

# EXHIBIT C TO FACILITIES LEASE: CONSTRUCTION PROVISIONS

## LEASE LEASEBACK DELIVERY METHOD

### CONSTRUCTION PROVISIONS

#### *Santa Barbara High School Entry Marquee Project*

#### 1. Contract Documents.

1.1 The General Conditions for this Project are attached hereto as **Attachment 1** and incorporated as if set forth fully herein by reference. The provisions of General Conditions shall be interpreted consistent with the lease-leaseback delivery method. All references to “Contract Price” or “Contract Sum” in the General Conditions shall mean the Guaranteed Maximum Price as defined herein.

1.2 The Contract Documents for this Project, as defined in the General Conditions, also include the Site Lease and the Facilities Lease executed by the parties in connection with the Project.

#### 2. Scope of Work.

Contractor shall be responsible for completing the construction of the Project pursuant to the Contract Documents. The term “construction” as used herein includes all labor and services necessary for the construction and delivery of the Project, and all materials, equipment, tools, supplies and incidentals incorporated or to be incorporated in such construction.

#### 3. Contractor Warranties.

Contractor warrants that it is experienced in the construction of the type of facility desired by District and possesses, or shall obtain the expertise of one which possesses, all necessary licenses and qualifications required to build and deliver the Project.

#### 4. Time for Commencement and Completion.

4.1 The Notice to Proceed issued by the District will indicate a commencement date no earlier than the date indicated in the District-approved Project Schedule developed in accordance with the Preconstruction Provisions. No work for which Contractor is required to be licensed in accordance with Article 5 (commencing with Section 7065) of Chapter 9 of Division 3 of the Business and Professions Code and for which Division of State Architect (DSA) approval is required can be performed before receipt of the required DSA approval.

4.2 Contractor shall proceed with the construction of the Project on the commencement date with due diligence. Contractor agrees to complete the Project on or before the date indicated in the District-approved Project Schedule developed in accordance with the Preconstruction Provisions (the “Contract Time”). Contract Time shall only be modified to the extent provided for by the Contract Documents.

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### **5. Guaranteed Maximum Price.**

5.1. The compensation to Contractor for all work required by the Contract Documents shall not exceed a guaranteed maximum price (“GMP”) in the amount approved by the District’s Board of Education at the conclusion of services rendered under the Preconstruction Provisions, which will include analysis, preparation and negotiation of a GMP for the project. The GMP is the maximum amount which may be paid to Contractor by the District for the Contractor’s performance of all obligations, express and implicit, under the Contract Documents. All unused GMP amounts shall remain the property of the District and shall be reflected on Contractor’s final application for payment as a credit to the District.

5.2 The Project plans and specifications upon which the GMP is based shall be presented to the District’s Board prior to Board review and approval of the GMP.

5.3 The GMP shall be adjusted only for extra work or modifications made in accordance with the Contract Documents, or Cost Savings as herein set forth. Costs that would otherwise cause the GMP to be exceeded shall be paid by the Contractor without reimbursement by the District.

5.4 All parties agree and acknowledge that the GMP comprises a lump sum for: (1) all obligations, express and implicit, in the Contract Documents; and (2) those sums to be paid as and for rent or in connection with the Site Lease and Facilities Lease. District and Contractor represent and warrant that: (1) the total amount of lease payments and optional prepayment thereof constitute the total rental for the Project, which total does not exceed the fair market rental value for the Project or the GMP; (2) the rental amount has been incorporated into the GMP in consideration and inducement of this Agreement and the Site Lease and Facilities Lease, the uses and purposes which may be served by the Project, and the benefits there from which will accrue to the District and the general public; and (3) the rental amount shall be paid by the District as a part of the GMP, pursuant to the terms of the Contract Documents.

### **6. Cost Savings.**

6.1. When planning and preparing to undertake construction of the Project, and during the course of construction of the Project, the Contractor shall make reasonable attempts to identify and implement measures, construction techniques and administrative procedures as will assist in minimizing the cost of the Project, and shall work cooperatively with the Engineer, Architect, subcontractors and District, in good faith, to do so.

6.2 If any cost savings require revisions to the Construction Documents, Contractor shall work with the Architect with respect to revising the Construction Documents and, if necessary, assist the Architect in obtaining the approval of DSA with respect to such revisions.

6.3 Any identified cost savings from the GMP shall be identified by Contractor and approved in writing by the District. Contractor shall document all savings on an ongoing Project budget tracking summary to be presented to the District at regularly scheduled construction meetings.

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6.4. All cost savings shall be shared by the District and Contractor, with seventy-five percent (75%) credited to the District for its sole use and benefit, and twenty-five percent (25%) credited to Contractor for its sole use and benefit. Cost savings identified prior to approval of the GMP by the District's Board of Education will not be subject to shared savings, and only the District shall retain the benefit of all associated cost savings.

### **7. Allowance Items.**

Upon buyout of an allowance item, District may, in its sole discretion, aggregate or reallocate any balance of that allowance item to any other scope of work category, provided the total GMP remains unchanged. Contractor shall not be entitled to any Cost Savings from allowances. In the event Contractor completes the Project without exhausting the allowance amounts, all remaining allowance amounts will be credited to the District and not to the Contingency Fund (if any).

### **8. Contingency Fund.**

8.1. Contractor and District may agree to create a Contingency Fund for the District's benefit in the amount identified in a line item contained within the Guaranteed Maximum Price. The Contingency Fund may be increased from any Cost Savings as set forth herein.

8.2. The Contingency Fund shall be utilized for the payment of: (1) any unforeseen site costs which are within the scope of work for the Project; (2) additional work desired by the District pursuant to the Contract Documents; or (3) any additional unforeseen costs associated with the financing of the Project. Prior to commencing any work which would result in the utilization of the Contingency Fund, District and Contractor shall agree in writing upon the cost of such work. In the event that Contractor commences such work without the District's written agreement, Contractor shall be deemed to have waived any rights to compensation with respect to such work.

8.3. Any funds remaining in the Contingency Fund after completion of the Project shall be credited fifty percent (50%) to the Contractor and fifty percent (50%) to the District.

### **9. Discounts, Rebates and Refunds.**

9.1. For all reasons and types, all trade discounts; cash discounts; rebates; contract, subcontract or purchase order reductions; refunds and amounts received from sales of surplus labor, materials, equipment and allowances shall accrue to the District. The Contractor shall make provisions so that all discounts, rebates, refunds or reductions can be secured and transferred in full to the District within five business days of discovery. Amounts which accrue to the District in accordance with the provisions of this Section shall be credited to the District as a deduction from the appropriate GMP line item.

9.2. The Contractor shall endeavor to combine material and equipment requirements and take such other steps as are necessary to permit the obtaining of all material and equipment at the best possible prices through volume purchasing. All proceeds from the sale of surplus materials and equipment, refunds of or credits on insurance premiums and all sums the Contractor is permitted to retain from remittances to the state in which the Project is located

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(hereinafter the "State") or any other governmental entity or agency whether federal state or local for sales tax applicable to procurement of material and equipment shall accrue to the District's account and shall be credited to the GMP. The Contractor shall make such provisions and take such steps as are necessary so that such discounts, rebates, refunds, proceeds and sums are secured to the fullest possible extent. If the same results in a net overall economic benefit to the Project, the Contractor agrees to use all commercially reasonable efforts to procure services and materials from local suppliers in the locality of the project site to the extent necessary to maximize tax relief and benefits from local governmental entities.

### **10. Extra Work/Modifications**

10.1 The District may prescribe additional work or a modification of requirements or of methods of performing the construction of the Project which differ from the work or requirements set forth in the Construction Documents ("Modifications"); and for such purposes, the District may at any time during the life of the Facilities Lease, by written order, make such changes as it shall find necessary in the design, line, grade, form, location, dimensions, plan, or material of any part of the work or equipment specified herein or in the Construction Documents, or in the quantity or character of the work or equipment to be furnished.

10.2 Prior to Contractor commencing any work with respect to Modifications, District and Contractor must agree upon the cost or savings of such Modifications, which shall be added to the Guaranteed Maximum Sum or credited as provided herein, as applicable. In the event that Contractor commences work with respect to any requested Modifications without the District and Contractor agreeing upon the cost for such Modifications or a mutually acceptable method for determining the cost for such Modifications, Contractor shall, for all purposes, be deemed to have waived any rights to compensation with respect to such Modifications.

10.3 All Modifications approved in writing shall be funded as directed and approved by the District. This applies only to District initiated additional work, and work performed based on pre-approved allowances. This shall not apply to modifications or additional work, time or expense incurred by Contractor, as a result of error, omission or oversight of Contractor or any of its contractors or suppliers.

### **11. Payment to Subcontractors.**

Contractor shall make all payments to subcontractors and suppliers as expeditiously and timely as possible, consistent with any applicable law so as to prevent stop notices, liens or claims from being filed against the District or the Project Site. Contractor shall indemnify, defend and hold District harmless from any claims or actions which allege that any subcontractor or supplier failed to be paid with respect to the Project.

### **12. Liquidated Damages.**

Contractor and District hereby agree that the exact amount of damages for failure to complete the Project within the time specified herein is extremely difficult or impossible to determine. If the Project is not completed within the time specified in the Contract Documents, it is understood that the District will suffer damage. It being impractical and infeasible to determine the amount of actual damage, except as otherwise provided herein, it is agreed the

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Contractor shall pay to District as fixed and liquidated damages, and not as a penalty, **One Thousand Dollars (\$1,000.00)** for each calendar day of delay in completion. Any liquidated damages recovered by the District shall not, however, limit the District's right to separately recover any actual out-of-pocket damages it suffers due to Contractor's delay.

### 13. Independent Contractor Relationship.

Contractor is retained as an independent contractor and is not employed by the District. No employee or agent of Contractor shall become an employee of the District.

### 14. Layout and Field Engineering

All field engineering and surveying required for laying out the Project and establishing grades for earthwork operations shall be furnished by Contractor at its expense. Such work shall be done by a qualified engineer. Any required "as-built" drawings of Site development shall be prepared by a qualified engineer at Contractor's expense. The District shall confirm the location of the corners of the Site and benchmarks.

### 15. Utilities – Investigation

No excavations were made to verify the locations of any underground utilities. Since the project is being constructed pursuant to Education Code section 17406, Contractor shall be responsible for the investigation of the Site with respect to any underground utilities including, without limitation, trunk, mainline, and service utilities. It shall be the responsibility of Contractor to determine, within reason, the exact location of all utilities. Contractor shall make its own reasonable investigations, including exploratory excavations, to determine the locations and types of service connections, prior to commencing work which could result in damage to such utilities.

### 16. Compliance with DTSC Guidelines

If the Project requires the use of imported soils, Contractor shall be responsible to use and shall certify that the imported material it uses is free of any hazardous and/or toxic substance or material of any nature or type as defined in accordance with California law and the California Health and Safety Code. The District reserves the right to reject any imported material that has come from agricultural or commercial land uses. Contractor must notify the District of the source of material and comply with all local applicable regulations, and when applicable, with the guidelines of the Department of Toxic Substances Control ("DTSC").

### 17. No Asbestos

Contractor shall execute and submit a Certificate Regarding Non-Asbestos Containing Materials.

### 18. Disabled Veterans Business Enterprise

Contractor will make a good faith effort to contact and solicit Disabled Veterans Business Enterprise contractors and suppliers to offer bids for performance of parts of the Project, if

## **EXHIBIT C TO FACILITIES LEASE: CONSTRUCTION PROVISIONS**

required or requested by the District. In such case, Contractor shall certify as part of the Project close out, under penalty of perjury, that a good faith effort was made to include DVBE contractors and suppliers in the Project on the form provided. The District's form is attached hereto as **Attachment 2.**

19. **Iran Contracting Act Certification.**

Contractor shall submit, under penalty of perjury, on the form provided in **Attachment 2**, the certification required under the Iran Contracting Act, Public Contract Code section 2200 *et seq.* prior to commencement of services under these Construction Provisions.

20. **Skilled and Trained Workforce Certification**

Contractor shall submit, under penalty of perjury, on the form provided in **Attachment 2**, certification that it is aware of the provisions of California Education Code section 17407.5 and Public Contract Code sections 2600 through 2602 of the Public Contract Code. In providing this certification, Contractor provides its enforceable commitment to the District that it and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the Project or contract that falls within an apprenticeable occupation in the building and construction trades, and that it will provide monthly reports to the District establishing its compliance with the Skilled and Trained Workforce Requirements. (Education Code 17407.5).

21. **Additional Certifications.** In accordance with the requirements of these Construction Provisions, applicable laws, and District policies, Contractor shall provide additional certifications as set forth in the Project Forms set forth in **Attachment 2**.

22. **Project Close Out Forms.** Contractor shall provide the following forms (attached in **Attachment 2**) on request of the District as part of close-out: Non Use of Asbestos Containing Materials or Lead Based Paint; Guarantee.

### **End Construction Provisions**

**EXHIBIT C TO FACILITIES LEASE: CONSTRUCTION PROVISIONS**

**Attachment 1 to Construction Provisions**

**General Conditions**

**EXHIBIT C TO FACILITIES LEASE: CONSTRUCTION PROVISIONS**

**Attachment 2 to Construction Provisions**

**District Forms**



**EXHIBIT C TO FACILITIES LEASE: CONSTRUCTION PROVISIONS**  
**GOOD FAITH EFFORTS TO INCLUDE DISABLED VETERAN BUSINESS**  
**ENTERPRISES IN THE PROJECT**

I am authorized to certify, and do certify, on behalf of \_\_\_\_\_ (“Contractor”) all of the statements made hereinafter.

Contractor has made a good faith effort to include DVBE contractors and suppliers in the Project, in accordance with the requirements of the Bid Package as applicable for the Project, including all terms set forth therein, and all applicable State laws and regulations, including, without limitation, California Education Code Section 17076.11.

I declare under penalty of perjury according to the laws of the State of California, that the foregoing is true and correct to my personal knowledge

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name, Title

**IRAN CONTRACTING ACT CERTIFICATION**

The undersigned, subject to penalty for perjury, hereby certifies to the Santa Barbara Unified School District, subject to penalty for perjury pursuant to the laws of the State of California, that the following is true and correct:

- (i) The undersigned is a duly-authorized representative of the Bidder/Contractor and, in that capacity, has executed this certification on behalf of the Contractor; and
- (ii) The appropriate box is checked immediately below (check only one box), and the statement relating to the Bidder/Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 *et seq.*) following such box is true and correct.
  - ☐ Bidder/Contractor is not:
    - (i) identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
    - (ii) a financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
  - ☐ The District has exempted the Bidder/Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, the District will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
  - ☐ The maximum total amount payable to the Bidder/Contractor in connection with the Project, as of the date of this certification, does not exceed one million dollars (\$1,000,000.00).

*Notice: In accordance with Public Contract Code Section 2205, false certification of this form may result in civil penalties equal to the greater of \$250,000 or twice the contract amount, termination of the contract and/or ineligibility to bid on contracts for three years.*

\_\_\_\_\_  
Bidder/Contractor

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

**CONTRACTOR'S CERTIFICATE REGARDING WORKER'S COMPENSATION**

I am authorized to certify, and do certify, on behalf of \_\_\_\_\_ (“Contractor”) all of the statements made hereinafter.

California Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

1. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
2. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations, of ability to self-insure and to pay any compensation that may become due to employees.

**I am aware of the provisions of California Labor Code Section 3700 which require every employer to be insured against liability for workers’ compensation or to undertake self- insurance in accordance with the provisions of that code, and I will comply with such provision before commencing the performance of the work of this contract.**

I declare under penalty of perjury according to the laws of the State of California, that I am authorized to execute this Certificate Regarding Worker’s Compensation on behalf of the above-identified Contractor and the foregoing is true and correct to my personal knowledge.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or Printed Name, Title

**DRUG-FREE WORKPLACE CERTIFICATION**

I am authorized to certify, and do certify, on behalf of \_\_\_\_\_ (“Contractor”) all of the statements made hereinafter.

Contractor is aware of the provisions and requirements of California Government Code Section 8350 et seq., the Drug Free Workplace Act of 1990.

A drug free workplace will be provided by Contractor by doing all of the following:

- (A) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;
- (B) Establishing a drug-free awareness program to inform employees about all of the following:
  - (1) The dangers of drug abuse in the workplace;
  - (2) Contractor's policy of maintaining a drug-free workplace;
  - (3) The availability of drug counseling, rehabilitation and employee- assistance programs; and
  - (4) The penalties that may be imposed upon employees for drug abuse violations;
- (C) Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.

Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code Section 8355 by, inter alia, publishing a statement notifying employees concerning:

- (D) the prohibition of any controlled substance in the workplace;
- (E) establishing a drug-free awareness program; and
- (F) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

Contractor understands and agrees that if the District determines that Contractor has either:

- (A) made a false certification herein; or
- (B) violated this certification by failing to carry out and to implement the requirements of California Government Code Section 8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code Section 8350, et seq.

Contractor acknowledges and is aware of the provisions of California Government Code Section 8350, et seq. and I hereby certify that Contractor will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

## Exhibit C to Facilities Lease: Construction Provisions

I declare under penalty of perjury according to the laws of the State of California, that the foregoing is true and correct to my personal knowledge.

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Contractor

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Signature

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Name, Title

Exhibit C to Facilities Lease: Construction Provisions

**Contractor's Certification of Michelle Montoya School Safety Act Compliance**

The undersigned does hereby certify to the governing board of the Santa Barbara Unified School District ("District") as follows:

I am authorized to certify, and do certify, on behalf of \_\_\_\_\_ ("Contractor") all of the statements made hereinafter.

The Contractor has complied with the fingerprinting and criminal background investigation requirements of California Education Code section 45125.1 with respect to all Contractor's employees and personnel of all subcontractors who may have contact with District pupils in the course of performance of the Contract.

The California Department of Justice has determined that none of those employees has been convicted of a violent or serious felony, as that term is defined in Education Code section 45122.1.

A complete and accurate list of Contractor's employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto. The list includes the employer, employee name and position, sex, date of birth, height, weight, hair color, eye color, and driver's license/identification state and number.

The Contractor certifies that the above information is correct and is in compliance with Education Code section 45122.1 and 45125.2.

I declare under penalty of perjury according to the laws of the State of California, that the foregoing is true and correct to my personal knowledge.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name, Title

**CONTRACTOR'S CERTIFICATION OF A TOBACCO-FREE WORKPLACE**

I am authorized to certify, and do certify, on behalf of \_\_\_\_\_ (“Contractor”) all of the statements made hereinafter.

Contractor understands and acknowledges that ample research has demonstrated the health hazards associated with the use of tobacco products, including smoking and the breathing of second-hand smoke. As required by law, the SANTA BARBARA UNIFIED SCHOOL DISTRICT (“District”) provides instructional programs designed to discourage students from using tobacco products. All persons observed by the District’s pupils serve as models and must demonstrate good health practices that are consistent with these instructional programs.

In the best interests of the District’s pupils and employees, as well as the general public, the Governing Board therefore prohibits the use of tobacco products at all times on District property and in District vehicles. This prohibition applies to all persons without exception, including persons present at any school or school-sponsored activity or athletic event or attending any meeting on any property owned, leased or rented by or from the district. Contractor agrees and acknowledges that it shall prohibit all of its personnel, its contractors of every tier and their personnel, from using tobacco products on District property.

The Superintendent or designee shall inform students, parents/guardians, employees, contractors and the public about this policy. All individuals on district premises share in the responsibility of adhering to this policy and informing appropriate District officials of any violations. The Superintendent or designee shall maintain a list of clinics and community resources which may assist employees and students who wish to stop using tobacco products.

I declare under penalty of perjury according to the laws of the State of California, that the foregoing is true and correct to my personal knowledge.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Signature

**CERTIFICATION OF CERTIFIED PAYROLL SUBMITTAL TO LABOR COMMISSION**

**(Note: Contractor-generated form may be used upon approval of the District)**

I am the \_\_\_\_\_ for \_\_\_\_\_ in connection  
with \_\_\_\_\_

(Superintendent/Project Manager)

(Contractor)

\_\_\_\_\_. This Certification is submitted to Santa  
Barbara

(Project Name)

Unified School District concurrently with the Contractor's submittal of an Application for Progress  
Payment to the District, identified as Application For Progress Payment No. \_\_\_\_\_  
("the Pay Application").

1. The Pay Application requests the District's disbursement of a Progress Payment covering  
Work performed for the period between \_\_\_\_\_, 20\_\_ and  
\_\_\_\_\_, 20\_\_.
2. The Contractor has submitted Certified Payroll Records ("CPR") to the Labor  
Commissioner for all employees of the Contractor engaged in performance of Work subject  
to prevailing wage rate requirements for the period of time covered by the Pay Application.
3. All Subcontractors who are entitled to any portion of payment to be disbursed pursuant to  
the Pay Application have submitted their CPRs to the Labor Commissioner for all of their  
employees performing Work subject to prevailing wage rate requirements for the period of  
time covered by the Pay Application.
4. I have reviewed the Contractor's CPRs submitted to the Labor Commissioner; the CPRs  
submitted to the Labor Commissioner by the Contractor are complete and accurate for the  
period of time covered by the Pay Application.
5. I have reviewed the Subcontractors' CPRs submitted to the Labor Commissioner; the CPRs  
submitted to the Labor Commissioner by the Subcontractors are complete and accurate for  
the period of time covered by the Pay Application.

I declare under penalty of perjury under California law that the foregoing is true and correct. I  
executed this Certification on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at

\_\_\_\_\_.  
(City and State)

By: \_\_\_\_\_

\_\_\_\_\_  
(Typed or Printed Name)



Exhibit C to Facilities Lease: Construction Provisions

**NON USE OF ASBESTOS CONTAINING MATERIALS OR LEAD BASED PAINT**

I am authorized to certify, and do certify, on behalf of \_\_\_\_\_ (“Contractor”) all of the statements made hereinafter.

No asbestos-containing materials were used in the completion of the above referenced project. Asbestos-containing materials is defined as any and all material containing greater than one-tenth of one percent (>.1%) asbestos. Asbestos is defined as any of the following substances: chrysotile; amosite; crocidolite; tremolite asbestos; anthophyllite asbestos; actinolite asbestos; and any of these minerals that have been chemically treated and/or altered.

No lead-based paint was used in the completion of the above referenced project. Lead-based paint is defined as any and all paint or other coating materials that contain any amount of lead. Lead is defined as elemental lead, all inorganic lead compounds and the class of organic lead compounds commonly referred to as lead soaps.

I declare under penalty of perjury according to the laws of the State of California, that the foregoing is true and correct to my personal knowledge

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name, Title

## Exhibit C to Facilities Lease: Construction Provisions

### GUARANTEE

#### **Project:**

The Contractor hereby warrants and guarantees to the District that all work, materials, equipment and workmanship provided, furnished or installed by or on behalf of Contractor in connection with the above referenced Project (the "Work") have been provided, furnished and installed in strict conformity with the Contract Documents for the Work, including without limitation, the Drawings and the Specifications. Contractor further warrants and guarantees that all work, materials, equipment and workmanship as provided, furnished and/or installed are fit for use as specified and fulfill all applicable requirements of the Contract Documents including without limitation, the Drawings and the Specifications. Contractor shall, at its sole cost and expense, repair, correct and/or replace any or all of the work, materials, equipment and/or workmanship of the Work, together with any other items which may be affected by any such repairs, corrections or replacement, that may be unfit for use as specified or defective within a period of one (1) year from the date of the recording of the Notice of Completion, ordinary wear and tear and unusual abuse or neglect excepted.

In the event of the Contractor's failure and/or refusal to comply with the provisions of this Guarantee, within the period of time set forth in the Contract Documents after the District's issuance of the Notice to the Contractor of any defect(s) in the Work, materials, equipment or workmanship, Contractor authorizes the District, without further notice to Contractor, to repair, correct and/or replace any such defective item at the expense of the Contractor. The Contractor shall reimburse the District for all costs, expenses or fees incurred by the District in providing or performing such repairs, corrections or replacements within ten (10) days of the District's presentation of a demand to the Contractor for the same.

The provisions of this Guarantee and the provisions of the Contract Documents for the Work relating to the Contractor's Guarantee(s) and warranty(ies) relating to the Work shall be binding upon the Contractor's Performance Bond Surety and all successors or assigns of Contractor and/or Contractor's Performance Bond Surety.

The provisions of this Guarantee are in addition to, and not in lieu of, any provisions of the Contract Documents for the Work relating to the Contractor's guarantee(s) and warranty(ies) or any guarantee(s) or warranty(ies) provided by any material supplier or manufacturer of any equipment, materials or other items forming a part of, or incorporated into the Work, or any other guarantee or warranty obligation of the Contractor, prescribed, implied or imposed by law.

The undersigned individual executing this Guarantee on behalf of Contractor warrants and represents that he/she is duly authorized to execute this Guarantee on behalf of Contractor and to bind Contractor to each and every provision hereof.

#### **Contractor**

\_\_\_\_\_  
(Contractor Name)

\_\_\_\_\_  
(Signature of Contractor's Authorized Employee, Officer  
Or Representative)

\_\_\_\_\_  
(Printed Name and Title)

\_\_\_\_\_  
(Date)