to damages in any or all of the following sums, without limitation:

17.2.3.1. The worth at the time of award of the unpaid Rent which has been earned at the time of termination. The "worth at the time of award" of the amounts referred to herein shall be computed by allowing interest at the rate of Bank of America's or its successor reference rate plus three percent (3%) per annum; plus

17.2.3.2. The worth at the time of award of the amount by which the unpaid Rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided. The "worth at the time of award" of the amounts referred to herein shall be computed by allowing interest at the rate of Bank of America's or its successor reference rate plus three percent (3%) per annum; plus

17.2.3.3. The worth at the time of award of the amount by which the unpaid Rent for the balance of the Term, or any Extended Term, after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided. The "worth at the time of award" of the amounts referred to herein shall be computed by discounting such amount at the discount rate of the Federal Reserve Board of San Francisco at the time of award plus one percent (1%); and plus

17.2.3.4. Any other amount necessary to compensate District for all detriment proximately caused by Lessee's failure to perform Lessee's obligation

under this Lease, or which in the ordinary course of business would be likely to result therefrom including, without limitation, the following: (i) expenses for cleaning, repairing or restoring the Property; (ii) real estate broker's fees, reasonable advertising costs and other expenses of re-letting the Property; (iii) costs of carrying the Property and insurance premiums thereon, utilities and security precautions; (iv) expenses in retaking possession of the Property; (v) reasonable attorneys' fees and court costs; and, (vi) any unamortized real estate brokerage commission paid in connection with this Lease;

17.2.3.5. The term "Rent" as used in this section shall include all sums required to be paid by Lessee to District pursuant to the terms of this Lease.

17.2.4. The rights and remedies of District set forth herein are not exclusive, and District may exercise any other right or remedy now or later available to it under this Lease, at law or in equity.

17.3. District's Default. District shall not be in default of any of its obligations hereunder, unless District fails to perform such obligations within a reasonable time, but in no event less than thirty (30) days, after written notice by Lessee to District specifying that District has failed to perform its obligations; provided, however, that if the nature of District's default requires more than thirty (30) days to cure, District shall not be in default if District commences a cure within thirty (30) days and thereafter diligently prosecutes the same to completion; provided, however, in no event shall the default continue for more than ninety (90) days after written notice thereof by Lessee to District.

17.3.1. Lessee shall have no rights as a result of any default by District until Lessee gives thirty (30) days' notice to District specifying the nature of the default. District shall then have the right to cure the default, and District shall not be deemed in default if it cures the default within thirty (30) days after receipt of the notice of the default, or within a longer period of time as may reasonably be necessary to cure the default; provided, however, in no event shall the default continue for more than ninety (90) days after written notice thereof by Lessee to District.

17.4. Waiver of Breach. The waiver by District of any breach of Lessee of any of the provisions of this Lease (or of any Event of Default) shall not constitute a continuing waiver or a waiver of any subsequent breach by Lessee either of the same or a different provision of this Lease. No waiver, benefit, privilege, or service voluntarily given or performed by either Party shall give the other any contractual right by custom, estoppel or otherwise. The subsequent acceptance of Rent or other monies due pursuant to this Lease shall not constitute a waiver of any preceding default by Lessee other than default in the payment of the particular rental payment so accepted, regardless of District's knowledge of the preceding breach at the time of accepting the rent, nor shall acceptance of rent or any other payment after termination constitute a reinstatement, extension or renewal of the Term or revocation of any notice or other act by District.

18. Surrender of Property

18.1. Lessee's Duty to Surrender Property. On the last day of the Term or any applicable Extended

Term, or on sooner termination of this Agreement, Lessee shall surrender the Property to District and any Improvements in good order, condition and repair, free and clear of all liens, claims and encumbrances caused by Lessee or Lessee's Representatives, though nothing in this provision shall be construed to authorize Lessee to allow or cause to be placed any liens, claims and/or encumbrances of any kind, unless expressly permitted in this Lease. The condition of the Property and Improvements when surrendered shall be similar to that existing as of the Commencement Date of this Lease or completion of any Work in connection with the Development and/or Improvements, excepting ordinary wear and tear and the effects of damage, destruction, or condemnation. The expiration or earlier termination of this Lease shall operate as a conveyance and assignment to District of any Improvements.

18.2. Lessee shall remove from the Property all of Lessee's personal property, trade fixtures, and any Improvements made by Lessee which Lessee and District agreed would be removed by Lessee and which may be removed without irreparable or material damage to the Property. Removal of Lessee's property shall be subject to all applicable laws, including any local permits and/or approval by the DSA.

18.3. All property that is not removed on or before the end of the Term shall be deemed abandoned by Lessee and associated costs to store, remove or dispose of abandoned property shall be the responsibility of the Lessee. If the Property is not surrendered at the end of the Term or any applicable Extended Term or upon earlier termination of this Lease, Lessee shall indemnify District against loss or liability resulting from delay by Lessee in surrendering the Property including, without limitation, any claims made by any succeeding tenant or loss to District due to lost opportunities to timely obtain succeeding tenants.

18.4. Holding Over. This Lease shall terminate without further notice at the expiration of the Term or any applicable Extended Term. Any holding over thereafter by Lessee shall not constitute a renewal or extension of the Term or give Lessee any rights in or to the Property. Nothing contained herein shall be construed as consent by District to any holding over by Lessee.

19. Miscellaneous.

19.1. Survival. Each of Lessee's obligations under this Lease that, by its nature, is to be, or may need to be, performed after the expiration or any earlier termination of this Lease shall survive such expiration of termination.

19.2. Force Majeure Delays. Except as otherwise expressly provided in this Lease, should the performance of any act required by this Lease to be performed by either District or Lessee be prevented or delayed by reason of any act of God, strike, war, lockout, labor trouble, or inability to secure materials (but not by reason of delay in the issuance of any required governmental permit, license or approval), the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused.

19.3. Interest on Overdue Payments. All sums of any nature pursuant to this Lease that Lessee fails to pay to District when due under any provision of this Lease or that District pays to any third party on behalf of Lessee pursuant to any provision of this Lease shall bear interest

from the date due to District or paid by District, as applicable (the "Due Date"), at the rate set forth in Section 17.2.3.1 of this Lease. Such interest shall be payable immediately and without the necessity of any demand by District. The fact that District is entitled to interest under this Section shall not be construed to excuse or mitigate any default by Lessee.

- 19.4. Disputes. Except for any claim relating to Lessee's default in the payment of Rent, or any Default that results in immediate termination of the Lease, District and Lessee agree to submit any and all other claims, controversies, and disputes between Lessee and District arising out of or relating to the Property, this Lease, or the Parties' performances due hereunder to non-binding mediation before commencing any civil litigation. The Parties must mutually agree to the mediator and shall share the associated costs equally. The mediation shall be conducted within thirty (30) days from the date any such claim, controversy, or dispute is declared in writing to exist by any Party to the opposing Party.
- 19.5. Attorneys' Fees. If either Party files any action or brings any proceedings against the other arising out of this Lease, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the Party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a Party is entitled to its costs or attorneys' fees.
- 19.6. Subordination. Nothing in this Lease shall be construed as an agreement by District to subordinate its fee interest in the Property to any leasehold mortgage or other lien or right.
- 19.7. Authorization to Sign Lease. Each individual executing this Lease on behalf of a Party represents and warrants that he or she is duly authorized to execute and deliver the Lease on behalf of the Party that the individual is executing the Lease and that this Lease is binding upon that Party in accordance with its terms.
- 19.8. Applicable Law. This Lease shall be construed in accordance with, and governed by, the laws of the State of California. To the fullest extent permitted by California law, the county in which the Property is located shall be the venue for any action or proceeding that may be brought in connection with or by reason of, or arise out of, this Lease.
- 19.9. Quiet Enjoyment. Lessee shall and may peacefully and quietly have, hold and enjoy the Property, for the Term, on the terms and subject to the conditions contained in this Lease. District warrants and represents that it is the sole and lawful owner of the Property in fee simple, that the Property are free and clear of all liens and encumbrances (except as specifically disclosed to Lessee in writing by District), and that District has the right to enter into this Lease.
- 19.10. Notices. Any notice required or permitted to be given under this Lease shall be deemed to have been given, served and received if given in writing and personally delivered or either deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service or facsimile transmission, addressed as follows:

DISTRICT:

Orcutt Union School District
500 Dyer Street
Orcutt, Ca 93455
Attn: [Insert Title]

LESSEE:

[Insert Name]

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by certified or registered mail shall be effective three (3) days after deposit in the United States mail.

- 19.11. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns.
- 19.12. Memorandum of Lease. District and Lessee shall execute and acknowledge a memorandum of this Lease in the form of **Exhibit "D"** and shall record it in the Official Records of Santa Barbara County. Any documentary transfer tax payable in connection thereunder shall be paid by Lessee.
- 19.13. Counterparts. This Lease may be executed in counterparts, all of which together shall constitute one and the same document.
- 19.14. Severability. Should any provision of this Lease be determined to be invalid, illegal, or unenforceable in any respect, such provision shall be severed and the remaining provisions shall continue as valid, legal, and enforceable.
- 19.15. Entire Agreement of Parties. This Lease constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Lease may be amended or modified only by a written instrument executed by both Parties.

[SIGNATURES ON FOLLOW PAGE]

ACCEPTED AND AGREED on the date indicated below:

Dated: _____, 20__

Dated: _____, 20__

ORCUTT UNION SCHOOL DISTRICT

[Insert Name]

By: _____

By: _____

Print Name: _____

Print

Name: _____

Print Title: _____

Print Title: _____

DRAFT

EXHIBIT "A"

DESCRIPTION OF PROPERTY

[Insert Description of Property]

DRAFT

EXHIBIT "B"

DESCRIPTION OF THE WORK OF THE IMPROVEMENTS

1. Terms and Conditions for the Work of the Improvements.

1.1. Phasing. **[Use this language if the Parties intend to use phasing in the Project]** The Parties acknowledge and agree Lessee intends to perform the Work of the Improvements in approximately xx (x) phases ("Phase(s)"), as described in the Construction Schedule set forth in **Exhibit "C"** to this Lease; provided, however, Lessee may not commence or complete all Phases of the Improvements, as further described herein.

1.1.1. Failure to Commence Phase I. **[Use this language if the Parties intend to use phasing in the Project]** Notwithstanding the foregoing, any failure of Lessee to commence Phase I of the Improvements no later than the fourth (4th) anniversary of the Commencement Date, subject to extension for force majeure delays as described in Section 19.2 of this Lease, shall constitute an Event of Default with a limited remedy in favor of District, as provided in this paragraph. The Parties acknowledge and agree that, in the event Lessee fails to timely commence Phase I of the Improvements, the provisions of the Section "Default and Remedies" of this Lease shall apply including, without limitation, any cure period provided thereunder; provided, however, that District's sole remedy for such default shall be to exercise its right to terminate this Lease pursuant to this section, in which event the Parties shall enter into a replacement lease that will expire on **[Insert Date]**, and will include an option to extend the term a minimum of 10 years and otherwise be on the same terms and conditions as this Lease, revised as appropriate to remove provisions relating to the Work of the Improvements, except that Base Rent in Section 2.1 of the Lease shall be an amount to be negotiated in good faith on an exclusive basis by the Parties, in an amount not more than the monthly rent that would otherwise have been payable under the Original Lease, and Section 2.2 of the Lease shall be deleted. No such termination shall result in any obligation on Lessee's part to vacate or surrender the Property other than as contemplated in said replacement lease at the expiration or earlier termination thereof. For purposes of this Section 1.1.1, Phase I of the Improvements shall be deemed to have commenced when construction of Phase 1 Improvements has begun.

1.2. Design of the Work of the Improvements. Lessee shall prepare plans and specifications for performance of the Work of the Improvements **[include "for each Phase" if the Work shall be done in phases]** for District's approval prior to submitting for approval the same to any entity having jurisdiction over the Work. Lessee shall also prepare a construction schedule for the Work of the Improvements **[include "for each Phase" if the Work shall be done in phases]** Lessee elects to construct that must be approved by the District ("Construction Schedule"). District's approval of the Construction Schedule shall not be unreasonably withheld. The District shall provide its approval, if at all, for the plans and specifications for the Work and the Construction Schedule for each Phase in writing within the deadline required under Section 1.5 herein.

Building Standards. The plans and specifications for the Work of the Improvements **[include "for each**

Phase” if the Work shall be done in phases] Lessee elects to construct shall be prepared in accordance with the applicable building standards of any governmental authority having jurisdiction over the Work of Improvements, construction of the Improvements or the conduct of Lessee’s operations. Upon request of District, lessee shall furnish District with copies of all certificates and approvals resulting from any Work of Improvements that may be required by any governmental authority, by all applicable underwriters and insurers or by any lender in connection with the construction of the Work of Improvements, which copies Lessee shall certify as true, correct and complete.

- 1.3. **Construction Schedule.** Lessee intends to use commercially reasonable efforts to comply with the Construction Schedule set forth in **Exhibit “C”**, but shall have no obligation or liability to do so. The deadlines in **Exhibit “C”** may be extended by mutual written agreement of the Parties, which agreement shall not be unreasonably withheld by either Party.
- 1.4. **Consents or Approvals.** In the case of any District consent or approval required under this **Exhibit “B”**, District shall grant or withhold such consent or approval in writing delivered to Lessee not later than thirty (30) days after written notice is given by Lessee to District requesting such consent or approval. In any dispute between Lessee and District over any such consent or approval, the provisions of Section 19.4 of the Lease shall apply.
- 1.5. **Standards for Performance of the Work.** Lessee shall use commercially reasonable efforts to cause the performance of the Work and the Improvements **[include “for each Phase” if the Work shall be done in phases]** Lessee elects to construct to be constructed by qualified, adequately supervised workers, in a good and workmanlike manner, free from design, material, or workmanship defects in accordance with all applicable laws and this Lease. Not less than fifteen (15) days prior to the commencement of the Work, Lessee shall provide District with information regarding its contractors’ financial condition and evidence to District’s reasonable satisfaction that adequate funds to complete the Development and/or Improvements **[include “in such Phase” if the Work shall be done in phases]** are committed and available or that completion has been otherwise adequately assured. Assurances may include, in District’s sole discretion, a performance guarantee. No Work **[include “in any Phase” if the Work shall be done in phases]** shall commence until District has given Lessee written acceptance of the assurances.
- 1.6. **Review of Plans, Permits, and Construction.** All architectural plans and designs must be prepared by a licensed architect or professional engineer registered in California. Lessee shall seek or direct the architect or Lessee’s Contractor, as applicable, to seek design input from District with respect to the Improvements **[include “for each Phase” if the Work shall be done in phases]** Lessee elects to construct. District shall review Final Plans and Construction Cost Estimates, Specifications and any revisions to the Construction Schedule **[include “for each such Phase” if the Work shall be done in phases]**, subject to the approval procedure described in Section 1.5 above. If the District reasonably disapproves in any respect the Final Plans or Construction Cost Estimates for any such Phase, or any modifications to the Construction Schedule **[include “for any such Phase” if the Work shall be done in phases]**, the Parties shall confer in good faith to reach an agreement for approval by District prior to submitting the same to the entity having jurisdiction to issue approvals or building permits for the Work and Improvements **[include “for such Phase” if the Work shall be done in phases]**. District shall not be deemed to have reviewed any plans, drawings or specifications from an engineering or technical standpoint, and District shall have no

liability whatsoever to Lessee or any third party based on or arising out of any patent or latent defect in the design or construction of the Improvements, whether or not the defect is actually known or apparent to District.

- 1.7. Construction Updates. Lessee shall, on a monthly basis, provide District with updates on the status of the Work of the Improvements [include "for any Phase" if the Work shall be done in phases] then under construction, including, but not limited to, updated Construction Schedules [include "for such Phase" if the Work shall be done in phases].
- 1.8. Compliance with Law and Quality. If required by applicable law in connection with the Work of the Improvement [include "for any Phase" if the Work shall be done in phases] Lessee elects to construct, Lessee shall pay, or cause to be paid, the prevailing rates of wages for all Work and shall comply with Section(s) 1720 et seq. of the California Labor Code and related regulations. Lessee shall cause the Work and any other construction, alterations, additions, installations, repairs and refurbishment at any time undertaken on or in the Property to be performed (a) in a workmanlike manner with only new and high quality building materials, (b) in compliance with all applicable building codes and other applicable laws, ordinances, regulations, and orders of all federal, state, county, and local governmental agencies or entities having jurisdiction over the Property, and (c) in compliance with all applicable insurance requirements. Without limiting the generality of the foregoing provisions, Lessee shall not permit any component of the Work to be commenced until all building permits and other governmental permits, licenses and approvals required in connection with such component of the Work have been issued.
- 1.9. Payment and Performance Bonds. Lessee shall obtain and furnish District with copies of payment and performance bonds (collectively "Bonds") [include "for any Phase" if the Work shall be done in phases] Lessee elects to construct for the Work of Improvements for that Phase only. The Bonds shall be issued for the full amount of the Improvements [include "for the particular Phase" if the Work shall be done in phases] prior to the commencement of the Work of the Improvements. The Bonds must be issued by an admitted surety in California and rated "A" or better. The Bonds shall be in the form set reasonably approved by the District.
- 1.10. Notices of Non-Responsibility. District shall, at any and all times during the Term, have the right to post and maintain on the Property, and to record as required by law, any notice or notices of non-responsibility provided for by the mechanics' lien laws of the State of California. Lessee shall give District not less than thirty (30) days' written notice prior to the commencement of any Work (including site preparation work) or the delivery of building materials to the Property so that the District may provide Lessee with any Notice of Non-Responsibility for Lessee to post on the Property as determined reasonably appropriate by the District.
- 1.11. Mechanics' Liens. At all times during the Term, Lessee shall keep the Property and all Improvements now or hereafter located on the Property free and clear of all liens and claims of liens for labor, services, materials, supplies, or equipment performed on or furnished to the Property. Should Lessee fail to pay and discharge, or cause the Property to be released from, any lien or claim of lien, District may pay, adjust, compromise, and discharge the lien or claim of lien as District may deem appropriate. In this event, Lessee shall reimburse

District for the full amount paid by District in paying, adjusting, comprising, and discharging such lien or claim of lien, including any attorneys' fees and other costs expended by District, together with interest from the date of payment by District to the date of repayment by Lessee.

- 1.12. As-Built Plans. Within ninety (90) days after completion of Work of the Improvements, Lessee shall deliver to District a full and complete set of as-built plans for the Work of the Improvements.
 - 1.13. Default by Lessee. In the event of a default for whatever reason by Lessee prior to the completion of the Work of the Improvements [include "for any Phase" if the Work shall be done in phases] Lessee elects to construct beyond any applicable cure period for such default under the terms of Article 17 of this Lease, District shall have the right, if District so chooses, to take over the construction of any such outstanding Work of the Improvements and/or exercise any and all other rights and remedies available to District.
 - 1.14. Ownership of Improvements. The Improvements as well as any and all other alterations, additions, improvements and fixtures (except for improvements that are excluded from the Property and also except for Lessee's furniture and trade fixtures) made or placed in or on the Property by Lessee shall be owned by Lessee until the expiration or any earlier termination of this Lease, shall be considered part of the real property of the Property, and shall remain on the Property and, without compensation to Lessee, on the expiration or any earlier termination of this Lease, shall become the sole property of District. Lessee shall not remove any Improvements from the Property, commit or permit any waste, or destroy or modify any Improvements on the Property except as expressly permitted by this Lease.
2. **Description of the Work of the Improvements.** The Work of the Improvements shall, at a minimum, include the following work:

[Include Phasing Schedule if Agreed Upon]

EXHIBIT "C"

CONSTRUCTION SCHEDULE/DEADLINES

[Insert Construction Schedule]

DRAFT

EXHIBIT "D"

FORM OF MEMORANDUM OF GROUND LEASE

Recording Requested by and
When Recorded Return to:

[Insert Firm's Name]

This Space For Recorder's Use Only

MEMORANDUM OF LEASE

By this Memorandum of Lease (the "Memorandum") dated [Insert Date], Orcutt Union School District, a California public school district ("District") and [Insert Name] ("Lessee") acknowledge and agree as follows:

1. Lease Term and Property. District leases to Lessee, pursuant to the terms of the Ground Lease Agreement (the "Lease") dated [Insert Date], the real property (the "Property") located in Orcutt, California, and described in Exhibit A attached hereto, for a term of xx (xx) years, commencing on _____, 2018 ("Commencement Date") and ending on _____, 20XX ("Expiration Date"), with certain rights to extend the term through _____, 20XX.
2. Successors and Assigns. The obligations of the Lease to be performed by either party, whether to be performed on the Property or elsewhere and whether such obligations are affirmative or negative in nature, are intended to and shall bind each party and its successors and any other party having any interest in the Property and shall inure to the benefit of the other party and its successors.
3. Purpose and Effect of Memorandum. District and Lessee have executed and recorded this Memorandum for the purpose of imparting notice of the Lease and the respective rights and obligations of District and Lessee thereunder. This Memorandum shall not constitute an amendment, modification or interpretation of the Lease. In the event of any inconsistency between this Memorandum and the Lease, the Lease shall control.

IN WITNESS WHEREOF, District and Lessee have executed this Memorandum as of the date set forth above.

Dated: _____, 20__

Dated: _____, 20__

Orcutt Union School District

[Insert Name]

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

EXHIBIT A
 LEGAL DESCRIPTION

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
 COUNTY OF SANTA BARBARA)

On _____, 2018, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Notary Public

My Commission Expires: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF SANTA BARBARA)

On _____, 2018, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

My Commission Expires

