



CHICO UNIFIED SCHOOL DISTRICT

**2455 Carmichael Drive
Chico, CA 95928**

**USING THE AUTHORITY
GRANTED BY
CALIFORNIA EDUCATION CODE
SECTION 17406**

REQUEST FOR PROPOSAL FOR LEASE-LEASEBACK SERVICES

**RFP Issued: July 10, 2008
Pre-Submittal Conference: July 22, 2008 at 2:00 p.m.
Proposals Due: July 31, 2008 at 2:00 p.m.**

REQUEST FOR PROPOSAL LEASE-LEASEBACK SERVICES

INTRODUCTION

The Chico Unified School District ("District") is issuing this Request for Proposal ("RFP") to Lease-Leaseback entities ("LLB Entity" or "LLB Entities") qualified to provide constructability review, value engineering, and construction services to the District for the development and construction of a **Performing Arts Center** to be located at the District's **Pleasant Valley High School, 1475 East Avenue, Chico, CA 95926**, pursuant to the Lease-Leaseback provisions of Education Code Section 17406 (the "Project"). This RFP describes the Project, the required Scope of Work, the selection process and the minimum information that must be included in any proposal submitted by any LLB Entity in response to this RFP.

Any successful LLB Entity chosen by the District as a result of this RFP process will later be given the opportunity to provide the District with a Guaranteed Maximum Price ("GMP") for that LLB Entity's construction of the Performing Arts Center. The District retains the right to reject any LLB Entity's GMP obtained through that process.

CRITICAL DATES

Mandatory Pre-Submittal Conference:

A mandatory Pre-Submittal Conference will be held on **July 22, 2008 at 2:00 p.m.** at the following location: **Pleasant Valley High School, Administration Building, 1475 East Ave., Chico, CA 95926**. At the Pre-Submittal Conference, District representatives will distribute information and materials to further describe the Project and the Scope of Work. LLB Entities choosing to respond to this RFP shall consider and address the materials and information distributed at the Pre-Submittal Conference in their proposals. LLB Entities that fail to attend the mandatory Pre-Submittal Conference shall be ineligible to respond to this RFP. The conference will also include a site walk.

Proposal Due Date:

LLB Entity responses to this RFP shall be submitted to the District no later than **July 31, 2008 at 2:00 p.m.** at the following location: **Chico Unified School District, 2455 Carmichael Drive, Chico, CA 95928, Attention: Michael Weissenborn, Facilities Planning/Construction Manager.**

PROJECT DESCRIPTION

The Project consists of the following:

- Review of existing plans and value engineering statements.
- Construction of: Performing Arts Center
Pleasant Valley High School
1475 East Ave., Chico, CA 95926
- The following is a projection of tentative milestone dates for the Project:

<u>Date</u>	<u>Milestone</u>
July 31, 2008, 2:00 pm	Proposals due
August 7, 2008, 1-3:00 pm	Possible District interviews with the most qualified LLB Entities
August 20, 2008	Board approval of most qualified LLB Entity
September 4, 2008 (estimated)	Final award of contract and execution of Agreement
September, 2008	Commencement of construction phase of Project
October, 2009	Completion of Project

Under the authority of Education Code Section 17406, the selected LLB Entity will act as a general contractor pursuant to a Lease and Sublease. Pursuant to the Lease and Sublease, attached hereto in draft form as Exhibit B, the District shall lease District-owned land to the LLB Entity and the LLB Entity shall lease the land back to the District. The LLB Entity may contract with separate specialty contractors to perform the various trades comprising the entire Scope of Work, as described below.

The LLB Entity shall be required to construct the Project according to California Department of Education and District guidelines. The LLB Entity shall work under the direction of District staff. District has retained **Nichols Melburg and Rosetto Architects** as its architect ("Architect") to prepare the design of the Project. The LLB Entity shall work with Architect as necessary to conduct value engineering and modifications to the plans for the Project, at the direction of District staff.

The Project will require the participation of a California Division of State Architect ("DSA") approved Inspector of Record, who shall be a District employee or inspector under direct contract with the District. Material testing shall be accomplished through a certified District-contracted testing laboratory. Costs associated with the Inspector of Record and related material testing shall be the direct responsibility of the District and should not be included in the LLB Entity's proposal. Other testing and inspection requirements are the responsibility of the LLB Entity.

GUARANTEED MAXIMUM PRICE (GMP)

The successful LLB Entity chosen by the District as a result of this RFP process will be responsible for providing a GMP to the District. The GMP shall include a contingency to be applied to unforeseen circumstances such as design changes required by governmental agencies, change orders approved by the parties and unforeseen underground utilities. Any contingency balance remaining at the completion of the Project shall be returned to the District as a deductive change order.

SCOPE OF WORK

In its response to this RFP, the LLB Entity shall expressly represent that it has expertise and experience in construction supervision; bid evaluation; project scheduling; cost benefit analysis; claims review and negotiation; and general management and administration of construction projects. The development of the Project and delivery within budget shall be the responsibility of the LLB Entity selected by the District. It is required that construction trade contracts be publicly bid.

The Scope of Work for the Project includes, but is not limited to, the following:

Construction Services Required:

- Complete construction of site work and buildings in accordance with the plans and specifications and within the GMP for the Performing Arts Center at Pleasant Valley High School located at 1475 East Avenue, Chico, CA 95926.
- Perform value engineering with Architect's design team and District. (The District shall have no obligation to reimburse or otherwise provide additional compensation to the LLB Entity if the GMP is not accepted.)
- Compile and provide operations and maintenance manuals, warranties/guarantees, and certificates.
- Obtain local and state approvals and permits, including occupancy permit; coordinate final testing, documentation, and governmental inspections.
- Prepare final accounting and close out reports; prepare occupancy plan reports.
- Other responsibilities necessary for the completion of the Project in accordance with the plans.
- Provide accurate as-builts at the end of the Project and prior to occupancy.

PROPOSAL FORMAT AND CONTENT

The proposal should be concise, well organized and demonstrate the responding LLB Entity's qualifications. The proposal should be no longer than thirty (30) pages on 8 ½" x 11" paper, inclusive of resumes, forms, and pictures.

All LLB Entities responding to this RFP are required to follow the format specified below. The content of the proposal must be clear, concise, and complete. Each section of the proposal shall be tabbed according to the numbering system shown below to aid in expedient information retrieval (NOTE: LLB Entities shall base their proposals on the

Scope of Work, plans and specifications, and the information and materials distributed at the Pre-Submittal Conference referred to above.)

Ten (10) copies of the proposal shall be delivered **no later than 2:00 p.m. on July 31, 2008** to:

**Chico Unified School District
2455 Carmichael Drive
Chico, CA 95928**

Attn: Michael Weissenborn, Facilities Planning/Construction Manager

Any LLB Entity choosing not to respond to this RFP following attendance at the Pre-Submittal Conference is requested to notify Michael Weissenborn at the address provided above, indicating such LLB Entity's decision not to respond.

Proposal Cover

Include the RFP's title and proposal due date, the name of principal LLB Entity (or LLB Entities if there is a joint venture or association).

Table of Contents

Include a complete and clear listing of headings and pages to allow easy reference to key information.

- I. **Cover Letter** – The cover letter should be brief (one page maximum). Describe how the Scope of Work will be accomplished for the District, identify the team members (i.e., joint partners and sub-consultants); and include the title, telephone number(s), e-mail address and signature of the LLB Entity's contact person for this Project. If the LLB Entity is proposing to co-respond with another LLB Entity, the cover letter must specify the type of services to be provided by each LLB Entity and the proposed percentage allocated to that phase or function of the service. Any changes to the District's requested format or deletions of requested materials should be explained in the cover letter. The signatory shall be a person with official authority to bind the LLB Entity.
- II. **Company Information** – Provide the following general information about the LLB Entity:
 - Name of LLB Entity (including any "Doing Business As" names)
 - Headquarters/parent company locations
 - History of LLB Entity
 - Internet website address, if any
 - Details of LLB Entity business structure (corporation, partnership, LLC)
 - Date founded
 - Office locations with addresses and office telephone numbers
 - Local address, telephone numbers, cell telephone numbers, fax numbers and e-mail addresses of LLB Entity team members

- List of any outstanding or threatened litigation that would threaten the viability of the LLB Entity or performance of any contract resulting from this RFP

III. **Mandatory Qualifications** – LLB Entities must hold a General Building Contractor License (B License), which is current, valid and in good standing with the California Contractor's State License Board. LLB Entities must have the necessary qualifications to provide the services in accordance with California law. Provide the following information for each license:

- Exact name of license holder on file
- License classification
- License number
- Date issued
- Expiration date
- Whether license has been suspended or revoked in the past five (5) years. If so, explain.

IV. **Methods and Strategic Plan** – Describe in detail the LLB Entity's proposed methods and plan for carrying out the Scope of Work on time and within budget, including scheduling the resources necessary to accomplish the Scope of Work. Include the staff requirements for each LLB Entity team member, any LLB Entity fees, and any costs associated with value engineering and General Conditions.

V. **Qualifications and Experience** – This section shall contain the following: A description of the LLB Entity's experience in providing construction and Lease-Leaseback services for public entities. Experiences in the past three (3) years specifically related to the Scope of Work shall be listed consecutively, with the awarding and completion dates noted. Each listed experience shall include the name(s) and telephone number(s) of the client's project manager and the name of the LLB Entity's project. When listing team members or sub-consultants, describe the listed experience and the exact tasks that each member or sub-consultant performed. For projects similar to this Project, please list the total cost of each such project.

VI. **Past Performance Record** – If any of the following has occurred, please describe in detail the circumstances for each occurrence:

- Failure to enter into a contract once selected.
- Withdrawal of a proposal as a result of an error.
- Termination or failure to complete a contract.
- Debarment by any municipal, county, state, federal or local agency.
- Involvement in litigation, arbitration or mediation.
- Conviction of the LLB Entity or its principals for violating state or federal anti-trust laws by bid-rigging, collusion, or restrictive competition between bidders, or conviction of violating any other federal or state law related to bidding or contract performance.
- Knowing concealment of any deficiency in the performance of a prior contract.

- Falsification of information or submission of deceptive or fraudulent statements in connection with a contract.
- Willful disregard for applicable rules, laws or regulations.

Information regarding any of the above may be deemed to indicate an unsatisfactory record of performance.

- VII. **Organizational Chart** – An organizational chart containing the names of all key personnel, joint venture partners, and sub-consultants with titles and their specific task assignment for this Project shall be provided in this section. In addition, include on the organizational chart or on a separate sheet, each team member's current workload.

The District's evaluation will consider the entire team. Therefore, no changes in the team's composition will be allowed without prior written approval of the District.

- VIII. **Financial Information** – Provide the following financial information:

- A letter from a financial institution stating a current line of credit.
- Attach a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) and authorized to issue bonds in the State of California which states: (a) that your current bonding capacity is sufficient for the Project for which you seek eligibility; (b) your current available bonding capacity.
- A letter from an insurance company indicating ability to provide insurance as described below. The following is a tentative schedule:

- **A.M. Best financial rating of A:VII**
- **Commercial General Liability Insurance:** Commercial General Liability Insurance shall be at least as broad as Insurance Services Office General Liability Coverage (Occurrence Form CG 0001), naming the District as an additional insured. One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. Two Million Dollars (\$2,000,000) aggregate.
- **Automobile Liability Insurance:** Automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). One Million Dollars (\$1,000,000) for bodily injury and property damage each accident limit.
- **Worker's Compensation and Employer's Liability Insurance:** The LLB Entity and all subcontractors shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees working on or about the construction site, in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof. The LLB Entity shall provide employer's liability insurance in the amount of at least One Million Dollars (\$1,000,000) per accident for bodily injury and disease.
- **Builder's Risk Insurance:** The LLB Entity shall provide and maintain builder's risk insurance (or installation floater) covering all risks of direct physical loss, damage or destruction to the work and buildings where work is

being installed or performed. Limit shall equal the bid amount plus the value of the buildings where the work is being installed and performed, if requested by the District. Builder's risk insurance shall name the District as an additional insured.

- All insurance will be in a form and with insurance companies acceptable to the District.
- Insurance carriers shall be qualified to do business in California and maintain an agent for process within the state.

- Indicate current value of all work the LLB Entity has under contract.
- Business construction revenues for the past five (5) years.

IX. **Certification of Proposal** – An authorized officer of each LLB Entity shall be required to complete a Certification of Proposal, attached as **Exhibit A**.

PROPOSAL EVALUATION CRITERIA

Proposals received by the District will be evaluated according to the criteria listed below:

- Conformance to the specified RFP format;
- Organization, presentation, and content of the proposal;
- Specialized experience and technical competence of the LLB Entity(s), (including principal firms, joint venture-partners, and sub-consultants) considering the types of service required; the complexity of the Project; the record of performance and strength of the LLB Entity's references; and the strength of the key personnel who will be dedicated to the Project;
- Experience with the Lease-Leaseback project delivery method in California K-12 public schools;
- Proposed methods and overall strategic plan to accomplish the work in a timely and competent manner, and within budget;
- Knowledge and understanding of the local environment and a local presence for interfacing with the District;
- Financial resources and stability of the LLB Entity and/or LLB Entity team;
- Ability to meet the District's insurance requirements unless District, at its sole discretion, decides to modify or waive the insurance requirements or elects to provide Project Insurance;
- Current and projected workload of LLB Entity's team members during performance of the contract;
- LLB Entity's fees and other costs associated with value engineering and General Conditions; and
- Value engineering statements.

METHOD OF SELECTION

The District may conduct interviews with the most qualified LLB Entities as determined from the proposals submitted. The District will evaluate LLB Entities on their

demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. The District may negotiate a contract with the best qualified LLB Entity, as determined by the District, at compensation which the District determines is fair and reasonable. Should the District be unable to negotiate a satisfactory contract with the LLB Entity at a price the District deems reasonable, negotiations with that LLB Entity may be formally terminated. The District may then undertake negotiations with the second most qualified LLB Entity. In the event negotiations fail with the second most qualified LLB Entity, it may undertake negotiations with the third most qualified firm.

EXAMINATION OF PROJECT SITE

- Examination of the Project site and RFP documents is an obligation of each LLB Entity.
- The Project site is located at an operating school and interested parties may view the subject property from the surrounding streets and sidewalks at any time.
- The District does not represent the Project site area to be controlled or safe in any respect. The District disclaims any liability for injury or loss sustained by any individual or company while on District properties.

GENERAL INFORMATION

Compliance. Proposals must be in strict accordance with the requirements of the RFP, unless such requirement is waived by the District. Any proposals not submitted in accordance with the requirements of the RFP, shall not be deemed qualified.

Amendments. The District reserves the right to cancel or revise in part or in its entirety this RFP. If the District cancels or revises this RFP, all LLB Entities will be notified by addenda. The District also reserves the right to extend the date proposals are due.

Inquiries. All questions about the meaning or intent of this RFP shall be submitted to the District in writing, at the following address: Chico Unified School District, 2455 Carmichael Drive, Chico, CA 95928, Attention: Michael Weissenborn, Facilities Planning/Construction Manager. Replies will be issued by addenda and mailed to all parties recorded by District as having received the RFP documents. Questions received less than five (5) days prior to the proposal due date will not be answered. Only questions answered by formal written addenda will be binding.

Late Proposals. It is the LLB Entity's responsibility to ensure its proposal is received by the District on or before the time and date specified. Proposals received after the date and time specified will not be considered.

Special Conditions.

- A. **Public Record.** All proposals submitted in response to the RFP become the

property of the District's public records and as such, may be subject to public view pursuant to the California Public Records Act, Government Code Sections 6250 *et seq.* ("Public Records Act"). Those elements in each proposal which are trade secrets, as that term is defined in Civil Code Section 3426.1(d), or otherwise exempt by law from disclosure and which are prominently marked as "TRADE SECRET," "CONFIDENTIAL," or "PROPRIETARY" may not be subject to disclosure. The District shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the court. An LLB Entity that indiscriminately identifies all or most of its proposal as exempt from disclosure without justification may be deemed non-responsive.

In the event the District is required to defend an action on a Public Records Act request for any of the contents of a proposal marked "trade secret," "confidential," or "proprietary," the LLB Entity agrees, upon submission of its proposal for the District's consideration, to defend and indemnify the District from all costs and expenses, including attorneys' fees, in any action or liability arising under the Public Records Act.

- B. Non-Discrimination. The District does not discriminate on the basis of race, color, national origin, religion, age, ancestry, medical condition, disability or gender in consideration for an award of contract.
- C. Drug-Free Policy and Fingerprinting. The selected LLB Entity shall be required to complete any and all fingerprinting requirements and criminal background checks required by State law and shall also be required to complete a Drug-Free workplace certificate.
- D. Costs. Costs of preparing proposals in response to this RFP are solely the responsibility of the responding LLB Entity.
- E. Prevailing Wages. LLB Entities are advised that this Project is a public work for purposes of the California Labor Code, which requires payment of prevailing wages pursuant to California Labor Code Section 1770 *et seq.* and Education Code Section 17424. These rates are set forth in a schedule that may be found on the California Department of Industrial Relations home page (www.dir.ca.gov). Any LLB Entity to which a contract is awarded and its subcontractors must pay the prevailing rates, post copies thereof at the job site, and otherwise comply with applicable provisions of State law. It is the further duty of the LLB Entity and its subcontractors to employ registered apprentices on the Project pursuant to Labor Code Section 1777.5, if the LLB Entity and its subcontractors employ workers in any apprenticeable craft or trade, as those terms are defined in Labor Code Section 1777.5.
- F. Disabled Veteran Business Enterprises ("DVBE") Participation Goal. Pursuant to Education Code Section 17076.11, the District has adopted a participation goal for DVBE of at least 3 percent (3%) per year of the

overall dollar amount of funds allocated to the District for construction or modernization. As a condition of final payment, the successful LLB Entity shall be required to provide appropriate documentation to the District identifying the amount paid to the DVBE per the Lease and Sublease or certify in writing that no DVBE has been utilized on the Project. For detailed information about DVBE contact the Department of General Services, Office of Small Business and Disabled Veteran Business Enterprise Certification, at (916) 375-4400.

- G. Securities. LLB Entities are advised that if awarded the contract they will be permitted, at their request and expense and in accordance with California Public Contract Code Section 22300, to substitute securities equivalent to retention monies withheld by District to ensure performance under the contract.
- H. Bonding. The successful LLB Entity will be required to furnish a performance bond in the amount of one hundred percent (100%) of the contract price, and a payment (material and labor) bond in the amount of one hundred percent (100%) of the contract price.
- I. Pricing Valid. All pricing quoted within proposals shall be valid for a period of not less than ninety (90) days from the date proposals are received.
- J. District Rights. The District may investigate the qualifications of any individual or LLB Entity under consideration, require confirmation of information furnished and require additional evidence of qualifications to perform the services described in this RFP. The District also reserves certain rights, including, but not limited to, the following:
- Reject any or all of the proposals.
 - Issue subsequent RFPs.
 - Cancel the entire RFP.
 - Remedy technical errors in the RFP process.
 - Appoint evaluation committees to review qualifications or proposals.
 - Seek the assistance of outside technical experts in qualification or proposal evaluation.
 - Approve or disapprove the use of particular subcontractors.
 - Establish a short list of LLB Entities eligible for discussions after review of the RFP.
 - Negotiate with any, all, or none of the LLB Entities.
 - Cancel negotiations at any time.
 - Solicit best and final offers from any, all, or none of the LLB Entities.
 - Waive informalities and irregularities in the RFP.
 - Award a contract to one or more or none of the LLB Entities.
 - Award without discussion.

DISTRICT CONTACT

The District looks forward to receiving a proposal from your firm. If you have any questions regarding this RFP, please contact:

Michael Weissenborn
Facilities Planning/Construction Manager
Chico Unified School District
2455 Carmichael Drive
Chico, CA 95928
Ph: (530) 891-3209

NOTE: Incomplete proposals, incorrect information, or late proposals may be cause for immediate disqualification. Issuance of this RFP does not commit District to award a contract, or to pay any costs incurred in the preparation of a response to this request. District reserves the right to request additional information or clarification during the RFP evaluation process. District retains the right to reject any or all proposals or to cancel this RFP process at any time. All LLB Entities should note that the execution of any contract pursuant to this RFP is dependent upon the approval of the Chico Unified School District in its sole discretion.

Exhibit A

CERTIFICATION OF PROPOSAL

- A. The undersigned hereby submits its proposal and, unless otherwise stated, agrees to furnish services to the Chico Unified School District in accordance with this RFP and the attachments thereto.
- B. The LLB Entity has carefully reviewed its proposal and understands that the District will not be responsible for any errors or omissions on the part of the LLB Entity.
- C. It is understood that the District reserves the right to accept or reject any or all proposals and to waive any informality in any proposal received.
- D. Enclosed as a part of this proposal are the figures and data required by the specifications.
- E. This proposal shall be considered an irrevocable offer and shall be valid for ninety (90) days from the date proposals are required to be submitted.

Dated: _____

Name of LLB Entity: _____

By: _____

Authorized Signature

Title: _____

Address: _____

Telephone: () _____ FAX: () _____

Federal Tax I.D. No.: _____

Social Security No.: _____

Exhibit B

Development and Lease Agreement (Facilities Lease)

Chico Unified School District
2445 Carmichael Drive
Chico, CA 95928
Attn: Michael Weissenborn, Facilities Planning/Construction Manager

DEVELOPMENT AND LEASE AGREEMENT

by and between

as Lessor

and

CHICO JOINT UNIFIED SCHOOL DISTRICT
as Lessee

Dated as of September 4, 2008

Performing Arts Center Located at Pleasant Valley High School

DEVELOPMENT AND LEASE AGREEMENT

This development and lease agreement (the "Facilities Lease") is dated and entered into as of _____, 2008, and is made by and between _____ ("_____"), a California corporation, as lessor, and the Chico Unified School District ("District"), a school district duly organized and validly existing under the Constitution and laws of said State of California, as lessee.

RECITALS

WHEREAS, the District desires to provide for site work and construction and installation of a building and improvements for its new Performing Arts Center located at Pleasant Valley High School within the boundaries of certain underdeveloped property located in the City of Chico, State of California, on the District's Site as defined below, and has hired an architect, Nicols Melburg and Rosetto Architects (the "Architect") to prepare the Drawings and Specifications, as herein defined, as more particularly described in Exhibit A and as are on file at the District and incorporated herein by this reference (the "Project"). The parties acknowledge that the Drawings and Specifications may be amended subject to mutual agreement between the parties;

WHEREAS, the Drawings and Specifications were approved by the State of California's Division of the State Architect (the "DSA") on June 27, 2008 and were assigned application number DSA # 02-109414;

WHEREAS, _____ has reviewed the General and Special Construction Conditions for the Project set forth in Exhibit D attached hereto and incorporated herein;

WHEREAS, the District and _____ agree that the Drawings and Specifications attached hereto as Exhibit A, and all other supporting documents, and the General and Special Construction Conditions attached hereto as Exhibit D, and all other supporting documents, shall govern the construction of the Project, and are supplementary to the terms and conditions set forth in this Facilities Lease;

WHEREAS, on the date hereof, the District has leased to _____, for the development and construction of the Project, the Site (the "Site") located in Chico, California as more particularly described in Exhibit B attached hereto pursuant to the terms of a Site Lease, dated September 4, 2008, as defined herein, by and between the District and _____;

WHEREAS, the District is authorized under Section 17406 of the Education Code of the State of California to lease the Site to _____ and to direct _____ to develop and construct the Project on the Site and to lease the Site and the improvements back to the District, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, _____ has agreed to and is authorized to lease the Site as lessee and to develop the Project and to undertake the construction of the Project at the Site and to

lease the Site back to the District, as provided for herein and in the Site Lease, and has duly authorized the execution and delivery of this Facilities Lease;

WHEREAS, the Board of Education of the District (the "Board") has determined that it is in the best interests of the District and for the common benefit of the citizens residing in the District to construct the Project by leasing the Site to _____ and by immediately entering into this Facilities Lease under which the District will lease back the Site from _____ and make Lease Payments to _____ on the dates and in the amounts set forth in the payment schedule attached hereto as Exhibit C (the "Lease Payment Schedule");

WHEREAS, the parties have performed all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Facilities Lease and all those conditions precedent do exist, have happened, and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Facilities Lease;

WHEREAS, the District has a substantial need for the construction of the Project at the Site and has entered into the Site Lease and the Facilities Lease under the authority granted to the District by Section 17406 of the Education Code of the State of California in order to fill that need; and

WHEREAS, the District and _____ further acknowledge and agree that they have entered into the Site Lease and this Facilities Lease pursuant to Education Code Section 17406 as the best available and most expeditious means for the District to satisfy its substantial need for the construction of facilities at the Site and to accommodate and educate students served by the District.

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained, the parties hereto do hereby agree as follows:

ARTICLE 1

DEFINITIONS AND EXHIBITS

1.1 Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Facilities Lease, have the meanings herein specified.

1.1.1 "Construction Contract" or "Contract Documents" means the Drawings and Specifications attached hereto as Exhibit A, the General and Special Conditions attached hereto as Exhibit D and all other design and development documents pertaining to the Project, including those items set forth in Article ____ of the General Conditions, and as more particularly described in Exhibit D attached hereto.

1.1.2 "District" means the Chico Unified School District, a school district duly organized and existing under the laws of the State of California.

1.1.3 "District Representative" means the Facilities Planning/Construction Manager of the District, or any other person authorized by the Board of Education of the District to act on behalf of the District under or with respect to this Facilities Lease. The person or persons so designated to act as District Representative(s) shall be authorized in writing with notice served to _____'s Representatives.

1.1.4 "Event of Default" or "Default" means one or more events as defined in Section 9.1 and Section 9.6 of this Facilities Lease.

1.1.5 "Facilities Lease" means this Facilities Lease and all attached exhibits together with any duly authorized and executed amendment hereto.

1.1.6 "_____" means _____, organized and existing under the laws of the State of California, and its District-approved successors and assigns and which is the party responsible for construction of the Project and related work as provided for in Exhibit A.

1.1.7 "_____ 's Representative" means any officer of _____, or any person authorized to act on behalf of _____ under or with respect to this Facilities Lease as evidenced by a resolution conferring that representative with such authorization adopted by the board of directors of _____.

1.1.8 "Guaranteed Maximum Price" means the price for which _____ will cause the Project to be constructed as further described herein and by way of Exhibit A attached hereto.

1.1.9 "Notice to Proceed" shall mean a written communication signed by an authorized representative of the District, directing _____ to cause commencement of the Project, as provided for in this Facilities Lease and which is delivered to _____ at the address provided herein by registered or certified mail, return receipt requested.

1.1.10 "Lease Payment" means any payment required to be made by the District pursuant to Section 4.5 of this Facilities Lease and as set forth in Exhibit C attached to this Facilities Lease.

1.1.11 "Lease Payment Schedule" shall mean the payment schedule attached hereto as Exhibit C.

1.1.12 "Permitted Encumbrances" means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the District may, pursuant to the provisions of Section 5.1 hereof, permit to remain unpaid; (ii) the Site lease; (iii) this Facilities Lease, (iv) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the date of this Facilities Lease; (v) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Facilities Lease and to which _____ and the District consent in writing which will not impair or impede the operation of the Site or the construction of the Project.

1.1.13 “Drawings and Specifications” means the drawings and specifications for the Project as further defined in the General and Special Construction Conditions, and as more particularly described in Exhibit A and in Exhibit D attached hereto.

1.1.14 “Project” or “Work” means the improvements and equipment to be constructed and installed by _____, as more particularly described in Exhibit A and in Exhibit D attached hereto.

1.1.15 “Site” means that certain parcel of real property and improvements thereon more particularly described in Exhibit B attached hereto.

1.1.16 “Site Lease” means the Site Lease dated as of September 4, 2008, by and between the District and _____ together with any duly authorized and executed amendments thereto under which the District leased the Site to _____.

1.1.17 “Term of this Facilities Lease” or “Term” means the time, commencing with the District issuing to _____ a Notice to Proceed, during which the District’s obligation to make the Lease Payments under this Facilities Lease is in effect, as provided for in Section 4.2 of this Facilities Lease.

1.2 Exhibits. The following Exhibits are attached to and by reference incorporated and made a part of this Facilities Lease and are binding upon the District and _____ hereto:

Exhibit A – THE PROJECT: The description of the Project, including Drawings and Specifications for the Project which have been approved by the Division of the State Architect, and the Guaranteed Maximum Price.

Exhibit B – THE SITE: The description of the real property constituting the Site.

Exhibit C – LEASE PAYMENT SCHEDULE: The schedule of Lease Payments to be paid by the District hereunder.

Exhibit D – GENERAL AND SPECIAL CONSTRUCTION CONDITIONS: The provisions, including the General Conditions and the Special Conditions, generally describing the Project’s construction.

Exhibit E – MEMORANDUM OF COMMENCEMENT DATE: The Memorandum which will memorialize the commencement and expiration dates of the Term.

Exhibit F – SECTION 01015 ADDITIONAL REQUIREMENTS FOR DSA-REVIEWED PROJECTS: A list of additional requirements that apply to the Project which has been reviewed by the Division of State Architect.

Exhibit G – GUARANTEE: The form which _____ shall execute and deliver to District upon completion of the Work, warranting and

guaranteeing that all work and materials provided and installed by _____ was performed in strict conformity with the Contract Documents for the Work.

Exhibit H – SITE VERIFICATION CERTIFICATE: The Certificate to be executed and delivered by _____ upon completion of a site review within twenty-one (21) days of the date for commencement of the Work as set forth in the Notice to Proceed.

Exhibit I – PERFORMANCE BOND: The form of Performance Bond to serve as security for _____'s faithful performance of the Work under the Contract Documents.

Exhibit J – PAYMENT BOND: The form of Payment Bond to serve as security for payment of persons or entities performing work, labor or furnishing materials in connection with _____'s performance of the Work under the Contract Documents.

Exhibit K – SUBCONTRACTORS LIST: A list of the name subcontractors, contact address, and portion of the Work to be completed by that subcontractor.

Exhibit L – NON-COLLUSION AFFIDAVIT: An affidavit to be signed by _____ declaring that its Guaranteed Maximum Price is genuine, and _____ did not collude with any subcontractors to offer a false Guaranteed Maximum Price.

Exhibit M – CERTIFICATE OF WORKERS' COMPENSATION INSURANCE: The form of certificate declaring that _____ understands that it must maintain workers' compensation insurance or self-insurance.

Exhibit N – DRUG-FREE WORKPLACE CERTIFICATION: The form of certificate declaring that _____ shall comply with the requirements of the Drug Free Workplace Act of 1990, California Government Code §§ 8350 et seq.

Exhibit O – FINGERPRINT CERTIFICATE: The form of certificate declaring that _____ shall comply with the requirements of the California Education Code § 45125.1, regarding fingerprinting of persons providing services to school districts.

Exhibit P – DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION GOAL PROGRAM POLICY: The District's policy regarding its commitment to achieving the Participation Goal for Disabled Veteran Business Enterprises.

Exhibit Q – DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)
PARTICIPATION WORKSHEETS: Worksheets documenting _____'s
efforts to satisfy the DVBE Participation Goal.

ARTICLE 2

REPRESENTATIONS, COVENANTS AND WARRANTIES

2.1 Representations, Covenants and Warranties of the District. The District represents, covenants and warrants to _____ as follows:

2.1.1 Due Organization and Existence. The District is a school district, duly organized and existing under the Constitution and laws of the State of California.

2.1.2 Authorization. The District has the full power and authority to enter into, to execute and to deliver this Facilities Lease, and to perform all of its duties and obligations hereunder, and has duly authorized the execution of this Facilities Lease. The representatives of District executing this Facilities Lease and the Site Lease are fully authorized to execute the same.

2.2 Representations, Covenants and Warranties of _____. _____ represents, covenants and warrants to the District as follows:

2.2.1 Due Organization and Existence. _____ is a California corporation duly organized and existing under the laws of the State of California, has the power to enter into this Facilities Lease and the Site Lease; is possessed of full power to own, rent and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the aforesaid agreements.

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

2.2.3 No Litigation. There is no pending or, to the knowledge of _____, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of _____ to perform its obligations under this Facilities Lease.

2.2.4 No Encumbrances. _____ shall not mortgage or encumber the Site, to finance construction of the project.

2.2.5 Continued Existence. For up to six months following the term of this Lease, _____ shall not voluntarily commence any act intended to dissolve or terminate the legal existence of _____, provided the District is not in uncured Default under this Facilities Lease. _____ shall give the District sixty (60) days written notice prior to dissolving or terminating the legal existence of _____.

ARTICLE 3

CONSTRUCTION OF PROJECT

- 3.1 Site Conditions and Drawings and Specifications. _____ acknowledges that it has, to the extent necessary to complete the Project, visually investigated the Site, including, without limitation, a review of the soils reports for the Site as provided by the District, and concluded that there are no currently known problems with respect to the site conditions. _____ further acknowledges that it will have performed value engineering and a constructability review of the Drawings and Specifications which were prepared by the Architect hired by the District and will have determined that prior to commencement of construction, the documents are adequate for the Project's construction and _____ has not identified any deficiencies in the Drawings and Specifications that need to be cured. Provided, however, that the parties understand that _____ has not conducted an architectural, engineering, or code compliance review of the Drawings and Specifications.
- 3.2 Construction of Project. _____ agrees to cause the Project to be developed, constructed, and installed in accordance with the terms hereof and the Drawings and Specifications on file with the District and as described in Exhibit A and the General and Special Construction Conditions set forth in Exhibit D, including those things reasonably inferable from the Drawings and Specifications as being within the scope of the Project and necessary to produce the stated result even though no mention of them is made in the Drawings and Specifications. _____ further agrees that it will cause the development, construction, and installation of the Project to be diligently performed. _____ shall provide the District a complete copy of the executed Construction Contract documents within ten (10) days after execution of the Construction Contract. Provided, however, that _____ shall be allowed to remove all financial information from the Construction Contract with the exception of the total contract price. The District and _____ may also approve additional changes in the Drawings and Specifications for the Project as provided in Exhibit D. The District and _____ will cooperate at all times in bringing about the timely completion of the Project. _____ shall cooperate with the District's efforts to obtain State funding for the Project by complying with any State requirements as reasonably requested by District, including, without limitation sections 1859.104 to 1859.106 of Title 2 of the California Code of Regulations; however, the District shall be responsible for reimbursing _____ as applicable, for any costs reasonably incurred by _____ associated with meeting those State funding requirements.
- 3.3 Guaranteed Maximum Price. _____ will cause the Project to be constructed within the Guaranteed Maximum Price as set forth and defined herein and in Exhibit A hereto, and shall not seek additional compensation from the District beyond the change orders approved by the parties (as defined in Exhibit D attached hereto) or the Lease Payments and Additional Payments pursuant to this Facilities Lease or costs attributable to errors, defects or omissions in connection with architectural or engineering plans and specifications, as determined by the District and Architect, notwithstanding any cost overruns incurred by or identified by _____ following issuance of the Notice to Proceed. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid pursuant to Section 3.3.1 (Construction Contingency). If the DSA requires changes to the Drawings and Specifications submitted by the District, and such changes would increase

the construction costs for the Project, then such increased costs will be handled as a change order pursuant to Exhibit D, attached hereto, and paid pursuant to Section 3.3.1 (Construction Contingency). Any Work not authorized by the Drawings and Specifications, the General and Special Conditions or by change order pursuant to Exhibit D shall be considered unauthorized and at the sole expense of _____.

3.3.1 Construction Contingency. A "Construction Contingency," in an amount in addition to the Guaranteed Maximum Price, shall be included by _____ to be applied to unforeseen circumstances. For the purposes of this Facilities Lease, "unforeseen circumstances" are limited to circumstances that neither the District nor _____ could have been expected to foresee such as design changes required by governmental agencies, change orders approved by the parties, major design errors attributable to _____ and unforeseen underground conditions including unforeseen utilities. The Construction Contingency amount shall be ____% of the Guaranteed Maximum Price.

All proposed Construction Contingency draws must be approved by the District prior to work being performed, and shall be supported by detailed records, including full documentation of the labor, material, equipment and subcontractor costs involved. The timing and processing of requested Construction Contingency draws shall be the same as _____'s application for Lease Payments. Should the amount of the Construction Contingency be exceeded, any unfunded project costs (other than those unfunded project costs relating to material changes in the scope of the Project that are requested by the District, i.e., change orders initiated by the District, which costs shall be borne by the District) shall be borne by _____ without increase to the Guaranteed Maximum Price. Any balance remaining in the Construction Contingency at the end of the Project after payment of all final costs shall be returned to the District.

3.4 Termination on Failure to Reach Agreement on Guaranteed Maximum Price: Costs to Be Determined. Notwithstanding anything contained herein to the contrary for the Project, the District and _____ shall agree upon (i) the Project's Guaranteed Maximum Price, (ii) Lease Payments, and (iii) Lease Payment Schedule contemplated under this Facilities Lease in writing, no later than the District issuing the Notice to Proceed. In the event _____ and the District do not come to an agreement on each item, this Facilities Lease shall terminate as of that date, and the sole compensation to _____ shall be for those costs incurred and work performed by _____ on the Project to the date of termination. Such compensation shall not exceed the reasonable value, as deemed by the District, for the authorized work completed as of the date of termination and in no event shall exceed \$_____.

ARTICLE 4

AGREEMENT TO LEASE; TERMINATION OF LEASE; LEASE PAYMENTS; TITLE TO THE SITE

4.1 Lease of Project and Site; No Merger. _____ hereby leases the Site to the District, and the District hereby leases said Site from _____ upon the terms and conditions set forth in this Facilities Lease. The leasing by _____ to the District of the Site shall not affect or result in a merger of the District's leasehold estate pursuant to this Facilities Lease and its

fee estate as lessor under the Site Lease, and _____ shall continue to have and hold a leasehold estate in said Site pursuant to the Site Lease throughout the term thereof and the term of this Facilities Lease. As to the Site, this Facilities Lease shall be deemed and constitute a sublease.

4.2 Term of Facilities Lease. The Term of this Facilities Lease, for the purposes of the District's obligation to make Lease Payments, shall commence when the District issues a Notice to Proceed for the Project, and shall terminate six months after the District files a notice of completion for the Project (the "Term") at which time the District shall have the absolute right to exercise its purchase option pursuant to Section 10.1 (District's Option). The District and _____ shall execute the Memorandum of Commencement Date attached hereto as Exhibit E to memorialize the commencement and expiration dates of the Term. Notwithstanding anything contained herein to the contrary, this Facilities Lease shall not commence prior to DSA's approval of the Drawings and Specifications.

4.3a Termination of Lease Prior to Commencement of Term. Prior to the commencement of the Term and up to and including the moment the Guaranteed Maximum Price is known to the District and _____, this Facilities Lease shall terminate upon a determination by the District not to proceed with the lease and construction of the Project in accordance with Section 17406 of the Education Code of the State of California. In such event, sole compensation to _____ shall be pursuant to Section 3.4.

4.3b Termination of Lease At or After Commencement of Term. Notwithstanding Section 4.2, the Term of this Facilities Lease shall terminate upon the earliest of any of the following events:

4.3b.1 An Event of Default by District followed by _____'s election to terminate this Facilities Lease pursuant to Section 9.2 hereof; or

4.3b.2 Exercise of the District's purchase option pursuant to Section 10.1 below.

4.3b.3 Failure to reach agreement on costs pursuant to Section 3.4.

4.3b.4 An Event of Default by _____ and the District's election to terminate this Facilities Lease pursuant to Section 9.6 hereof.

4.4 Project Completion. Completion of the Project shall be evidenced by a separate notice of completion that shall be filed with the County Clerk.

4.5 Lease Payments.

4.5.1 Obligation to Pay. Subject to the provisions of Articles 3, 6 and 10 hereof, the District agrees to pay to _____, or its District-approved successors and assigns, as rental for the use and occupancy of the Site, without deduction or setoff, except as provided for in Section 6.2.5 of this Facilities Lease, the Lease Payments during the Term in the amounts specified in the Lease Payment Schedules attached hereto as Exhibit C, and

incorporated herein by reference. Lease Payments shall be payable in arrears on the last day of each calendar month.

4.5.2 Lease Payments to Constitute Current Expense of the District. The District and _____ understand and intend that the obligation of the District to pay Lease Payments and other payments hereunder constitutes a current expense of the District and shall not in any way be construed to be a debt of the District in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the District, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the District. Lease Payments due hereunder shall be payable only from current funds which are budgeted and appropriated or otherwise made legally available for such purpose. This Facilities Lease shall not create an immediate indebtedness for any aggregate payments which may become due hereunder. The District covenants to take all necessary actions to include the estimated Lease Payments and estimated Additional Payments due hereunder (as hereinafter defined) in each of its final approved annual budgets. The District shall notify _____ not later than December 1 in each year during the Term of this Facilities Lease of the amount of Lease Payments and Additional Payments which are to be included in the final budget of the District. The District further covenants to make all necessary appropriations (including any supplemental appropriations) from any source of legally available funds of the District for the actual amount of Lease Payments and Additional Payments which come due and payable during the period covered by each such budget. _____ acknowledges that the District has not pledged the full faith and credit of the District, State of California or any state agency or state department to the payment of Lease Payments or any other payments due hereunder. The covenants on the part of the District contained in this Facilities Lease constitute duties imposed by law and it shall be the duty of each and every public official of the District to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the District to carry out and perform the covenants and agreements in this Facilities Lease agreed to be carried out and performed by the District.

4.6 Quiet Enjoyment. _____ shall provide the District with quiet use and enjoyment of the Site, and the District shall during such Term peaceably and quietly have and hold and enjoy the site subject to _____'s construction of the Project, without suit, trouble or hindrance from _____, except as otherwise may be set forth in this Facilities Lease. _____ will, at the request of the District and at _____'s cost, join in any legal action in which the District asserts its right to such possession and enjoyment to the extent _____ may lawfully do so. Notwithstanding the foregoing, _____ shall have the right to inspect the Project and the Site as provided in Section 7.1 hereof.

4.7 Title. During the Term of this Facilities Lease, the District shall hold fee title to the Site. During the Term of this Facilities Lease, _____ shall have a leasehold interest in the Site pursuant to the Site Lease. If the District exercises its purchase option to accelerate the termination of this Facilities Lease pursuant to Article 10 hereof or if it pays all Lease Payments during the Term of this Facilities Lease as the same become due and payable, all right, title and interest of _____, its assigns and successors in interest in and to the Project and the Site shall be transferred to and vested in the District at the expiration of the Term or upon the payment by the District of the final Lease Payment, whichever shall come first. Title shall be transferred to and vested in the District hereunder without the necessity for

any further instrument or transfer, provided, however, that _____ agrees to execute any instrument requested by District to memorialize such termination of this Facilities Lease and transfer title to the District.

4.8 Fair Rental Value. The Lease Payments and Additional Payments coming due and payable during each month of the Term constitute the total rental for the Site and shall be paid by the District in arrears on the last day of each month for and in consideration of the right to use and occupy, and the continued quiet use and enjoyment of, the Site during each month. The District and _____ have agreed and determined that the total Lease Payments and Additional Payments do not exceed the fair rental value of the Site. In making such determination, consideration has been given to the obligations of the parties under the Facilities Lease and Site Lease, the uses and purposes which may be served by the Site, and the benefits therefrom which will accrue to the District and the general public.

4.9 Additional Payments. In consideration of the lease of the Site by _____ to the District hereunder, the District shall pay the Lease Payments and shall also pay the following without deduction or offset, except as provided for in Section 6.2.5 of this Facilities Lease, all of which shall constitute additional rent (collectively the "Additional Payments") owing under this Facilities Lease:

- (a) Fees, expenses and other amounts, if any, which may be payable by District to _____ under any of the provisions of this Facilities Lease;
- (b) Any costs, fees and expenses, if any, incurred by _____ in connection with Section 5.3 of this Facilities Lease.

4.10 Lease Terminable Only As Set Forth Herein.

4.10.1 Except as otherwise expressly provided in this Facilities Lease, this Facilities Lease shall not terminate, nor shall the District have any right to terminate this Facilities Lease or be entitled to the abatement of any Lease Payments or Additional Payments or any reduction thereof, nor shall the obligations hereunder of the District be otherwise affected by reason of any damage to or destruction of all or any part of the Project from whatever cause, the taking of the Site or any portion thereof by condemnation or otherwise, the prohibition, limitation or restriction of the District's use of the Site, interference with such use by any private person or corporation, or the District's acquisition of the ownership of the Site (other than pursuant to an express provision of this Facilities Lease), or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding. It is the intention of the parties hereto that the Lease Payments and Additional Payments and all other charges payable hereunder to or on behalf of _____ shall continue to be payable in all events, and the obligations of the District hereunder shall continue unaffected so long as _____ is not in Default of any provision of this Facilities Lease or its accompanying documents, or unless the requirement to pay or perform the same shall be terminated or modified pursuant to an express provision of this Facilities Lease.

4.10.2 Nothing contained herein shall be deemed a waiver by the District of any rights that it may have to bring a separate action with respect to any Default by _____ hereunder or under any other agreement to recover the costs and expenses, including attorneys' fees if the District is the prevailing party, associated with such separate action.

ARTICLE 5

MAINTENANCE; TAXES; INSURANCE AND OTHER MATTERS

5.1 Maintenance. Following delivery of possession of the Project to the District, the repair, improvement, replacement and maintenance of the Project and the Site shall be at the sole cost and expense and the sole responsibility of the District, subject only to all warranties against defects in materials and workmanship provided in Exhibit D hereto, and the District shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Project resulting from ordinary wear and tear.

5.2 Utilities. Prior to completion of the Project by _____, _____ shall pay all utility costs as they relate to the specific portion of the work _____ is performing under the General and Special Construction Conditions. Following completion of the Project, the costs and expenses for all utility services, including, but not limited to, electricity, natural gas, telephone, water, sewer, trash removal, cable television, security, heating, water, internet service and all other utilities of any type shall be paid by the District.

5.3 Taxes and Other Impositions. Except as provided in Exhibit D, all ad valorem real property taxes, special taxes, possessory interest taxes, bonds and special lien assessments or other impositions of any kind with respect to the Project, the Site and the improvements thereon, charged to or imposed upon either _____ or the District or their respective interests or estates in the Project, shall at all times be paid by District. In the event any possessory interest tax is levied on _____, its successors and assigns, by virtue of this Facilities Lease, the Site Lease, or General and Special Construction Conditions, the District shall pay such possessory interest tax directly, if possible, or shall reimburse _____, and its successors and assigns for the full amount thereof within thirty (30) days after presentation of proof of payment by _____.

5.4 Reserved.

5.5 Insurance. Following completion and acceptance of the Project by the District, and prior to taking occupancy, the District shall provide evidence that it has in full force and will maintain for the duration of this Facilities Lease, a standard commercial comprehensive, general public liability and property damage insurance policy or policies concerning the Project. Such policy or policies shall provide coverage in the minimum liability limits of \$ 2,000,000 per occurrence with a \$ 4,000,000 general aggregate. Said policy or policies shall pay on behalf of said parties any amounts up to the limits of said policy for which they become liable for bodily and personal injury, death or property damage occasioned by reason of the use or operation of any District property or portion thereof arising out of the District's negligence. The District shall also maintain property insurance insuring its interest in the Project and all furniture, fixtures and equipment used by the District in conjunction with its occupancy.

The District's insurance under this section may be maintained as part of or in conjunction with any other insurance carried or required to be carried by the District. The District shall cause to be delivered to _____ a certificate stating that the insurance policies required by this Lease are in full force and effect and that _____ is named as an additional insured.

_____ 's insurance as required under the terms of the General and Special Construction Conditions shall continue to be primary and non-contributory for all injuries arising out of its operations or completed operations, except as stated above.

5.6 Reserved.

5.7 Cancellation or Change of Coverage. The District agrees that the insurance coverages required above in Section 5.5 shall be in effect at all times after acceptance of the Project by the District. After the District's acceptance or occupancy of the Project, all insurance required to be carried by the District shall be primary except as provided herein and that of _____ shall be non-contributory. Insurance required in Section 5.5 shall not be canceled or changed so as to no longer meet the specified insurance requirements without thirty (30) days' prior written notice of such cancellation or change being delivered to _____.

5.8 Reserved.

5.9 Indemnification. Subsequent to completion and acceptance of the Project by the District, the District shall indemnify, defend and hold harmless _____ and its successors and assigns, its officers, members, agents and employees from and against any claims, damages, costs, expenses, including reasonable attorneys' fees, and liabilities arising from all negligent or intentional acts or omissions of the District or its officers, agents, consultants, or employees, with respect to the District's use, operation, repair, alteration and occupancy of the Site and the performance of the District's obligations under this Facilities Lease. Subsequent to completion and acceptance of the Project by the District, _____ shall indemnify, defend and hold harmless the District, its officers, consultants, agents and employees from and against any claims, damages, costs, expenses, including reasonable attorneys' fees, and liabilities arising from the negligent or intentional acts or omissions of _____ or its officers, agents, employees, contractors or subcontractors with respect to _____ 's use, alteration and occupation of the Site and its obligations under this Facilities Lease.

5.10 Insurance Proceeds; Form of Policies. The District shall pay or cause to be paid when due the premiums for all insurance policies required to be maintained by the District pursuant to this Facilities Lease. _____ shall pay or cause to be paid when due the premiums for all insurance policies required to be maintained by _____ pursuant to this Facilities Lease and all Exhibits hereto. All such policies must provide that _____ will be given thirty (30) days' prior written notice of expiration, any intended cancellation or reduction of the coverage provided. _____ is not responsible for the sufficiency of any insurance herein required.

5.11 Modification of Project. The District has the right, at its expense, to make additions, modifications and improvements to the Project and the Site, provided, however, that during the one (1) year warranty period which will be provided by _____ on any defects in materials and workmanship for the Project following the Project's completion, the District shall first provide Drawings and Specifications and obtain _____'s prior written consent to any additions, modifications and improvements to the Project which are not minor modifications. For the purposes of this Section, a minor modification, addition or improvement has a cost less than \$20,000.00. _____ agrees not to unreasonably withhold, delay or condition approval of the District's plans for any proposed additions, modifications and improvements to the Project. All additions, modifications and improvements to the Project will thereafter comprise part of the Project and be subject to the provisions of this Facilities Lease. Such additions, modifications and improvements may not in any way damage the Project or cause the Project to be used for purposes other than those authorized under the provisions of State and federal law, and the District must file with _____ a written certificate stating that the Project, upon the completion of any additions, modifications and improvements made thereto has a value which is not substantially less than the value of the Project immediately prior to the making of any such additions, improvements and modifications. Notwithstanding anything to the contrary contained herein, District shall have the right, without _____'s consent, to place relocatables or portables upon the Site, along with incidental site work, and such relocatables and portables shall not become part of the Project and shall remain the personal property of the District.

5.12 Compliance with Laws, Regulations.

5.12.1 The District has no actual knowledge and has not given or received any written notice indicating that the Site or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business materially violates any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Site (collectively "Laws and Regulations"). Without limiting the generality of the foregoing, neither the District nor to its actual knowledge, any prior or present owner, tenant or subtenant of the Site has, other than as set forth in this Section or as may have been remediated in accordance with Laws and Regulations; (i) used, treated, stored, transported or disposed of any material amount of flammable explosives, heavy metals, chlorinated solvents, cyanide, radon, petroleum products, methane, radioactive materials, pollutants, hazardous materials, hazardous wastes, hazardous, toxic or regulated substances or related materials, hazardous wastes, hazardous, toxic, or regulated substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Resource Conservation and Recovery act of 1976 ("RCRA"), the Clean Water Act of 1971 ("CWA"), the Clean Air Act of 1977 ("CAA"), the Toxic Substances Control Act of 1976 ("TSCA"), as they all have been or may be amended, and the regulations promulgated pursuant thereto, and in all other environmental regulations applicable to the District, the Site, or the operations conducted by the District thereon (collectively "Hazardous Materials") on, from or beneath the Site; (ii) pumped, spilled,

leaked, disposed of, emptied, discharged or released (hereinafter collectively referred to as "Release") any material amount of Hazardous Materials on, from or beneath the Site; or (iii) stored any material amount of petroleum products at the Site in underground storage tanks.

5.12.2 Excluded from the representations and warranties in subsection 5.12.1 above with respect to Hazardous Materials are those Hazardous Materials in those amounts ordinarily found in the inventory of, or used in the maintenance of, school buildings and facilities, the use, treatment, storage, transportation and disposal of which has been and shall be in compliance with all Laws and Regulations.

5.12.3 The District has no actual knowledge as to whether any portion of the Site is located in an area of high potential incidence of radon, nor will Project have an unventilated basement or subsurface portion which is or will be occupied or used for any purpose other than the foundation or support of the improvements at the Project.

5.13 Environmental Compliance by District.

5.13.1 Subject to _____'s construction of the Project, the District shall not use or permit the Site or any part thereof to be used to generate, manufacture, refine, treat, store, handle, transport or dispose of, transfer, produce or process Hazardous Materials, except, and only to the extent, if necessary to maintain the improvements at the Project and then, only in compliance with all environmental regulations, and any state equivalent laws and regulations, nor shall it permit, as a result of any intentional or unintentional act or omission on its part or by any tenant, subtenant, licensee, guest, invitee, contractor, employee and agent, the storage, transportation, disposal or use of Hazardous Materials or the Release or threat of Release of Hazardous Materials on, from or beneath the Project or onto any other property excluding, however, those Hazardous Materials in those amounts ordinarily found in the inventory of schools and school facilities, the use, storage, treatment, transportation and disposal of which shall be in compliance with all environmental regulations. Upon the occurrence of any Release or threat of Release of Hazardous Materials through no fault of _____, the District shall promptly commence and perform, or cause to be promptly commenced and performed, without cost to _____, all investigations, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials so released, on, from or beneath the Site and Project or other property, in compliance with all environmental regulations. Notwithstanding the above, to the extent permitted by Law, the District's environmental responsibility under this Section 5.13 shall begin subsequent to the District filing a notice of completion for the Project.

ARTICLE 6

EMINENT DOMAIN; DAMAGE AND DESTRUCTION

6.1 Eminent Domain.

6.1.1 Total Taking. If the Site shall be taken permanently under the power of eminent domain, the Term of this Facilities Lease shall cease as of the day possession shall

be so taken. _____ shall receive an amount from the eminent domain award equal to the present value of the total of all remaining Lease Payments, Additional Payments for the remainder of the original term of this Facilities Lease, and value of work completed by _____, as determined by the Architect, and District shall be entitled to the remaining proceeds, if any.

6.1.2 Partial Taking. If less than all of the Site shall be taken permanently, or if all of the Site or any part thereof shall be taken temporarily, under the power of eminent domain, (1) this Facilities Lease shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (2) there shall be a pro rata abatement of Lease Payments as a result of the application of the net proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, and _____ shall receive an amount from the proceeds equal to the value of the work completed by _____, as determined by the Architect. _____ shall reconfigure the Project so that any buildings on the Project affected by the partial permanent taking are useable by the District.

6.2 Damage and Destruction. If the Site is totally or partially destroyed due to fire, acts of vandalism, flood, storm, earthquake, Acts of God, or other casualty beyond the control of either party hereto, the Lease Payments shall abate during the time that the Site or a portion of the Site is unusable for the District's use as a school. _____ and the District agree that the obligation to repair or replace the Site shall be in accordance with the following provisions:

6.2.1 Escrow. Any proceeds payable to _____ or the District from property insurance policies shall be immediately deposited in an escrow (the "Escrow").

6.2.2 Total Destruction. In the event that ninety percent (90%) or more of the Site is destroyed or damaged (a "Total Destruction") through no fault of _____, then the District, at the District's option, may elect to terminate this Facilities Lease and the Site Lease, and shall use the insurance proceeds to pay an amount to _____ equal to the Lease Payments due as of the date of destruction and the value of all work completed by _____, pursuant to the provisions found in Exhibit D, with any remaining insurance proceeds to be retained by District. In the alternative, the District may elect to continue with the Facilities Lease in effect and have the Site rebuilt utilizing the insurance proceeds, which shall be exclusively used for that purpose. _____ shall have no obligation to contribute funds for the rebuilding of the Site should the cost of rebuilding exceed the insurance proceeds. Anything less than a Total Destruction of the Site shall be deemed a "Partial Damage or Destruction," in accordance with subsection 6.2.3 of this Facilities Lease.

6.2.3 Partial Damage or Destruction. In the event that the Site is partially damaged or destroyed through no fault of _____, the District shall repair or have repaired the Site utilizing the proceeds from insurance which were deposited into the Escrow.

6.2.4 Deductibles; Self Insurance. Where any loss is covered by insurance required by this Facilities Lease which contains provisions for any deductible amount, the District shall contribute to the cost of rebuilding any such deductible amount or the amount of any self-insurance maintained by the District.

6.2.5 Rent Abatement. If damage or destruction results in a loss of use of the Site, the Lease Payments shall abate to the extent such damage or destruction has resulted in a loss of use. The amount of abatement shall be a pro rata portion of the Lease Payment based upon the percentage of the square footage unavailable for occupancy in proportion to the total square footage of the Site. Notwithstanding the foregoing, to the extent that the proceeds of rental interruption insurance are available to pay the amount of any Lease Payments which would otherwise be due, it is hereby agreed that such proceeds constitute special funds for the payment of such Lease Payments.

6.2.6 Personal Property. Any insurance proceeds payable to the District for losses to personal property contents within the Site shall be for the exclusive use of the District, and may be utilized in whatever manner the District, in its sole discretion, may designate.

ARTICLE 7

ACCESS; DISCLAIMER OF WARRANTIES

7.1 By _____. _____ shall have the right at all reasonable times to enter upon the Site to construct the Project pursuant to this Facilities Lease. Following the acceptance of the Project by the District, _____ may enter the Project at reasonable times with advance notice and permission from the District for purposes of making any repairs required to be made by _____ and for purposes of inspection to ascertain whether the District is satisfying its obligation to maintain and repair the Project as required by this Facilities Lease.

7.2 By District. Prior to the acceptance of the Project by the District, the District shall have the right to enter upon the Site at all times for the purposes of inspection of the progress of the work on the Project and the District shall comply with all safety precautions required by _____ and its contractors. Following the acceptance of the Project by the District, the District shall thereafter have the right at all times to enter upon the Site for the purposes of this Facilities Lease.

7.3 Disclaimer of Warranties. The District acknowledges that _____ makes no warranties except as specifically set forth in this Facilities Lease or in Exhibits attached hereto. _____ agrees to provide an express warranty against defects in materials and workmanship for a two (2) year period following acceptance of the Project by the District, and shall assign all rights under all product warranties to District upon expiration of the one year period. In addition, _____ agrees to use its best efforts to assist the District in enforcing any such product warranty. In the event that the assignment of the warranty is not effective or valid or _____ fails to honor the warranty, _____ shall indemnify and hold the District harmless for all costs incurred in replacing such defective product.

ARTICLE 8

ASSIGNMENT, SUBLEASING; AMENDMENT

8.1 Assignment and Subleasing by the District. This Facilities Lease may not be assigned by the District. Any sublease by the District shall be subject to all of the following conditions:

8.1.1 This Facilities Lease and the obligation of the District to make Lease Payments hereunder shall remain obligations of the District; and

8.1.2 The District shall, within thirty (30) days after the execution thereof, furnish or cause to be furnished to _____ a true and complete copy of such sublease; and

8.1.3 No such sublease by the District shall cause the Project or the Site to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the Constitution and laws of the State of California.

8.2 Amendment of this Facilities Lease. Without the written agreement of the parties, neither party shall alter or modify this Facilities Lease.

8.3 Assignment by _____. _____ may assign its right, title and interest in this Facilities Lease, in whole or in part, to one or more assignees with the written consent of District. No assignment shall be effective against the District unless and until the District has consented in writing.

ARTICLE 9

EVENTS OF DEFAULT AND REMEDIES

9.1 Events of Default by District Defined. The following shall be "Events of Default" under this Facilities Lease and the terms "Event of Default" and "Default" shall mean, whenever they are used in this Facilities Lease, any one or more of the following events:

9.1.1 Failure by the District to pay any Lease Payment required to be paid hereunder at the time specified herein (unless properly withheld pursuant to provisions found in Exhibit D) when due and payable hereunder, and the continuation of such failure for a period of ten (10) days after the District's receipt of written notice from _____.

9.1.2 Failure by the District to pay any Additional Payment or other payment (unless properly withheld pursuant to provisions found in Exhibit D) when due and payable hereunder, and the continuation of such failure for a period of fifteen (15) days after the District's receipt of written notice from _____.

9.1.3 Failure by the District to observe and perform any covenant, condition or agreement in this Facilities Lease on its part to be observed or performed, other than as referred to in subsections 9.1.1 or 9.1.2, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the District by

_____; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the District shall not be in Default if it commences cure within such thirty (30) day period and diligently pursues such cure until the Default is corrected.

9.1.4 The filing by the District of a voluntary petition in bankruptcy, or failure by the District promptly to lift any execution, garnishment or attachment, or adjudication of the District as a bankrupt, or an assignment by the District for the benefit of creditors, or the entry by the District into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the District in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

9.2 Remedies on Default. Upon an Event of Default referred to in Section 9.1 hereof, it shall be lawful for _____ to exercise any and all remedies available pursuant to law or granted pursuant to this Facilities Lease; provided, however, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in Default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the District is expressly made a condition hereof and upon the breach thereof, _____ may exercise any and all rights of entry and re-entry upon the Project and the Site, and also, at its option, with or without such entry, may terminate this Facilities Lease; provided, that no such termination shall be affected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. In the event of such Default and notwithstanding any re-entry by _____, the District shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Facilities Lease and the performance of all conditions herein contained and, in any event such rent and/or damages shall be payable to _____, as appropriate, at the time and in the manner as herein provided. Notwithstanding the foregoing, _____ shall use commercially reasonable efforts to mitigate its damages.

9.3 Agreement to Pay Attorneys' Fees and Expenses. In the event any party to this Facilities Lease should Default under any of the provisions hereof, and the non-defaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefore pay to the non-defaulting party the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting party, including attorneys' fees and expenses incurred for any appeals.

9.4 No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Facilities Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

9.5 Application of Proceeds. All amounts derived by _____ as a result of an Event of Default hereunder, shall be applied to the Lease Payments and Additional Payments in order of payment date to be applied to the prepayment of the Lease Payments and Additional Payments.

9.6 Event of Default by _____. The following shall be considered an Event of Default by _____ under the Facilities Lease: (1) _____, or any member of _____, fails to adequately perform or refuses or fails to prosecute the work on the Project pursuant to the terms and conditions found in Exhibit D with such reasonable diligence as will accomplish its completion within the time specified or any extension thereof, or unreasonably fails to complete said work within such time; (2) prior to completion of the Project, _____ should be adjudged a bankrupt, or file for bankruptcy or if it should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency; (3) _____, or any member of _____, persistently disregards all law, or otherwise be in violation of the General and Special Construction Conditions found in Exhibit D; (4) _____ Defaults in any of its obligations under the Site Lease. In the event of such a Default which remains uncured for a period of thirty (30) days after the District has given written notice specifying the failure and requesting that it be remedied, and solely with respect to the party that is then in Default, the District may, without prejudice to any other right or remedy, terminate the Site Lease, Facilities Lease, and all exhibits attached hereto including, but not limited to, the General and Special Construction Conditions found in Exhibit D pursuant to Section 7.5 of the Site Lease.

ARTICLE 10

PURCHASE OPTION

10.1 District's Option. If the District is not then in Default hereunder, the District shall have the option to purchase not less than all of _____'s interests under this Facilities Lease in its "as-is, where-is" condition and terminate this Facilities Lease and Site Lease, and shall pay _____ a purchase price consisting of the Guaranteed Maximum Price (for work performed) as that term is defined in the Exhibit A, less any Lease Payments paid or owed by the District. Upon payment as aforesaid and payment of all other amounts owed, _____ shall deliver to the District all reasonably necessary documents in recordable form to terminate this Facilities Lease and the Site Lease and transfer title to the District. The District may record all such documents at the District's cost and expense.

Notwithstanding the above, the warranty and indemnification provisions found in Section 7.3 shall survive the termination of the Facilities Lease under this Section.

ARTICLE 11

MISCELLANEOUS

11.1 Notices. Any notice to either party shall be in writing and given by delivering the same to such party in person, or by sending the same by registered or certified mail, return receipt requested, with postage prepaid, or by delivering any notice by nationally recognized overnight delivery service (such as Federal Express) for next business day delivery, to the following addresses:

If to the District: CHICO UNIFIED SCHOOL DISTRICT
 2445 Carmichael Drive
 Chico, CA 95928
 Attn: Michael Weissenborn

With a copy to: Kronick, Moskovitz, Tiedemann & Girard
 400 Capitol Mall, 27th floor
 Sacramento, CA 95814
 Attn: Addison Covert

If to _____:

 _____, CA _____
 Attn: _____

Any party may change its mailing address at any time by giving written notice of such change to the other party in the manner provided therein. All notices under this Facilities Lease shall be deemed given, received, made or communicated on the date personal delivery is effected, or if mailed or sent by overnight delivery service, on the delivery date or attempted delivery date shown in the return receipt. No party shall refuse or evade delivery of any notice.

11.2 Binding Effect. This Facilities Lease shall inure to the benefit of and shall be binding upon _____ and the District and their respective successors, transferees and assigns.

11.3 Severability. In the event any provision of this Facilities Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, unless elimination of such invalid provision materially alters the rights and obligations embodied in this Facilities Lease or the Site Lease.

11.4 Reserved.

11.5 Further Assurances and Corrective Instruments. _____ and the District agree that they will, from time to time, execute, acknowledge and deliver, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site or the Project hereby leased or intended to be leased.

11.6 Execution in Counterparts. This Facilities Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

11.7 Applicable Law. This Facilities Lease shall be governed by and construed in accordance with the laws of the State of California. The parties further agree that any action of proceeding brought to enforce the terms and conditions of this Facilities Lease shall be maintained in Butte County, California.

11.8 _____ and District Representatives. Whenever under the provisions of this Facilities Lease the approval of _____ or the District is required, or _____ or the District is required to take some action at the request of the other, such approval or such request shall be given for _____ by _____'s Representative and for the District by the District's Representative, and any party hereto shall be authorized to rely upon any such approval or request.

11.9 Captions. The captions or headings in this Facilities Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Facilities Lease.

11.10 Interpretation. It is agreed and acknowledged by District and _____ that the provisions of this Facilities Lease and its exhibits have been arrived at through negotiation, and that each of the parties has had a full and fair opportunity to revise portions of this Facilities Lease and its exhibits and to have such provisions reviewed by legal counsel. Therefore, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Facilities Lease and its exhibits.

11.11 Time. Time is of the essence of each and all of the terms and provisions of this Facilities Lease and its exhibits.

11.12 Force Majeure. A party shall be excused from the performance of any obligation imposed in this Facilities Lease and the exhibits hereto for any period and to the extent that a party is prevented from performing such obligation, in whole or in part, as a result of delays caused by the other party or third parties, a governmental agency or entity, an Act of God, war, terrorism, civil disturbance, forces of nature, fire, flood, earthquake, strikes or lockouts, and such non performance will not be a Default hereunder or a grounds for termination of this Facilities Lease.

11.13 Recitals Incorporated. The Recitals set forth at the beginning of this Facilities Lease are hereby incorporated into its terms and provisions by this reference.

11.14 Reserved.

IN WITNESS WHEREOF, the parties hereto have caused this Facilities Lease to be executed by their respective duly authorized officers, to be effective as of the day and year first written above.

CHICO UNIFIED SCHOOL DISTRICT,
a school district organized and existing under the laws
of the State of California

By: Jan Combes
Title: Assistant Superintendent Business Services

_____,
a California corporation

By: _____
Title: _____